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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

CANDACE LOUISE CURTIS \* Civil No. H-12-592  
\*  
VERSUS \* Houston, Texas  
\* April 9, 2013  
ANITA KAY BRUNSTING, et al \* 9:50 a.m.

TRO HEARING  
BEFORE THE HONORABLE KENNETH M. HOYT  
UNITED STATES DISTRICT JUDGE

For the Plaintiff:

Ms. Candace Louise Curtis  
Pro Se  
1215 Ulfonian Way  
Martinez, California 94553

For the Defendants:

Mr. George William Vie, III  
Mills Shirley LLP  
1021 Main Street  
Suite 1950  
Houston, Texas 77002

Court Reporter:

Fred Warner  
Official Court Reporter  
515 Rusk Ave.  
Houston, Texas 77002

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1 THE COURT: Good morning. Please be seated.

2 All right. This is Cause No. 2012-592, Candace  
3 Louise Curtis versus Anita K. Brunsting and others.

4 So let me have an announcement. Is Ms. Curtis  
5 in the courtroom?

6 MS. CURTIS: Yes, Your Honor.

7 THE COURT: All right. And who is representing the  
8 defendants in the case?

9 MR. VIE: George Vie, Your Honor, for the  
10 defendants.

11 THE COURT: And I gather we have several parties  
12 present, correct?

13 MR. VIE: Yes, Your Honor.

14 THE COURT: Are these your clients or --

15 MR. VIE: Yes, Your Honor. Both the defendants are  
16 present.

17 THE COURT: Both defendants.

18 And who are the defendants other than -- I just  
19 show Anita Kay and Amy Ruth. I am sorry. I apologize. You  
20 are representing both?

21 MR. VIE: Yes, Your Honor.

22 THE COURT: Okay. Very good.

23 This is Ms. Curtis' application for a temporary  
24 restraining order. As you might recall, this case was  
25 initially dismissed by the Court with the understanding that,

1 or under the understanding that it could not proceed in  
2 federal court but must proceed in state court.

3           The circuit court disagreed with me, and it's  
4 back; and now we are charged to proceed forward in this case.

5           So what I would like to do is, first of all,  
6 have Ms. Curtis stand and give me a kind of a factual setting  
7 background for what it is that she is seeking, then tell me  
8 what she is seeking and see what testimony, if any, we need  
9 in order to accomplish that.

10           So why don't you go ahead take the floor, Ms.  
11 Curtis, and tell us how this got started and where we are  
12 today.

13           MS. CURTIS: This got started by my parents, Elmer  
14 and Nelva Brunsting, putting together a Brunsting family  
15 living trust in 1996 dividing their estate among the five  
16 children beneficiaries.

17           THE COURT: And I see there are the only three  
18 children represented. Are there other children that are not  
19 included?

20           MS. CURTIS: Yes, sir. My sister Carole and my  
21 brother Carl.

22           THE COURT: Okay. C-a-r-o-l?

23           MS. CURTIS: C-a-r-o-l-e and Carl, C-a-r-l.

24           THE COURT: Well, that C went a long way.

25           MS. CURTIS: C, C, C and then A, A.

1 THE COURT: Went a long way in the family, didn't  
2 it?

3 MS. CURTIS: Yes.

4 THE COURT: Go ahead please.

5 MS. CURTIS: So, my father passed away in 2009 in  
6 April and --

7 THE COURT: And would you tell us his name for the  
8 record.

9 MS. CURTIS: Elmer H. Brunsting.

10 THE COURT: All right.

11 MS. CURTIS: And in July of 2010 my brother Carl  
12 became stricken with encephalitis. And it's a very serious  
13 disease. He was in the hospital for several months, part of  
14 that time in a coma. And my brother was originally appointed  
15 the executor of my parent's estate.

16 THE COURT: Your brother would be Carl?

17 MS. CURTIS: Carl. And also a successor/co-trustee  
18 of the Brunsting Family Living Trust and any resulting  
19 trusts.

20 In approximately 2007, my mother sent an e-mail  
21 to me and asked me if I would mind becoming co-trustee with  
22 my brother Carl because my sister Amy was unstable; and she  
23 was wondering if I would mind coming to Houston whenever  
24 necessary to take care of these things. And I agreed. And  
25 that was the last I heard of it.

1                   Since that time I have received a document,  
2 which is the last, first and only amendment that my father  
3 and mother both signed to the family living trust appointing  
4 Carl and Candace as successor/co-trustees.

5                   THE COURT: Okay. So as it stands now, it is Carl  
6 and Candace who would be the co-trustees of the trust?

7                   MS. CURTIS: Yes, Your Honor, yes.

8                   And after my brother became ill, my youngest  
9 sister Anita took the opportunity to begin seize control of  
10 the trust. She immediately, within three weeks after he  
11 became ill --

12                   THE COURT: When did this happen?

13                   MS. CURTIS: In July of 2010.

14                   THE COURT: 2010. He became apparently  
15 incapacitated or unable to?

16                   MS. CURTIS: Yes. He was in a coma for several  
17 weeks.

18                   THE COURT: Is he still in a coma?

19                   MS. CURTIS: No. He's back at home and doing very  
20 well.

21                   THE COURT: Okay. Very good. Go ahead.

22                   MS. CURTIS: And has been.

23                   THE COURT: I will be asking questions of him.

24                   MS. CURTIS: And so, because of things that are just  
25 simply judgmental and ugly, my sister began to try to wrest

1 control of the trust so that my brother could not have  
2 anything whatsoever to do with it. She took his name off the  
3 safe deposit box which, according to my father's handwritten  
4 letter from 1999, contained all of the information about the  
5 family trust, and then some papers were caused to be drawn  
6 up. One was a qualified beneficiary designation.

7 THE COURT: I'm sorry. Was a what?

8 MS. CURTIS: A qualified beneficiary designation.

9 THE COURT: All right.

10 MS. CURTIS: And several other papers were drawn up  
11 on August 25th, 2010.

12 There was no notice given to any of the  
13 beneficiaries about this qualified beneficiary designation  
14 that was to be prepared and signed. And the only way that I  
15 found out about it was to ask my sister Anita for copies of  
16 trust documents for me to review for a phone conference that  
17 had been called by the trust attorneys that was supposed to  
18 include my mother and all of her children. My brother Carl  
19 was never notified of this phone conference.

20 THE COURT: Was he at the time still in a coma or  
21 incapacitated?

22 MS. CURTIS: No, sir. He was not in a coma, but he  
23 was still in the hospital.

24 THE COURT: Okay.

25 MS. CURTIS: And my mother also was not in on the

1 phone call.

2                   So we had the conference call, and they were  
3 definitely absent; and the conference call apparently was  
4 called to discuss proposed changes to the trust, when in fact  
5 the changes had already been made; and as it boiled down to  
6 the end and various parties hung up, they were going to try  
7 to have my mother declared incompetent because she said that  
8 she did not sign the qualified beneficiary designation and  
9 that in fact what the qualified beneficiary designation said  
10 was not true.

11               THE COURT: Let me ask you a question before we go  
12 forward. What was the purpose -- what did the beneficiaries  
13 receive and how were funds, as you understand it, disbursed  
14 from the trust prior to this August 25th 2010. How was the  
15 trust to be administered?

16               MS. CURTIS: The trust was to be divided into five  
17 personal asset trusts; and I believe that each personal asset  
18 trust would have a trustee, but I do not think it was the  
19 beneficiary.

