

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

Candace Louise Curtis	§	
Andrew Curtis	§	
Andrew Curtis Jr	§	
Plaintiffs	§	
	§	
vs.	§	
	§	Civil Action No.
Stephen A. Mendel	§	
Candace Kunz-Freed	§	
Bernard Lyle Mathews III	§	
Neal Spielman	§	
Bobbie G. Bayless	§	
Gregory Lester	§	
Anita Brunsting	§	Demand for Jury Trial
Clarina Comstock	§	
Cory Reed	§	
Does 1-100	§	
Defendants in their individual capacities	§	

PART 0 - INTRODUCTION

The Probate Mafia

Every year millions upon millions of dollars are stolen in staged litigation schemes devised with the sole purpose of generating fraudulent bills for alleged attorney's fees. In the process of such schemes, unsuspecting citizens are being pulled into a vortex of litigation posturing, disguised as legitimate court proceedings. The result is financial and emotional devastation for the victims and unjust enrichment for the color-of-law predators. The probate courts are a key public corruption battleground, well known for such staged litigation schemes. The dot com

revolution generated great wealth and we, as a nation, are in the midst of the largest transfer of family generational wealth in our nation's history.

The objective of the probate mafia is to intercept (steal) those assets using a cookie cutter system in order to minimizing the work while maximizing the return on investment. The problem confronting victims is where to find remedy. In probate, the heirs are held in stasis (hostage) while the attorneys pose and posture, manufacturing unnecessary attorney's fees. In the end the fees are so large the family has to submit to a settlement agreement (contract) that is always under terms drafted by the predators themselves.

Every estate planning and asset protection services provider will tell you that a pour-over will, with independent administration devised solely to your living trust, will spare you the horror of guardianship protection and spare your children from suffering the well-known horrors the probate courts have been known to offer. The legal and equitable theories are generally sound. The problem is in getting judges and attorneys to burden themselves with the law, when they are clothed in self-manufactured doctrines of impunity; having everything to gain and nothing to lose.

The Case in Point

The case in point has an extremely complex history, involving more than 13 courts and consuming 13 years, that in essence raises very simple fundamental questions of fiduciary and trust law that have not been answered.

Grift of the Brunstings is a two-part story that chronicles a convoluted color-of-law conspiracy that includes a front end setup and back end exploitation. The front end is an estate planning bait and switch that follows [Ex 0-1] [a well beaten path](#) designed to create controversy. The back end is an attorney exploitation of the front-end setup that also follows [0-2] [a well beaten path](#). Controversy is the key that opens the door to third party interlopers who then engage in another bait and switch, working in concert to maximize their own benefit while foreclosing remedy for their clients. The family inheritance is looked on by the probate mafia practitioners as their own private money cow from which they intend to extract a ransom in unearned fees with the intention of laundering the ransom under a settlement agreement under the label of "fees for legal services".

The backend is where the attorneys pose and posture and generate bills for unearned fees while the keeping the suckers in stasis by practiced avoidance. ([Ex 0-3] See injunction hearing [comments on Page 35 Ln. 15-18](#)).

This simple case, sharing one common nucleus of operative facts involving two decedents wills under independent administration with each estate pouring over into a family living trust, has seen [Three State Courts](#), [Three Federal Courts](#), [Three Fifth Circuit Courts](#) and was most recently pending before the [1st Court of Appeals in Houston Texas](#) on the single question of statutory probate court jurisdiction. ([Ex 0-4] [[No. 01-23-00362-CV](#)]).

While there are many cases involving people who have suffered at the hands of those who participate in this color-of-law criminal enterprise, this is the only case I know of that falls outside of both the ([Ex 0-5] [probate exception](#) and the [Ex 0-6] [Rooker-Feldman](#) doctrines.

The Perfect Estate Plan

Elmer and Nelva Brunsting had a son and four daughters they wanted to benefit from their lifetime of acquired and inherited family wealth and having heard a great deal about [Ex 0-7] [corruption in the Harris County Probate Court](#) so they called an estate planning and asset protection firm. Their concerns were quite simply to [Ex 0-8] [avoid guardianship](#) and to transfer their assets to their five progeny in equal proportions at their passing, while minimizing death taxes and avoiding the probate courts. In order to accomplish this purpose they retained the assistance of estate planning attorney Albert Vacek Jr. who gave specific assurances that his products and services would accomplish these purposes.

The Brunsting's estate plan consisted of [Ex [0-9](#)], [Ex [0-10](#)] wills directing independent administration and devising solely to their family living trust. Elmer Brunsting passed April 1, 2009 and Nelva Brunsting passed November 11, 2011.

Here is what really happened to the expensive estate planning Elmer and Nelva invested in: The estate planning attorneys betrayed the fiduciary duty of undivided loyalty they owed to Elmer and Nelva and formed a conflicting confidential relationship with Anita Brunsting, the weak link in the family moral fabric, and then followed each family crisis event (Hurrah) with a new barrage of illicit trust

instruments changing the entire structure and character of Elmer and Nelva's trust agreement.

PART 1 – THE FRONT-END

The Perfect Estate Plan

Elmer and Nelva Brunsting had a son and four daughters they wanted to benefit from their lifetime of acquired and inherited family wealth and having heard a great deal about [Ex1-1]. [corruption in the Harris County Probate Court](#) they called an estate planning and asset protection firm. Their concerns were quite simply to [Ex1a]. [avoid guardianship](#) and to transfer their assets to their five progeny in equal proportions at their passing, while minimizing death taxes and avoiding the probate courts. In order to accomplish this purpose they retained the assistance of estate planning attorney Albert Vacek Jr. who gave specific assurances that his products and services would accomplish these purposes.

The Brunsting's estate plan consisted of wills directing independent administration and devising solely to their family living trust [Ex1b & 1c]. Elmer Brunsting passed April 1, 2009 [Ex 1-2] and Nelva Brunsting passed November 11, 2011 [Ex 1-3]. Here is what really happened to the expensive estate planning Elmer and Nelva invested in:

Part 1 - TRUST CHRONOLOGY

A. The Original 1996 Family Trust [Ex 1-4]

1. In 1996 Elmer Brunsting and his wife Nelva created the "Brunsting Family Living Trust" for their benefit and for the benefit of their five adult progeny. Elmer and Nelva were the original co-trustees and Anita Brunsting was named as the sole successor trustee.

B. Irrevocable Life Insurance Trust [Ex 1-5]

2. In 1999 Elmer and Nelva also created an irrevocable Life Insurance Trust for the benefit of their five issues, naming Anita Brunsting as the sole trustee.

C. January 12, 2005 – The Restatement [Ex 1-6]

3. In 2005 Elmer and Nelva restated their trust, replacing the original 1996 trust agreement in its entirety. The [2005 Restatement](#) removed Anita from becoming a successor trustee and replaced her with Carl and Amy as successor co-trustees with Candace Curtis as the alternate.

D. September 6, 2007 – The 2007 Amendment [Ex 1-7]

4. In 2007 Elmer and Nelva jointly amended Article IV of the [2005 Restatement](#) to replaced Amy Brunsting with Candace Curtis, making Carl Brunsting and Candace Curtis the successor co-trustees and naming Frost Bank as the alternate.
5. Let me say this again: PLAINTIFF CANDACE LOUISE CURTIS AND HER DISABLED BROTHER CARL HENRY BRUNSTING ARE THE DE JURE TRUSTEES. Anita and Amy Brunsting are usurpers and the attorneys named as defendants are criminal co-conspirators. Article III of the restatement [Ex 1-6] as amended in 2007 [Ex 1-7] make that perfectly clear. Nothing signed or allegedly signed by Nelva alone could have made any changes to the trust after Elmer was declared incompetent.

Elmer Brunsting was certified Non Compos Mentis

6. On June 9, 2008 Elmer Brunsting was certified [\[Ex 1-8\]](#) [Non Compos Mentis](#) by three doctors and was no longer able to make legal or medical decisions. From this point forward, no substantive changes could be made to the trust without the approval of a court of competent jurisdiction.

The Power to Alter or Amend

7. [Article III](#) of the [2005 Restatement](#) provides an “either/or” for making changes to the trust agreement. Either (1) the signature of both Settlers or (2) a court of competent jurisdiction, neither of which accompanied any instrument dated after June 9, 2008.

“Our Right to Amend or Revoke This Trust”

Section A. We May Revoke Our Trust

While we are both living, either of us may revoke our trust. However, this trust will become irrevocable upon the death of either of us. Any Trustee, who is serving in such capacity, may document the non-revocation of the trust with an affidavit setting forth that the trust remains in full force and effect. The affidavit may, at the Trustee's discretion, be filed in the deed records in each county in which real property held in trust is located or in the county in which the principal assets and records of the trust are located. The public and all persons interested in and dealing with the trust and the Trustee may rely upon a certified copy of the recorded affidavit as conclusive evidence that the trust remains in full force and effect.

Section B. We May Amend Our Trust

This trust declaration may be amended by us in whole or in part in a writing signed by both of us for so long as we both shall live. Except as to a change of trust situs, when one of us dies, this trust shall not be subject to amendment, except by a court of competent jurisdiction. Each of us may provide for a different disposition of our share in the trust by using a qualified beneficiary designation, as we define that term in this agreement, and the qualified beneficiary designation will be considered an amendment to this trust as to that Founder's share or interest alone.”

8. Elmer’s incapacity created a vacancy in the office of Co-Trustee. Nelva could administer the trust alone but could not make changes without a court of

competent jurisdiction standing in for the absent co-trustee, as exercising plenary jurisdiction over either trust share would result in a merger of legal and equitable titles, in which case the trust would fail. See [Ex 1-9] [Article III], [Texas Property Code Section §112.051](#) and [Texas Property Code 112.034\(a\)](#) [Ex 1-10]. The provisions for administration and disposition of Nelva and Elmer Brunsting's irrevocable trust remains those contained in the [2005 Restatement](#) as [amended in 2007](#). Plaintiff Candace Curtis is the de jure Co-trustee with her disabled brother Carl Henry Brunsting.

The Rupture

E. [Ex 1-11] [July 1, 2008 Appointment](#) and [Ex1-12] [Certificates of Trust](#)

9. Within two weeks of Elmer's incapacity (1st Hurrah) estate planning attorney Defendant Candace Kunz-Freed, with the assistance of Vacek associate attorney Defendant Bernard Lisle Mathews III, began producing alterations to Elmer and Nelva's trust agreement, beginning with drafting instruments altering Article IV, removing Plaintiff Candace Curtis and installing their new client, Anita Brunsting, as successor co-trustee with Carl Brunsting and issuing new certificates of trust.
10. Notwithstanding the fact that the trust had become effectively irrevocable, estate planning attorney Candace Kunz-Freed, with the assistance of Vacek associate attorney Bernard Lisle Mathews III, continued to produce incremental alterations to Elmer and Nelva's trust agreement in the wake of every family crisis.ⁱ
11. None of the instruments authored after June 9, 2008 were signed by both

Settlor's nor approved by a court of competent jurisdiction standing in for the absent co-trustee and none of the instruments created after that date could affect the trustee designations in Article IV or the disposition provisions expressed in Article X Section B.

Elmer passed April 1, 2009

“Tex. Prop. Code § 112.051 (a) A settlor may revoke the trust unless it is irrevocable by the express terms of the instrument creating it or of an instrument modifying it.” Tex. Prop. Code § 112.051

12. When [\[Ex 1-3a\]](#) [Elmer passed on April 1, 2009](#) the successor co-trustees for the “Irrevocable Family Trust could only be those named in the [\[Ex 1-7\]](#) [2007 Amendment](#) as none of the instruments that followed Elmer's incapacity conformed to the Article III requirements for amending the trust. The appointments of Anita and Amy as co-trustees were an improper attempt to amend Article IV and the associated Certificates of Trust are equally invalid.
13. Carl Brunsting and Candace Curtis are the lawful co-trustees for the irrevocable trust but the Candace Kunz-Freed, Anita Brunsting duo continued to generate illicit change instruments following each hurrah.

F. [\[Ex 1-13\]](#) February 24, 2010 Appointment and [Certificates of Trust](#)

14. These are a repeat of the improperly drafted July 2008 change instruments that do not appear to have been signed at all.

G. [Ex 1-14] June 15, 2010 Qualified Beneficiary Designation and Testamentary Power of Appointment

15. The only value for this instrument would be as part of an accounting ledger or balance sheet. It fails to qualify as a testamentary instrument because it was not signed by two disinterested witnesses as required of a testamentary instrument nor could the living trust be converted to a testamentary trust by such means. Article III also identifies the “Qualified Beneficiary Designation and Testamentary Power of Appointment” as an amendment to the trust. You cannot amend an irrevocable trust but that’s law and law appears to be the furthest from consideration when the All Mighty Dollar is the only God worshiped by **the probate mafia**.

H. [Ex 1-15] July 3, 2010 Carl falls ill with encephalitis and is in coma

16. When Carl fell weak the Vacek & Freed team went to work exploiting this family crisis as another opportunity to continue their alterations of Elmer and Nelva's irrevocable trust agreement.

17. With Carl in a coma, Anita took that as an opportunity to launch a character attack on Carl’s wife Drina, thus distracting attention from the improperly drafted change instruments Anita and the Vacek crew were making to remove Carl as a successor co-trustee. Freed's notes say **[Ex 1-16]** *"Anita called, Carl has encephalitis, amendment to trust, Anita and Amy to be co-trustees"*. **This is clearly where we begin to see the collusion between Anita, the Settlor’s disloyal estate planning attorneys, and the irrevocable trust rupturing instruments that followed Elmer’s incapacity and death.**

I. [\[Ex 1-17\]](#) August 25, 2010 Qualified Beneficiary Designation and Testamentary Power of Appointment under Living Trust Agreement

18. This is the second Qualified Beneficiary Designation and Testamentary Power of Appointment. It doesn't revoke the first but reinforces it and also fails to qualify as a testamentary instrument because it wasn't signed by two disinterested witnesses. This otherwise improperly drafted change instrument is believed to be a forgery as, after a number of disclosures, the alleged August 25, 2010 QBD/TPA shows up in the record with three distinctly different signature page variations.

19. [\[Ex 1-18\]](#) 2010-08-25 3 certificates of trust dated 2010 08 25.pdf

[\[Ex 1-19\]](#) 2010-08-25 Appointment of Successor Trustee P1016-1020.pdf

[\[Ex 1-20\]](#) 2010-08-25 P1016-1020 Appointment of Successor Trustee.pdf

[\[Ex 1-21\]](#) 2010-08-25 P156-192 8-25-10 QBD Above the Line.pdf

[\[Ex 1-22\]](#) 2010-08-25 P193-229 8-25-10 QBD CAN before signature.pdf

[\[Ex 1-23\]](#) 2010-08-25 P407-443 8-25-10 QBD On the line.pdf

[\[Ex 1-24\]](#) 2010-08-25 P843-848a Certs of Trust.pdf

[\[Ex 1-25\]](#) 2010-08-25 QBD Signature Page Versions Binder.pdf

[\[Ex 1-27\]](#) 2010-08-25 Statement of First Witness.pdf

20. Disclosed in [\[Ex 1-28\]](#) Anita's 156 page objections filed December 5, 2014.

The QBD appears at pdf pages 96 through 132 with signature page 37 at p132 bearing Bates stamp [P229].

21. Case 4:12-cv-00592 [\[Ex 1-29\]](#) Document 1-12 (pgs. 1-30) and [\[Ex 1-29a\]](#) Doc. 1-13 (pgs. 1-7), Filed TXSD on 02/27/12 with signature at Doc. 1-13 Page 7 of

22. In [\[Ex 1-31\]](#) [Carole's 133 page objection](#) filed Feb. 17, 2015. The QBD appears at pdf pages 97 through 133 with signature page 37 appearing at p133 and bearing Bates stamp [P192].
23. August 25, 2010 [\[Ex 1-32\]](#) [Appointment of Successor Trustees](#) are invalid
24. August 25, 2010 [\[Ex 1-33\]](#) [Certificates of Trust](#) [V&F 000207-251] are invalid
25. These last two 8/25/2010 change instruments are a repeat of the same July 1, 2008 and February 24, 2010 change instruments.
26. The provisions for administration and disposition of Nelva and Elmer Brunsting's irrevocable trust remains those contained in the [2005 Restatement](#) as amended in 2007. The [September 6, 2007 Amendment](#) was the last family trust instrument signed by both Settlor. Carl and Candace are the de jure co-trustees.
27. At page 3 of 13, in their June 26, 2015 [\[Ex 1-34\]](#) "[No-Evidence Motion for Summary Judgement](#)", alleged co-trustees Anita and Amy Brunsting argue that Plaintiff can produce no evidence "that Anita and/or Amy were present when Nelva allegedly signed the 8/25/2010 QBD".
28. "There is also no evidence in the record that suggests Plaintiff Curtis or Plaintiff Brunsting was present when Nelva allegedly executed the 8/25/10 QBD. There is no evidence that Defendant Carole Brunsting was present when Nelva executed the 8/25/10 QBD" and [\[Ex 1-35\]](#) there is a gap surrounding that date

in the estate planning attorneys notary log.

29. Thus, neither Anita, nor Amy, nor Carole claim to have been present when Nelva is alleged to have signed the instrument and yet each produced a different signature page version of the instrument. The Notary Public on all of the post June 2008 “change instruments” was estate planning attorney Candice Kunz-Freed, whose notes show that she received her instructions to [Ex 1-16] “[change the trust](#)” from Anita and we do have evidence of that. It should also be noted that [Ex 1-35] [Kunz-Freed’s notary log](#) fails to show that three separate copies of the 8/25/2010 QBD were notarized as required by Gov’t Code § 406.014, if in fact three separate instruments had been signed on that date. As already stated, Texas Property Code Section §112.051 does not allow a Settlor to amend a trust that has become irrevocable by its own terms so this 8/25/2010 QBD is necessarily invalid whether the instrument was signed by Nelva or not.

