

TAB 26

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Stan Stanart
County Clerk
Harris County

CAUSE NO. 412,249401

PROBATE COURT 4

IN RE: ESTATE OF	§	IN THE PROBATE COURT
NELVA E. BRUNSTING,	§	NUMBER FOUR (4) OF
DECEASED	§	HARRIS COUNTY, TEXAS

MOTION TO ENTER TRANSFER ORDER

TO THE HONORABLE COURT:

Comes Now, Plaintiff, Candace Louis Curtis and files this Motion to Enter Transfer Order, and in support thereof would respectfully show as follows:

I. BACKGROUND

Plaintiff filed an Original Petition in the Federal Court for the Southern District of Texas against Defendants Anita Brunsting and Amy Brunsting as Co-Trustees of the Brunsting Family Trust. She subsequently sought and was granted leave to amend her pleading to include necessary parties Carl Brunsting, Executor of the Estate of Nelva Brunsting, Deceased and Carole Brunsting. Although necessary, the addition of these two new parties destroyed federal diversity jurisdiction. Because similar issues of fact and law are currently pending before this Court, the Federal Court entered an order remanding Plaintiff's Federal Case to this Court. See Ex. A, Order of Remand.

II. TRANSFER


Pursuant to Texas Estates Code Sections 32.005, 32.006 and 32.007, this Court has jurisdiction over the parties and the claims alleged in Plaintiff's First Amended Petition. Accordingly, Plaintiff requests that this Court enter an order accepting the Order of Remand entered by the Federal Court and transfer to itself the pleadings and orders filed and entered in Federal Cause Number 4:12-CV-00592, *Candace Louise Curtis v. Anita Kay Brunsting et al.*

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Harris County, Texas




Sterling G. Senechal III Deputy

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III. PRAYER

WHEREFORE, Plaintiff respectfully requests that the Court (a) accept the Order of Remand entered by the Federal Court and transfer to itself the pleadings and orders filed and entered in Federal Cause Number 4:12-CV-00592, *Candace Louise Curtis v. Anita Kay Brunsting et al.*, and (b) grant such other and further relief that the Court deems just and appropriate.

Respectfully Submitted,

OSTROM/*Sain*
A Limited Liability Partnership

BY: 

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06052014:0759:P0099

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument was served in accordance with Texas Rule of Civil Procedure 21a on the following on the 28 day of July, 2014:

Ms. Bobbie Bayless
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Houston, Texas 77098
713.522.2224
713.522.2218 (Facsimile)

Ms. Darlene Payne Smith
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Houston, Texas 77010
713.752.8640
713.425.7945 (Facsimile)

Mr. George W. Vie III
1021 Main, Suite 1950
Houston, Texas 77002
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713.225.0844 (Facsimile)


Jason B. Ostrom

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Harris County, Texas


Sterling G. Senechal III

Deputy



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06052014:0759: P0100

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CANDACE LOUISE CURTIS, <i>et al</i> ,	§	
	§	
Plaintiffs,	§	
VS.	§	CIVIL ACTION NO. 4:12-CV-592
	§	
ANITA KAY BRUNSTING, <i>et al</i> ,	§	
	§	
Defendants.	§	

ORDER GRANTING PLAINTIFF'S MOTION TO REMAND

The matter before the Court is the Plaintiff's Motion to Remand. Plaintiff seeks remand of the case to state court on substantive and procedural grounds including a lack of complete diversity between the parties and the existence of similar questions of law and fact currently pending before Harris County Probate Court Number Four under Cause Number 412,249. The Court finds that the remand should be GRANTED.

The Court finds that Plaintiff originally filed her Petition against Defendants Anita Brunsting and Amy Brunsting as Co-Trustees of the Brunsting Family Trust and that diversity jurisdiction existed between Plaintiff and Defendants. Plaintiff has sought and been granted leave to file her First Amended Petition, in which she has named additional necessary parties including Carl Brunsting, individually and as Executor of the Estate of Nelva Brunsting and Carole Ann Brunsting, which has destroyed diversity jurisdiction. Plaintiff's First Amended Petition also alleges questions of law and fact similar to those currently pending in Harris County Probate Court Number Four under Cause Number 412,249, and that the possibility of inconsistent judgments exists if these questions of law and fact are not decided simultaneously. The Court further finds that no parties are opposed to this remand and that no parties have filed any objection thereto.

1 / 2

Exhibit A

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Sterling G. Senechal III Deputy



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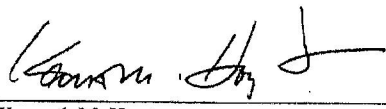


06052014:0759:P0101

It is, therefore, ORDERED that this case shall be and hereby is remanded to Harris County Probate Court Number Four, to be consolidated with the cause pending under Cause Number 412,429.

It is further, ORDERED that all Orders rendered by this Court shall carry the same force and effect through the remand that they would have had if a remand had not been ordered.

SIGNED on this 15th day of May, 2014.


Kenneth M. Hoyt
United States District Judge

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Harris County, Texas


Sterling G. Senechal III

Deputy



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06052014:0759:P0102

CAUSE NO. 412,249-401

IN RE: ESTATE OF
NELVA E. BRUNSTING,
DECEASED

§
§
§
§
§

IN THE PROBATE COURT
NUMBER FOUR (4) OF
HARRIS COUNTY, TEXAS

ORDER OF TRANSFER

On this day came to be considered the Motion to Enter Transfer Order filed by Plaintiff Candace Curtis, seeking to have this Court accept the Order to Remand entered by the Federal Court for the Southern District of Texas and transfer to itself the pleadings and orders filed and entered in Federal Cause Number 4:12-CV-00592, *Candace Louise Curtis v. Anita Kay Brunsting et al.* The Court is of the opinion that it has jurisdiction over the parties and claims pending under Cause Number 4:12-CV-00592 finds that the Motion to Enter Transfer Order should be granted. It is, therefore,

ORDERED that the Order of Remand entered by the Federal Court for the Southern District of Texas in Federal Cause Number 4:12-CV-00592, *Candace Louise Curtis v. Anita Kay Brunsting et al.*, is hereby accepted. It is further,

ORDERED that the pleadings and orders filed and entered in Federal Cause Number 4:12-CV-00592, *Candace Louise Curtis v. Anita Kay Brunsting et al.*, be and hereby are transferred to this Court to be held under Cause Number 412,249.-401.

SIGNED on this 3 day of June, 2014.

Christine Bous
JUDGE PRESIDING

Stan Stewart
COUNTY CLERK
HARRIS COUNTY, TEXAS

2014 JUN -4 AM 10:35

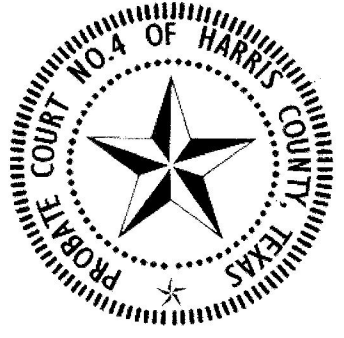
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Harris County, Texas

Sterling G. Senechal III
Sterling G. Senechal III Deputy

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06052014:0759:PO108

APPROVED AS TO FORM:

OSTROM/*Sain*
A limited liability Partnership

BY: 

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Attorneys for Plaintiff

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Harris County, Texas



Sterling G. Senechal III

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