20               THE COURT: Was that to recognize the five children?

21               MS. CURTIS: Yes.

22               THE COURT: How was your mother to benefit from  
23 this? Was she to get some proceeds out of the funds?

24               MS. CURTIS: My mother was to benefit from all of  
25 the trusts until she passed way.

1 THE COURT: Okay. And then these five trusts  
2 would --

3 MS. CURTIS: Whatever was remaining would be divided  
4 five equal ways.

5 THE COURT: Surely.

6 And then your mother died when?

7 MS. CURTIS: 11-11-11.

8 THE COURT: Oh, is that right?

9 And at that time your father was already  
10 deceased?

11 MS. CURTIS: Yes, Your Honor.

12 THE COURT: So this telephone conference occurred  
13 sometime in August of 2010, just about 14 months prior to her  
14 death?

15 MS. CURTIS: It was in October --

16 THE COURT: October.

17 MS. CURTIS: -- of 2010.

18 THE COURT: About 12 months then, 12 or 13 months  
19 prior to her death.

20 And so go ahead and pick up there.

21 MS. CURTIS: So, anyway, after the phone conference  
22 there was really nothing I could do about anything as far as  
23 I could tell; and so, things were relatively quiet until in  
24 approximately March of 2011 my sister Anita called and said,  
25 "oh, we found some Exxon stock that wasn't in the trust; and



1 so, some of it will be gifted, and then the rest of it, the  
2 trust attorneys are going to figure out how to get it into  
3 the trust."

4                   And so I received 160 shares of that stock.  
5 And I was in conversation with sister Carole and was told  
6 that she had received some, but she didn't know how much it  
7 was because she hasn't opened the envelope.

8                   THE COURT: Was it your understanding that the 160  
9 shares that you received would have been your one-fifth  
10 share? Is that the way it was to be --

11                   MS. CURTIS: That's kind of the way I thought about  
12 it. Not necessarily my one-fifth share, but that each of us  
13 should receive a like amount.

14                   THE COURT: Sure.

15                   All right. Go ahead.

16                   MS. CURTIS: Unbeknownst to me, my sister Carole  
17 received 1,300 plus shares and my sister Amy received over  
18 1,000 shares.

19                   I received 160, Anita received 160; but Anita,  
20 as power of attorney beneficiary and trustee, having taken  
21 over from my mother in December of 2010, was conflicted and  
22 not allowed to accept gifts. So she excused it many months  
23 after the fact as being a loan, but she's also not allowed to  
24 take loans from --

25                   THE COURT: So was she the person doing the

1 disbursing of these shares?

2 MS. CURTIS: Yes, Your Honor, she was.

3 THE COURT: And she disbursed them in the manner, as  
4 you understand it, the way you just described it, giving a  
5 couple thousand shares to two of your sisters together?

6 MS. CURTIS: Uh-huh.

7 THE COURT: I said "together" meaning added  
8 together, and then 160 to you. And what happened, if  
9 anything, to do with Carl's share?

10 MS. CURTIS: He got nothing.

11 THE COURT: All right. Okay. Go ahead.

12 MS. CURTIS: So my brother has filed a lawsuit in --

13 THE COURT: Probate court?

14 MS. CURTIS: -- state court and also in probate.

15 It's not a lawsuit, but he has filed from probate as  
16 defendant executor. And he has gotten pages and pages and  
17 pages of information from my sisters in another lawsuit that  
18 it was a pre-suit request for depositions to get information  
19 in case they were going to file suit.

20 And they got pages and pages and boxes of  
21 information that was not shared with me until March 28th just  
22 recently, and this paper here was in some of the documents  
23 that they shared with me.

24 THE COURT: What is the title of it?

25 MS. CURTIS: This is a computer share. It's a.

1                   Transfer form. And this is page two of three  
2 pages of the transfer form.

3                   THE COURT: Transfer form relating to?

4                   MS. CURTIS: The Exxon/Mobil stock.

5                   THE COURT: Okay.

6                   MS. CURTIS: And so, at the top of the page my  
7 sister Anita's 160 shares, and the bottom of the page is my  
8 160 shares.

9                   There is two signatures at the bottom of the  
10 page. One is on a W-9 portion, and the other is on, my  
11 understanding that the money would be reinvested in the  
12 account. These signatures are not my signatures; they're  
13 forgeries.

14                  THE COURT: Uh-huh.

15                  MS. CURTIS: I would not have seen these if I had  
16 not had this shared with me by my brother.

17                  THE COURT: And you didn't authorize anyone to make  
18 those signatures for you?

19                  MS. CURTIS: No, I did not. And I have filed a  
20 Securities & Exchange Commission complaint as of last week  
21 about this.

22                  THE COURT: All right.

23                  MS. CURTIS: And I have not heard anything from them  
24 since that time.

25                  I also have two different --

1 THE COURT: Well, let me ask you before you go  
2 further. What did you understand to be the access in the  
3 trust or the total trust as opposed to the individual five  
4 trusts, let's say? What did you understand the gross assets  
5 to be? Is that what you set forth in your petition as being  
6 the assets.

7 In 2010, you show -- I don't know if you have  
8 your petition there with you, but you showed in 2010 there  
9 was Chevron/Texaco, Exxon/Mobil, Edward Jones and a total of  
10 \$554,000 more or less in the -- I gather is this in the  
11 decedent's account.

12 MS. CURTIS: Actually, this is my Request For  
13 Injunction.

14 THE COURT: Yes, page 3.

15 MS. CURTIS: Those are just the net changes.

16 THE COURT: These are what you're calling losses  
17 then?

18 MS. CURTIS: Yes.

19 THE COURT: So what is the total of the estate? How  
20 many? Several million dollars?

21 MS. CURTIS: The farm itself is close to \$3 million,  
22 and everything else when my father passed away was about a  
23 million-and-a-half.

24 THE COURT: So, it's increased in value to about --

25 MS. CURTIS: By virtue of the farm.

1 THE COURT: F-a-r-m, farm?

2 MS. CURTIS: Yes, family farm in Iowa.

3 THE COURT: That was sold?

4 MS. CURTIS: No, it was not.

5 THE COURT: What's on the farm that's increasing  
6 these prices? What are they harvesting?

7 MS. CURTIS: Corn and soybean.

8 THE COURT: Is that for profit or just simply --

9 MS. CURTIS: To my understanding we have a lease  
10 with the farmer.

11 THE COURT: Okay. And so lease itself pays a  
12 certain amount of money annually or however.

13 MS. CURTIS: Yes.

14 THE COURT: Those assets or that money goes into the  
15 estate?

16 MS. CURTIS: I believe so.

17 THE COURT: And that accounts for some of the  
18 increase, as you understand them?

19 MS. CURTIS: Yes.

20 THE COURT: All right. So at this point in time,  
21 "this point in time" being 2012, there has been a total of  
22 338 or 339,000 in assets removed from the estate, and there  
23 is still approximately, as far as you know, three-plus  
24 million dollars in the estate?

25 MS. CURTIS: Yes, Your Honor.

1 THE COURT: Now, I want to try to close this out  
2 just a little bit by asking you: After you received these  
3 documents, I gather -- and when you weren't receiving them,  
4 obviously, because I recall you filed a suit, and one of the  
5 issues was getting your hands on these documents, and you  
6 were not able to get those documents until recently, as I  
7 understand it?

8 MS. CURTIS: The first time I received any  
9 information was in April of 2012, yes.

10 THE COURT: Okay.

11 And since you received those documents, has the  
12 fact that you received those documents confirmed what you  
13 believe to be improper practices on the part of your, I  
14 gather, on the part of your sister Anita?