J. [Ex 1-38] *December 21, 2010 Resignation of Original Trustee* [[V&F906-915](#)]

K. [Ex 1-39] *December 21, 2010 Appointment of Successor trustee* [[V&F240-245 & 906-915](#)]

L. [Ex 1-40] *December 21, 2010 Certificates of Trust*, [[V&F906-915](#)]

[Ex 1-41] [2010-12-21 Certificate of Trust Decedent V&F 000232-234.pdf](#)

[Ex 1-42] [2010-12-21 Certificate of trust for the NEW family trust VF 000237-239.pdf](#)

[Ex 1-43] [2010-12-21 Certificate of Trust Survivor VF 000235-238.pdf](#)

Assuming Facts of No Value

30. The illicit August 25, 2010 QBD/TPA that Defendants point to as “the trust”, claims to have amended an irrevocable trust. It/they are not in evidence as Defendants have refused or otherwise failed to introduce these instruments in an evidentiary hearing in attempt to qualify them as evidence and they will not because they cannot.
31. Until it has been introduced by eye witness testimony at an evidentiary hearing and qualified as evidence, beneficiary Candace Curtis objects to any reference to this instrument as assuming facts not in evidence. It really doesn’t matter as far as declaratory judgment is concerned because Nelva had no plenary power to amend the irrevocable trust and ever her alleged resignation and appointment of Anita are attempted amendments that fail to conform to the requirements of Article III and would result in merger of legal and equitable titles without the approval of a court of competent jurisdiction. (see Texas Property Code Section §112.051)
32. The same objection is hereby made to the instruments dated December 21, 2010. Instruments from both dates appear to be scanned analog instruments bearing the signature of estate planning attorney/notary Candace Kunz-Freed, to which digital images of Nelva’s signature were added. These are commonly referred to as deep fakes in today’s legal theater.
33. The fact remains, despite all other considerations, the instruments created after June 9, 2008 are invalid, as attempting to make changes that Nelva had no plenary legal capacity to make and which Anita and Amy and their attorneys

seek to use in their attempt to achieve an unlawful end, the elimination of other beneficiaries by advancing a theory that, if true, would enlarge their share. **This is a violation of the de jure in Terrorem clause in the 2005 Restatement.**

Probate actions are in rem, Trust actions are matters in equity

34. Equity presumes that what should have been done has been done and thus, the trust does not fail; these improperly drafted change instruments are what fail.

Nelva Brunsting's passed **[Ex 1-3a] November 11, 2011**

35. At the passing of Elmer Brunsting April 1, 2009, the trust corpus was divided into two separate shares. Nelva's share (The Survivors Trust) was to terminate at the passing of the last settlor to die [[Article VIII Section D](#)] and Elmer's share (The Decedent's Trust) was also intended to terminate at the passing of the last settlor to die [[Article IX Section D](#)]. The assets were to be divided by five and distributed into five separate but equal value shares [Article X]. None of this was possible without a proper accounting. Anita failed to produce the mandatory accounting and was incapable of doing so due to her failure to establish and maintain books and records of account. (see **[Ex1-45]** [appointment of special master](#))

36. This completes the overview of the front-end estate planning bait and switch and according to **[Ex1-46]** "[How to Steal Your Family Inheritance](#)"; this is where Anita Brunsting expected to laugh all the way to the bank.

PART 2 – THE BACK-END EXPLOITATION

37. Unfortunately, a lawsuit had to be brought to enforce the obligations of the

trustee to account to the beneficiary and this was exactly what Anita thought she wanted in order to play the no-contest card built into the heinous extortion instrument.

38. After a failed attempt to get Nelva Brunsting declared incompetent Anita seized control from with instruments drafted and allegedly signed December 21, 2010.
39. Anita immediately began self-dealing and failed to perform any actions according to her fiduciary obligations which make her and Candace Freed liable for any damages suffered by the beneficiary and accountable for any benefit they may have obtained as a result of failure to perform the obligations of the office Anita claims to occupy.

I. [EX 2-1] SOUTHERN DISTRICT OF TEXAS CAUSE NO. 4:12-CV-592 (FEB 27, 2012)

40. Candace Curtis filed a breach of fiduciary action against Anita Brunsting and Amy Brunsting in the Southern District of Texas under diversity jurisdiction, seeking a proper accounting and fiduciary disclosures Feb 27, 2012. In her complaint she noted Anita's plan to steal the family trust in a way that if Carl or Candace object, Anita would get to keep it [Ex 3-1].
41. Candace Curtis original federal complaint, filed February 27, 2012, is an affidavit verified by Jurat, in which Candace alleges that Anita and Amy had been wiretapping Nelva's phone. Case 4:12-cv-00592 Document 1 Filed in TXSD on 02/27/12 Page 19 of 28. [Ex 1-26] see also paragraph 80 and [Ex 2-20], [Ex 2-21], [Ex 2-22] and [Ex 2-23].

42. Candace also alleged that the defendants had been stalking and monitoring their Mothers email communications.

Rooker-Feldman Doctrine Inapposite

Exxon Mobil Corp. v. Saudi Basic Industries Corp., 544 U.S. 280, 291-294 (2005). *Held: the Rooker-Feldman doctrine is confined to cases of the kind from which it acquired its name: cases brought by state-court losers complaining of injuries caused by state-court judgments rendered before the federal district court proceedings commenced and inviting district court review and rejection of those judgments. Rooker-Feldman does not otherwise override or supplant preclusion doctrine or augment the circumscribed doctrines allowing federal courts to stay or dismiss proceedings in deference to state-court actions.*

43. The [SDTX-592] action was **dismissed under the probate exception** March 8, 2012 and Candace Curtis filed timely notice of appeal.

II. FIFTH CIRCUIT NO. 12-20164 [USCA5]

44. At this juncture the pro se, having never been to law school and after filing her first ever lawsuit, was now confronted with the Federal Rules of Appellate Procedure and something called the “probate exception”.
45. In researching this question, Plaintiff came across approximately seven hours of videos of Texas Senate Hearings on the Judiciary [Ex 2-3*]. Plaintiff also read a number of articles describing the experiences of others in the probate theater and found cases such as *Marshall v. Marshall*,ⁱⁱ involving a celebrity using the name “Anna Nicole Smith” a/k/a Vicky Lynne Marshall.

46. One treatise of particular interest was written by a Professor Peter Nicholas titled [Ex 2-2] “*Fighting the Probate Mafia a dissection of the probate exception to federal jurisdiction*”. Professor Nicholas does not define the expression “probate mafia” and does not use the term in his dissertation.
47. In researching the probate exception, Plaintiff also found seven hours of Texas Senate Hearings on the Judiciary that were as enlightening as some of the horror stories describing others experiences with the color-of-law theft of family generational assets industry, being run out of state probate courts.

[Ex 2-3] [791067a October 11 2006 Texas Senate Hearing on Jurisprudence.mp3](#)

[Ex 2-3a] [791067b October 11 2006 Texas Senate Hearing on Jurisprudence.mp3](#)

[Ex 2-3b] [791068a October 11 2006 Texas Senate Hearing on Jurisprudence.mp3](#)

[Ex 2-3c] [791068b October 11 2006 Texas Senate Hearing on Jurisprudence.mp3](#)

[Ex 2-3d] [791069a October 11 2006 Texas Senate Hearing on Jurisprudence.mp3](#)

[Ex 2-3e] [791069b October 11 2006 Texas Senate Hearing on Jurisprudence.mp3](#)

[Ex 2-3f] [791070a October 11 2006 Texas Senate Hearing on Jurisprudence.mp3](#)

[Ex 2-3g] [791070b October 11 2006 Texas Senate Hearing on Jurisprudence.mp3](#)

[Ex 2-3h] [791071a October 11 2006 Texas Senate Hearing on Jurisprudence.mp3](#)

[Ex 2-3i] [791071b October 11 2006 Texas Senate Hearing on Jurisprudence.mp3](#)

[Ex 2-3j] [791072a October 11 2006 Texas Senate Hearing on Jurisprudence.mp3](#)

[Ex 2-3k] [791072b October 11 2006 Texas Senate Hearing on Jurisprudence.mp3](#)

[Ex 2-3l] [Robert Alpert Texas Senate Hearing on Jurisprudence.mp3](#)

48. While Fifth Circuit appeal No. 12-20164 was pending, parallel state court actions were initiated by Attorney Bobbie G. Bayless (Bayless) representing Plaintiff's disabled brother, Carl Brunsting.

III. HARRIS COUNTY DISTRICT COURT 180

49. [Ex 2-4] [March 9, 2012](#) Carl Brunsting, represented by Attorney Bobbie G. Bayless, filed application to take Depositions before suit in Harris County's 180th Judicial District Court. This would be the state court with dominant jurisdiction.
50. Carl Brunsting, represented by Attorney Bobbie G. Bayless, obtained discovery from the estate planning attorneys and conducted a video deposition of Carole Brunsting. Bayless deposed no one else.

IV. HARRIS COUNTY PROBATE COURT NO. 4 CAUSE NO 412248

51. Estate of Elmer H. Brunsting No. 412248. [Ex 2-8] Will admitted to probate unchallenged, sole devise to living trust, Letters Testamentary for independent administration issued to Carl Henry Brunsting.

V. HARRIS COUNTY PROBATE COURT NO. 4 CAUSE NO 412249

52. Estate of Nelva E. Brunsting No. 412249. [Ex 2-8a] Will admitted to probate unchallenged, sole devise to living trust, Letters Testamentary for

independent administration issued to Carl Henry Brunsting

PROBATE EXCEPTION INAPPLICABLE

Fifth Circuit No. 12-20164 [USCA5]

- a. [Ex 2-5] [ROA 12-20164](#)
- b. [Ex 2-5a] [2012-08-25 Appellants opening brief on appeal 12-20164](#)
- c. [Ex 2-5b] [12-20164 BRIEF OF DEFENDANTS-APPELLEES](#)
- d. [Ex 2-5c] [12-20164 APPELLANT'S REPLY BRIEF](#)

53. ON January 9, 2013 the United States Court of Appeal for the Fifth Circuit reversed the District Court, in a unanimous decision and remanded for further proceedings, finding that the trust held no assets belonging to a decedent's estate and that administration of the trust was unrelated to the ongoing probate proceedings. [Ex 2-6] [Curtis v. Brunsting 704 F.3d 406 \(Jan 9, 2013\)](#)

VI. [EX 2-7] HARRIS COUNTY DISTRICT COURT 164 [DC164]

54. On January 29, 2013 Attorney Bobbie G. Bayless, representing a disabled independent executor client without an Ad Litem, filed a malpractice suit against the estate planning attorneys in Harris County Judicial District Court 164. This would be the second state court with a plausible argument for dominant jurisdiction.

Southern District of Texas [SDTX] Cause No. 4:12-cv-592

55. Returning to the Southern District of Texas, Candace Curtis applied for an injunction.

a. [Ex 3-30] [Preliminary and Permanent Injunction](#)

As the Texas Supreme Court reiterated in Butnaru, the purpose of a temporary injunction is preservation of the status quo and is an extraordinary remedy. Butnaru , 84 S.W.3d at 204. Obtaining a temporary injunction requires pleading and proving (1) a cause of action against the defendant; (2) a probable right to the relief sought; and (3) irreparable injury that is both probable and imminent if the relief is not granted. Id. Danbill Partners v. Sandoval, 621 S.W.3d 738 (Tex. App. 2020)

56. The manifest reality here is that irreparable injury has been suffered by the federal Plaintiff despite the Honorable Kenneth Hoyt Jr's efforts to prevent it.

a. Appointment of a Special Master

57. Because Anita failed to perform the fiduciary obligation to establish and maintain books and records she was unable to account to the beneficiary as required by Article XII E of the trust a [Ex 1-45] [Special Master had to be appointed](#) to establish a trust accounting and \$50,000 had to be spent on the Special Master to assemble books and records and establish a trust accounting.

58. The Report of Special Master [Ex 1-45a] exposed Anita's self-dealing, co-mingling and misapplication of fiduciary assets.

VII. ESTATE OF NELVA BRUNSTING NO. 412,249-401 HARRIS COUNTY PROBATE COURT 4 [EX 1-47]

1. It will be shown that this case was improperly filed in the probate court for the purpose of undermining federal jurisdiction. As explained in *Royal Ins. Co. of America v. Quinn-L Cap. Corp.* Comity is not a valid consideration in this case due to the complete absence of subject matter jurisdiction as will be discussed in the statements of facts.

“Where the federal case is filed substantially prior to the state case, and significant proceedings have taken place in the federal case, we perceive little, if any, threat to our traditions of comity and federalism. See Moses H. Cone Hosp., 460 U.S. at 21-22, 103 S.Ct. at 940 (fact that substantial proceedings have occurred is a relevant factor to consider in deciding whether to abstain). In fact, by filing a state suit after a federal action has been filed, the state plaintiff can be viewed as attempting to use the state courts to interfere with the jurisdiction of the federal courts. We agree with Royal that if we were to hold that Jackson applied in this scenario, litigants could use Jackson as a sword, rather than a shield, defeating federal jurisdiction merely by filing a state court action. Neither Jackson nor the concerns underlying it mandate such a result.” Royal Ins. Co. of America v. Quinn-L Cap. Corp. 3 F.3d 877 (5th Cir. Nov. 5, 1993)

59. On April 9, 2013, Carl Henry Brunsting, (Carl) one of five beneficiaries to the sole devisee trust, filed civil tort claims in Harris County Probate Court No. 4, Individually and as Independent Executor for both of his parents’ estates, naming three of the other four trust beneficiaries defendants and naming the federal plaintiff, Appellant Candace Curtis, a nominal defendant only.

60. Carl had no standing to file this non-probate related claim in the probate court in an independent administration of a pour-over will after the inventory, appraisal and list of claims had been filed by the independent executor and approved by the court [Ex 2-9] (Tex. Est. Code §402.001).

Texas Estates Code Chapter 402 Subchapter A General Provisions

*Sec. 402.001. GENERAL SCOPE AND EXERCISE OF POWERS. When an independent administration has been created, and the order appointing an independent executor has been entered by the probate court, and the inventory, appraisal, and list of claims has been filed by the independent executor and approved by the court or an affidavit in lieu of the inventory, appraisal, and list of claims has been filed by the independent executor, as long as the estate is represented by an independent executor, **further action of any nature may not be had in the probate court except where this title specifically and explicitly provides for some action in the court.** Added by Acts 2011, 82nd Leg., R.S., Ch. 1338 (S.B. 1198), Sec. 2.53, eff. January 1, 2014.*

61. [Carl's April 9, 2013 probate court suit](#) [Ex 2-10 pg. 5-24] was brought pursuant to the declaratory Judgment Act, Chapters 37 of the Texas Civil Practice and Remedies Code and Chapter 115 of the Texas Property Code, and doesn't even mention the probate or estates codes!
62. This was the third action filed involving this family trust. The first case was filed in the Southern District of Texas Feb. 27, 2012 by the lawful trustee and beneficiary Candace Curtis. The second was filed in Harris County District Court 164 Jan. 29, 2013 by Carl Brunsting, individually and as Independent Executor of both of his parent's estates, and the third was filed in Harris County Probate Court No. 4 by Carl Brunsting, as Independent

Executor of both of his parent's estates, on April 9, 2013, the same day as the injunction hearing in the Southern District of Texas.

63. Thus, attorney Bayless filed two halves of the same law suit in separate courts when both actions share a common nucleus of operative facts with the action filed in the SDTX and the probate court cannot compose itself a court of competent jurisdiction.
64. What were Bayless intentions in filing two halves of the same action in separate courts and then filing a [Ex 2-26] motion to move the district court case to the probate court arguing the case were inseparable?
65. What could possibly be the benefit to her client? The answer in hind sight is actually very simple. Bayless intentions were not to benefit her client. The Honorable Kenneth Hoyt made the answer clear at the injunction hearing and Bayless verified that by email. [Ex 3-21]
66. [Ex 0-3][Transcript April 9, 2013 Hearing](#) on Candace Curtis Application for Preliminary Injunction in Southern District of Texas Case Number 4:12-cv-592. The Honorable Kenneth Hoyt Jr, United States District Court Judge for the Southern District of Texas:

"Here's what I'm suggesting. I am suggesting that this will not become a feast and famine, feast for the lawyers and famine for the beneficiaries in this Court where we are sitting around churning the time out..." [Page 35](#)

So what I am telling the parties, and I am saying to you and to all those who have ears to hear, that this matter is going to get resolved. It's not going to turn into one of these long, drawn-out episodes like

the ones we see on TV that go on for years where lawyers make money and people walk away broke. [Page 40](#)

67. Judge Hoyt summarized **the probate mafia staged litigation methodology** in these two paragraphs. Pro se Plaintiff came to understand it over time as, never having been to law school, she was learning everything as a first. The particulars of this methodology can best be demonstrated by the case in point, which has so many things that happened in appearance that did not happen as a matter of law, that it baffles the mind.
68. Bayless herself says why in an email to Rik Munson dated august 18, 2023, to get the case Away from Judge Hoyt because Hoyt was going to settle it and the attorneys would not be allowed to play their staged litigation, extortion, wealth extraction and money laundering games.
69. [Ex 2-11] [Attorney Bobbie G. Bayless email to Rik Munson Sun, 18 Aug 2013](#)

“This really needs to be away from Hoyt and under one umbrella so that Anita, Amy, and Carole have to account for what they did. Hoyt has already said he is going to resist doing anything except dividing what is left. Even if you can somehow convince him that isn't good enough, he is going to make your life miserable if you try to make him do more----and in the process potentially do real damage to the existing claims. Maybe my view is colored too much from having been in his court on other cases, but I just don't see any benefit to being over there, and I really don't see any benefit that outweighs the potential harm.”

