

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

Probate Case

Anita Brunsting Doc 30 p.1 (Ghost written) ROA 17-20360, 1776
Amy Brunsting Doc 35, p.1 (Ghost written) ROA 17-20360, 2296
Steven Mendel Doc 36 p2, 6 (Ghost writer) ROA 17-20360, 2304,
2308,

County Attorneys for Judges Butts & Comstock Doc 53, p2, 16, 30
ROA 17-20360, 2613, 2627

Jason Ostrom Doc 78 p.1
Gregory Lester Doc 83 p.1 (Written by Ostrom, representing Lester
against his former client)

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 Doc 39, 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

Related Cases

February 25, 2013 Cause Number 2013-05455 80th Judicial District Court **Vacek & Freed** (Corey Reed) filed a Motion to Transfer Related Case from Probate Court Four to the 80th Judicial District Court arguing that the District Court was the court of dominant jurisdiction. Reed was correct.

April 9, 2013 Injunction Hearing United States District Court for the Southern District of Texas, Houston Division **Anita and Amy Brunsting** (George Vie III) raised the issue of the related Harris County District Court Suit

April 10, 2013, **Anita and Amy Brunsting** (George Vie III) filed notice of related state court action re; Harris County Probate Court 4 No. 412,249-401.

Anita and Amy Brunsting (Bradley Featherston and Neil Spielman) June 26, 2015 No-evidence Motion refers to related cases.

July 14, 2015 **Carl Brunsting** (Bobbie G. Bayless) filed a motion to Transfer Cause No. 2013-05455, styled Carl Henry Brunsting, Independent Executor of the Estates of Elmer H. Brunsting and Nelva E. Brunsting v. Candace L. Kunz-Freed and Vacek & Freed, PLLC flk/a The Vacek Law Firm, PLLC, in the 164th Judicial District Court of Harris County, Texas, to Harris County Probate Court Number 4.”

There has been no legitimate litigation activity since Curtis v Brunsting 4:12-cv-592 left the federal court for the probate menagerie. If what we are looking at is not organized crime of the color of law variety... what is it?

The claims in the RICO action have only been validated by the defendant's subsequent actions. There is the facade of a probate matter in a probate court but there are no fully litigated state court determinations to be disgruntled about other than the determination not to rule on anything of substance. At this juncture that would include 1) A No-evidence Motion for Partial Summary Judgment 2) a counter Motion for Partial Summary Judgment 3) An answer to the No-evidence Motion for Partial Summary Judgment with a Demand to Produce Evidence 4) An Emergency Motion for Protective Order regarding the Dissemination and Use of Illegal Wiretap Recordings 5) A Verified Plea in Abatement and 6) A Plea to the Jurisdiction.

The office of executor has been vacant since February 19, 2015. All six of these Motions were filed subsequent to that vacancy. Only one has seen a hearing and that would be the “Emergency Motion for Protective Order regarding the Dissemination and Use of Illegal Wiretap Recordings” where no testimony was given, no evidence was introduced. There has been no finding of fact, conclusion of law or order published after that hearsaying.

Docket entry 26 contains the facts in this case that defendants move to strike while arguing Plaintiffs failed to plead any facts. The RICO complaint and the Rule 60 Motion for Vacatur of the remand order, were mailed to the Southern District Clerk in the same envelope and were intended to be filed together. However, due to the size, the Rule 60 Motion was submitted in a CDROM which was not proper under the rules. Plaintiffs then submitted the Rule 60 Motion on paper, which is why they bear different filing dates. That original CDROM is preserved in the Southern District Clerks vault and the Addendum of memorandum is an essential part of the RICO complaint.

Motions to Dismiss

Probate proceeding

V&F Doc 20 P.4, 6, 7

Bayless Doc 23 P.2, fn1, 3, fn2

Spielman Doc. 40 P.2

Butts, Comstock Doc 53 P.3, 4 “attacks the private attorney general” P7*
“Plaintiff Curtis has alleged only indirect injury-i.e., alleged loss to the assets of the Brunsting family trust and estate in the underlying probate proceeding.”