15 MS. CURTIS: Yes, Your Honor.

16 THE COURT: Is she handling this alone?

17 MS. CURTIS: To my knowledge she is.

18 THE COURT: All right. So it's between her and  
19 however her lawyers are handling this that you are concerned  
20 about?

21 MS. CURTIS: I assume.

22 THE COURT: And your brother has a ongoing suit  
23 presently ongoing?

24 MS. CURTIS: Yes, Your Honor.

25 THE COURT: And what is the status as you understand

1 of that suit, as to how long has it been pending and what is  
2 status of that suit?

3 MS. CURTIS: I'm not exactly sure of the dates of  
4 how long it's been pending. I think since sometime in  
5 February of 2013.

6 THE COURT: Okay. So several months, but not very  
7 long.

8 MS. CURTIS: Right.

9 THE COURT: And is he able to get up and about?

10 MS. CURTIS: Yes.

11 THE COURT: Where is he now?

12 MS. CURTIS: At home, I would assume.

13 THE COURT: And have you communicated with him  
14 regarding what his approach is?

15 MS. CURTIS: Yes, Your Honor. I have.

16 THE COURT: And, of course, you have not joined his  
17 lawsuit?

18 MS. CURTIS: No, I have not.

19 THE COURT: And he has not joined in your lawsuit?

20 MS. CURTIS: No, he has not.

21 THE COURT: Does he have an attorney?

22 MS. CURTIS: Yes, Your Honor, he has.

23 THE COURT: Okay. I gather you now know that some  
24 state court, some county court or probate court, someone did  
25 something, I gather, to give Anita some authority that you

1 did not know she had. Is that what you have come to the  
2 knowledge of?

3 MS. CURTIS: I have come into the knowledge that the  
4 purported successor/co-trustees are in fact imposters because  
5 the documents that made them successor/co-trustees have  
6 digital alterations on them; they have anomalies on the  
7 signature pages. I have two different signature pages for  
8 the qualified beneficiary designation that were sent to me on  
9 two different occasions.

10 THE COURT: Now, whose signatures would be necessary  
11 from your perspective to permit her to go forward? This  
12 qualified beneficiary designee, this was supposed to be Anita  
13 now?

14 MS. CURTIS: It was supposed to divide the estate  
15 into five different personal asset trusts. Carole, Amy and  
16 Anita were going to be trustees.

17 THE COURT: This was a part of you-all's discussion  
18 on the telephone conference as to how this was supposed to  
19 work?

20 MS. CURTIS: Well, I wanted to know how it would put  
21 into place in the first place because I never received any  
22 notice that this was being contemplated.

23 THE COURT: Okay.

24 MS. CURTIS: And come to find out months after the  
25 papers were allegedly signed by my mother, my personal asset



1 trust and my brother Carl's were put under the control of Amy  
2 and Anita.

3 THE COURT: On what authority or what basis.

4 MS. CURTIS: I don't know. I don't know.

5 THE COURT: Okay.

6 And what happens then or what is happening to  
7 those assets?

8 MS. CURTIS: They're spending them.

9 THE COURT: Okay. She, Anita, has authority and can  
10 spend those proceeds --

11 MS. CURTIS: Yes, Your Honor.

12 THE COURT: -- based upon what? Is she considering  
13 herself the qualified beneficiary designee or something?

14 MS. CURTIS: She is considering herself a  
15 successor/co-trustee.

16 THE COURT: Successor/co-trustee.

17 MS. CURTIS: In place of my mother. She did most of  
18 the theft while my mother was still alive when she was acting  
19 with my mothers power of attorney. My mother supposedly  
20 resigned as trustee on December 21st, 2010, and my sister  
21 accepted successor/trustee. And my sister's also a  
22 beneficiary, so she's got a conflict of interest there.

23 THE COURT: So since 2010 you are not aware of, I  
24 gather you're saying you're not aware of the division of the  
25 estate at least designating your portion as being your full

1 one-fifth of the estate?

2 MS. CURTIS: I have never received a notice.

3 THE COURT: You are not aware that that has been  
4 done. In other words, you don't know that that has been  
5 done?

6 MS. CURTIS: No, I do not.

7 THE COURT: And you're not in charge of that, those  
8 assets?

9 MS. CURTIS: That's correct.

10 THE COURT: And so here's my question: What is it  
11 that you're seeking by this lawsuit?

12 MS. CURTIS: I am seeking that my sister and those  
13 who have received unfair distributions to return the money.

14 THE COURT: Okay.

15 MS. CURTIS: I would like them to pay back all of  
16 the interest that was lost on the securities that were cashed  
17 in during that 15 months and spent, diverted to other things.

18 THE COURT: All right.

19 MS. CURTIS: And I would like it to be divided five  
20 ways and for the five beneficiaries to go their separate  
21 ways.

22 THE COURT: And what have you been told, if  
23 anything, even today, if anything, that has prevented this  
24 from happening?

25 MS. CURTIS: I have been told nothing.

1 THE COURT: And you've talked with their counsel,  
2 have you not?

3 MS. CURTIS: Yes, I have.

4 THE COURT: And did you ask him about these  
5 questions or did you put these questions to him?

6 MS. CURTIS: No, I did not.

7 THE COURT: What were you asking? What was the  
8 nature of what you all were trying to accomplish as far as  
9 this injunction is concerned?

10 MS. CURTIS: We were trying to come up with a reason  
11 why we would not go forward with the injunction hearing. And  
12 I had five or six other alternative ways of resolving this.  
13 And he left the room to speak to his clients, and they would  
14 not agree to them.

15 THE COURT: What are you seeking now? What are  
16 those ways that you are seeking, and what is it that you want  
17 to happen here today?

18 MS. CURTIS: I wanted to have an independent trustee  
19 appointed.

20 THE COURT: All right. And that was refused.

21 Okay. What else?

22 MS. CURTIS: I wanted to know who, if any, special  
23 co-trustee was appointed as per this qualified beneficiary  
24 designation.

25 THE COURT: I'm sorry. Say that again.

1 MS. CURTIS: There was provision in the qualified  
2 beneficiary designation for a special co-trustee or a trust  
3 protector; and so, I suggested that maybe the trust protector  
4 take it over as the trustee.

5 THE COURT: All right. Okay.

6 MS. CURTIS: And the other reason was just similar  
7 to that. The Court could appoint an independent trustee who  
8 the defendants would have to obtain approval for any of their  
9 actions.

10 The Court could enjoin the trustees from acting  
11 without approval of the Court or express written approval  
12 from all five beneficiaries.

13 The Court could enjoin trustee from acting  
14 unless and until they can show they're in possession of  
15 authentic documents by submitting the documents purportedly  
16 signed on August 25, 2010 and December 21st, 2010 for a  
17 forensic analysis because the copies that we have have all  
18 been digitally altered and the signatures are fake.

19 THE COURT: Okay.

20 MS. CURTIS: I also asked originally if I could  
21 please know the identification and contact information for  
22 the trust protector, and I was told that the provisions for  
23 the trust protector were at section such and such in the  
24 qualified beneficiary designation, but I didn't get a  
25 straight answer.

1 THE COURT: So there is a document called "qualified  
2 beneficiary designation"?

3 MS. CURTIS: Yes, Your Honor.

4 THE COURT: And you do or do not have a copy of  
5 that?

6 MS. CURTIS: I do have a copy of it but not with me.

7 THE COURT: And you have been told that in -- when  
8 were you told this, today? When were you told where this  
9 provision about the special protector or co-trustee protector  
10 was located?