70. Plaintiff would love to see Bayless all explain this in hindsight!

The Complete Absence of Subject Matter jurisdiction

71. The record will show that the Decedents, Elmer H. Brunsting [Ex 1b] and Nelva E. Brunsting [Ex 1b], both had pour-over wills naming their family living trust as the sole devisee and both wills directed independent administration.
72. The record will further show that [letters testamentary for independent administration](#) [Ex 2-12 & 2-13] were issued to Carl Henry Brunsting on August 28, 2012; the [inventory, appraisement, and list of claims](#) had been filed by the independent executor March 27, 2013 and approved by the probate court April 5, 2013 [Ex 2-14], [Ex 2-15] and that Bobbie G. Bayless, using disabled independent executor Carl Brunstings name, filed [a civil tort suit in the statutory probate court April 9, 2013](#), five days after the [inventory](#) had been [approved](#), and [Drop Orders](#) issued, [Ex 2-16] [Ex 2-17].
73. The law on independent administration is clear. After the inventory has been approved further action of any nature may not be had in the probate court except where Title II of the Estates Code specifically and explicitly provides for some action in the probate court in an independent administration.

Tex. Est. Code § 402.001

When an independent administration has been created, and the order appointing an independent executor has been entered by the probate court, and the inventory, appraisement, and list of claims has been filed by the independent executor and approved by the court or an affidavit in lieu of the inventory, appraisement, and list of claims has been filed by the independent executor, as long as the estate is represented by an independent executor, further action of any nature may not be had in the probate court except where this title specifically and explicitly provides for some action in the court.

74. The Action filed by Carl Henry Brunsting, Individually and as Independent Executor of the Estates of Elmer H. Brunsting and Nelva E. Brunsting on April 9, 2013 [[ROA 5-24](#)] was filed five days after [the verified inventory](#) had been approved; was brought under the Texas Civil Practices and Remedies Code as ancillary to a closed probate and not only fails to cite to any provision in the probate or estates code that specifically and explicitly authorized this action; Bayless fails to even mention the estates code.

Statute of Limitations

75. The Action filed by Carl Henry Brunsting, Individually and as Independent Executor of the Estates of Elmer H. Brunsting and Nelva E. Brunsting on [April 9, 2013](#) was filed four years and eight days after Elmer Brunsting passed, missing the statute of limitations for bringing claims on behalf of Elmer's estate in any court by eight days. That didn't stop the probate mobsters from stealing and selling the Iowa farm from the Elmer H. Brunsting Trust. [Ex 2-27] to pay their fee ransom. [[Ex 3-27 & 3-27a]
76. Harris County Probate Court No. 4 never obtained subject matter jurisdiction over Carl Brunsting's -401 non-probate related tort action as a matter of law. Why attorney Bayless filed two halves of the same lawsuit in separate courts certainly was not in her client's best interest. I will return to this question.

The Federal Pro Se Plaintiff Retained Assistance of Counsel

77. Appellant Candace Louise Curtis, a California resident, had been pro se thus far but at the end of 2013 her domestic partner, Rik Munson, had a medical emergency and was in coma, and as Rik Munson had been doing the

research and writing while Plaintiff Candace Curtis worked as an accountant, Candace had not been briefed, was distraught and unprepared for a hearing she already had an airline ticket to appear at, and as a result was ordered to retain an attorney without the ability to pay a retainer. She eventually managed to find attorney Jason Bradley Ostrom (Ostrom) who filed his appearance in SDTX 4:12-cv-592 January 6, 2014.

78. Rather than litigate his client's claims in his client's choice of forum, Ostrom presented the federal court with a [bundle of unopposed motions](#) [Ex 2-18] adding disabled Carl Brunsting as an involuntary plaintiff to pollute diversity jurisdiction along with a motion for remand to a Harris County Probate Court from which the case was never removed and in which the case could not be filed at all. In other words, a send into the clutches of probate mafia limbo.¹
79. The Southern District Court approved the bundle of unopposed motions on May 15, 2014 and the federal docket was administratively closed, showing the case to have been remanded to Harris County Probate Court Number 4, a statutory court with absolutely no jurisdiction over this trust controversy. (See [Ex 2-28] Texas Government Code 25.0021 defining the limits of statutory probate court jurisdiction)

VIII. [-402] HARRIS COUNTY PROBATE COURT NO. 4

¹ In Catholic theology, Limbo /'lɪmbəʊ/ (Latin: limbus, 'edge' or 'boundary', referring to the edge of Hell) is the afterlife condition of those who die in original sin without being assigned to the Hell of the Damned. However, it has become the general term to refer to nothing between time and space in general.

- a. Remand from SDTX to Harris County Probate Court No. 4 entered as transfer order Cause No 412249-402 [-402] [Ex 2-19]
80. On May 28, 2014 Ostrom filed the federal remand order in the probate court in “Estate of Nelva Brunsting No. 412,249” as a motion to enter a transfer order [[ROA 268](#)] [Ex 3-48] citing jurisdiction pursuant to Texas Estates Code § 32.005, Texas Estates Code § 32.006, and Texas Estates Code § 32.007, none of which has anything to do with independent administration of a pour-over will after the inventory, appraisal and list of claims has been approved.
81. Curtis fired Ostrom and was immediately hit with a no-evidence Motion from the Defendants [Ex 1-34]. June 26, 2015 Defendants' new attorneys in Probate Court No.4 filed a No-Evidence Motion for Partial Summary Judgment claiming that there is no evidence that their alleged 8/25/2010 QBD (heinous extortion instrument) is invalid. It should also be noted that the “Agreed Order to Consolidate” vanished from the probate docket.

The Illegal Wire Tap Recordings

82. On or about July 1, 2015 Defendants disseminated a CD containing illegally obtained wiretap recordings which were received by Plaintiff Curtis via certified mail with signature required containing the following audio files:
 83. [Ex 2-20] [BRUNSTING 5836.wav](#)
 84. [Ex 2-21] [BRUNSTING 5837.wav](#)
 85. [Ex 2-22] [BRUNSTING 5838.wav](#)
 86. [Ex 2-23] [BRUNSTING 5839.wav](#)

-
87. An analysis of the [file properties on that CD](#) [Ex 2-24] is relevant when put in a time line context. These segments were extracted from a larger master around the time of Carl's resignation and the master would include Candace interstate conversations with Nelva in October 2010 verifying Nelva as saying she did no such thing when asked about the 8/25/2010 QBD.
88. On 2015-07-13 Defendants counsel and Bayless filed [Notice of Hearing](#) on Defendant Co-Trustees [Ex 1-34] [No Evidence Motion](#) 2015-07-13 and motions for summary judgment for August 3, 2015 the date the 1st DCO [Ex 3-46] had scheduled for summary judgment hearings!
89. Shortly thereafter Candace Curtis filed her response to the imposter co-trustees no-evidence motion [Ex 2-25] objecting to assuming facts and demanding the Defendants produce [Ex 2-25a] [all three versions](#) with witness testimony qualifying the three alleged originals as evidence. They have not and they will not because they cannot. Even if they could, it is not a proper amendment to the irrevocable trust.

Sleazing out of their illicit Docket Control Order

90. July 7, 2015 Carl Brunsting (Bayless representing Drina after Carl's resignation as independent executor) filed a Motion for Protective Order [Ex 1-36] regarding the illegally obtained wiretap recordings. Then on July 9, 2015 Carl Brunsting (Bayless representing Drina) filed a motion for partial summary judgment focusing on improper financial transactions, but did not

respond to Defendants' no-evidence motion. No successor independent administrator was ever appointed with the limited exception of Defendant Gregory Lester.

91. Bayless set her [Ex 2-31] emergency motion for August 3rd 2015, the date the DCO had scheduled for summary judgment hearings that never happened! There was a hearing on Bayless "emergency motion" [Ex 2-32]. Nothing followed that hearing but the usual silence.
92. The content of the recordings disclosed are benign and have no relevant significance to any substantive issues. They were only used as a part of the Defendants practiced avoidance and obstruction of justice conspiracy.

The CD is labelled with the Mendel Law Firm and dated 6/26/2015, the same day it was mailed and the same day they filed their no evidence motion.

*Two of the .wav files are dated February 27, 2015
One is dated March 21, 2011 and one is dated April 22, 2011*

All of the email .msg files show a modified date of March 18, 2015

The first message to contain a video (VIDEO0002.3gp) (Carole to Anita) is BRUNSTING5822 dated May 23, 2011

Then BRUNSTING5823 dated May 25, 2011 (Carole to Amy, Anita & herself) VIDEO0009.3gp

BRUNSTING5824 dated May 25, 2011 (Carole to Amy, Anita & herself) VIDEO0010.3gp

BRUNSTING5824 dated May 25, 2011 (Carole to Amy, Anita & herself) VIDEO0011.3gp

A receipt dated March 17, 2011 (Brunsting004570) shows one ICD-PX312 digital voice recorder purchased at Best Buy in Houston. The same Bates Document bears a 2nd receipt from Radio Shack for a 4200223 3' 1/8' M-M PATCH CABLE. Apparently Tino was reimbursed for the purchase from the Mom/Carole Account.

The Sony ICD-PX312 digital voice recorder has a 72 hour battery life and a USB AC power adaptor AC-U501AD. It has a built in 2GB memory and an SD expansion slot up to 16GB which is a lot of MP3 recording time.

It's capable of voice activation and could have been left connected to the phone in listening mode 24/7

A Sony ICDPX312D Recorder was bought by Tino² March 17, 2011. Recordings known March 21, 2011 and April 22, 2011. The .wav files dated 2/27/2015 were both created and changed on that date. That would imply that they were extracted from another recording media. All of the email .msg files show a modified date of March 18, 2015. All of the emails containing attached video's are dated May 23 & 25, 2011.

What can be presumed from what we have:

The voice recorder was purchased March 17, 2011 and used to intercept electronic communications on Nelva's phone line between March 21 and April 22, 2011.

Carole made video recordings of Carl on her Android and sent them to herself, Amy and Anita May 23 & 25, 2011.

² Care giver for Nelva Brunsting

Someone was editing and manipulating these files in February and March of 2015 but waited until late June 2015 to disseminate them.

93. The original master will have a recording of the conversation Candace had with Nelva where Nelva, when asked about the 8/25/2010 QBD, says she did no such thing. This would be the reason we received only portions of recordings that had been extracted from a larger master just before Carl's resignation.

IX. [EX 2-26] SOUTHERN DISTRICT OF TEXAS [[SDTX-1969](#)] CAUSE NO.4:16-CV-1969 FILED SDTX JULY 5, 2016

94. This was a pro se complaint filed under the federal racketeer influenced corrupt organization statutes [[RICO](#)]. RICO is the most difficult claim to plead in Title 18 of the United States Codes. As we have read in other similar RICO cases this is where the Rooker-Feldman Schnooker usually comes into play and Defendant Jill Willard-Young pled plaintiffs were *"disgruntled litigants seeking vengeance for being on the losing end of fully litigated state court determinations"*. Just as we said then, and continue to say now, *"there are no fully litigated state court determinations"*. In fact, there have been no evidentiary hearings in any state court.
95. It is not possible to prove the nonexistence of a fact but the burden of bringing forth evidence has been shifted to the Defendants and they have not produced evidence of a single evidentiary hearing and they will not because they cannot! They have never produced a proper trust accounting nor balance sheet and those would clearly be damning for the probate mafia

acolytes under the Texas Penal Code and federal statutes regarding thefts affecting interstate commerce.

96. Plaintiff did not have the necessary facts to prove RICO at that juncture but did not want to wait until they arrived at their intended destination before pointing to where they were going. Since you cannot depose the opposing attorneys, it also seemed important to force the attorneys to assume a position they would later have to defend (judicial admissions). All of the defendants plead “probate case”, “probate matter” and “probate proceeding” and they all lied to United States District Court Judge Honorable Albert H. Bennet, and then went on to lie to the honorable Justices of the federal Fifth Circuit Court of Appeal.

Case 4-16-cv-01969 July 5, 2016 – May 16, 2017

Probate Case

Anita Brunsting [Doc 30 p.1](#)

Amy Brunsting [Doc 35, p.1](#) (Ghost written)

Steven Mendel [Doc 36 p2, 6](#)

County Attorneys for Judges Butts & Comstock [Doc 53, p2, 16, 30](#)

Jason Ostrom [Doc 78 p.1](#)

Gregory Lester [Doc 83 p.1](#)

Darlene Payne Smith [Doc 84 p.9, 10, 13, 14, 16, 17](#)

Probate Proceeding

Vacek & Freed [Doc 20, p.4, 6, 7](#)

Bobbie G. Bayless, [Doc 23, p.2, 3](#)

Neal Spielman [Doc 40, p.3](#)

County Attorneys for Judges Butts & Comstock [Doc 53, p3, 4, 7, 15, 29](#)

Darlene Payne Smith [Doc 84, p.8, 10](#)

Probate Matter

Jill Young [Doc 25, p.3](#)

Neal Spielman [Doc39, p1, 2](#) - [Doc 40, p.1, 2, 3](#)

County Attorneys for Judges Butts & Comstock [Doc 53, p.18](#) - [Doc 79 p.9, 10, 13, 14, 16, 17](#)

PROBATE CASE, PROBATE MATTER, PROBATE PROCEEDING

97. Texas Estates Code § 22.029, defines probate matter; probate proceedings; proceeding in probate; and proceedings for probate as synonymous:

“The terms "probate matter," "probate proceedings," "proceeding in probate," and "proceedings for probate" are synonymous and include a matter or proceeding relating to a decedent's estate.”

98. Texas Estates Code § 31.001 Defines “Probate Proceeding”

The term "probate proceeding," as used in this code, includes:
(1) the probate of a will, with or without administration of the estate;
(2) the issuance of letters testamentary and of administration;
(3) an heirship determination or small estate affidavit, community property administration, and homestead and family allowances;
(4) an application, petition, motion, or action regarding the probate of a will or an estate administration, including a claim for money owed by the decedent;

- (5) a claim arising from an estate administration and any action brought on the claim;*
- (6) the settling of a personal representative's account of an estate and any other matter related to the settlement, partition, or distribution of an estate;*
- (7) a will construction suit; and*
- (8) a will modification or reformation proceeding under Subchapter J, Chapter 255.*

PROBATE PROCEEDINGS ARE ACTIONS IN REM

99. Texas Estates Code § 32.001(d)

The administration of the estate of a decedent, from the filing of the application for probate and administration, or for administration, until the decree of final distribution and the discharge of the last personal representative, shall be considered as one proceeding for purposes of jurisdiction. The entire proceeding is a proceeding in rem.

- 100. [Ex 3-25] RICO 7/05/2016-2/28/2018, Upon returning to the probate theater after [the RICO](#) appeal was decided a new Judge was elected to probate Court No. 4 and the first thing Defendant Mendel did was try to poison the court crying about being exposed to a RICO suit and alleging that Candace was a “vexatious litigant” that no longer bothered to appear in the probate court.
- 101. Candace had flown in from California for hearings that invariably turned into staged status conferences where nothing was ever resolved for the litigants. However, it was rather apparent that she could not return to the probate theater pro se without having a rag stuffed in her mouth as a “vexatious litigant” even though the statutory criteria was simply not present. “Vexatious litigant” appears to be just another artifice in the probate

mafia arsenal and once branded, right, wrong or indifferent, that stigma remains a stain used to besmirch the credibility of victims.

Hero's and Goats

102. We had mentioned that there were both good people and bad people in this story. **One of the shining stars is Houston attorney Candice Schwager.** Candice agreed to appear pro bono for Candace as we no longer had money due to the injuries suffered thus far and we owe Candice a great debt of gratitude including payment for her excellent service if we can ever pull out of this perpetual financial injury that has consumed nearly 20% of our entire life time.

Texas Estates Code § 402.001

Sec. 402.001. GENERAL SCOPE AND EXERCISE OF POWERS. When an independent administration has been created, and the order appointing an independent executor has been entered by the probate court, and the inventory, appraisement, and list of claims has been filed by the independent executor and approved by the court or an affidavit in lieu of the inventory, appraisement, and list of claims has been filed by the independent executor, as long as the estate is represented by an independent executor, further action of any nature may not be had in the probate court except where this title specifically and explicitly provides for some action in the court.

103. The Probate court never had subject matter jurisdiction over this trust controversy nor any of the other matters labeled as ancillary to [Ex 2-17] [the closed estate](#) of Nelva Brunsting.
104. As one can easily see with a cursory examination of [Ex 2-34] [the inventory](#), there was never anything to subject to an in rem proceeding but a used car of

insignificant value and, as previously held by the Honorable Justices of the Fifth Circuit Court of Appeal, the family trust does not hold any assets belonging to a decedent's estate. This was never about probate.

X. [FIFTH CIRCUIT \[USCA5\] NO. 17-20360](#)

105. June 28, 2018, This was the appeal from [the RICO](#) suit properly dismissed for failure to state a claim and as the Appeals Court noted, the elements were pled correctly but the plaintiff failed to supply sufficient supporting facts. We did not yet have the proof of claim then but very much do now. Everything we said then remains true now. It is as we said all along and continue to say just as Judge Hoyt described on April 9, 2013! Attorneys sitting around churning out the billing hours and the parties walking away broke.
106. It wasn't until after Judge Hoyt entered the preliminary injunction that Bayless fraudulently filed non-probate related tort claims in the probate court. Both events occurred on the same day.

[SDTX-592] Rule 60 Motion # 2

107. Once having been betrayed by attorney Jason Bradley Ostrom, Candace Curtis found herself in a probate court treadmill theater defending against the assaults mounted by the attorneys for the imposter co-trustees and not only wondering what happened to her lawsuit but asking one much larger and more consuming question. How to escape from the probate hell her former counsel had stuck her in.

108. When [the 1st RICO](#) action was filed we also filed a motion to vacate the remand order recapping all of this same information and again struggling with not knowing the rules. That was Document 115 in SDTX 4:12-cv-592 [Ex 3-72] and we mistakenly thought they would both be filed in the same court. Witness and private para legal Rik Munson will take the fall for that dysfunction.

