



CHRISTINE P YATES  
Direct Dial: 954 760 4918  
Email: [cty@trippscott.com](mailto:cty@trippscott.com)

February 13, 2013

**VIA EMAIL**

Mr. and Mrs. Eliot Bernstein  
2753 NW 34<sup>th</sup> St.  
Boca Raton, FL 33434

***Re: Revised Representation and Conflict Waiver***

Dear Eliot and Candice:

This letter shall confirm that Tripp Scott, P.A. (hereinafter the "Firm") represents your three children, Joshua Ennio Zander Bernstein, Jacob Noah Archie Bernstein and Daniel Elijsha Abe Ottomo Bernstein (hereinafter collectively referred to as the "Children") as beneficiaries of the Estate of Shirley Bernstein, the Estate of Simon Bernstein and as beneficiaries of any irrevocable trusts created by Shirley and/or Simon Bernstein, including the Irrevocable Trust f/b/o Joshua Ennio Zander Bernstein, Irrevocable Trust f/b/o Jacob Noah Archie Bernstein and Irrevocable Trust f/b/o Daniel Elijsha Abe Ottomo Bernstein created by Simon Bernstein in 2006. Enclosed is a revised Retainer Agreement clarifying the scope of this Firm's representation of your children.

***The Firm no longer represents you in any individual capacity and we have advised you to seek other counsel immediately so your legal rights and interests may be preserved.***

In addition, we wish to advise you of this Firm's potential conflict of interest in its prior representation of you and your children. Accordingly, we must obtain your acknowledgement and waiver of this conflict due to the Firm's prior representation of you and consent to our continued representation of your children.

In light of the fact that loyalty is an essential element in a lawyer's relation to a client, Florida's Rules of Professional Conduct (the "Rules") prohibit a lawyer from representing a client if such representation will be "directly adverse" to the interests of another client unless (1) the lawyer reasonably believes the representation will not be adversely affected; and (2) the client consents after consultation.

The Firm does not believe that the representation of the both of you and your children in connection with your interests as beneficiaries under the Estate of Shirley Bernstein and the Estate of Simon Bernstein and as beneficiaries of any trusts created by Shirley and/or Simon Bernstein adversely affected the Firm's responsibilities to and relationship with you or your children. However, we have mutually agreed that we will discontinue representation of the two of you, and will limit our Firm's representation solely to that of the Children. We have advised you to obtain independent legal counsel, other than the Firm, regarding the representation of your interests, including but not limited to, any claims in connection with Estate of Shirley Bernstein, the Estate of Simon Bernstein and as beneficiaries of the irrevocable trusts created by Simon Bernstein.

110 Southeast Sixth Street, Fifteenth Floor • Fort Lauderdale, Florida 33301

668859v5 995508.0001

Post Office Box 14245 • Fort Lauderdale, Florida 33302

Tel 954.525.7500 • Fax 954.761.8475 • [www.trippscott.com](http://www.trippscott.com)

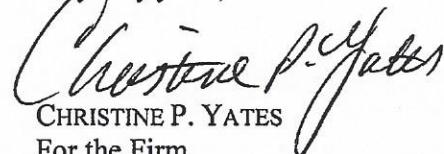
Fort Lauderdale • Tallahassee

To document your acknowledgement to our discontinued representation of you and the revised scope of our representation of the Children in connection with their interests as beneficiaries under the Estate of Shirley Bernstein, the Estate of Simon Bernstein and as beneficiaries of any trusts created by Shirley and/or Simon Bernstein, including the Irrevocable Trust f/b/o Joshua Ennio Zander Bernstein, Irrevocable Trust f/b/o Jacob Noah Archie Bernstein and Irrevocable Trust f/b/o Daniel Elijscha Abe Ottomo Bernstein created by Simon Bernstein in 2006, subject to the conditions set forth herein, please execute this letter on the space provided below.

**We have not been authorized by you to perform any substantive factual or legal research as to any of your individual claims and we strongly encourage you to retain counsel to do such research and protect your interests.**

We agree that this letter may be executed in any number of counterparts, each of which shall be deemed to be an original, but all such separate counterparts shall together constitute but one and the same instrument, and a legible facsimile copy of this letter and any signatures hereon shall be considered for all purposes as originals.