11 MS. CURTIS: In early 2012.

12 THE COURT: And you were told where to find it?

13 MS. CURTIS: I was told where to find the  
14 provisions, but I asked for the identity.

15 THE COURT: Okay. The identity of that person has  
16 not been given to you?

17 MS. CURTIS: That is correct, or if there even is.

18 THE COURT: If there is such a person.

19 All right. So that's what you're seeking in  
20 terms of your request for benefit -- for the injunction  
21 today; is that correct?

22 MS. CURTIS: Yes, Your Honor. I'm seeking that we  
23 stop the bleeding until we can get to the bottom of it.

24 THE COURT: Have you received any funds from the  
25 trust since 2010? I'm talking about since the death of your

1 mother.

2 MS. CURTIS: No, Your Honor. I have not.

3 THE COURT: You have made it known to -- have you  
4 communicated with your sister -- that's Anita, I believe --  
5 about that?

6 MS. CURTIS: I am not allowed to speak to Anita --

7 THE COURT: Why not?

8 MS. CURTIS: Except through her attorneys.

9 THE COURT: Well, that's untrue. That's your  
10 sister.

11 MS. CURTIS: Well, that's the way I feel about it,  
12 but I'm told I'm not allowed to speak to them, and they won't  
13 talk to me.

14 THE COURT: Who told you this? Who told you this,  
15 that you can't contact her?

16 MS. CURTIS: I inferred that from --

17 THE COURT: Did she tell you that, is what I am  
18 asking?

19 MS. CURTIS: No. She didn't tell me that because  
20 she hasn't spoken to me.

21 THE COURT: Well, have you tried to speak to her?

22 MS. CURTIS: Yes, Your Honor, I have.

23 THE COURT: What happens when you try to speak to  
24 her?

25 MS. CURTIS: I call. She doesn't answer. I leave a

1 voice mail, she doesn't call me back.

2 The same thing happened with my other sister  
3 Amy. I called and left a voice mail. She did not return my  
4 call. This was more than a year ago.

5 THE COURT: So they refuse to speak to you about  
6 this is what you are saying?

7 MS. CURTIS: Yes, Your Honor.

8 THE COURT: Go ahead and have a seat. Thank you.  
9 Counsel.

10 MR. VIE: Yes, Your Honor.

11 THE COURT: Why can't you come to some  
12 accommodation?

13 MR. VIE: Here's the situation. I just want to give  
14 you a little bit of background so that you understand in  
15 terms of the exhibits I put before you.

16 THE COURT: I don't have any exhibits yet. Well,  
17 some paper put up here.

18 Oh, the list. I see.

19 MR. VIEW: Yes, sir.

20 THE COURT: I haven't read these.

21 MR. VIE: Just to provide some assistance in  
22 answering your question, Your Honor. Exhibit 1 is a 60-or-so  
23 page document. That is the family trust document.

24 THE COURT: All right.

25 MR. VIE: And on page 1 of the document it says that

1 her father and mother had created a trust, it's an  
2 irrevocable trustee, and that the initial trustee shall be  
3 Anita Kay. So, Anita is the trustee under this document.

4 Because you heard a lot about this qualified  
5 beneficiary designation.

6 THE COURT: No. I heard about the co-trustees.

7 MR. VIE: So I wanted the Court to understand that  
8 this document --

9 THE COURT: Let me ask so we don't go down a rabbit  
10 trail. Was there a point in time when Carl was the  
11 co-trustee?

12 MR. VIE: I'm sorry?

13 THE COURT: Was there a time when Carl, the brother,  
14 was the co-trustee?

15 MR. VIE: I don't know if that -- I don't know with  
16 respect to this document if that's correct or not.

17 I understand that at one point there was a  
18 communication from the mother where she considered other  
19 family members serving in her role. But the documents that I  
20 have given you, the second exhibit that I have given you is  
21 where with respect to the mother's living trust while she was  
22 alive, she decided to have Anita appointed as her successor  
23 trustee instead, and then they created this certificate of  
24 trust.

25 THE COURT: That would have been relative to the



1 entirety of the irrevocable trust or was it simply her  
2 portion of the assets?

3 MR. VIE: It was with respect to the living trust  
4 that was created when she --

5 THE COURT: No, no, no. Here's what I am saying.  
6 The father is now deceased.

7 MR. VIE: Yes.

8 THE COURT: His wife entered into a irrevocable  
9 trust, and either he leaves all of you that in the trust to  
10 her benefit or his share goes into some other, goes into a  
11 trust for the children at that point.

12 So what happened?

13 MR. VIE: The father and mother created the  
14 irrevocable trust, which I have identified as Exhibit 1.

15 THE COURT: Okay.

16 MR. VIE: When the father died, his assets went into  
17 this living trust where their mother had assets to the  
18 living -- there was a sub trust created, a successor trust  
19 and a decedent's trust. The mother had that.

20 THE COURT: So she has all of the assets at that  
21 point?

22 MR. VIE: Yes. And the mother was able to make  
23 gifts and did make gifts to a number of the family members.  
24 So when the plaintiff was referencing the \$13,000 gift that  
25 she received and the others, these were gifts that her mother

1 while alive had directed. And my client Anita, as the  
2 successor trustee under this appointment, Exhibit 2, would  
3 make those transactions occur. But these were gifts from the  
4 mother.

5                   And then the mother dies, and this irrevocable  
6 trust --

7                   THE COURT: And did the mother die, according to  
8 what Ms. Curtis is saying, in December more or less, I guess?

9                   MR. VIE: November of 2010, Your Honor.

10                  THE COURT: November of 2010, okay.

11                  MS. CURTIS: 2011.

12                  THE COURT: 2011.

13                  MR. VIE: 11-11-2011.

14                  THE COURT: Right.

15                  MR. VIE: After that point, then Anita as trustee  
16 prepares a schedule of the estate, the context of the mother,  
17 and that money was going into the family trust; and that's  
18 one of the exhibits that she's attached.

19                  THE COURT: Well, wait a minute. What money is  
20 going into the family trust? Because now this trust, the  
21 trust that exists that is handling all this is the mother's  
22 living trust, right?

23                  MR. VIE: No, Your Honor. When she died, the living  
24 trust no longer exists.

25                  THE COURT: Oh, obviously.

1                   But before that, all of the assets were going  
2 into the living trust for the mother.

3                   MR. VIE: Right.

4                   THE COURT: And now the mother dies in November of  
5 2011, and then what happens?

6                   MR. VIE: Then we have the family trust, and there  
7 is created again a sub trust of a survivor's trust and the  
8 decedent's trust.

9                   THE COURT: And the family trust now reverts back to  
10 the irrevocable trust?

11                  MR. VIE: Yes, Your Honor.

12                  THE COURT: And in the irrevocable trust or in that  
13 trust there is a provision that says how those, how that  
14 trust is to be divided into five distinct trusts for the  
15 children?

16                  MR. VIE: My understanding is that there is a  
17 document under this complicated plan by which each of the  
18 individual beneficiaries, the five children, the four  
19 daughters and the son, they would have these asset trusts.  
20 Those trusts have not been created.

21                  THE COURT: Well, I am asking whether or not as a  
22 part of the -- as to your understanding, you have read it, is  
23 that a part of what the family trust required as far as you  
24 know? You said there's a document like it's some separate  
25 thing.