XI. FIFTH CIRCUIT [USCA5] [NO. 20-20566](#)

109. We tried to get out of the probate court and as a necessary part of that we had to study probate law in Texas. We tried to explain to the Probate Court that it did not have [subject matter jurisdiction](#) to no avail. Our plea to the Jurisdiction and Bill of Review fell on deaf ears but we were pro se unlearned in the law and just defending against a war of attrition and perpetual character attacks from the Defense attorneys and ultimately from Bayless, the [attorney for the alleged co-plaintiff](#) and her client double-crossing shenanigans. See severance hearing transcript [Ex 3-19]

XII. HARRIS COUNTY PROBATE COURT NO. 4 [CAUSE NO 412249-403](#) [-403]

110. This estate planning malpractice case [Ex 3-57] [was snatched out of District Court 164](#) on March 1, 2019 without a pending probate to be ancillary to. A pending probate administration is a prerequisite element as expressed in the snatching statute: [Texas Estates Code § 34.001](#)

Tex. Est. Code § 34.001

Section 34.001 - Transfer to Statutory Probate Court of Proceeding Related to Probate Proceeding

(a) A judge of a statutory probate court, on the motion of a party to the action or on the motion of a person interested in an estate, may transfer to the judge's court from a district, county, or statutory court a cause of action related to a probate proceeding pending in the statutory probate court or a cause of action in which a personal representative of an estate pending in the statutory probate court is a party and may consolidate the transferred cause of action with the other proceedings in the statutory probate court relating to that estate.

(b) Notwithstanding any other provision of this subtitle, Title 1, Chapter 51, 52, 53, 54, 55, or 151, or Section 351.001, 351.002, 351.053, 351.352, 351.353, 351.354, or 351.355, the proper venue for an action by or against a personal representative for personal injury, death, or property damages is determined under Section 15.007, Civil Practice and Remedies Code.

111. Harris County District Court 164 Cause No. 2013-05455 thus became “Estate of Nelva Brunsting No. 412249-403 without a pending probate administration to be ancillary to and, where it remains without a plaintiff. Section 15.007, Civil Practice and Remedies Code governs original and exclusive jurisdiction over living trust disputes and not the estates code.
112. Like SDTC Cause No. 4:12-cv-592, District Court 164 Cause No. 2013-05455 is not now, nor has it ever been in the probate court.

XIII. IMPOSTER CO-TRUSTEES ORIGINAL COUNTER CLAIMS

113. On November 4, 2019, after seven years of being held hostage in stasis, Amy & Anita Brunsting filed what they called their [Ex 3-58] [Original Counter claims](#). Their argument was that Candace and Carl violated the in Terrorem clause in the forged and otherwise illicit 8/25/2010 QBD [Ex 1-21,

22, 23 & 25a] but their claims are vague on the question of what instruments and what in Terrorem clause they are talking about and they don't have a declaratory judgment even from the probate court.

114. However, in invoking provisions for corruption of blood they are clearly talking about the illicit 8/25/2010 QBD that is not in evidence and that they have refused to produce in attempt to qualify "them" as evidence and their claim that Candace and Carl had forfeited their interest in the trust to the imposter co-trustees to pay their attorney's fees only proves what Plaintiff Curtis said in her original complaint filed SDTX February 27, 2012 No. 4:12-cv-592. [Ex 3-1]

XIV. CORRUPTION OF BLOOD

115. Neither Andrew Curtis nor his nine year old son Andrew Curtis Jr. (AJ) have been parties to any of the pseudo litigation in Texas and their rights cannot be compromised by any action to which they were not participants See Defendants [Ex 3-59] talking about how neither Candace nor any of her successors are entitled to receive any portion of the family trust.
116. Texas Attorney General Opinion (GA-0632) is highly relevant to the Corruption of Blood question. While it doesn't directly address "in terrorem" clauses, it extensively analyzes the "corruption of blood" doctrine as it relates to inheritance rights under the Texas Constitution (Article I, Section 21). The opinion specifically examines a Texas Probate Code section that could prevent a parent convicted of certain crimes against a child from inheriting from that child. The analysis includes historical context of the

corruption of blood doctrine, relevant Texas case law, and the Slayer's Rule, making it a valuable resource for understanding the legal limitations on disinheritance based on criminal convictions.

Probate Enemy No. 1

117. Once trapped in the probate theater it was made clear that Candace federal injunction, protecting the family trust from attorney pilfering, made Candace the No. 1 enemy probate mafia attorneys Stephen Mendel, Bobbie G. Bayless and Neil Spielman and their extortion in effort to achieve a filthy lucre [Ex 3-60] [extraction and money laundering scheme](#), touted as being “confidential” by the criminal co-conspirators.

XV. HARRIS COUNTY PROBATE COURT NO. 4 CAUSE NO 412249-405

118. This unnecessary ancillary case was created at the [severance motion hearing](#) which sought to sever the fraudulent consolidation of “*estate of Nelva Brunsting 412249-402*”, [allegedly created by a remand that wasn’t a remand], from “*estate of Nelva Brunsting 412249-401*” The case filed by Carl individually [without standing] after Carl the independent executor had resigned thus, joining a case without a plaintiff with one neither remanded (returned) to, transferred to nor filed in the probate court. Where are the proofs of personal service of the filing of the federal case in the probate court? There are none.
119. The independent administration of the “estate of Nelva Brunsting” closed in the probate court when the inventories were approved, five days before Carl filed the 41229-401 action. Calling 41229-401 “*estate of Nelva Brunsting*”

is a misnomer and fraud. There is no estate of Nelva Brunsting. Independent executor Carl Brunsting resigned in February 2015. There has never been a successor appointed and Candace Curtis federal lawsuit was not refiled in the probate court.

- a. Federal district courts lack the power to remand a case to a court from which it had not been removed.

“A case may be remanded only to the court from which it was removed and the federal district court does not have the authority to remand a case originally brought in federal court.” See First National Bank of Pulaski v. Curry, 301 F.3d 456, 467 (6th Cir. 2002).

- b. Federal district courts lack the power to remand or transfer an action originally filed in federal court to state court.

In the present case, the United States District Court never had jurisdiction of the action, and even if that court had jurisdiction, it did not have the power to transfer the action to the state courts. No statute authorizes a federal court to transfer such an action to state courts. See White v. CommercialStd. Fire Marine Co., 450 F.2d 785, 786 (5th Cir.

1971). A federal court may not transfer an action commenced in that court to a state court. A federal court may remand an action to a state court only if the action was commenced in the state court and then removed to a federal court. See 28 U.S.C. §§ 1447 etseq. See, e.g., Edward Hansen, Inc. v. Kearny Post OfficeAssocs., 166 N.J. Super. 161 (Ch.Div. 1979). Galligan v. Westfield Centre Service, Inc., 82 N.J. 188, 198 (N.J. 1980)

- c. State courts lack the power to transfer an action originally filed in federal court to state court.

120. Texas Rule of Civil Procedure 174(a) allows any court in the state to transfer a case from another court to itself for purposes of consolidating that case with another case pending in the first court. However, “*Rule 174(a) by its own language* allows consolidation only of actions or cases that are then “pending before the court.” Neither the rule itself, nor any cases interpreting it, suggests that it may be used to extend the court's authority to transfer and consolidate cases pending before *other courts*. ” Flores v. Peschel, 927 S.W.2d 209, 212-13 (Tex. App. 1996)
- a. State probate courts authority to transfer an action to itself requires a pending probate.
121. Texas Estates Code § 34.001 only allows a probate court to transfer an action to itself when the action to be transferred is incident to a pending probate. The Brunsting estate [closed April 4, 2013](#) and the purported transfer of the federal case occurred May 28, 2014 [[ROA 297-303](#)].
122. The first thing attorney Ostrom did after filing copies of federal court records in the closed base case 412249, was to file a [motion for a \\$40,000.00 distribution](#) to pay his unearned fees.
123. Stephen A Mendel made his appearance November 14, 2015 and on page one of the very first pleading Mendel filed [[Tab 54](#)] December 5, 2015 makes four claims:
- “1. Distributions to pay legal-fee creditors are not authorized by the trust and, therefore, the motions must be denied.*

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 is enforceable, then Candace and Carl have no right to any distribution from the trust.”

124. By this judicial admission the alleged co-trustees [Ex 3-61] [November 5, 2021 Motion for Summary Judgment](#) and [Ex 3-62] [proposed order](#), is a challenge to the settlors trust agreement. Of note is their continued reference to “the trust” without a judicial determination on what instruments they are referring to.
125. Aside from thwarting the Defendant co-trustees constant attacks and learning estate planning and probate law in Texas, after firing Ostrom, federal plaintiff Candace Curtis continuously questioned the want of subject matter jurisdiction.
126. Among her efforts was a [Ex 3-63] [Plea to the Jurisdiction](#) and [Ex 3-64] [Proposed Order](#) that were [Ex 3-65] [denied February 14, 2019](#).
127. On Novembers 19, 2019 Candace Curtis filed a statutory [Bill of Review](#) somehow creating Cause No 412249-404 and the Attorneys insisted on being physically served with process for the Bill of Review which only aided in their war of attrition causing further injury to their elder victim.

No Proof of Service for any Counter Claims

128. On November 5, 2021 Defendants filed what they called “Original Counter

Claims”. Thus, after nearly ten years of poser advocacy, litigation posturing, defamations and making threats, and after having failed to coerce Candace Curtis [Probate Enemy No. 1] into trading a silk purse for a sow's ear [Ex 3-66] [[settlement contract drawn up by attorney Stephen Mendel](#)], the Defendant imposter co-Trustees filed their original counter claims focusing on the in Terrorem clause in their forged and otherwise illicit 8/25/2010 QBD that is not in evidence and that they have done everything they can to avoid producing in an evidentiary hearing.

129. They did not serve Candace with their counter-claims and there are no proofs of service of any filing of Candace federal action in the probate court. The probate predators apparently don't think the legal wind blows in both directions.

Rule 11

130. On December 5, 2021 Drina Brunsting, alleged attorney in fact for Carl Brunsting, and the Defendant imposter Co-Trustees, filed a Rule 11 agreement in which they agree not to prosecute their claims against each other. [Ex 3-67] [[ROA 314-317](#)]
131. On January 5, 2022 Drina Brunsting, alleged attorney in fact for Carl Brunsting individually, moved to sever Carl's claims from those of Candace Curtis, [Ex 3-67] [[ROA 318-320](#)] arguing that [Candace and Carl have no claims in common](#). The February 11, 2022 Hearing on Motion to Sever [Ex 3-19] does not specifically identify any issues Carl and Candace have that are not in common, but merely argues that Carl and Candace do not have

claims in common and somehow have conflicts of interests that prevent settling the controversy under one roof.

132. This raises interesting questions. The remand order is void because there was no remand (return) and no court to remand to, the transfer order was invalid, there was no one representing the “estate of Nelva Brunsting” when the alleged consolidation occurred and after resolving nothing of a substantive nature, how could Carl Brunsting pollute diversity if he had no claims in common with Candace Curtis?
133. Fact: Carl and Candace are the legitimate co-trustees but Carl resigned as “independent executor” claiming lack of capacity and because he has no ad litem representing him, he is not an heir to any estate and has no standing in the probate theater even if there were subject matter jurisdiction and the authority to act as a court.

XVI. SOUTHERN DISTRICT OF TEXAS [SDTX- CASE 4:22-CV-1129]

134. After the remand that wasn’t a remand;
 - a. the transfer that wasn’t a transfer; [Ex 3-48]
 - b. the consolidation that wasn’t a consolidation; [Ex 2-29]
 - c. compulsory counter claims filed in the probate theater [Ex 3-58]
counter to no probate claims filed in probate; [Ex 3-37] [Ex 3-38]
 - d. The Rule 11 agreement admitting there was no controversy between the attorneys; [Ex 3-56]

- e. The Severance Motion [Ex 3-19] and Order that could not sever what was never consolidated [Ex 2-29].
 - f. a series of nonsuits, including Carl's nonsuit of his alleged co-plaintiff [Ex 3-68]
 - g. Order for Summary judgement against Candace Curtis without a single evidentiary hearing in a court with no subject matter jurisdiction [Ex 3-62] claiming to corrupt the blood of Candace Curtis son and grandson [Ex 3-13] all for the purpose of giving colorable legitimacy to their Texas Penal Code 32.45 and Texas Penal Code 32.53 theft crimes.
135. Unfortunately, the way this game is played, one will not find all of the information in one place. Other than behind the curtain of "confidential mediation" the probate theater record does not reflect any reference to the hundreds of thousands of dollars in attorney ransom demands they insist on laundering under a settlement contract that Candace refused to legitimize.
- a. April 7, 2022 Candace filed a [Ex 3-69] [Notice of Removal](#) of the alleged Co-Trustees' counterclaims to the Southern District of Texas creating Case No. 4:22-cv-1129.
 - b. While this may appear to be a futile effort, it did produce some very damning evidence that appears nowhere else in the public record.
 - c. Co-Defendant's attorneys, Attorney Stephen Mendel [Ex 3-11] and Attorney Neal Spielman [Ex 3-55] filed their fee statements in Judge

Rosenthal's court, which they had never previously disclosed in the probate court arguing that Curtis was merely a disgruntled litigant in a probate case attempting to evade judgments against her.

Attorney Stephen Mendel Fee Disclosure

136. [Ex 3-11] 2022-04-08 02-12 Exhibit q Anita's (Mendel) attorney Fee Disclosure: On the cover page of his disclosure, Mendel makes the following claim:

"In Reference

To:

C.A. No. 412249 & 412249-401; *Candace Curtis v. Anita Brunsting, Et Al*; In Probate Court No. 4, Harris County, Texas.

C.A. No. 412249 & 412249-402; *Candace Curtis v. Anita Brunsting, Et Al - Plea in Abatement*; In Probate Court No. 4, Harris County, Texas.

C.A. No. 412249 & 412249-403; *Carl Henry Brunsting, Executor of the Estates of Elmer H. Brunsting & Nelva E. Brunsting; v. Candace L. Kunz-Greed & Vacek & Freed, PLLC*; In Probate Court No. 4, Harris County, Texas (transfer of C.A. 2013-05455 from the 164th District Court, Harris County, Texas).

C.A. No. 412249 & 412249-404; *Candace Curtis v. Anita Brunsting, Et Al - Bill of Review*; In Probate Court No. 4, Harris County, Texas."

137. As a result of Mendel lying to Judge Rosenthal to give the appearance of a vexatious litigant, probate exception and Rooker-Feldman, Judge Rosenthal remanded back to the probate theater saying Curtis sued her siblings in the probate court. However, Candace Curtis sued Anita and Amy Brunsting in

the Southern District of Texas [Ex 2-1] more than a year before Carl's 412,249-401 action [Ex 1-47] was filed in the probate court.

"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."

138. We see in Mendel's fee disclosure that attorney Jason Ostrom, after stabbing his client in the back and filing a motion in the probate court to extract funds from the family trust he was unable to get in the SDTX, Ostrom was apparently negotiating an agreement to his filthy lucre extraction in exchange for non-suit of the federal injunction. None of this has ever been about the interest of any of defendant attorney's client.
139. We also see in Mendel's fee Disclosure that he claims his fees did not include [the RICO](#) [Ex 3-25]. However, what we see redacted are fifteen pages of billing entries [Ex 3-11] during the time the 1st RICO case was ongoing [7/05/2016-5/28/2018] when [nothing happened in the probate court at all](#) [Ex 2-24] This is [the kind of blatant fraud](#) [Ex 2-26] we see from Stephen Mendel everywhere we look.

Attorney Neil Spielman Fee Disclosure

- a. [2022-04-08 02-15 Exhibit R Amy's \(Spielman\) attorney fee disclosures.pdf](#)

Stephen Mendel: Anita threatens Carl with IME & Guardianship

140. May 19, 2015 there is a note in Neal Spielman's billing records regarding

Defendant Anita Brunsting threatening Carl with a motion to compel IME to determine whether an action for guardianship against Carl would be necessary. This is clearly an intimidation tactic.

Amy's (Spielman) attorney fee disclosures [Ex 3-11b]

[Case 4:22-cv-01129 Document 2-15 Filed on 04/08/22 in TXSD Page 17 of 52](#)

“5/19/2015 NES Follow-up telephone conference(s) with Anita's counsel regarding counsel's recent discussion with Anita, discussing plan to proceed with IME for Carl to assist in determination of whether guardian is needed for Carl, discuss pursuing summary judgment on "undue influence" issue, discuss status of proceedings for appointment of independent successor executor.”

141. 2015-05-29 based on Spielman's Fee Disclosure statements Bayless apparently agreed not to prosecute Carl's claims in exchange for no IME or Guardianship action against Carl! If Anita and Stephen Mendel had a genuine concern about Carl there would be no ground for an agreement.

“5/29/2015 NES Review draft of proposed Motion for No Evidence Summary Judgment and prepare memorandum to Anita's counsel regarding possible edits to same; review memorandum from counsel regarding possible agreement from Carl's attorney regarding IME in lieu of Motion and hearing”

142. We do not see evidence of this agreement until December 5, 2021 when Bayless, counsel for the alleged Plaintiff, along with Mendel and Spielman, attorneys for Bayless Defendants, filed their [Rule 11 Agreement](#). [ex 3-56]
143. Stephen Mendel also made it abundantly clear in his motions for extension of time in the 1st Court of Appeal [Ex 3-74] that there was no controversy

between the original parties to the probate circus. Candace Curtis lawsuit was never filed in the probate court.

An essential component of subject matter jurisdiction is the constitutional requirement of an existing case or controversy among the parties. “For a plaintiff to have standing, a controversy must exist between the parties at every stage of the legal proceedings, including the appeal”. See United States v. Munsingwear, Inc., 340 U.S. 36, 39 (1950).