Butts, Comstock Doc 53 P. 12 “It is unquestionably clear that these actions were judicial acts that were made within Probate Court 4’s jurisdiction and for which the Honorable Judges are entitled to immunity.” P. 12 “Probate judges”, P. 15*, 18, 29*,

Probate Matter

Jill Young Doc 25 P.3

Spielman Doc 39 P.1, 2-(5 times), ("the Probate Matter"). “The Probate Matter involves a dispute between the Brunsting siblings over the administration over their late parents' estate.”

Spielman Doc 40 P.1, 2,

Butts, Comstock Doc 79 P. 5 (Judges opposition) “whether Plaintiff Curtis’s own counsel was involved in the criminal enterprise “Probate Mafia,” when that counsel also previously represented the Plaintiff in the closed federal court matter.) The answer to that question is a resounding YES! See Doc. 78 P17-24 Ostrom fraudulent 2nd amended complaint in the probate court)

Probate Case

Anita Doc 30 P. 1 (at page 2 Anita says)

“The alleged "extortion instrument" is a qualified beneficiary trust (QBT) prepared by defendant Alfred Vacek, Jr. at the request of his client (my mother), Nelva Brunsting, years before the alleged act of extortion. Neither I, nor Mr. Mendel, nor Mr. Featherston, or anyone else associated with the Mendel Law Firm were involved in drafting the QBT. Without an explanation of how I participated in the creation of the instrument, or knew that the QBT could be used to extort the plaintiffs, there is not sufficient information in the complaint to allow me to defend against this claim.”

Amy Doc 35 P. 1 (At P.2 Amy says)

“Plaintiffs allege that attorney Bernard Matthews and I filed a false affidavit in a suit that Candace Curtis filed against me and others (Candace Louise Curtis v. Anita Brunsting et al., No. 4:12-cv-00592). The suit was a lis pendens filed by Plaintiff Curtis to prevent the sale of our mother's home.”

Mendel Doc 36 P. 2, 5

Butts, Comstock Doc 53 P.30

Jill Young Opposition to Consolidation Doc 38 P5 Probate Estate

Ostrom Doc. 78 P1 (P17-24 is Ostrom fraudulent 2nd amended complaint in the probate court)

Estate of Nelva Brunsting

Doc 30 P.1

Doc 35 P.1

Doc 36 P2

Ostrom Fraudulent Amendment Doc 78 P.20, 23

Candace Louise Curtis v. Anita Kay Brunsting, et al

V&F Doc 20 P.3, ft2 “See Cause No. 4:12-cv-00592; **Candace Louise Curtis v. Anita Kay Brunsting, et al**; In the United States District Court for the Southern District of Texas.”

Carl Henry Brunsting, et al

V&F Doc 20 P.5, fn5 “See Cause No. 2013-05455; Carl Henry Brunsting, et al v. Candace L. Kunz-Freed, et al; In the 164th Judicial District Court of Harris County, Texas.”

V&F Doc 20 P.7 “See **Cause No. 412.249-401; Carl Henry Brunsting, et al v. Anita Kay Brunsting, et al**; In the Number Four Probate Court of Harris County, Texas.”

Bayless Doc 23 P.2 Cause No. 412.249-401, styled **Carl Henry Brunsting, et al. v. Anita Kay Brunsting, et al.**

In the appellee Brief’s

Probate Proceeding

Darlene Payne Smith P.2,
Bayless¹ P.1, (seven times) on P.3, 6, 7, 8,
on P.3:

*“Probate Court Number 4 in Cause No. 412.249-401, styled
Carl Henry Brunsting, et al. v. Anita Kay Brunsting, et al. (the
“Probate Proceeding”) (ROA. 2259-2278)”*

Young P. 2, 4, 20
V&F P. 8, 12, 16
Mendel Featherston P. 2, 4,
Ostrom P.3, 13
Spielman P. 1, 2, 4, 9,
Lester P. 3, 13,

Probate Matter

Jill Young P. 4,
Mendel Featherston P. 5,
Spielman P. 4

Probate Case

Darlene Payne Smith P.2, 3, 4, 5, 12, 15, 31
V&F P. 1,

¹ Case: 17-20360 Document: 00514171972 Page: 8 Date Filed: 09/26/2017

Probate Court Litigation

Darlene Payne Smith “Issues Presented” P. V, xv

Bayless “state probate court action” P.1

Estate of Nelva Brunsting

Darlene P. 2,
Jill Young P. 5,
Mendel P. 4
Spielman P. 4, 5,

Carl et al

Darlene P. 2, (Cause No. 412.249-401; Carl Henry Brunsting, et al. v. Anita Kay Brunsting, et al.).