1 MR. VIE: Well, there's a -- I understand, Your  
2 Honor.

3 It's a rather long document. I understand and  
4 agree we are that the conclusion of this trust now at this  
5 point is to divide the assets to the five beneficiaries, and  
6 then each of their assets go into these asset trusts.

7 THE COURT: Separate and distinct from each other  
8 and for the benefit of each of the designated beneficiaries.

9 MR. VIE: Yes.

10 And as the plaintiff suggested, I believe the  
11 situation is that her trust, for example, she is not a  
12 trustee. One of her siblings is the trustee.

13 THE COURT: Even after it's divided off and given to  
14 her?

15 MR. VIE: Yes. And in these asset trusts, other  
16 members --

17 THE COURT: So someone who has a trust, like Anita  
18 herself, would have her own separate and distinct assets?

19 MR. VIE: Yes, sir.

20 THE COURT: And she'd be in charge of her own  
21 assets?

22 MR. VIE: No, no. There would be -- somebody else  
23 would be the trustee.

24 THE COURT: Of all of these five trusts?

25 MR. VIE: Yes -- no, of each.

1 THE COURT: Who is "someone else?" I mean --

2 MR. VIE: Well, for example, Carl's could be Anita  
3 and Amy's could be Carole.

4 THE COURT: But the documents say how this happened,  
5 though.

6 MR. VIE: These trusts have not been created yet.  
7 There has been no distribution.

8 THE COURT: I understand that. You are telling me  
9 that, but I am trying to find out whether or not the creation  
10 of these trusts require these beneficiaries to have someone  
11 else in charge of their money.

12 MR. VIE: That is my understanding. And she can  
13 correct me if I am wrong, and my clients can correct me as  
14 the trustees if I'm wrong.

15 THE COURT: So Anita -- somebody would be in charge  
16 of Anita's?

17 MR. VIE: Yes. That's right.

18 THE COURT: And then somebody else would be -- and  
19 Anita would be in charge of somebody else's?

20 MR. VIE: That's my understanding.

21 THE COURT: And these kids -- and they're not kids  
22 anymore, but these five siblings would be at each other's  
23 throats for the rest of their lives because --

24 MR. VIE: No. They'd each have their own --

25 THE COURT: Well, no. They got them, but they're

1 not in charge of it, is what I understand.

2 MR. VIE: All right.

3 THE COURT: That's what I am trying to say. In  
4 other words, I'd have to call my sister to get my money.

5 MR. VIE: What I know about the asset revocable --  
6 the asset trust is they have not been created yet.

7 As the Court heard, there are two lawsuits.  
8 There is this lawsuit and there is her brother's lawsuit. We  
9 are not parties to her brother's lawsuit. Her brother's  
10 lawsuit is brought in his capacity as the executor of his  
11 father's and mother's estates. It's in Harris County  
12 District Court. We're not parties to it.

13 THE COURT: Well that would be either the product of  
14 a will being probated --

15 MR. VIE: Yes, sir.

16 THE COURT: -- or it would be the product of an  
17 intestate proceeding. Which is it?

18 MR. VIE: The will has been probated.

19 THE COURT: So there is a will probate separate and  
20 apart from the trust?

21 MR. VIE: Yes, Your Honor.

22 THE COURT: And how does that overlay on the trust  
23 since all of the assets are in the trust?

24 MR. VIE: Well, I don't know that it overlays; but  
25 what I am trying to suggest to the Court is: One, since the

1 mother died, there has been no distributions to anyone,  
2 not --

3 THE COURT: I get that. I am trying to figure  
4 out --

5 MR. VIE: Since you haven't seen the distribution, I  
6 wanted the Court to understand that no one has.

7 THE COURT: But somebody got some money out of it or  
8 there has been a loss in value to the trust itself.

9 MR. VIE: She says that the stock that was invested  
10 with the brokerage houses may have lost money, is one of the  
11 things that she suggested in her motion.

12 THE COURT: Right.

13 MR. VIE: My point was to suggest that there has  
14 been no distributions since the mother died from the trust  
15 that Anita is the trustee for to anyone.

16 THE COURT: And you said the one that Anita is in  
17 charge of. What is Anita in charge of?

18 MR. VIE: Exhibit 1.

19 THE COURT: Okay. The entirety?

20 MR. VIE: Yes, sir.

21 THE COURT: That's what I am trying to get to.

22 MR. VIE: Yes.

23 THE COURT: Okay.

24 MR. VIE: And it's unlikely there will be any  
25 distributions until both this suit is resolved and her

1 brother's suit that he brought.

2 THE COURT: Well, this suit might resolve it.

3 That's not their concern.

4 But what I am trying to find out is whether or  
5 not in the -- the question I was trying to get back was in  
6 the Carl's suit, I guess in probate court, whether or not  
7 that suit, which did not come up in the responses in the way  
8 that I understood it, whether or not that suit that impact  
9 whether or not this Court should be proceeding with this  
10 trust.

11 MR. VIE: No, Your Honor.

12 THE COURT: So it's separate and apart since the  
13 probate's completed.

14 MR. VIE: The probate has been filed. The suit is  
15 brought by him in his capacity as executor.

16 THE COURT: Is he without bond and independent?

17 MS. CURTIS: Yes.

18 MR. VIE: He's an independent executor. He is  
19 bringing the suit against the attorneys.

20 THE COURT: So he doesn't need to do anything else  
21 other than file it and do this accounting and all of that and  
22 then do whatever the will tells him to do.

23 MR. VIE: The litigation that he has brought is  
24 against the attorneys that created these trusts.

25 THE COURT: That's not even -- that's separate and



1 distinct from this lawsuit.

2 MR. VIE: Okay.

3 THE COURT: And it's separate and distinct from the  
4 estates because that's a malpractice lawsuit.

5 MR. VIE: Yes, sir.

6 THE COURT: Okay. So I am not concerned about that  
7 at all.

8 I was trying to make sure when he brought his  
9 suit, he was not simply arguing that somehow Anita had  
10 finagled her way into this position and she had squandered  
11 certain assets and then we've got these parallel lawsuits.

12 MR. VIE: I understand, Your Honor. And that was my  
13 point as well was to let you know that we are not parties to  
14 that litigation, it's not a claim in that litigation as the  
15 claims are --

16 THE COURT: And neither is the plaintiff here a  
17 party to that litigation.

18 MR. VIE: That is correct, Your Honor.

19 THE COURT: Okay.

20 So, the only suit that's pending dealing with  
21 the assets of these parent's estate is this lawsuit.

22 MR. VIE: Yes, Your Honor.

23 THE COURT: All right.

24 So what the plaintiff is saying on page 3 of  
25 her petition having to do with the December dates of 10, 12

1 and so on and what she considered to be "losses of the  
2 estate" are losses that I gather are decreases in assets that  
3 would be attributable to movement in the market.

4 MR. VIE: That is the specific. And, Your Honor,  
5 you are referring to the complaint or to the motion that has  
6 been filed for temporary relief?

7 THE COURT: I'm looking at the motion right now.  
8 That should be Instrument No. 35.

9 MR. VIE: Yes. With respect to that, there is an  
10 argument being made there that there has been a loss and it  
11 is the result of the investment of the securities.

12 THE COURT: You made a comment earlier that until  
13 the other lawsuit and this lawsuit is resolved. That lawsuit  
14 has nothing at all to do with the resolution of this estate.