If a controversy ceases to exist — “the issues presented are no longer ‘live’ or the parties lack a legally cognizable interest in the outcome” — the case becomes moot. Murphy v. Hunt, 455 U.S. 478, 481 (1982); see also O’Shea v. Littleton, 414 U.S. 488, 495-96 (1974) Williams v. Lara, 52 S.W.3d 171, 184 (Tex. 2001)

144. Let’s review the procedural history for a moment.

- a. Candace Curtis filed suit in the SDTX, [Ex 3-75]
- b. Bayless began depositions before suit in state court. [Ex 2-4]
- c. Candace wins her Fifth Circuit appeal [Ex 2-6]
- d. Bayless filed a malpractice suit against the estate planning attorneys in Harris County District Court [Ex 2-7]
 - i. Carl filed the verified inventory [Ex 2-34], appraisal and list of claims. The [court approves the inventory](#) [Ex 2-15]. and the probate is [dropped from the active docket](#). [Ex 2-16] [Ex 2-17] Case Closed!
- e. Candace obtains an [injunction from the SDTX](#) [Ex 3-30] and;

- f. After filing a malpractice suit [Ex 3-57] against the estate planning attorneys in Harris County District Court 164, Bayless filed integrally related claims [Ex 3-76] against the entire Brunsting family of trust beneficiaries in the Harris County Probate Court, five days after nothing more could be filed in that court (Tex. Est. Code 402.001 formerly Probate Code 145). Bayless filed under the Texas Declaratory Judgment act and failed to cite to the estates code for jurisdiction.
 - g. Ostrom obtains a remand to the probate court which he then filed in the probate court disguised as a transfer order. [Ex 3-48]
 - h. Carl resigns [Ex 3-17] and the next day there is an agreed Docket Control Order [Ex 3-46]. Three weeks later there is an [Agreed Order to Consolidate Cases](#). [Ex 3-47]
 - i. Curtis fires Ostrom and the Agreed Order to Consolidate Cases vanishes from the electronic record [Ex 2-29].
145. Let's keep in mind that whether there was ever probate court jurisdiction over the claims Carl filed in that court, the estate is an indispensable party to any proceeding in the probate court. Once Carl resigned there was no executor, nothing to administer and no successor was ever appointed. Without a pending estate administration or administrator, nothing could be done in "estate of Nelva Brunsting" but that did not stop the probate mafia participants from pretending.

146. It should also be noted that the name of this case has been changed several times by these probate attorneys to suit the particular situation but there has never been subject matter jurisdiction over this trust controversy in the probate court. There is no “estate of Nelva Brunsting No. 412249-401” and no “Carl et al vs Anita et al No. 412249-401”.

XVII. TEXAS FIRST DISTRICT COURT OF APPEAL NO. 01-22-00378-CV

147. (Appeal [Withdrawn](#)) The clerk will not compile a record from more than one case number. This would explain why the attorneys create a mess with multiple case file numbers when there is only one nucleus of operative facts [Ex 3-24] one family trust and no decedent’s estate at issue.
148. This case was simply too convoluted to be written in an opening brief in a mere 30 days and too many aspects to grasp in short order. The only valid issue is the complete absence of subject matter jurisdiction, the complete absence of substantive resolution on what instruments contain the trust agreement, identifying the rights of the beneficiaries and the obligations of the trustees, with no fiduciary duties ever performed at all.

XVIII. TEXAS FIRST DISTRICT COURT OF APPEAL NO. 01-22-00514-CV [EX 3-4]

2022-07-12 [Petition for Writ of Mandamus](#) No. 01-22-00514-cv

2022-07-12 [Mandamus Record Index](#) No. 01-22-00514-cv

149. 2022-07-10 Petition for Writ of Mandamus was [denied with no explanation](#). Apparently there is adequate remedy available in the Harris County District

Court where the case would be snatched by the probate court all over again.
[Ex 3-57]

XIX. [1ST COA] TEXAS FIRST DISTRICT COURT OF APPEALS, NO. 01-23-00362-CV

150. [Ex 3-74]This appeal, [No. 01-23-00362-CV](#), was untimely dismissed according to the rules of appellate procedure but the case was simply too convoluted and the only valid issue was the complete absence of subject matter jurisdiction in the probate court.
151. After holding this family hostage in stasis for almost 13 years in effort to coerce and extort a money laundering contract, Attorney Stephen Mendel, lead attorney for the unified appellees, complained about statutes of limitations.
152. TEX. R. APP. P. 26.1 Notice of Appeal must be filed within 30 days after the challenged judgment is signed. The only issues not time barred by the rules of appellate procedure are want or excess of jurisdiction. The only question before the appeals court was subject matter Jurisdiction and whether orders entered in the court below are void for want of personam or subject matter jurisdiction or merely voidable on substantive and due process ground.
153. An appellate court has no jurisdiction to consider the merits of an appeal of a void order or judgment. See *id.* Catapult Realty Capital, L.L.C. v. Johnson (In re Catapult Realty Capital, L.L.C.), No. 05-19-01056-CV, at *9 (Tex. App. Feb. 20, 2020) and authorities cited therein.

154.

WHAT NOW?

155. While the First District Court of Appeals action was pending and statutory probate court jurisdiction has been clearly stated to be the issue, Stephen Mendel continued to file motions in the probate court asking for official leave to continue ignoring the federal injunction and stuff his pockets with trust monies under the label of attorney fees which he already had plead would violate the trust. [Ex 77b]
156. At the same time the estate planning grifters thought they too would exploit the opportunity to file for status conferences. The status has not changed since Carl's resignation in 2015. There is no plaintiff in the malpractice case, no estate to probate, no administrator in the closed probate charade and no jurisdiction in the probate court over any of it. Worse yet, Ostrom starts out by telling the court that these trusts form part of the estates. Nothing could be legally or factually further from the truth. *Curtis v Brunsting* 704 F.3d 406 (Jan. 9, 2013) [Ex 3-45] is entitled to full faith and credit as it directly addresses the issue, stating that "assets placed in an inter vivos trust generally avoid probate, since such assets are owned by the trust, not the decedent, and therefore are not part of the decedent's estate." The court clarifies that because assets in a living trust are transferred before death, the trust isn't under the probate court's jurisdiction.

PART 4 – COMMON LAW CLAIMS, AND PREDICATE ACT CRIMES

157.

158.

159. The Elmer H. Brunsting share of the trust is not within the jurisdiction of the probate court as attorney Bayless April 9, 2013 filing missed the 4 year statute of limitations by 8 days. The family farm is in the Elmer H. Brunsting trust share as of the division of the trust corpus at Elmer's passing pursuant to Article VII of the restatement. Notwithstanding this simple statement of law and the fact that the entire matter was in the court of appeals and not the probate court, Stephen Mendel continued to file motions in the probate theater seeking court approval to steal from the family trust under various schemes and artifice.

XX. THE ESTATE OF NELVA BRUNSTING

160. Please be advised that there is no "Estate of Nelva Brunsting" as shown by the verified inventory appraisement and list of claims approved by the court on April 5, 2013. It should also be noted that [Section 402.001 of the Estates Code](#) prohibited any further filing in that court after the court [order approving the verified inventory appraisement and list of claims](#) unless specifically and explicitly authorized under Title II of the Estates Code. No matter filed as ancillary to the estate cites to any authority that constitutes a specific and explicit provision for action in the probate court by the independent executor.

161. While probate presents an exception to the one final judgment rule, there is

no probate having anything to do with this living trust and referring to Elmer's share of the corpus as "the Decedents Trust" does not make it a testamentary trust.

162. The question of statutory probate court jurisdiction is currently pending before the 1st District Court of Appeals and statutory probate court jurisdiction is the only question before the 1st COA. That case is [set for submission December 11, 2024](#). One might want to review Candace Curtis [opening brief](#) to get the full flavor of this complete absurdity.
163. The corpus of the Brunsting Family Living Trust does not contain any property belonging to a decedent's estate (see Curtis v. Brunsting 704 F.3d 406) and that is res judicata to which the state court is required to give full faith and credit, U.S. Const. Article IV §1.
164. There is no money or other property in the estate and no administrator to serve with any motions or pleadings. The estate is a necessary party to any proceeding in the probate court and the complete absence of an estate renders the entire probate charade nugatory.
165. Please be further advised that in 2017 the 77th legislature, pursuant to [House Bill 689](#), repealed Government Code 1034(a) which had previously granted the statutory probate courts in Harris County jurisdiction over inter vivos trusts equal to that of the District Court. House Bill 689 makes it clear that, had the probate court acquired jurisdiction over this living trust controversy, it would have been required to transfer the case to the district court immediately upon losing plenary jurisdiction over the estate.

XXI. MENDEL’S NOVEMBER 25, 2024 FILING

[2024-11-25 Co-Trustees 1st Amended Motion for Interim Beneficiary Distribution Attorneys Fees & Expenses.pdf](#)

166. Is an admission that he and his client violated [the federal injunction](#) by asserting that more than half a million dollars in attorney fees were incurred by “the trust” without a court order authorizing attorney fees to be paid from the trust corpus. Mendel never obtained a court order to bill “the trust” for his fees and he cannot do so *expose facto*. I’m reasonably confident that the agreement to get his fees from the trust is contained in his undisclosed “Retainer Agreement” with Anita Brunsting.

XXII. [AGREED ORDER DRAFTED BY MENDEL](#)

167. In item No. 10 Mendel claims that Anita Brunsting should be “reimbursed \$10,000” for attorneys’ fees advanced by her to the Mendel Law Firm.
168. In item No. 9 Mendel argues that Amy Brunsting should be reimbursed \$26,000 for attorneys’ fees advanced by her to the Griffin and Mathews Law Firm.
169. What this says to me is that these two law firms have been financing this probate theater charade from the onset and that they have been working in their own interests and not that of their clients the entire time. This is called barratry, champerty and maintenance and is a violation of Disciplinary Rules of Professional Conduct.
170. [Mendel made his appearance](#) in the probate theater November 14, 2014 and [Spielman made his appearance](#) December 8, 2014.

XXIII. THE HEINOUS EXTORTION INSTRUMENT

2024-10-22 Mendel Motion for payment of fees

171. In Mendel's October 22, 2024 "[Motion for payment of attorney fees](#)" in the section labeled "prayer" Mendel, at item L., asks the court to "Provide that the transfers/payments set forth in this motion shall be free of any personal asset trusts required by the "[Qualified Beneficiary Designation Trusts](#)". There are no Qualified Beneficiary Designation Trusts and there have never been any Qualified Beneficiary Designation Trusts.
172. It should be noted that immediately after Candace Curtis fired Jason Ostrom, Mendel et al filed a [no-evidence motion](#) arguing that neither Carl nor Candace could show the August 25, 2010 [Qualified Beneficiary Designation and Testamentary Power of Appointment Under Living Trust Agreement](#) was invalid. It should be worthy to note that Carl resigned the office of independent executor February 19, 2015 due to want of intellectual capacity and there has been no one to represent the nothing called "estate" ever since. Candace filed her [answer to Mendel's No-evidence Motion](#) objecting to the instrument as assuming a fact not in evidence and pointing to the fact that there were [three different signature page versions](#) in the record.
1. In our 2016 RICO Case [4:16-cv-01969 Document 1 Filed in TXSD on 07/05/16](#) at Page 35 of 64 Candace Curtis alleged

CLAIM 24 - State Law Theft/ Hobbs Act Extortion 18 U.S.C. 1951(b)(2) and 2

133. *On or about August 25, 2010, and continuing thereafter in the Southern District of Texas and elsewhere within the jurisdiction of the Court, Defendants Candace Freed and Anita Brunsting did unlawfully, knowingly and intentionally further a conspiracy to obstruct, delay and affect, and did attempt to obstruct, delay and affect commerce, and the movement of articles and commodities in such commerce, by extortion under color of official right, as that term is defined in Texas Penal Codes 31.02 and 31.03 and Title 18, United States Code, Section 1951, in that Defendant Candace Freed, with persons both known and unknown to Plaintiffs, did conspire to obtain improper dominion over the assets of the Brunsting family of trusts and the expected property of Plaintiff Curtis, by collaborating to obtain consent induced by the wrongful use of threatened force, violence and fear, in that Defendant Candace Freed did implement the Vacek design in drafting the heinous 8/25/2010 "Qualified Beneficiary Designation and Testamentary Power of Appointment under Living Trust Agreement" (hereinafter the "8/25/2010 QBD" or "Extortion Instrument"). Such instrument was, in fact, used to make threats and to instill fear of economic harm in the victims of the inheritance theft conspiracy, for which the extortion instrument was created, along with other intended illicit purposes as hereinafter more fully appears.*

2. As recently as June 30, 2023 in [Appellants Opening Brief](#) No. 01-23-00362-CV before the 1st District Court of Appeal in Houston at page 15, Appellant Candace Curtis makes the following claim:

Candace Curtis Termination of Ostrom as Counsel

On March 30, 2015, after data mining to get information on her lawsuit and discovering that Ostrom's actions had impugned her cause in fatal contradictions, federal plaintiff Candace Curtis terminated attorney Jason Ostrom and found herself having to defend against the Defendant Co-Trustees no-evidence motion for summary judgment, filed June 26, 2015 [ROA 346] arguing that Carl and

Candace could not prove that Defendant's trust modification instrument, called "Qualified Beneficiary Designation and Exercise of Testamentary Powers of Appointment" [ROA181] dated August 25, 2010, was invalid (8/25/2010 QBD). Appellant answered [ROA 348] with an objection to assuming facts not in evidence and a demand for the Defendant Co-Trustees to produce the instrument and qualify it as evidence. They have not and they will not because they cannot. Summary Judgment hearings suddenly became a hearing on an emergency motion for a protective order, (filed 7/20/2015) [ROA 349] regarding wiretap recordings disseminated by the Mendel law firm via certified mail in early July. [See ROA 238 para 3]

3. Thus, after using the heinous extortion instrument, with its corruption of blood in Terrorem provision, to deprive Candace Curtis and her descendants of their property after having never met the burden to bring forth evidence, Mendel in section L of his October 22, 2024 "[Motion for payment of attorney fees](#)", says the heinous instrument is no longer relevant. However, Mr. Spielman made a point of arguing its applicability June 26, 2024 when asking the probate court for permission to sell the Iowa farm belonging to the Elmer H. Brunsting Trust Corpus. Mendel now says that, because of the sale of the farm, "the trust" now has the funds to pay his fees.

4. Oddly enough, in [2024-06-26 Defendant Co-trustees Notice of the Status of Curtis Appeal](#) they make it clear that the matter is in the court of appeals and not in the probate court at all and hammers away at the corruption of blood facade. But

that doesn't seem to stop them from filing motions in the probate theater and persistently asking for leave to extract filthy lucre. I realize that probate is an exception to the one final judgment rules but this trust controversy isn't a probate matter at all as the trust corpus [does not hold any assets belonging to a decedents estate](#).

XXIV. MORE FRAUD

5. Candace Curtis retained Attorney Jason Ostrom in the Southern District of Texas. Ostrom deceptively manipulated the administrative side of the federal court to obtain an unopposed order of remand to the probate court from which the case had not been removed and that Curtis as a pro se went to the 5th Circuit to avoid, [Curtis v Brunsting 704 F.3d 406 \(Jan 2013\)](#). The 1st thing Ostrom did in the probate court was file a motion for a \$40,000 distribution from the trust to pay his fees.

Judicial Admissions

6. [Mendel's December 5, 2014 Answer](#) is a judicial admission that he and his client are challenging "the trust".

"Summary of the Argument

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

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 is enforceable, then Candace and Carl have no right to any distribution from the trust.”

7. The vagaries here are “the trust” and “the in Terrorem clause”. The -401 action was filed under the declaratory judgment act and after holding this family and their property hostage in a probate B-movie theater for more than a decade, the participating attorneys cannot show a declaratory judgment defining the instruments that contain the indenture they refer as “the trust”.

8. What Mendel doesn’t mention is that the federal court injunction orders that no new business could be entered into without prior court approval. Mendel did not have court permission to incur fees against “the trust”.

9. If you read my affidavit, in the first nine pages I make it clear that the 2005 Restatement as Amended in 2007 are the instruments that comprise the Brunsting Family Trust Indenture. Candace Curtis not only has a published 5th Circuit opinion in her favor and a federal injunction prohibiting the attorneys from looting the trust corpus but she is the trustee and not Amy Brunsting nor Anita Brunsting.

Candace also refused to capitulate to Mendel's Ransom/laundry/control in perpetuity charade, despite all the defamations and all the threats

10. After more than a decade held hostage in Probate Theater with no jurisdiction and no evidentiary hearings, summary judgment was entered at a pre-trial scheduling conference just out of the blue. We withdrew our notice of appeal for the specific purpose of limiting the Courts review to the single question of subject matter jurisdiction while avoiding attorney Stephen Anthony Mendel's conflictineering enterprise from clouding the only issue that matters. Georgia Attorney Millard Farmer was disbarred for Mendel's style of conduct and Mendel should be disbarred as well.

