

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT IN AND FOR PALM  
BEACH COUNTY, FLORIDA

TED BERNSTEIN, AS TRUSTEE  
OF THE SHIRLEY BERNSTEIN TRUST  
AGREEMENT DATED MAY 20, 2008,  
AS AMENDED,

PROBATE DIVISION  
CASE NO.: 502014CP003698XXXXSB

PLAINTIFF,

**MOTION FOR NEW TRIAL**

V.

ALEXANDRA BERNSTEIN; ET AL.

DEFENDANTS.

/

Other Applicable Related Cases this Motion for Stay, Injunction and New Trial Should Apply to:

Case # 502012CP004391XXXXSB – Simon Bernstein Estate  
Case # 502011CP000653XXXXSB – Shirley Bernstein Estate  
Case # 502014CP002815XXXXSB – Oppenheimer v. Bernstein Minor Children  
Case # 502014CP003698XXXXSB – Shirley Trust Construction  
Case# 502015CP001162XXXXSB – Eliot Bernstein v. Trustee Simon Trust Case  
OLD CASE # 502014CA014637XXXXMB

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**MOTION FOR NEW TRIAL**

COMES NOW ELIOT BERNSTEIN BEING DULY SWORN WHO MAKES THIS AFFIDAVIT AND  
MOTION IN SUPPORT OF A NEW TRIAL AND VACATING AND DECLARING LEGALLY VOID AND A  
NULLITY THE TRIAL JUDGEMENT ORDER OF JUDGE PHILLIPS DATED DEC. 16, 2015 AS FOLLOWS:

1. THIS IS A MOTION FOR A NEW TRIAL UNDER FLORIDA RULES OF CIVIL PROCEDURE 1.530 FOR AN ALLEGED “TRIAL” HELD ON DEC. 15, 2015 IN THE NORTH BRANCH OF PALM BEACH COUNTY BEFORE JUDGE JOHN L. PHILLIPS ALLEGEDLY A VALIDITY TRIAL ON CERTAIN WILLS AND TRUST INSTRUMENTS IN THE ESTATES AND TRUSTS OF SIMON AND SHIRLEY BERNSTEIN.
2. THIS MOTION IS TIMELY.

3. A NEW TRIAL WILL SERVE THE BEST INTERESTS OF JUSTICE WHILE DENIAL OF A NEW TRIAL WILL GREATLY PREJUDICE ELIOT I. BERNSTEIN AND HIS MINOR CHILDREN AS WELL AS THE ESTATES OF SIMON AND SHIRLEY BERNSTEIN AND THE TRUTH SEEKING PROCESS.
4. FOR ALL THE REASONS SET FORTH HEREIN AND FOR OTHER PENDING MOTIONS THE TRIAL AND THE JUDGMENT/ORDER AFTER TRIAL ALLEGEDLY ISSUED DEC. 16, 2015 MUST BE VACATED AND DECLARED A LEGAL NULLITY. SEE EXHIBIT 1 -, ATTACHED JUDGEMENT/ORDER OF DEC. 16, 2015.
5. IT IS NOTED FOR PURPOSES OF THIS MOTION THAT PETITIONER ELIOT I. BERNSTEIN WHO HAS BEEN DECLARED LEGALLY INDIGENT HAS BEEN FURTHER PREJUDICED AND HARMED BY BEING DENIED AND DELAYED ACCESS TO ACTUAL COURT EVIDENCE EXHIBITS AND TRANSCRIPTS OF PROCEEDINGS WHICH WOULD FURTHER AID THE FILING OF THIS MOTION AND THAT ELIOT I. BERNSTEIN RESERVES ALL RIGHTS TO AMEND THIS MOTION AS ALLOWED BY LAW AND FILE PROPER MOTIONS UPON RECEIPT OF ACTUAL TRIAL EXHIBITS, EVIDENCE AND TRANSCRIPTS AND UPON ANY OTHER BASIS UNDER LAW.