15 MR. VIE: Well, I --

16 THE COURT: I'm telling you that.

17 MR. VIE: Okay.

18 THE COURT: There is nothing that should -- there is  
19 nothing going on in Carl's suit that prevents these parties  
20 from following what they have been instructed to follow in  
21 the trust document.

22 MR. VIE: Okay. I understand if that's the  
23 Court's direction.

24 THE COURT: Is there something that I am missing?

25 MR. VIE: Not that I am aware of, Your Honor.

1 THE COURT: That's a malpractice suit. And they  
2 get some money out of it, either he gets it or maybe he  
3 distributes it among his brothers and sisters, but it doesn't  
4 have anything to do with the distribution of this estate.

5 MR. VIE: My understanding -- the reason that I  
6 understood the case to be differently is that I understood  
7 that the purpose of the litigation that he had brought in  
8 state court was claiming that the attorneys who created these  
9 trusts had done so improperly so that we were in a situation  
10 in which we are here before this Court, and the Court is  
11 suggesting we should wind this thing up and distribute to all  
12 the beneficiaries.

13 THE COURT: It's going to be wound up. It's going  
14 to be wound up in this court.

15 Here's what I'm suggesting. I am suggesting  
16 that this will not become a feast and famine, feast for the  
17 lawyers and famine for the beneficiaries in this Court where  
18 we are sitting around churning the time out and the parties  
19 are charging out of that lawsuit, defense of that lawsuit,  
20 which you are not doing, apparently, unless -- are you the  
21 lawyer that created the trust?

22 MR. VIE: No, Your Honor.

23 THE COURT: So that's a separate law firm.

24 MR. VIE: Yes, Your Honor.

25 THE COURT: Yeah. So there is no reason for you to

1 be or your firm to be involved in the expenditure of that, of  
2 monies out of that lawsuit.

3 MR. VIE: And we aren't, Your Honor.

4 THE COURT: And there is no reason for Ms. Curtis to  
5 be concerned about spending money out of her assets for that  
6 lawsuit.

7 MR. VIE: Understand.

8 THE COURT: So, you can distribute what you got  
9 whether you get some more or not. It doesn't require -- this  
10 is not a probate where you got to gather everything together  
11 because everything is together.

12 MR. VIE: Okay.

13 THE COURT: The entire estate is together.

14 MR. VIE: Yes, Your Honor.

15 THE COURT: And if there is a lawsuit, and it's  
16 questionable whether or not Curtis has a lawsuit or not  
17 because he wasn't the creator and the payor for that creation  
18 of that trust.

19 So, the point I am making is, obviously he had  
20 no contractual relationship with the firm, and it's going to  
21 be seriously flawed -- seriously difficult for him to sue for  
22 malpractice when he wasn't -- when there is no  
23 attorney/client relationship.

24 MR. VIE: Understood, Your Honor.

25 THE COURT: So, the point I'm getting to here is

1 under this trust that is situated here, what my plaintiff,  
2 Ms. Curtis, I believe is saying is that she is, these assets  
3 are not being distributed, and she's of the opinion that  
4 there is something untoward going on, whether that's true or  
5 not.

6 MR. VIE: Yes, Your Honor.

7 THE COURT: And that there is no reason why she  
8 should be standing out in the field trying to get information  
9 about this trust and the distribution of these assets when  
10 she is equally entitled to any and all information just like  
11 Anita or anybody else.

12 MR. VIE: I understand that.

13 THE COURT: So, what is it then that prevents these  
14 parties from right now settling this suit?

15 MR. VIE: From settling it?

16 THE COURT: Yes. All they got to do is distribute  
17 the assets.

18 MR. VIE: Two things, Your Honor. And it's just my  
19 observation, because obviously the Court does not have to  
20 agree with me.

21 THE COURT: Sure.

22 MR. VIE: I provided the underlying documents that  
23 support the schedule that the plaintiff has attached to this  
24 motion for temporary relief. I have given her yesterday, in  
25 response to her request for production, some 5,000 pages.

1                   She has told me that she wants to examine  
2 those, all of those underlying documents, stock transfers,  
3 checks and everything else.

4                   You have heard from the plaintiff that she  
5 believes this very instrument is false.

6                   THE COURT: "This very instrument" meaning the  
7 family trust?

8                   MR. VIE: Family trust. That it's a forgery or that  
9 documents have been forged.

10                   And I have offered, in response to the request  
11 for production, to make the originals, which I understand the  
12 trust attorney, those attorneys in the other lawsuit, to make  
13 those available for inspection and copying so that she can  
14 see them and satisfy herself that the underlying trust is in  
15 fact a legal and appropriate trust.

16                   THE COURT: Okay.

17                   MR. VIE: So that was one of the --

18                   THE COURT: And that the signatures have not been  
19 forged or at least they're original signatures.

20                   MR. VIE: Yes. In other words, one problem of  
21 trying to settle the disposition of the trust today is that  
22 the plaintiff disputes the accuracy of the accounting and the  
23 accuracy and legitimacy of the trust.

24                   THE COURT: Right.

25                   MR. VIE: And so, that was one issue.

1           The second issue, respectfully, is that I  
2 understood that given that the Harris County litigation  
3 contested the accuracy and validity of the trust, that again  
4 there was a risk of inconsistent positions if we were to  
5 treat the trust as valid and fund this while they litigated  
6 over in Harris County.

7           THE COURT: They don't have jurisdiction over there.  
8 I do. That's what the circuit court has told me. And that's  
9 the part that you said I might disagree; and you're right, I  
10 do.

11           I would not sit here and wait on somebody  
12 Harris County to figure out whether or not they have  
13 jurisdiction over an issue, which they do, but they don't  
14 have jurisdiction of the assets.

15           MR. VIE: I wasn't thinking as much of the  
16 jurisdiction, Your Honor, as I was thinking of the risk of  
17 inconsistent judgments. In other words --

18           THE COURT: Not if I get it resolved, there won't be  
19 any inconsistent to resolve.

20           If they get it resolved, then it probably won't  
21 be inconsistent because I'm obligated and then obliged to  
22 follow at least theoretically the findings of any court of  
23 competent jurisdiction.

24           MR. VIE: Yes, Your Honor.

25           And the third issue, which I don't think would

1 give the Court pause but is something I thought of, is the  
2 fact that all the beneficiaries are not parties to this  
3 litigation.

4 THE COURT: That won't bother me at all because I do  
5 have authority and jurisdiction over the person who you tell  
6 me has the duty and the responsibility to act.

7 MR. VIEW: So those are my --

8 THE COURT: That's it.

9 So, I want this resolved within 90 days. And  
10 if I have to appoint a trustee or somebody to handle this  
11 and get it done, I'll do it. It will cost the estate. And  
12 if I find that there has been mischief, it is going to cost  
13 individuals. And that will be a separate and distinct  
14 hearing.

15 So what I am telling the parties, and I am  
16 saying to you and to all those who have ears to hear, that  
17 this matter is going to get resolved. It's not going to turn  
18 into one of these long, drawn-out episodes like the ones we  
19 see on TV that go on for years where lawyers make money and  
20 people walk away broke.

21 MR. VIE: Yes, Your Honor.

22 THE COURT: Who is doing the accounting in this  
23 process? Has anybody put their arms around the assets and  
24 made any accounting at all?

25 MR. VIE: There is a CPA in Iowa that prepares the



1 tax returns each and every year for the estate, and we are  
2 getting --

3 THE COURT: How they get in Iowa? Is that where the  
4 family was from originally?

5 MR. VIE: The parents, yes, Your Honor. And the  
6 farm, as you heard, is in Iowa.

7 THE COURT: Okay.

8 MR. VIEW: And so, there is a CPA who has been  
9 involved throughout this period and files the trust income  
10 tax returns, and he is available.