173. In 2011, Husband filed a petition in Coweta Superior Court to modify the parties' child custody arrangement, and Wife again retained Farmer. Throughout his representation in the custody litigation, Farmer employed litigation tactics that he himself referred to as "Conflictineering," the purpose of which was to disrupt the judicial process to the point that either the court or the opposing party would simply capitulate for the sake of restoring order. In furtherance of this strategy, Farmer filed repeated frivolous motions and pursued baseless appeals, ultimately yielding more than 500 filings in the case, and routinely made ad hominem attacks against parties, the trial judge and court staff, and participants who took positions

contrary to those of his client. See, e.g., *Murphy v. Murphy* , 328 Ga. App. 767, 773-774, 759 S.E.2d 909 (2014) (imposing frivolous appeal penalties on Farmer and his client). In re Farmer, 835 S.E.2d 629 (Ga. 2019)

[2024-06-17 Web Inquiry Docket -401.pdf](#)
[2024-06-17 Web Inquiry Docket -403.pdf](#)
[2024-06-19 412248 Web Inquiry.pdf](#)
[2024-06-19 412249 Web Inquiry.pdf](#)
[2024-06-19 412249-403 Web Inquiry.pdf](#)
[2024-06-23 Demand Letter to Anita.pdf](#)
[2024-06-24 Curtis OBJECTION .pdf](#)
[2024-06-24 Exhibit 1 COA Notice.pdf](#)
[2024-06-24 Exhibit 3 Order directing appellees to reply .pdf](#)
[2024-06-24 Exhibit 4 Motion for Extension.pdf](#)
[2024-06-24 Exhibit 5 Order Granting Extension.pdf](#)
[2024-06-24 OBJECTION .pdf](#)
[2024-06-26 - Co-Trustees Brief In Support of Status Conference .pdf](#)
[2024-06-27 Order to Distribute funds.pdf](#)
[2024-06-28 Reply re No Jrsdctn \(Final\).pdf](#)
[2024-07-25 Docket 412249-401 Web Inquiry.pdf](#)
[2024-07-26 Notice of Order.pdf](#)
[2024-07-26 Order.pdf](#)
[2024-07-31 Rule 11 Agrmnt - Ct Rgstry.pdf](#)

[2024-10-01 email to CClerk.pdf](#)
[2024-10-03 email from County Clerk re Estate of Elmer Brunsting No. 412248 and Nelva Brunsting No. 412249.pdf](#)
[2024-10-03 Estate of Elmer Brunsting 412248 Index Certified.pdf](#)
[2024-10-03 Estate of Nelva Brunsting 412249 Index Certified.pdf](#)

[2024-10-18 Comments of Mendel's latest attempt at larceny.docx](#)
[2024-10-18 Stephem Mendels Latest proposed settlement scam.pdf](#)
[2024-10-2 Mendel 1st Amended Notice of Hearing.pdf](#)

[2024-10-22 mendel Motion for payment of fees.pdf](#)

[2024-10-24 Notice to agent is notice to principal - Notice to principal is notice to agent.pdf](#)

[2024-10-28 Mendel Notice of Hearing.pdf](#)

[2024-11-12 01-23-00362-CV SUBMISSION OA DENIED FILECOPY.pdf](#)

[2024-11-20 Carole Brunsting RESPONSE TO Mendel MOTION.pdf](#)

174. The [July 26, 2024 Order](#) was for Anita Brunsting, Amy Brunsting, Carl Brunsting and Carole Brunsting were either to resolve or dismiss the professional negligence suit that none are formally parties to.
175. For Anita Brunsting and Amy Brunsting to successfully pursue these claims they would have to prove that they are not trustees, that the instruments they are using to claim the office of trustee and make counter claims against Candace are illicit.
176. Then you have Carole Brunsting that aided and abetted Anita and Amy's scheme and cannot take an opposing position without exposure.
177. Then you have the [disabled Carl Brunsting](#) with no ad litem and an attorney that has already taken [a quarter of a million dollars](#) from him [Pg77] for filing two halves of the same law suit in separate courts and resolving absolutely nothing for her client after twelve years of posing and posturing. The message to Carl in Candace alleged disinheritance is shut up and accept what little you are given or else!
178. Last but not least you have the bait and switch estate planning attorneys for whom, paying anything to anyone would effectively be an admission.
179. Carl et al., is Carl individually and Carl as independent executor. Candace

Curtis can be disinherited from estate of Nelva Brunsting without effect as she is not an heir to any estate but that has nothing to do with the trust and as she is the lawful trustee, she is the only one anyone can negotiate with and expect closure.

Dependent Administrator in 412249-403?

180. Remember, [-403] is the case snatched out of the District Court without a pending probate.
181. There has been no one representing “estate of Nelva Brunsting” in all these years and suddenly, in August 2024, the remaining “litigants” [each deposit \\$750.00](#) for the appointment of a dependent administrator to pursue the estates claims against the estate planning attorneys.
182. If one recalls correctly the wills were pour-over wills under independent administration and after the inventory was approved all right title and interest vested in the sole devisee and became trust business. It is the ghetto probate attorneys that insist upon inserting this unnecessary 3rd party called “estate” but estate requires representation and property and this one has neither.
183. The [Order issued on July 26, 2024](#) stated that if the parties are unable to settle they have to put \$750 each into the court’s registry to pay a dependent administrator to prosecute those claims or the case would be dismissed. How do we go from independent to dependent administration when the only assets are in a living trust and not an estate?

184.

WELL ISN'T THIS A QUAGMIRE?

185. They sold the Elmer Brunsting Trust's Farm in Iowa. However, Bayless probate court suit missed the four year statute of limitations for bringing claims on behalf of Elmer's estate by eight days, there is an injunction and there is no probate court jurisdiction. What to do, what to do, what to do?
186. Mendel wants his million dollars in fee rewards for his participation.
187. The Thompson Coe attorneys have been sucking up the insurance company proceeds as fees for playing along and that leaves less to haggle over.
188. The change instruments drafted by Vacek & Freed after Elmer's incapacity are invalid. For V&F to co9p to that, it would be an admission that Anita and Amy are not trustees.
189. Anita and Amy have no incentive to argue with their facilitators at V&F and V&F have no incentive to argue with Anita and Amy.
190. That leaves the co-conspirators at V&F with Anita and Amy vs the disabled Carl with Carole straddling the fence. In any event, everyone involved has been compromised in one way or another.
191. They (the attorneys) will want to agree to a "confidential settlement agreement" in which no one would take any blame and the spoils would be divided and their ransom laundered by contract.

192. The summary judgment against Candace, for refusing the sow's ear exchange rate, under the 8/25/2010 QBD with its disinheritance and corruption of blood provisions has set the precedent for Carl and Carole not to object to their lean portion of the divvy.
193. [Funds have been deposited into the registry of the court](#) for the purpose of retaining a dependent administrator to prosecute the estate of Nelva Brunsting's -403 claims against the estate planning grifters. None of these claims are probate claims. This is all contract and the probate theater actors apparently fail to understand actions in rem.
194. You have to ask WTF at this point. How many rules can we bend, break and just ignore with absolute impunity? All the -405 case is are files copies from -401 or should I say, another place to run and hide while making a muddle.
195. Cases ancillary to an action in rem are given separate case numbers because each case involves a different claim against the property itself. The only reason all of the ancillary case numbers are being generated here is to give the false appearance of an action in rem and generate confusion.
196. This is just one case that has grown exponentially, along with the injuries incurred from the exploitation efforts of these predatory probate attorneys.
- 197.

CLAIM DOCKET

Texas Estates Code Title 2 – Estates of Decadents

Subtitle B – PROCEDURAL MATTERS

Chapter 52 – Filing and Record Keeping

[Tex. Est. Code § 52.001](#) – Probate Docket

[Tex. Est. Code § 52.002](#) – Claim Docket

198. On September 21, 2024 I [Rik Munson] [emailed the Harris County Clerk](#) requesting certified copies of the “Claim Docket”.
199. On September 25, 2024 I received a call from Lisa, at the Harris County Clerk’s office, expressing some confusion regarding my request, due to the fact that no claims have been filed and no claim docket was ever created. I asked for a certified record showing the “claim docket” as blank and she said she would look into it.
200. On September 25, 2024 I received a call from Sarah, at the Harris County Clerk’s office, who insisted that the “claim docket” was an internal spreadsheet for the courts use only. She also made it clear that there had been no claims filed. I stated that was hearsay and that I needed something in writing to verify that fact. Her reply was that it was an internal document for the courts use only.

Forged Trust Rupturing Extortion Instrument

201. That should appear odd as Gregory Lester was [appointed Temporary Administrator](#) for the sole purpose of evaluating the claims in the case and rather than point to the fact that there were no “claims” Mr. Lester [participated in the extortion fraud](#) by running straight to the in Terrorem clause in the forgery titled “**August 25, 2010 Qualified Beneficiary**

Designation and Testamentary Power of Appointment under Living Trust Agreement” containing corruption of blood provisions.

202. By the way, these low morals conspirators are not lawyers, they are attorneys and not very good at that. They are even worse actors and it was this [March 9, 2016 B-Movie performance](#) that compelled me to draft my first and only RICO complaint. They have since proven everything I alleged.

Summary

203. [Anita planned to steal the family trust](#). Anita was [encouraged and facilitated](#) by [the disloyal estate planning attorney's](#) manufacture of instruments claiming to have amended an irrevocable trust. Anita had already made her intentions well known and failed to produce a required accounting in order to bring litigation for the purpose of advancing a scheme that, if true, would enlarge her share. This is exactly the behavior that triggers the in Terrorem clause in the de jure trust instrument, the [2005 Restatement](#). (which, unlike the 8/25/2010 QBD, just happens to be in evidence)

PART 3 – THE PARTICIPANTS

Anita Brunsting

Anita Brunsting Family Inheritance Thief, 203 Bloomingdale Circle Victoria, Texas 77904.

204. Anita Brunsting is the youngest of the five Brunsting trust beneficiaries. Anita was named sole successor trustee to Elmer and Nelva in the original 1996 trust but was removed from Article IV's successor trustee designation

with the [Ex 1-6] [2005 Restatement](#). Anita was replaced with Carl Brunsting and Amy Brunsting as successor co-trustees. The [2005 Restatement](#) superseded and replaced the October 1996 Trust agreement in its entirety. Article IV of the [2005 Restatement](#) was amended in September of [Ex 1-7] 2007 to replace Amy with Candace Curtis as successor co-trustee with Carl.

205. Anita schemed and conspired with her parent's disloyal estate planning attorneys [Ex 1-16] to alter the terms of her parent's estate plan and insert herself as trustee of a new trust with terms completely different from the agreement Elmer and Nelva had put in place.
206. Anita planned to steal the family inheritance in such a way that if Carl or Candace complained, she would get to keep it. That allegation was made in [Candace Curtis Original February 27, 2012](#) Petition on [\[Ex 3-1\] page 20 of 28, para 4](#) and has since become self-evident.
207. Take note that all of the following instruments were an attempt to amend an irrevocable trust and that they all refer to the extinct 1996 trust and none refer to the [2005 Restatement](#) or the [2007 Amendment](#) when it is Article IV's successor trustee designations that were being illicitly amended.

[\[Ex 3-2\] 1999-04-30 First Amendment re Anita 100k VF 000808.pdf](#)

[\[Ex 3-3\] 2006-12-31 Anita has Nelva's email Password.pdf](#)

[\[Ex 3-4\] 2007-04-02 Anita \\$2000 4 2 2007.pdf](#)

[\[Ex 3-5\] 2007-04-02 Anita bias towards Drina.pdf](#)

[\[Ex 3-6\] 2007-04-03 Nelva email to Anita Divided equally Thursday April 03 2007.pdf](#)

[Ex 3-7] [2007-04-05 Nelva email to Anita Divided equally Thursday April 05 2007.pdf](#)

[Ex 1-16] [2010-07-30 Freed Notes-Anita called-change the trust PBT-2015-258999-2.pdf](#)

[Ex 1-16] [2010-07-30 Pdf pg 297 Anita Called Carl has Encephalitis Change the Trust VF 000687-691.pdf](#)

[Ex 3-8] [2010-10-06 Anita email to Freed working on Nelva Resignation.pdf](#)

[Ex 3-9] [2010-10-26 Candace Curtis and Carole emails Anita pushing Nelva to resign and everything secret.pdf](#)

[Ex 3-10] [2011-01-27 January 27, 2011 Anita Engagement letter.pdf](#)

208. The fish takes the hook thinking to find food but it is the fisher that enjoys the meal. Anita is in control of the check book and thought she would steal the family inheritance only to find herself hostage to a [Ex 3-11] [Steven Mendel Attorney Fee Ransom](#) with an ever increasing payoff.

209. Attorney Stephen Mendel, [Ex 3-12] [by his own judicial admission](#), is running the whole show.

In Terrorem and the Heinous Extortion Instrument

210. The heinous extortion instrument (Qualified Beneficiary Designation and Testamentary Power of Appointment under Living Trust Agreement) allegedly signed by Nelva Brunsting August 25, 2010 not only appears in the record with three different signature pages [Ex 1-21] [Ex 1-22] [Ex 1-23] but portends to have replaced the IRREVOCABLE living trust. This is a real piece of work that contains an in Terrorem clause that disinherits and

corrupts the blood of anyone suing the imposter co-trustees to enforce the obligations of the trustee under the living trust [Ex 3-13]. This is the instrument being used to attempt to coerce the beneficiaries into capitulating to the probate mafia scheme of laundering an extorted ransom under a settlement contract that would label the extorted money's as "fees for legal services".

Candace Kunz-Freed

211. Candace Kunz-Freed of Vacek & Freed P.L.L.P. Bar Card Number: 24041282, 9545 Katy Freeway, Suite 400, Houston, Texas 77024, 713-467-1060.
212. Gross incompetence or bait and switch? After reading Article III in the [Ex 1-6] [2005 Restatement](#) and [Ex 3-14] [Texas Estates Code § 112.034\(a\)](#) it is clear that the instruments signed by Nelva alone were improperly drafted and give the appearance of making changes that could not be made by Nelva acting alone without the merger of legal and equitable titles and changing an irrevocable trust.
213. By generating improper trust instruments the estate planning attorneys created the controversy that opened Pandora's Box. All of the injury that follows is built upon this unholy ground and all of the probate mafia attorneys joined in.

Bernard Lisle Mathews III

214. Vacek & Freed P.L.L.P. associate attorney Bernard Lisle Mathews III,

Texas State Bar No. 13187450,

215. When trust beneficiary and de jure trustee Candace Curtis filed breach of fiduciary claims in the SDTX Bernard Lyle Matthews III (Mathews) appeared on behalf of Vacek & Freed's new clients, against the beneficiaries disenfranchised by his own works, and he argued that the case fell within the probate exception. Mathews appeared using a Green and Mathew's law firm label to **conceal his conflict of interests**. See Disciplinary Rule 1.06 et seq. This is all fraud.

Bobbie G. Bayless

216. Attorney Bobbie G. Bayless Bar Card Number: 01940600, Bayless and Stokes 2931 Ferndale Street Houston, Texas 77098 Phone: 713-522-2224, Fax 713-522-2218. bayless@baylessstokes.com
217. Bayless knew Carl Brunsting had not fully recovered from his coma and she used his name to obtain letters testamentary and for conducting depositions before suit. Carl's disability was not apparent until his [Ex 3-15] [deposition](#) as the only trust beneficiaries to physically appear in the probate court were Carole Brunsting and Candace Curtis.
- a. July 3, 2010 [Ex 3-16] [Carl falls ill with encephalitis](#)
 - b. July 29, 2015 [Ex 3-17] [Carl's Deposition](#)
 - c. February 19, 2015 [Ex 3-18] [Carl's Resignation](#) and substitution of his wife Drina as his alleged attorney in fact.

- d. Bayless admissions in Bayless Severance Motion [Ex 3-19] and [Ex 3-20] [severance motion hearing](#)
218. Bayless filed two lawsuits sharing a common nucleus of operative facts in two separate courts. This was clearly not for the purpose of pursuing remedy for her client.
219. Why Bayless filed Carl's trust related tort suit in the probate court it was clearly for the purpose of usurping federal court jurisdiction and foreclosing remedy for the trust beneficiaries. There was [never any jurisdiction](#) over this trust in the probate court.
220. [Ex 3-21] [Attorney Bobbie G. Bayless email to Rik Munson Sun, 18 Aug 2013](#)
- "This really needs to be away from Hoyt and under one umbrella so that Anita, Amy, and Carole have to account for what they did. Hoyt has already said he is going to resist doing anything except dividing what is left. Even if you can somehow convince him that isn't good enough, he is going to make your life miserable if you try to make him do more----and in the process potentially do real damage to the existing claims. Maybe my view is colored too much from having been in his court on other cases, but I just don't see any benefit to being over there, and I really don't see any benefit that outweighs the potential harm."*
221. Bayless herself tells us why... to get the case [Away from Judge Hoyt](#) because Hoyt was going to settle it and the attorneys would not be allowed to play their staged litigation and wealth extraction games.

“Where the federal case is filed substantially prior to the state case, and significant proceedings have taken place in the federal case, we perceive little, if any, threat to our traditions of comity and federalism. See Moses H. Cone Hosp., 460 U.S. at 21-22, 103 S.Ct. at 940 (fact that substantial proceedings have occurred is a relevant factor to consider in deciding whether to abstain). In fact, by filing a state suit after a federal action has been filed, the state plaintiff can be viewed as attempting to use the state courts to interfere with the jurisdiction of the federal courts. We agree with Royal that if we were to hold that Jackson applied in this scenario, litigants could use Jackson as a sword, rather than a shield, defeating federal jurisdiction merely by filing a state court action. Neither Jackson nor the concerns underlying it mandate such a result.” Royal Ins. Co. of America v. Quinn-L Cap. Corp., 3 F.3d 877, 886 (5th Cir. 1993), [cited by Texas Employers' Ins. Ass'n v. Jackson](#), 862 F.2d 491, 506 (5th Cir. 1988) (en banc) Arroyo v. K-Mart, Inc., 24 F. Supp. 2d 169 (D.P.R. 1998)

222. There is no probate case, probate matter or probate proceeding. The probate court never had subject matter jurisdiction over the Brunsting trust controversy. None of the attorneys involved have earned any fees and they are not entitled to immunity because they have not been representing clients in litigation.

Cory S Reed

223. Attorney Cory S Reed, Texas Bar No. 24076640, Thompson Coe 4400 Post Oak Parkway Suite 1000 Houston, TX 77027 713-403-8213.
CReed@thompsoncoe.com
224. Thompson/Coe attorney is representing estate planning attorney Candace Kunz-Freed in [\[Ex 3-22\] Harris County District Court 164 Cause No. 2013-05455](#), a malpractice case brought by Bayless on behalf of the estates of

Elmer and Nelva Brunsting. This case was abandoned by Bayless when she filed Carl's resignation and Reed continues to schedule "status conferences" in the probate theater when nothing has changes since Carl's resignation.

Associate Judge Clarinda Comstock

225. Associate Judge Clarinda Comstock is a county employee, an appointee, not an elected public officer. Thompson Coe Attorneys Cory S Reed and Zandra Foley were simultaneously [Ex 3-23] [representing Clarinda Comstock](#), associate Judge for Harris County Probate Court No. 4, as a co-defendant in SHERRY LYNN JOHNSON vs. DAVID DEXEL, ET AL [SDTX Case 4:16-cv-03215](#). This **conflict of interest** was never disclosed to the parties.

