

**Date:** March 6, 2025 The commonalities regarding Carl Brunsting’s District Court filing against his parent’s estate planning attorneys in Harris County District Court 164 on January 29, 2013 and his declaratory judgment action filed in Harris County Probate Court No. 4 on April 9, 2013.

## **ANALYSIS OF THE SINGLE NUCLEUS OF OPERATIVE FACTS**

### **I. Overview**

Both lawsuits—one filed in the District Court of Harris County, Texas (Case No. 2013- 05455) and the other in Probate Court Number Four of Harris County, Texas (Case No. 412.249)—involve the same principal plaintiff, Carl Henry Brunsting (acting in his individual capacity and as Independent Executor of the estates of Elmer H. Brunsting and Nelva E. Brunsting), and center on controversies arising from the management and administration of family trusts and estates. The cases share common factual allegations regarding the wrongful actions undertaken by certain family members and legal counsel regarding trust administration, asset transfers, and breaches of fiduciary duty.

### **II. Shared Factual Allegations**

#### **1. Parties and Relationships:**

- **Plaintiff:** Carl Henry Brunsting, who previously held a role in the administration of the Family Trust and now asserts his rights as both an executor and a beneficiary.
- **Defendants:**
  - **Legal Counsel and Associates:** Candace L. Kunz-Freed and Vacek & Freed, PLLC (formerly known as The Vacek Law Firm), whose actions in representing family members are alleged to be improper.
  - **Family Members as Trustees:** Anita Kay Brunsting (also known as Anita Kay Riley), Amy Ruth Brunsting (also known as Amy Ruth Tschirhart), and Carole Ann Brunsting. These defendants are alleged to have taken control of trust assets, manipulated estate planning documents, and engaged in self-dealing.
- **Underlying Family Dynamics:** The disputes arise from a familial context involving parental estates (Elmer and Nelva), where the trusts were established to manage these assets. The defendants, who are also siblings, are alleged to have conspired or engaged in actions that disregard the expressed wishes of the decedents.

#### **2. Core Allegations:**

- **Manipulation and Fraudulent Document Preparation:** Both lawsuits allege that the legal counsel prepared key trust documents under circumstances involving undue influence, misrepresentation, and a lack of capacity or proper consent (notably evidenced by the tainted 8/25/10 Qualified Beneficiary Designation and Power of Attorney documents). This manipulation is said to have resulted in a dramatic shift of control from the decedents’ intended plan.
- **Breach of Fiduciary Duty:** The actions of the defendants—both the legal counsel and the trustee family members—are repeatedly alleged to have breached fiduciary duties owed to the estates and trust beneficiaries. The claims include failure to disclose conflicts of interest, self-dealing, misapplication of trust assets,

and engaging in transactions that benefited the defendants at the expense of the rightful beneficiaries.

- **Improper Transfer and Conversion of Assets:** A central element is the alleged improper or unauthorized transfer of assets. The cases detail how shares (such as Exxon Mobile and Chevron stocks) and other trust assets were transferred from Elmer and Nelva's trusts to the benefiting accounts of the defendants, excluding or disadvantaging Carl and, in one instance, Candace.
- **Undue Influence and Lack of Informed Consent:** Both actions describe a scenario where the decedents (particularly Nelva) were misled, misinformed, or subjected to undue influence, which resulted in a change of trustee control. This critical allegation implies that Nelva's removal from trustee roles, and the subsequent manipulation of the trust documents, were executed with deceptive intent.
- **Conspiracy and Collusion:** There are allegations that defendants coordinated their actions (both legal and familial) in a conspiratorial manner to deprive the rightful beneficiaries of their inheritance. This included the drafting and executing of documents that would facilitate asset misappropriation.

### III. Synthesis of the Core Events Leading to the Disputes

At the heart of both lawsuits is a series of events where:

- The family established a revocable Family Trust for the proper administration of assets upon the deaths of Elmer and Nelva.
- After the death of Elmer and subsequently Nelva, it is alleged that key trust documents were manipulated—allegedly with the involvement of legal counsel—to alter the intended distribution of assets.
- Defendants (Anita, Amy, Carole, and associated legal counsel) are accused of leveraging undue influence and exploiting conflicts of interest to assume control over trust assets.
- This resulted in unauthorized asset transfers (including stock transactions and financial accounts) that favored the defendants while undermining Carl's interests as both a beneficiary and an executor.
- The common legal claims arising from these events include negligence, breach of fiduciary duty, misrepresentation, conversion, and conspiracy, all of which converge upon one central nucleus: the improper and deceitful manipulation of trust administration and estate planning documents to wrongfully reallocate assets, in violation of both the decedents' explicit wishes and fiduciary obligations.

### IV. Conclusion

The single nucleus of operative facts common to both lawsuits is the alleged wrongful manipulation of trust documents and the subsequent transfer of estate and trust assets by family members and their legal counsel—actions that purportedly deprived Carl Henry Brunsting of his rightful interests. This core dispute revolves around claims that these actions were carried out through undue influence, deceptive practices, and breaches of fiduciary duty, forming the foundation for the legal theories of negligence, fraud, conversion, and conspiracy asserted in both lawsuits.

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