Very truly yours,



CHRISTINE P. YATES  
For the Firm

CPY/jcj

**ACKNOWLEDGEMENT AND WAIVER OF CONFLICT**

The undersigned acknowledge that Christine P. Yates and Tripp Scott, P.A. represent Joshua Bernstein, Jacob Bernstein and Daniel Bernstein with respect to the matters described above and have discontinued their representation of Eliot Bernstein and Candice Bernstein. We hereby (1) waive any conflict of interest that may have existed due to the Attorneys' representation of us and our children as beneficiaries of the Estate of Shirley Bernstein and the Estate of Simon Bernstein and as beneficiaries of any trusts created by Shirley and/or Simon Bernstein; (2) agree to seek independent legal counsel to represent our interests in the Estate of Shirley Bernstein, the Estate of Simon Bernstein and as beneficiaries of the trusts created by Shirley and/or Simon Bernstein; and (3) acknowledge and consent to the continued representation by Tripp Scott, P.A. of Joshua Ennio Zander Bernstein, Jacob Noah Archie Bernstein and Daniel Elijsha Abe Ottomo Bernstein as beneficiaries of the Estate of Shirley Bernstein, the Estate of Simon Bernstein, as beneficiaries of any trusts created by Shirley and/or Simon Bernstein, including the Irrevocable Trust f/b/o Joshua Ennio Zander Bernstein, Irrevocable Trust f/b/o Jacob Noah Archie Bernstein and Irrevocable Trust f/b/o Daniel Elijsha Abe Ottomo Bernstein created by Simon Bernstein in 2006.



Eliot Bernstein, individually and as  
as natural guardian of Joshua Bernstein,  
Jacob Bernstein and Daniel Bernstein



Candice Bernstein, individually and as  
as natural guardian of Joshua Bernstein,  
Jacob Bernstein and Daniel Bernstein

TRIPP SCOTT, P.A.  
110 S.E. 6<sup>TH</sup> STREET, 15<sup>TH</sup> FLOOR  
FORT LAUDERDALE, FL 33301  
(954) 525-7500

**RETAINER AGREEMENT**

**Representation of the minor Children of Eliot Bernstein as  
Beneficiaries of the Estates of Shirley and Simon Bernstein; as  
Beneficiaries of any Trusts created under the Will or Revocable Trust of Shirley or  
Simon Bernstein; and as Beneficiaries of the 2006 Irrevocable Trusts created by  
Simon Bernstein**

We are pleased that you have asked Tripp Scott, P.A. to provide legal services in connection with the above listed matter. The purpose of this agreement is to set forth our mutual understanding regarding the basis upon which we have agreed to undertake such representation.

**FEES**

We will provide our legal services on the basis of hourly rates in effect at the time the legal services are rendered. Those rates currently range up to \$425.00 per hour for attorneys, with paralegals billing at a rate of up to \$160.00 per hour. Law clerks are billed at the rate of \$110.00 per hour. My time is currently billed at \$350.00 per hour. If other attorneys or professionals in the firm work on this matter, their time will be billed on the basis of their hourly rate as well. All of the above rates are for the current calendar year and are subject to change thereafter. Unless otherwise specified, any additional services requested to be provided by our firm beyond the scope of the above matter will be billed to you in accordance with our hourly rates in effect at the time those services are rendered, and subject to the terms set forth in this agreement. Please note that telephone calls are billed at a minimum of two-tenths (0.20) of an hour no matter how short its duration. Additionally, client understands that our representation may involve the discussion of tax and property issues of the client and certain options may be discussed, or a plan entertained, that is not implemented. This time is considered billable and payment is expected upon service.

In connection with your estate planning, you agree to pay us a retainer in the amount of \$0.00. You will receive monthly statements and said fees will be credited from your retainer balance. You understand that the retainer amount stated in this agreement is in no way a guarantee or cap on the amount of legal fees that could be expended and will not be refunded to you in the event our representation is terminated by either you, the client, or the attorney.

**COSTS**

Costs and expenses that are incurred by Tripp Scott, P.A. on your behalf, including, but not limited to, mailing and postage, telecopy charges, long distance telephone costs, photocopying charges, etc., will be billed to you with our statement for fees on a monthly basis.

In addition to the fee retainer, you agree to deposit with us the sum of \$ N/A; to be applied towards costs. The cost deposit is also due upon execution of this agreement. Whenever the costs deposit falls below \$0.00, you may be asked to replenish said deposit so that at all times there is a credit balance to apply towards costs expended on your behalf. No other professional will be engaged without your pre-approval.