Bayless P. 3: Carl Henry Brunsting, et al. v. Anita Kay Brunsting, et al. (the “Probate Proceeding”)

Candace Louis Curtis v Anita et al

Darlene Payne smith Page 2 fn 1: Southern District of Texas (Case No. 4:12-cv-00592; Candace Louise Curtis v. Anita Kay Brunsting, et al.

V&F P. 1 Curtis, along with her siblings, are presently involved in a dispute regarding their parents’ estates in Probate Court No. 4 of Harris County, Texas. Curtis contends the Defendants are conspiring to deplete estate funds that otherwise may eventually go to a family trust of which she is one of the beneficiaries.

Let’s get real. Nobody is worried about that old car and as soon as this case was dismissed Gregory Lester and Jill Young stole from the trust under the pretext of fees for administering “Estate of Nelva Brunsting”.

Ostroms' Conspiratorial Conversion Agreement was formalized!

Defendants argue that Plaintiff Curtis federal lawsuit was remanded to the state probate court at Curtis request as if the series of covert frauds committed by Defendant Jason Ostrom, with the clear intention of undermining Plaintiff Curtis lawsuit, were the acts of plaintiff Curtis. Defendants cannot show Curtis was even aware of those actions. Breach of fiduciary was already a forgone conclusion. Ostrom was authorized to prepare summary judgment motions when he covertly moved to remand Plaintiff Curtis case to the well-known criminal enterprise operating out of the Harris County Probate Court No. 4. A simple question here is; Why would Plaintiff Curtis want her breach of fiduciary lawsuit transferred to a court with no subject matter jurisdiction over the Brunsting inter vivos trusts after having gone through a successful Fifth Circuit Appeal to avoid that travesty?

Defendants argue probate matter², probate case³, and probate proceeding⁴ but never mention the Estates Code, The Trust Code or the Will of Nelva Brunsting. .

² Jill Young Doc 25 P.3, Spielman Doc 39 P.1, 2-(5 times), ("the Probate Matter"). "*The Probate Matter involves a dispute between the Brunsting siblings over the administration over their late parents' estate.*", Spielman Doc 40 P.1, 2

³ Anita Doc 30 P. 1, Amy Doc 35 P.1, Mendel Doc 36 P. 2, 5, Butts, Comstock Doc 53 P.30

Jill Young Opposition to Consolidation Doc 38 P5 Probate Estate Ostrom Doc. 78 P1

⁴ V&F Doc 20 P.4, 6, 7, Bayless Doc 23 P.2, fn1, 3, fn2, Spielman Doc. 40 P.2, Butts, Comstock Doc 53 P.3, 4

Texas Estates Code - EST § 22.029

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.

Every one of these attorney and judge defendants knows full well that Defendant Appellee Bobbie G. Bayless had no business dragging the Brunsting inter vivos trusts into a probate court under any theory.⁵ Defendants argue probate matter, probate proceeding, probate case and probate court but never mention the probate code or the estates codes, never mention the Will of Nelva Brunsting and never mention property belonging to a decedents “estate”.

Texas Property Code - PROP § 112.035

(a) A settlor may provide in the terms of the trust that the interest of a beneficiary in the income or in the principal or in both may not be voluntarily or involuntarily transferred before payment or delivery of the interest to the beneficiary by the trustee.⁶

⁵ Texas Property Code - PROP § 112.035 (a), (g)(1)(A), (B)(i)

⁶ (Art XI, Sec. A, p 11-1) [ROA.2193]

*(g) For the purposes of this section, **property contributed to the following trusts is not considered to have been contributed by the settlor**, and a person who would otherwise be treated as a settlor or a deemed settlor of the following trusts may not be treated as a settlor:*

*(1) **an irrevocable inter vivos marital trust if:***⁷

(A) the settlor is a beneficiary of the trust after the death of the settlor's spouse;⁸ and

(B) the trust is treated as:

(i) qualified terminable interest property under Section 2523(f), Internal Revenue Code of 1986;⁹

⁷ (Art III(c), p.3-1) [ROA.869]

⁸ (Art IX, p.9-1) [ROA.2175]

⁹ (Art XII, p.12-9) [ROA.930]