Perps Sequestered

226. The 5th Circuit opinion reversing dismissal of Candace Curtis Southern District Case under the probate exception (704. F.3d 406) occurred on January 9, 2013. On January 29, 2013 Attorney Bobbie G. Bayless, using a diminished capacity carl Brunsting as independent executor, filed [legal malpractice claims](#) against Candace Kunz-Freed and the Vacek estate planning law firm in Harris County District Court. On April 9, 2013, the same day the federal court held a hearing on Candace Curtis motion for injunction, Attorney Bobbie G. Bayless filed [Ex 0-3] [suit against Anita Brunsting, Amy Brunsting and Carole Brunsting in Harris County Probate Court No. 4](#) naming federal plaintiff Candace Curtis a nominal defendant only.
227. In examining these two halves of the same action AI provided a list

identifying [Ex 3-24] [the single nucleus of operative facts](#).

228. The estate planning attorneys have been neatly sequestered in the District Court while the entire collection of injured parties have been held hostage in the probate court and the attorneys for the malpractice insurance company are the only attorneys that have filed claims alleging they are being held hostage. Candace Curtis made those claims in [Ex 3-25] [the 1st RICO action](#).

Stephen A. Mendel

229. Attorney Stephen A. Mendel Bar Card Number: 13930650, The Mendel Law Firm, L.P. 1155 Dairy Ashford, Suite 104 Houston 77079 United States (US) Phone: (281) 759-3213 Fax: 281-759-3214.
steve@mendellawfirm.com
230. By his own admission [Ex 3-50 p. 2] Mendel has been the kingpin in this color of litigation racketeering extravaganza. The only place Mendel filed his fee statement while Candace Curtis was a nominal defendant in probate theater No. 4, was in judge Rosenthal's Court in the Southern District of Texas.

[Ex 3-11] Attorney Stephen Mendel Fee Disclosure

- a. [2022-04-08 02-12 Exhibit q Anita's \(Mendel\) attorney Fee Disclosure](#)
231. On the cover page of his disclosure, Mendel makes the following claim:

"In Reference

To:

C.A. No. 412249 & 412249-401; Candace Curtis v. Anita

Brunsting, Et Al; In Probate Court No. 4, Harris County, Texas.
C.A. No. 412249 & 412249-402; Candace Curtis v. Anita Brunsting, Et Al - Plea in Abatement; In Probate Court No. 4, Harris County, Texas.
C.A. No. 412249 & 412249-403; Carl Henry Brunsting, Executor of the Estates of Elmer H. Brunsting & Nelva E. Brunsting; v. Candace L. Kunz-Greed & Vacek & Freed, PLLC; In Probate Court No. 4, Harris County, Texas (transfer of C.A. 2013-05455 from the 164th District Court, Harris County, Texas).
C.A. No. 412249 & 412249-404; Candace Curtis v. Anita Brunsting, Et Al - Bill of Review; In Probate Court No. 4, Harris County, Texas.”

232. Candace Curtis v. Anita Brunsting was never a case filed in the probate court. As a result of [Mendel lying to Judge Rosenthal](#) to give the appearance of a vexatious litigant and Rooker-Feldman, Judge Rosenthal remanded back to the probate theater saying [Curtis sued her siblings in the probate court](#).
233. However, Candace Curtis sued Anita and Amy Brunsting [in the Southern District of Texas](#) more than a year before [Carl’s 412,249-401 action](#) was filed in the probate court.

2015-01-09 the Mendel Law Firm makes note of Problems with the Remand
[02-12 Exhibit q Anita’s \(Mendel\) attorney Fee Disclosure](#)

[Case 4:22-cv-01129 Document 2-12 Filed on 04/08/22 in TXSD Page 10 of 56](#)

“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.”

234. We see in Mendel’s fee disclosure that, after stabbing his client in the back and filing a motion to extract funds from the family trust, Ostrom was apparently negotiating an agreement to non-suit the federal injunction. None of this has ever been about the client and the only findings of fact and conclusions of law ever entered in 13 years, was the [Ex 3-30] Memorandum of Preliminary Injunction in the SDTX.
235. We also see in Mendel’s fee Disclosure that he claims his fees did not include [the RICO](#). However, what we see in redacted entries are [fifteen pages of billing entries](#) during the time the RICO case was ongoing [7/05/2016-5/28/2018] when [nothing happened in the probate court at all](#). This is [the kind of blatant fraud](#) we see from Stephen Mendel everywhere we look.
236. Mendel is pathologically dishonest. He has a number of games that he plays. One of his main artifices is sworn account. He likes to run up an outrageous bill before springing it on his client. When the client balks Mendel files a claim on a sworn account and gets a judgment in a purely administrative proceeding.
237. Mendel has another scam involving real estate and LLC’s (he has more than 500 limited liability registrations) and trusts that I don’t completely understand but he has a penchant for altering other people’s estate plans. See [\[Ex 3-26\]](#) a scam involving victims in Oklahoma.

238. There has never been a proper accounting performed [Ex 3-71]. More than \$900,000 in unearned attorney fees have been stolen from the trust in violation of Texas Penal Codes 32.45 & 32.53.
239. Anita thought she would steal the family inheritance only to find herself being held hostage to Mendel's fee demands. [Ex 3-27] [There is no evidence that Anita ever payed Mendel anything.](#)
240. It is fairly obvious and reasonable to conclude that under Anita's undisclosed retainer agreement with Mendel that his fees were going to come from the trust and not Anita herself. That is a violation of the federal injunction and a conspiracy to misappropriate fiduciary assets.
241. It should also be noted that in Complainant/plaintiff Candace Curtis original February 27, 2012 Petition she pointed out that Anita planned to steal the family trust in such a way that if Carl or Candace complained she would get to keep it, but also that Anita had exercised all of the powers of the office of trustee while performing none of the obligations. These conditions remain unchanged. Anita has never performed a single fiduciary duty under the de jure trust instruments that were to terminate and be distributed to the five beneficiaries at the passing of Nelva Brunsting November 11, 2011.
242. We do not have a copy of Anita's retainer agreement with Mendel. Mendel has a history of failing to produce evidence when the ball is in his court. However, because Mendel has a bad habit of suing his former clients for unpaid fees, using an administrative method called "sworn Account", we have examples of the kind of retainer agreement Mendel has his clients sign

that give him a piece of his clients property interest in the action. [Ex 3-28]
{1} [Ex 3-29] {2} These agreements are not only obscene, but any similar
such agreement with Anita Brunsting would clearly violate the [federal
injunction](#). [Ex 3-30]

Attorney Neal Spielman

*Represented in the RICO by
Martin Schexnayder State bar No. 17745610
Schexnayder.M@wssllp.com
Enron F. Reid States bar No. 24100320 Reid.E@wssllp.com*

243. Attorney Neal Even Spielman Bar Card Number: 00794678, TX License
Date: 11/03/1995, Griffin and Mathews 1155 Dairy Ashford Suite 300,
Houston, Texas 77079 Phone: 281-870-1124 nspielman@grifmatlaw.com
244. Attorney Neal Even Spielman (Mr. Billable Syllable) is not too bright. He
was brought into the game by his friend Brad Featherston who worked for
the Mendel Law Firm. When Featherston quit Mendel, Spielman continued
along following Mendel's lead.
245. Anita and Amy Brunsting were originally represented by attorneys from
Mills Shirley. After the alleged remand and all about attorney fees
mediation, the Mills Shirley attorneys filed a [Ex 3-31] [motion to withdraw](#)
citing a conflict with their clients. The motion was [Ex 3-32] [heard in
chambers and granted](#).
246. After Mendel and Spielman make their appearance's all of the pleadings
were filed jointly. All Spielman had to do to defend Amy was file an

exception to Anita's conduct but he chose to follow Mendel in pursuit of unjust enrichment [Ex 3-11 b].

A chain is only as strong as its weakest link.

247. The little B-Grade theatrical [Ex 3-33] [shit show put on by Clarinda Comstock and Neal Spielman](#) on March 9, 2016, in the wake of Gregory Lester's fraudulent administrators report [Ex 3-34], was the final straw. I had read enough horror stories about the probate mob to know exactly where they were headed. No docket control order, no executor, extortion threats in the privacy of mediation, refusal to divide the trust as required and failure to deposit income into an appropriate account for each beneficiary and inability to get an actual hearing without it being converted into a "status conference" [Ex 3-35 pg. 106 ln 273] made it clear where the mob was headed. This March 9, 2016 [Ex 3-33] clown show compelled filing RICO claims then rather than making our position known now that they have arrived at the destination they were headed towards the whole time.

Jill Willard Young Esq.

*Jill Willard Young
Macintyre, McCulloch, Stanfield
and Young, L. L. P.
2900 Wesleyan, Suite 150
Houston, TX 77027*

Represented in [the 1st RICO claims](#) by

Robert S. Harrell

Attorney-in-charge State Bar No. 09041350
Federal ID No. 6690
robert.harrell@nortonrosefulbright.com
1301 McKinney, Suite 5100 Houston, TX 77010-3095
Telephone: (713) 651-5151
Facsimile: (713) 651-5246

Rafe A. Schaefer
State Bar No. 24077700
Federal ID No. 1743273
Rafe.schaefer@nortonrosefulbright.com
NORTON ROSE FULBRIGHT US LLP
1301 McKinney, Suite 5100 Houston, TX 77010-3095
Telephone: (713) 651-5151
Facsimile: (713) 651-5246

Case 4:16-cv-01969 [Document 25](#) Filed in TXSD on 09/15/16 Page 1 of 17

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.

248. This is 2025 and there are still no fully litigated state court determinations, as pointed out on page 6 of this chronicle and as stated throughout Candace Curtis pleadings in the 2016 RICO complaint and appeal, there has never been an actual evidentiary hearing and we would like to see Mendel's retainer agreement with Anita as it violated the injunction from day 1 and **we want to see all three original wet signed 8/25/2010 QBD's [Ex 1-25]**

along with a proper accounting and a proper balance sheet, none of which have ever been produced.

249. In his [Ex 3-53] November 25, 2024 1st Amended Motion for “interim distribution” Mendel says on page 2, that the QBD (heinous extortion instrument), [Ex 1-25] that was used as an artifice to disenfranchise the de jure trustee Candace Curtis, no longer needs to be followed.
250. Exhibit A to Jill Willard Young’s Motion to Dismiss she attached the instrument appointing [Fraudulent Administrator Gregory Lester](#)! Both Jill Young and Gregory Lester took thousands of dollars in fees from the trust and they knew what they were participating in the entire time. [Ex 3-40], [Ex 3-42]

Gregory Albert Lester Esq.

251. Eligible to Practice in Texas Bar Card Number: 12235700, TX License Date: 11/02/1984, Primary Practice Location: Houston, Texas PO Box 79766 Houston, TX 77279-9766 Practice Areas: Wills-Trusts-Probate.
252. After the wiretap recordings were used to eliminate the February 20, 2015 DCO and evade the August 3, 2015 dispositive motions hearings, Attorney Gregory Lester was appointed Temporary Administrator for the “*estate of Nelva Brunsting*” [Ex 3-36] [for purposes of evaluating the “claims” in the case](#). The Report of Temporary Administrator Gregory Lester [Ex 3-24] never mentions the will of Nelva Brunsting, fails to identify any property subject to in rem claims and never mentions a single claim against the

“estate of Nelva Brunsting”.

Tex. Est. Code § 52.002 CLAIM DOCKET

*(a) The county clerk **shall** maintain a record book titled "Claim Docket" and shall record in the book each claim that is presented against an estate for the court's approval.*

253. The fact is that no claims were ever filed against the [Estate of Elmer Brunsting](#) [Ex 3-37] and no claims were ever filed against the [Estate of Nelva Brunsting](#). [Ex 3-38]
254. Instead of pointing out the complete absence of any probate claims, Temporary Administrator Gregory Lester’s Report runs straight to the In Terrorem clause in the heinous extortion instrument referred to as the August 25, 2010 “[Qualified Beneficiary Designation and Testamentary Power of Appointment under living Trust Agreement](#)” (QBD) containing a no contest clause that includes corruption of blood. This instrument is not in evidence and the defendant alleged co-trustees have not and will not produce the instrument and qualify it as evidence because they cannot. See [Ex 3-39], yet they continue to act like it has been held valid... by Gregory Lester.
255. “An honest temporary administrator’s report [[ROA.17-20360.611](#)] would have pointed these things out instead of attempting to validate the otherwise illicit QBD [forgery called 8/25/2010 QBD] that was allegedly signed by Nelva alone when Nelva had no plenary power to amend the irrevocable trust.
256. Defendants cling to this instrument in their assertions of fact, but refuse to

produce it and qualify it as evidence. **They will not because they cannot** [Ex 3-39a] and even if they could it is not a legitimate trust instrument.

Steven Mendel's motion for distributions to pay attorney [Ex 3-37] fees while this case was pending before the 1st District Court of Appeals claims it is no longer necessary to follow the heinous extortion instrument.

257. Gregory Lester's bill for services [Ex 3-40] [Tab 78] shows that he spent the lion's share of his time with Attorney Neal Spielman and [Gregory Lester's fee statement](#) does not match [Ex 3-42] [Jill Young's statement](#) for the periods each billed for meeting with the other. Fraudulent Administrator Gregory Lester (administrator of nothing and evaluator of nothing) also filed a supplement to his report that is patently false [Ex 3-43] [Tab 77]. Candace Curtis was the alternate in Article IV of the [Ex 1-6] [2005 Restatement](#) and Co-trustee with Carl in the [Ex 1-7] [2007 Amendment](#) and, as per Article III of the restatement, this was the last valid instrument drafted by the estate planning attorneys.

258. **Fraud Lester** shows up in [the RICO](#) [Ex 3-25] represented by **Attorney Jason Bradley Ostrom**, the slime bag that stabbed his client Candace Curtis in the back and manipulated the administrative side of the federal court to obtain a result he could not obtain on the judicial side of the court, "a remand" from the Southern District of Texas to the very place the estate plan was intended to avoid [Ex 3-44]: Harris County Probate Court, a court from which the case had not been removed and the very place Plaintiff Curtis went to the Fifth Circuit to avoid. Curtis v. Brunsting 704. F.3d 406 (Jan 9, 2013) Can you say **conspiracy, collusion and conflict of interests**?

259. At a status conference on March 9, 2016 [Ex 3-33] ([transcript sketchy](#)) Clarinda Comstock interrupted Candace Curtis saying “*I know you came all the way from California but my time is short today and I want to hear from Mr. Spielman.*” Attorney Neal Spielman then pranced around the court room waiving papers in the air saying “*If you read what Greg Lester wrote there might not be a divide by five*”. This was the first overt extortion statement on the record as all of the other threats were made off the record including three “confidential mediations”.

Attorney Jason Bradley Ostrom (deceased)

260. The first thing Ostrom did after obtaining a fraudulent remand from SDTX and filing a “Motion to Enter Remand as a Transfer and Order” [Ex 3-48] in the probate court, was to file a [motion for a \\$40,000.00 trust distribution](#) (Aug. 27, 2014) to pay his alleged fees. Attorney fees were the only topic raised at all three “confidential mediations”.
261. In response to Ostroms motion in the probate theater plaintiff Carl Brunsting (attorney Bobbie G. Bayless) [Ex 3-49] [filed an objection](#). Defendant’s attorney Stephen Anthony Mendel also filed an opposition. All of this is poser advocacy as there was never any subject matter jurisdiction or litigation.
262. Candace Curtis fired Ostrom after looking for information in the various court dockets and seeing that Ostrom had caused the case to be juxtaposed to the probate theater that Candace had gone to the 5th Circuit to avoid and that her parents’ had paid an estate planning firm to avoid.

263. Then we see the [independent executor resign](#) Feb 19, 2015 [Ex 3-18], an [Agreed Docket Control Order](#) Feb 20, 2015, [Ex 3-46] and an agreed Order to Consolidate “estate of Nelva Brunsting 412249-401” with “estate of Nelva Brunsting 412249-402” [Ex 3-47] when there was nobody representing the closed estate in the 401 case and no actual plaintiff in the 402 as federal Plaintiff Curtis was not really there.
264. Attorney Jason Ostrom showed up in [Ex 3-25] [the 1st RICO](#) action SDTX-Cause No.4:16-cv-1969 representing fraudulent administrator Gregory Lester against his former client federal Plaintiff Candace Curtis. Ostrom [Ex 3-50] [Doc 78 p.1](#) also pled that his former client was “a disgruntled sibling in a probate case”. All of the RICO defendants plead probate case, probate matter, probate proceeding and probate litigation. They all lied. [Ex 3-35] (Pages 32-33), (pdf pages 37-38)

Tamora Christine Butts

265. Attorney Christine Riddle-Butts, former Judge for Harris County Probate Court Number 4, Texas State Bar No. 24004222.
266. It may have been imprudent or otherwise politically clumsy to name a sitting judge in a RICO suit but Christine Butts is Board Certified in estate planning and probate law in Texas. If anyone should know the probate court had no subject matter jurisdiction over this trust controversy, it would be someone board certified in estate planning and probate law in Texas.

267. Judge Butts only made limited appearances. Her last appearance was to appoint Temporary Administrator Gregory Lester. After that Butts turned everything over to Associate Judge Clarinda Comstock, a co-defendant in [Ex 3-52] [Johnston v Dixel et al](#) represented by the same law firm and attorneys representing the Brunsting estate planning bait and switch grifters, who have been neatly sequestered in Harris County District Court 164 [Ex 2-7] with no plaintiff as of independent executor Carl Brunsting's 2015 resignation.
268. The Order appointing Lester says that all parties were represented by counsel but Candace Curtis was not represented by counsel. Candace Curtis was pro se.