At the conclusion of our legal services, the balance of the cost retainer, if any, will be refunded to you provided all fees have been paid. You agree that the remaining cost deposit, if any, may be applied to the final fee balance.

#### **BILLING**

We ask that you stay current with our office on a monthly basis. However, if a balance remains outstanding with our office for over thirty (30) days, Tripp Scott, P.A., shall have the right to cease work on your file until such time that the balance is paid in full. Additionally, if said fees are not kept current within the thirty (30) day period, we reserve the right to request an additional non-refundable retainer. Tripp Scott, P.A., shall, at its own discretion, have the right to withdraw from representing you in this matter at any time if:

- (A) You do not make payments required within thirty (30) days after billing;
- (B) You have misrepresented or failed to disclose material facts;
- (C) You fail to follow our advice;
- (D) A dispute between client and attorney arise which cannot be worked out with a good faith effort and in an amicable way; and
- (E) Any other reason as deemed appropriate by the attorney.

To protect our fees and costs until they are paid, it is specifically agreed by you, the client, that the undersigned attorney shall have and is hereby granted all general, possessory and retaining liens and all equitable special and attorney's charging liens upon the client's documents, property (both real and personal, regardless of homestead), or money in the client's possession or money or property in another's possession for the client's benefit for the payment of all sums due under this agreement, and upon property or funds received by you, the client, by settlement, judgment, or otherwise. Any such liens shall also include liens upon the client's interest in any estate, trust, guardianship or other asset held in fiduciary capacity or trust, constructive or otherwise, within the jurisdiction of the court for any balance due, owing and unpaid. Any such liens shall relate back to the date of this agreement and shall be superior in dignity to any other liens subsequent to the date thereof. It is agreed by the client that the attorney will file a lien and a Notice of Lis Pendens with regard to the client's interest in any real property (regardless of homestead as you, the client, expressly have waived your homestead exemption under this agreement) upon which a lien may be claimed.

You agree to pay interest at the rate of 1% per month or 12% per annum on any bill, or portion thereof, which remains unpaid for more than thirty (30) days after billing. Also, client agrees that their file will only be released by the attorney upon payment of all fees and costs due and owing Tripp Scott, P.A.

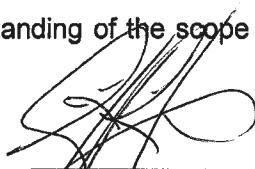
#### **SPECIAL CONSIDERATIONS FOR BENEFICIARIES**

Please be advised, the trustee is generally entitled to pay attorney's fees and costs from the trust assets, but in the event that a claim or defense based upon a breach of trust is made against the trustee, we have the right to seek a pre-hearing order prohibiting the payments. If the order is granted, the trustee must cease using the trust assets to pay attorney's fees and costs and must make those payments personally. Following this pre-evidentiary hearing, the court will determine the merit of the underlying claim or defense of breach of trust at which point the trustee will either be required to refund any payments of costs or fees to the trust, or will be entitled to seek an order permitting a refund of payments made personally by them.

ACCEPTANCE

This agreement is consistent with our understanding of the scope and terms of representation and fees.

Dated: 2/13/13



ELLIOT BERNSTEIN, as Natural  
Guardian of Joshua Ennio Zander Bernstein,  
Jacob Noah Archie Bernstein and Daniel  
Elijsha Abe Ottomo Bernstein

Dated: 2/13/13

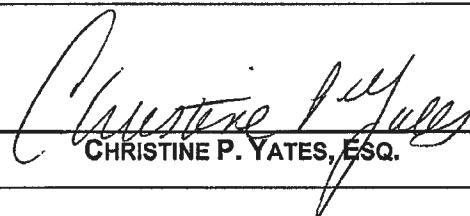


CANDICE MICHELLE BERNSTEIN, as Natural  
Guardian of Joshua Ennio Zander Bernstein,  
Jacob Noah Archie Bernstein and Daniel  
Elijsha Abe Ottomo Bernstein

TRIPP SCOTT, P.A.  
110 S.E. 6<sup>TH</sup> STREET, 15<sup>TH</sup> FLOOR  
FORT LAUDERDALE, FL 33301  
(954) 525-7500

668885v3 995508.0001

By:



CHRISTINE P. YATES, ESQ.