11 MS. CURTIS: I object to that.

12 THE COURT: Hold on.

13 Go ahead.

14 MR. VIE: I think I have answered the Court's  
15 question.

16 THE COURT: Yes.

17 MR. VIEW: And would have the most, would have the  
18 best familiarity beyond --

19 THE COURT: How much money does he generally charge  
20 for his annual -- I guess he does his annual filings of  
21 reports. Is this something that's pretty cursory or --

22 MR. VIEW: I'm sorry. And there is a distinction.  
23 The documents that are attached as the schedule in that  
24 accounting that are attached to the motion that has been  
25 filed for injunctive relief, temporary schedules.

1 THE COURT: Those were prepared?

2 MR. VIE: By the defendant, by Anita in her capacity  
3 as trustee.

4 THE COURT: Okay.

5 MR. VIEW: I was responding to the Court's question  
6 in terms of who's the best person that could get their hands  
7 around it and that type of thing.

8 The CPA in Iowa obviously has to know all of  
9 the information available to the trust so that he can file  
10 the tax returns. He also pays and makes sure that the  
11 profits --

12 THE COURT: Then that might not be a good thing for  
13 me because I don't have jurisdiction over him.

14 MR. VIE: Okay.

15 THE COURT: But what I wanted to know was whether or  
16 not there was a person here locally, since I believe the  
17 defendants are here locally. They don't have a local CPA who  
18 is in charge of the estate.

19 MR. VIE: That's correct, Your Honor.

20 THE COURT: That would be Anita herself.

21 And then as far as the tax returns and all that  
22 annually which goes on, whether you got money or not, that  
23 would be done by the accountant in --

24 MR. VIE: Sioux City, Iowa.

25 THE COURT: Yeah, in Iowa.

1                   And excuse me. What were you about to say?  
2 You disagree with what, Ms. Curtis?

3                   MS. CURTIS: I disagree with allowing Rick Rickers,  
4 who is --

5                   THE COURT: Is that the attorney?

6                   MS. CURTIS: -- our cousin. He's the accountant in  
7 Iowa.

8                   THE COURT: He's your cousin?

9                   MS. CURTIS: He's our cousin.

10                  THE COURT: Okay.

11                  MS. CURTIS: He is also apparently the manager of  
12 the farm, and he began to file the tax returns --

13                  THE COURT: I've already said probably enough to  
14 give you some pause, to allay those concerns. But these are  
15 other reasons why he should not be doing accounting. He has  
16 a conflict of interest.

17                  MS. CURTIS: One reason why he should not be doing  
18 the accounting is because I have reason to believe that the  
19 farm lease, taking it away from the buyers, who were my  
20 father's very close friends, was notarized with a signature  
21 that was not my father's. I have not been able to look at  
22 that yet. I only have emails that purport that, but I would  
23 like to get copies of those.

24                  THE COURT: Let me address a couple of things.

25                               First of all, when we don't have information,

1 we can imagine a lot of things that may or may not be true,  
2 Okay?

3 MS. CURTIS: Yes.

4 THE COURT: That could be. I mean, all kind of  
5 thoughts and ideas go through our head when they don't have  
6 the information.

7 Here's what this Court cannot do. This Court  
8 cannot chase after each of your concerns. You have got  
9 enough money, you can hire anybody you want to do any kind of  
10 investigation you want done.

11 What I intend to do based upon the mandate from  
12 the circuit court is to try to address the concerns that you  
13 have. And they just can't be accusations, and I don't have  
14 any interest -- when I say I don't have any interest, I have  
15 an interest in outcomes, but I don't have an interest in the  
16 case so that I'm supposed to be doing things that would  
17 accomplish something for you except upon your filed  
18 documents. It's in your best interest, and I think I talked  
19 to you on the phone conference --

20 MR. VIE: Yes.

21 THE COURT: -- with both of you on the phone as  
22 well, that really this is not a matter that you should be  
23 trying to handle yourself. You should hire an attorney to do  
24 it for you, or at least part of it for you.

25 Now, I believe that it's in the Court's best

1 interest to preserve the assets of the estate and to bring to  
2 a point a going-forward process that this Court appoint  
3 someone to do an accounting of the assets and then make that  
4 accounting to the Court.

5           Now, you don't have to agree with me, but it's  
6 going to be an accounting of what the assets are. Whether  
7 something has been taken or mismanaged or mishandled is not  
8 going to be a part -- that's not the kind of accounting  
9 that's going to go on here.

10           What is, and that is what's invested, where  
11 it's invested and how it's invested is going to be the  
12 Court's concern. Once that accounting is in place, the  
13 question is whether or not the Court is going to be required  
14 or whether or not Ms. Brunsting will go forward in her  
15 capacity or not.

16           If she fails, then the Court will direct or put  
17 someone else in that position to do that, to move into this  
18 area or division so that the assets can be distributed or  
19 whatever beneficiaries. That's where I am in this case, and  
20 that's where the circuit court I believe has me. So I think  
21 it's in all of our best interest to appreciate this process.

22           In light of that, the Court is of the opinion  
23 that there are no expenditures that should be made unless  
24 they're made upon the approval of the Court. So, in other  
25 words, if Mr., up in Utah --

1 MR. VIEW: Iowa.

2 MS. CURTIS: Rickers in Iowa.

3 THE COURT: Mr. Rickers needs to pay the farmer. We  
4 used to call those sharecroppers sort of. It's a kind of a  
5 sharecropper thing where someone comes in farms the land and  
6 you get a percentage of it. If Mr. Rickers and the  
7 sharecroppers and others need to pay out bills and things,  
8 they should be petitioning the Court for that. That's where  
9 we are now.

10 We're at a point where I'm going to have to  
11 take charge in order to make sure that what I am doing has  
12 sanctity and has, well, trust going forward. What I am going  
13 to do is simply to try to make sure that the parties are all  
14 going to have equal standing and footing in this process. So  
15 that's part of what I am going to do. I'm going to enter an  
16 injunction in that regard.

17 Now, anybody who claims they want to bill the  
18 estate for something, whether it's lawyers or not, I am  
19 concerned about whether or not your bill should be paid by  
20 the estate because of this circumstance.

21 MR. VIE: I understand.

22 THE COURT: If the parties are going to agree, if  
23 the parties are going to come together and agree that your  
24 fee should be paid, then we should then move to a situation  
25 where we have a mediator in place or a designee in place who

1 will then make sure that if Ms. Curtis needs counsel, she can  
2 get that. That equally would be paid out of the estate.

3           It would not include Curtis because I am not  
4 going to be involved in the litigation of whether or not this  
5 is a good trust or not. I'm going to presume that it's a  
6 good trust, and I am going to go forward from there. If  
7 Curtis proves otherwise, he can get that money from the  
8 lawyers, and that would be certainly to his advantage or  
9 benefit.

10           MS. CURTIS: Are you talking about my brother Carl?

11           THE COURT: Yes. I said Curtis. I meant Carl. I  
12 apologize. You can see I'm struggling here.

13           MS. CURTIS: Too many C's.

14           MR. VIE: For the record, is it 90 days, Your Honor?

15           THE COURT: Yeah. I said we should try to wrap this  
16 up in 90 days, but I believe that if I appoint -- and you can  
17 suggest someone. I don't know if you know someone. Just  
18 give me a couple names. If not, I will designate someone to  
19 do this and enter an order to that effect.