Associate Judge Clarinda Comstock

269. County Employee/Appointee (Associate Judge) Clarinda Comstock was a codefendant with Christine Butts in SHERRY LYNN JOHNSON vs. DAVID DEXEL, ET AL [SDTX Case 4:16-cv-03215](#). Clarinda Comstock in that case was represented by Thompson Coe attorney Zandra Foley who, along with Thompson Coe attorney Cory Reed, were also representing the Vacek & Freed estate planning attorneys in the Brunsting trust case that was filed in the district court and going nowhere without a plaintiff; at the same time the Brunsting family was being held hostage in Probate Theater No. 4 and going nowhere.

PART 4 – PREDICATE ACTS AND CIVIL TORTS

270. Violation of the racketeer Influenced Organization Statutes at 18 U.S.C.

§1962 and Conspiracy to violate the racketeer Influenced Organization Statutes.

Misapplication of Fiduciary Assets in violation of Texas Penal Code §32.53

271. Misapplication of fiduciary property in excess of \$300,000.00 is a first degree felony theft crime under [Texas Penal Code § 32.45](#).

- a. **Fiduciary Relationship:** The defendants, Anita and Amy Brunsting, claim to be trustees of a living trust under the terms of which Plaintiffs are beneficiaries and successor beneficiaries and thus hold property in a fiduciary capacity.
- b. **Misapplication of Property:** The defendants intentionally, knowingly, and recklessly misapplied property. "Misapply" means dealing with the property contrary to: A trust agreement under which the fiduciary holds the property.
- c. **Substantial Risk of Loss:** The misapplication involves a substantial risk of loss to the owner of the property for whose benefit the property is held in trust.

Exploitation of Child, Elderly Individual, or Disabled Individual in violation of Texas Penal Code §32.53

272. The defendants have engaged in a conspiracy to engage in the illegal and improper use of resources held in trust for a child, elderly individual, and disabled individual for monetary, personal benefit, profit, or gain using staged litigation, corruption of blood, extortion, money laundering and the

use of other schemes and artifice.

273. This would be a good time to take an inventory of the living trust beginning on December 21, 2010 when Anita Brunsting seized control of the family trust with the excellent assistance of the settlor's disloyal estate planning attorney Candice Kunz-Freed.

At the passing of Nelva Brunsting on November 11, 2011, all right, title and interest in the family trust vested in the five beneficiaries in equal proportions. However, since the passing of Nelva Brunsting, the Beneficiaries have received little or no benefit from the family trust while several non-beneficiaries have enjoyed distributions from the Family Trust in excess of \$900,000.00. Additional misapplication resulted from excess taxes paid for the Defendants refusal to distribute trust income to the beneficiaries. The Report of the Special Master appointed by the Honorable Kenneth Hoyt Jr. in the Southern District of Texas revealed that as soon as Anita Brunsting wrested control away from Nelva she immediately began self-dealing including paying \$40,000.00 directly out of a trust bank account to pay her credit card debts.

Obstruction of Justice 18 U.S.C. § 1503.

1. **Corrupt Act:** The defendants have engaged in corrupt acts, such as threats, coercion, practiced avoidance and other obstructive conduct.
2. **Intent:** The defendants acted with the intent to obstruct, influence, or impede the due administration of justice.
3. **Connection to Judicial Proceedings:** The obstructive act were relate to ongoing and foreseeable judicial proceedings.
4. **Materiality (if applicable):** If the actions of these Defendants involve false statements, material to every proceeding.

274. After holding this family hostage for ransom in a Color of Law Probate Theater with no subject matter jurisdiction, for more than 13 years, Defendants cannot show a single finding of fact or conclusion of law following an evidentiary hearing in any state court and cannot produce a single transcript of an evidentiary hearing had in any state court because there has never been an evidentiary hearing had in any state court.

Allegations of Stasis By Design –

1. [Ex 4-1 p.8] [2016-05-07 Case 4-12-cv-00592 Doc 115](#) Petition for Rule 60(b)(6) Relief Final.pdf - Stasis by Design\Hostage\
2. [Ex 4-2 p.26, 34] [2016-07-05 SDTX Case 4-16-cv-01969 Doc 1](#) Harris County RICO_Complaint.pdf
3. [Ex 4-3] [2016-10-07 Case 4-16-cv-01969 Doc 53](#) Butts 12(b).pdf
4. [Ex 4-4] [2016-12-15 4-16-cv-1969 Rule 12 Motions Hearing Transcript](#).pdf
5. [Ex 4-5] [2018-09-05 Responses to Defendants Motions to Dismiss Combined](#).pdf
6. [Ex 4-6 p.2] [2019-06-12 Response to Motion for Sanctions](#).pdf

Illegal Wire Tap Recording 18 U.S.C. §§ 2510-2522) (see numbered line 80 supra)

275. Defendants intentionally engaged in the unauthorized interception of oral telephone communications without the consent of the parties involved. Defendants willfully disseminated portions of the illegally intercepted wiretap recordings using the U.S. mail as part of a scheme to defraud.

Mail Fraud 18 U.S.C. § 1341 (see numbered line 80 supra)

276. Scheme to Defraud

Defendants used the United States mail for sending illegally obtained phone communications as part of a scheme or artifice to defraud that was part of a

larger scheme to obstruct justice and foreclose remedy and deny due process to the racketeering victims. This use of the mail involved deceitful practices intended to obtain money or property through false or fraudulent pretenses, representations, or promises. A scheme to defraud does not necessarily require overt lies; it can be based on half-truths or the concealment of material facts if such conduct is calculated to deceive a reasonable person. The defendants acted with a conscious and knowing intent to defraud and purposefully employed deceit to unlawfully obtain money or property and used the mail to carry illegal wiretap recordings to execute their fraud scheme.

Honest Services Fraud 18 U.S.C. § 1346

277. Honest services fraud is a crime defined in 18 U.S.C. § 1346 (the federal mail and wire fraud statute), added by the United States Congress in 1988.

Tortuous Interference with Fiduciary Obligations

278. The “trust agreement” is contained in the 2005 Restatement [Ex 1-6] and the September 6, 2007 Amendment [Ex 1-7] Carl Henry Brunsting and Candace Louise Curtis are the lawful co-trustees. The de facto co-trustees Anita Brunsting and Amy Brunsting are in breach of fiduciary pursuant to de facto officer doctrine and remain in wrongful possession of the trust corpus.

Breach of Fiduciary and conspiracy to aid and abet Breach of Fiduciary.

279. The De facto Co-Trustees in adverse possession and have failed to perform any of the obligations of the office they claim to occupy.

2005 Restatement:

Obligations of the trustees upon the death of the first settlor:

- **Division of Trust Property:** The trustee was required to divide the trust property (corpus) into separate trusts as outlined in the trust document ([Ex 1-6] 2005 Restatement.pdf).
- The division of the trust corpus was completed during Nelva's life time

Obligations of the trustees upon the death of the last settlor:

- **Distribution of Trust Assets:** The trustee was obligated to distribute the remaining trust assets to the beneficiaries in equal proportions according to the terms of the 2005 restatement. Defendant co-trustees de facto failed to divide and distribute the trust assets to the other beneficiaries.
- **Full, True and Complete Accounting:** The trustee was required to provide income beneficiaries with an accounting no less than semi-annually. Defendant co-trustee de facto, Anita Brunsting, failed to assemble books and records of accounts and was unable to provide mandatory trust accounting to the income beneficiaries. [Ex 1-45]
- **Information to Beneficiaries:** The trustee was required to provide beneficiaries with information about the administration of the trust, ensuring they have the material facts necessary to protect their interests but failed to provide any information to Carl or Candace.

PART 5 – DAMAGES AND REMEDIES

What assets have been distributed from the Brunsting family trust in the last thirteen years?

- a. \$5000.00 Attorney Jason Ostrom
- b. \$5000.00 Attorney George Vie III
- c. \$6500.00 Andrews Kurth L.L.P. mediation
- d. \$19,907.40 to attorney Gregory Lester, Temporary Administrator for the non-existent "Estate of Nelva Brunsting". How is the trust supposed to recover loans to an estate that does not have a corpus?

- e. \$10,620.73 to Jill Willard-Young, attorney for attorney Gregory Lester, Temporary Administrator for the “Estate of Nelva Brunsting”. How is the trust supposed to recover loans to an estate that does not have a representative or a corpus?
 - f. \$6500.00 Mediation with William Miller of Andrews Kurth LLP
 - g. \$? Mediation with Judge Seymour - unknown
 - h. \$? Mediation with Judge Davidson – unknown
 - i. \$100,000 Distribution to Carole Brunsting
 - j. No distributions to Carl or Candace
 - k. \$300,000.00+ in excess taxes due to trustee failure to distribute trust income to the beneficiaries.
 - l. **\$600,000.00 or more** “Distributions to pay attorney fees”
280. None of this accounts for money spent on costs or fees already paid to attorneys by the beneficiaries such as [Ex 4-9] [the \\$250,000 Carl testified that he had already paid Bayless.](#)
281. None of this account’s for assets squandered and lost such as expired EE bonds that are no longer redeemable.
282. These figures also fail to include Anita’s self-dealing or her non-disclosed and non-equalized distributions made in secret before Nelva passed. In the face of all this the alleged trustee defendants are demanding in the area of \$1,000,000.00 in legal fee allocations without evidence of a retainer agreement describing the work to be performed, or an accounting statement describing the work actually performed for which the beneficiaries of the trust would be liable under any theory. Fortunately these issues can be partially addressed by the Attorney Fee Disclosures made in Southern District of Texas, SDTX- Case 4:22-cv-1129 [Ex 3-11] & [Ex 3-12]

283. The damages are substantial and include everything from excess taxes paid due to refusal to distribute income as commanded by the federal injunction to misapplication, self-dealings and attorney fealty thefts.
284. De jure Co-Trustee/trust beneficiary Candace Curtis is an accountant who can decipher the amount of monetary damages when she is able to obtain access to the necessary information.

“It is doubtless true that an administrator or trustee in handling trust property is required to keep a strict and accurate account of such assets and that he is chargeable with all assets coming into ...”
Maxwell's Unknown Heirs v. Bolding, 36 S.W.2d 267, 268 (Tex. Civ. App. 1931)

285. A more complete chronological record containing more than 500 hyperlinks to the exhibits can be found at Texasprobatemafia.com by clicking the link to affidavit of Witness Rik Munson.
286. Additional exhibits of interest demonstrating the Defendants continuing theft enterprise while the matter was before the 1st District Court of Appeal in an untimely filed notice of appeal of judgments void for want of subject matter jurisdiction. see [Ex 3-74] and [Ex 4-10] Opinion issued March 25, 2025 In the Court of Appeals for the First District of Texas NO. 01-23-00362-CV. Void judgments can be attacked collaterally are are not subject to sttutes of limitations.

[2023-12-26 V&F Request for Status Conference.docx](#)

[2024 - 06.26.24 - Co-Trustees Brief In Support of Status Conference .pdf](#)

[2024-01-03 Ntc of Status Conference Hrg.pdf](#)

[2024-01-09 01-23-00362-CV SUBMISSION OA DENIED FILECOPY.pdf](#)
[2024-01-12 Amended Notice of Status Conference 412249-403.pdf](#)
[2024-02-01 Status Conference re Estate of Nelva Brunsting 412249-403.pdf](#)
[2024-02-28 Agreed Mtn to Sell Farm \(flmrkd\) \(2\).pdf](#)
[2024-03-06 Appellants Brief on Appellate Jurisdiction.pdf](#)
[2024-03-06 Appellants request to Support.pdf](#)
[2024-03-06 smart-cite-report- Appellants Brief on Appellate Jurisdiction.pdf](#)
[2024-03-07 Appellants Appendix of Exhibits.pdf](#)
[2024-05-06 Agreed Motion to Disburse \\$26000.pdf](#)
[2024-05-21 Agreed Motion to Disburse \\$26000.pdf](#)
[2024-06-03c Brunsting & Wissing R.E. Contract \(Sgnd\) \(4\).pdf](#)
[2024-06-06 01-23-00362-CV ORDER DIST LETTER FILECOPY.pdf](#)
[2024-06-06 01-23-00362-CV ORDER ISSD 06062024.pdf](#)
[2024-06-10 Motion to sell farm.pdf](#)

[2024-06-23 Andrew Curtis Demand Letter to Anita.pdf](#)
[2024-06-24 Curtis OBJECTION .pdf](#)
[2024-06-24 Exhibit 1 COA Notice.pdf](#)
[2024-06-24 Exhibit 3 Order directing appellees to reply .pdf](#)
[2024-06-24 Exhibit 4 Motion for Extension.pdf](#)
[2024-06-24 Exhibit 5 Order Granting Extension.pdf](#)
[2024-06-24 OBJECTION .pdf](#)
[2024-06-26 - Co-Trustees Brief In Support of Status Conference .pdf](#)
[2024-06-26 Defendant Co-trustees Notice of the Status of Curtis Appeal.pdf](#)
[2024-06-27 Order to Distribute funds.pdf](#)

[2024-06-28 Reply re No Jrsdctn \(Final\).pdf](#)
[2024-07-25 Docket 412249-401 Web Inquiry.pdf](#)
[2024-07-26 Notice of Order.pdf](#)
[2024-07-26 Order.pdf](#)
[2024-07-31 Rule 11 Agrmnt - Ct Rgstry.pdf](#)
[2024-08-05 Fee Deposits into the registry.pdf](#)

[2024-08-08 Affidavit of Witness Rik Munson files](#)
[2024-08-08 Web Inquiry 412249-401.pdf](#)
[2024-08-08 Web Inquiry 412249-403.pdf](#)
[2024-08-08 Web Inquiry 412249-405.pdf](#)
[2024-08-27 individual 4357783.pdf](#)
[2024-08-29 Web Inquiry 412249 et al.docx](#)

[2024-08-29 Web Inquiry 412249 et al.pdf](#)
[2024-09-19 Reply to Andy demand for accounting.pdf](#)
[2024-09-21 Claim docket requests.png](#)
[2024-10-01 email to CClerk.pdf](#)
[2024-10-03 email from County Clerk re Estate of Elmer Brunsting No. 412248 and Nelva Brunsting No. 412249.pdf](#)
[2024-10-03 Estate of Elmer Brunsting 412248 Index Certified.pdf](#)
[2024-10-03 Estate of Nelva Brunsting 412249 Index Certified.pdf](#)
[2024-10-18 Stephem Mendels Latest proposed settlement scam.pdf](#)
[2024-10-2 Mendel 1st Amended Notice of Hearing.pdf](#)
[2024-10-22 mendel Motion for payment of fees.pdf](#)
[2024-10-24 Notice to agent is notice to principal - Notice to principal is notice to agent.pdf](#)
[2024-10-28 Mendel Notice of Hearing.pdf](#)
[2024-11-12 01-23-00362-CV SUBMISSION OA DENIED FILECOPY.pdf](#)
[2024-11-20 Carole Brunsting RESPONSE TO Mendel MOTION.pdf](#)
[2024-11-25 Co-Trustees 1ST Amended Exhibits Regarding the Value of the Brunsting Trust Assets](#)
[2024-11-28 Docket in 412249-401 Web Inquiry.pdf](#)
[2024-12-05 Agreed Order to Interim Distribution.pdf](#)

[2024-12-11 estate of Nelva Brunsting.pdf](#) There is no estate of Nelva Brunsting, there is no administrator to prosecute the claims brought against the estate planning bait and switch grifters and no jurisdiction for the probate court to appoint a successor to an independent administrator that has ceased to serve due to a proclaimed incapacity unless there is something yet to be performed under the decedent's will. What could possibly remain unperformed under a pour-over will once the inventory appraisement and list of claims have poured over into the trust?.

287. These predator attorneys deserve to be disbarred and put behind bars as an example and a message to those of like mind that this conduct will no longer be tolerated.

288. Justice Ginsberg authored the Supreme Court's opinion in Marshall and ends that 12 page instrument with the following quote:

*“Rather than preserving whatever vitality that the "exception" has retained as a result of the Markham dicta, I would provide the creature with a decent burial in a grave adjacent to the resting place of the Rooker-Feldman doctrine. [***46] See Lance v. Dennis, 546 U.S. 459, 126 S. Ct. 1198, 163 L. Ed. 2d 1059 (2006) (Stevens, J., dissenting).”*

Let's get that done!

Persons Receiving Notice of this as of yet unfiled action are as follows:

Leslie J. Friedlander
Assistant Attorney General of Texas
State Bar No. 24059164
Financial Litigation and Charitable Trusts Division
(512) 463-3085 - Direct Line
(512) 477-2348 - Fax
leslie.friedlander@oag.texas.gov
Appearance April 7, 2022

Sean Teare
Harris County District Attorney's Office
500 Jefferson Street, Suite 600
Houston, TX 77002
United States Attorney General Pamela Bondi
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

United States Attorney for the Southern District of Texas
Nicholas J. Ganjei,
1000 Louisiana, Ste. 2300
Houston, TX 77002
usatxs.atty@usdoj.gov

Acting U.S. Attorney for the Northern District of California
Patrick D. Robbins,

Phillip Burton Federal Building
450 Golden Gate Avenue, P.O. Box 36055
San Francisco, CA 94102

ⁱ CONFLICT: It should be noted here that when litigation was brought in effort to obtain an accounting and fiduciary disclosures, Anita Brunsting, and her new co-trustee Amy Brunsting, were represented by Vacek & Freed Attorneys [Ex1-47] Candace Kunz-Freed and Bernard Lisle Mathews III, *infra*. These conflicts of interest are violations of Rule 1.06(a), (d), (e) and (f) of the Disciplinary Rules of Professional Conduct and is thus conduct ultra vires the office of attorney. It is also further evidence that these estate planning attorneys betrayed their fiduciary duty of undivided loyalty, abandoned privity with their clients and, by entering into a conflicting confidential relationship with Anita Brunsting, they entered into privity with the entire trust beneficiary class and owe fiduciary duties to the entire trust beneficiary class.

ⁱⁱ *Marshall v Marshall* 547 U.S. 293, 126 S. Ct. 1735