20           It may be that because of the lack of trust  
21 that it may not need to be, unless both of you are  
22 designating somebody that you can agree upon, it may be  
23 better for me to have some person independent of the sides  
24 unless you all can agree upon the person or firm that should  
25 take care of this business.

1 MR. VIE: So we will get together and try to arrive  
2 at an agreed CPA that could provide the accounting the Court  
3 requests.

4 THE COURT: Sure. And we have a lot of them here in  
5 Houston just like we got -- I don't know anybody in  
6 California, but I want somebody I have got some jurisdiction  
7 over.

8 MR. VIEW: So if we're unable to do so we'll notify  
9 the Court we were unable to reach an agreement?

10 THE COURT: Sure. And you need to do that by the  
11 end of the week.

12 MR. VIEW: Yes, Your Honor.

13 THE COURT: You are going to be here what, today?

14 MS. CURTIS: I leave at 4:00 o'clock.

15 THE COURT: 4:00 o'clock today. Well, then you need  
16 to talk fast and see if you all can agree. Maybe you should  
17 talk over lunch. That way you can kind of size each other  
18 up. Eating together sometimes brings out good things.

19 And so, if you will do that by the end of the  
20 week, I will then prepare an order entering a temporary  
21 retraining order against the expenditure of any funds.  
22 Notice will be not just to you but to you in terms of Anita  
23 because I think she holds the purse in this situation. If  
24 there is any money to be paid to anybody up in Utah or  
25 anyplace else, she would be person who would authorize it or



1 do it.

2                   The accountant isn't do it, as I understand it,  
3 right?

4           MR. VIE: No. He is just preparing the necessary  
5 documents.

6           THE COURT: Right. So the purse strings here in  
7 Houston, she can certainly prepare through you whatever  
8 documents are necessary for parties to be paid.

9           MR. VIEW: Yes, Your Honor.

10          THE COURT: And then hopefully that report can get  
11 done in 30 or 40 days, and then we can have a hearing. If  
12 there is some dispute about summary areas of the report, we  
13 can have a hearing about that. If there is a memorandum or  
14 recommendation as relates to how to go forward with this  
15 "asset trust," that is the distribution, we can do that.

16                   If the parties can reach an accommodation as to  
17 how those assets ought to be dealt with, how silent a trust  
18 and they all sign off on it, we can do that. It's just a  
19 matter of how you want to do it. The trust is not going to  
20 control unless you want it to control at this point.

21           MR. VIE: Yes, Your Honor.

22          THE COURT: Under the circumstances, it seems to me  
23 there's going to be a continuous bickering and mistrust.

24                   Anything else?

25           MS. CURTIS: No, Your Honor.

1 MR. VIEW: No, Your Honor.

2 THE COURT: Let me have Ms. Anita Brunsting come  
3 forward.

4 Good morning. Did you drop something on your  
5 foot?

6 MS. BRUNSTING: I broke my foot.

7 THE COURT: Raise your right hand.

8 Do you solemnly swear or affirm that any  
9 testimony you will give in this case will be the truth, the  
10 whole truth, nothing but the truth so help you God?

11 MS. BRUNSTING: I swear.

12 THE COURT: You've heard the discussion here in the  
13 courtroom, have you not?

14 MS. BRUNSTING: (Indicating in the affirmative.)

15 THE COURT: And I know that you have got counsel,  
16 and you can speak with him about the implications and  
17 concerns that the Court has about making sure that the assets  
18 are accounted for. And you certainly can work through him on  
19 any matters that you need to address to the Court. And, of  
20 course, counsel understands that he is to communicate both  
21 with the Court and with Ms. Curtis on any matters that he is  
22 presenting to the Court.

23 Is there any question about anything I have  
24 said -- I don't mean disagreement because you can certainly  
25 disagree with me about anything -- but is there any question

1 that you might have about anything I've said that you need me  
2 to answer, or certainly you have your attorney present.

3 MS. BRUNSTING: I need the trust account to pay.  
4 I've got the forms from the CPA. Can I move forward on that?

5 THE COURT: I think you should probably file a short  
6 motion and simply serve a copy of it on opposing counsel, Ms.  
7 Curtis, and forward it with a short order to me, and that  
8 wouldn't be a problem. This should be based upon the tax  
9 forms.

10 MR. VIE: Yes, sir.

11 And in terms of notice to the Court -- I'm  
12 sorry, not notice to the Court, the Court directing notice,  
13 do I notify the other beneficiaries?

14 THE COURT: Absolutely.

15 MR. VIE: Okay.

16 THE COURT: Even though they're not a party, they  
17 are beneficiaries and we should keep them in the loop.

18 MR. VIEW: I just wanted to bring that up.

19 THE COURT: Yeah. Should be in the loop because it  
20 doesn't make sense for us to have to go back and pull them  
21 forward a month.

22 MR. VIE: I will prepare appropriate submissions for  
23 payments that I would like. If the Court will approve it,  
24 then the trustee will make the payments.

25 THE COURT: Are these to be paid on or before April

1 15th or is there another cycle?

2 MS. BRUNSTING: No, by April 15th.

3 THE COURT: All right. So either they will get to  
4 me on Thursday or whatever, and I'll sign off on them, on the  
5 motion and the order, and that shouldn't be a problem.

6 You are not going to have to liquidate any  
7 assets to deal with that, are you?

8 MS. BRUNSTING: No. We have a checking account with  
9 enough that I can pay it.

10 THE COURT: Right.

11 MS. BRUNSTING: What about any incoming? The farm  
12 is rented, so we get a check twice a year.

13 THE COURT: Your function and role is to make those  
14 deposits as they come in.

15 MS. BRUNSTING: So I can continue to deposit them?

16 THE COURT: Continue depositing. All I am trying to  
17 do is control the outgo. What comes in as an expense is what  
18 counsel needs to see, and they have a proper and appropriate  
19 motion.

20 And if these things come in -- if this is a  
21 once a month kind of sit down and write out the bills kind of  
22 thing, then that's the way he should probably handle it. At  
23 some point just sit down and you prepare a list of things  
24 that you need to have done and certainly provide the forms or  
25 whatever you need.

1 MR. VIE: Yes, Your Honor.

2 MS. BRUNSTING: Okay.

3 THE COURT: All right. Thank you very much.

4 All right, counsel. That's all I have. And  
5 I'll prepare an order and get it out perhaps by tomorrow  
6 afternoon. There should not and in my opinion will not need  
7 to be a bond posted. These are parties of equal status as it  
8 relates to the assets, so no bond is going to be required.

9 I think, Ms. Curtis, you need to follow my  
10 advice. At some point consider getting an attorney, someone  
11 you trust to work with you, all right.

12 Okay. Thank you very much.

13 MR. VIE: Thank you, Your Honor.

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15 (Conclusion of Proceedings)

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## CERTIFICATION

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5 I, Fred Warner, Official Court Reporter for the  
6 United States District Court for the Southern District of  
7 Texas, Houston Division, do hereby certify that the foregoing  
8 pages 1 through 53 are a true and correct transcript of the  
9 proceedings had in the above-styled and numbered cause before  
10 the Honorable KENNETH M. HOYT, United States District Judge,  
11 on the 9th day of April, 2013.

12 WITNESS MY OFFICIAL HAND at my office in Houston,  
13 Harris County, Texas on this the 5th day of August, A.D.,  
14 2013.

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20 Fred Warner, CSR  
21 Official Court Reporter  
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