**JUDGE JOHN L. PHILLIPS USED THE MACHINERY OF THE COURTS TO CONTINUE FRAUD IN THE PROCEEDINGS ON DEC. 15, 2015, FURTHER AIDING AND ABETTING ONGOING CRIMES AND ANY SUCH JUDGEMENT / ORDER MUST BE VACATED, STAYED AND DECLARED A LEGAL NULLITY**

6. JUDGE JOHN L. PHILLIPS SITTING IN THE NORTH BRANCH OF PALM BEACH COUNTY HAD ACTUAL KNOWLEDGE THAT HE WAS ACTING OUTSIDE AND BEYOND HIS JURISDICTION BY EVEN CONDUCTING THE TRIAL ON DEC. 15, 2015 SINCE JUDGE PHILLIPS KNEW AND KNOWS THAT A LEGALLY SUFFICIENT MOTION FOR HIS MANDATORY DISQUALIFICATION HAD BEEN FILED BY PETITIONER ELIOT BERNSTEIN ON DECEMBER 04, 2015 AND THAT JUDGE PHILLIPS HAD TO MANDATORILY

DISQUALIFY UNDER LAW AND ACT NO FURTHER IN THE CASE(S). SEE, MANDATORY DISQUALIFICATION OF JUDGE PHILLIPS<sup>1</sup>.

7. AS SET OUT IN THE LEGALLY SUFFICIENT MOTION FOR MANDATORY DISQUALIFICATION OF JUDGE JOHN L. PHILLIPS, JUDGE PHILLIPS HAS AND HAD ACTUAL KNOWLEDGE AS OF SEPT. 15, 2015 AT A CASE MANAGEMENT CONFERENCE THAT THE CASE WAS NOTICED FOR CONFERENCE IN THE ESTATE OF SIMON BERNSTEIN BEING FILED BY THE CURRENT PR IN THE ESTATE OF SIMON BERNSTEIN ATTORNEYS BRIAN O'CONNELL AND JOY FOGLIETTA OF THE CIKLIN LUBITZ MARTENS & O'CONNELL LAW FIRM. SEE EXHIBIT 2 - NOTICE FOR CASE MANAGEMENT CONFERENCE.
8. EVEN AS A MARGINALLY AND MINIMALLY COMPETENT JUDGE, JUDGE JOHN L. PHILLIPS HAD ACTUAL KNOWLEDGE AS OF SEPT. 15, 2015 THAT FLORIDA RULES OF CIVIL PROCEDURE 1.200: PRETRIAL PROCEDURE (A) CASE MANAGEMENT CONFERENCE PROVIDES IN PART: "THE MATTER TO BE CONSIDERED SHALL BE SPECIFIED IN THE ORDER OR NOTICE SETTING THE CONFERENCE".
9. AS THE TRANSCRIPT OF SEPT. 15, 2015<sup>2</sup> PROVIDES AND DEMONSTRATES, ELIOT I. BERNSTEIN ATTEMPTED TO CLARIFY THE CASE THAT WAS BEING HEARD ON THIS DATE BUT JUDGE PHILLIPS CONTINUALLY DENIED ELIOT BERNSTEIN A DUE PROCESS FAIR OPPORTUNITY TO BE HEARD IN A MEANINGFUL MANNER AT THE MEANINGFUL TIME DEMONSTRATING IMPERMISSIBLE BIAS AND PREJUDICE AGAINST ELIOT BERNSTEIN WHICH FURTHER MANDATED JUDGE PHILLIP'S DISQUALIFICATION RENDERING THE HOLDING OF ANY SUCH TRIAL ON DEC. 15, 2015 VOID AND A LEGAL NULLITY.

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<sup>1</sup> December 04, 2015 Disqualification of Judge Phillips

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20151204%20FINAL%20SIGNED%20NOTARIZED%20Disqualification%20of%20Florida%20Circuit%20Court%20Judge%20John%20L%20Phillips%20ECF%20STAMPED.pdf>

<sup>2</sup> September 15, 2015 Hearing Transcript

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20150915%20Judge%20Phillips%20Hearing%20Transcript%20-%20Estate%20of%20%20Simon%20Bernstein.pdf>

10. IN FACT A CLOSE AND CAREFUL REVIEW OF THE TRANSCRIPT OF THE CASE MANAGEMENT CONFERENCE BY ANY DETACHED, NEUTRAL PARTY AND/OR INVESTIGATIVE AUTHORITY WILL SHOW THE CLASSIC TEXTBOOK MODUS OPERANDI OF A JUDGE USING THE MACHINERY OF THE COURTS TO COMMIT AND FURTHER FRAUD AND CRIME AND KNOWING INTENTIONAL CONSTITUTIONAL VIOLATIONS THOUGH THE COURTS THEMSELVES.
11. IN ONE BREATH IN THIS COMPLEX CASE WHICH HAS A TOTAL OF 6-7 SEPARATE CASE NUMBERS FOR RELATED CASES, JUDGE JOHN PHILLIPS WOULD HAVE THE WORLD BELIEVE **BY HIS OWN WORDS** THAT HE IS ‘STUPID’ AND “NOT SMART” ALTHOUGH HE KNOWS HOW TO OCTOPUS WRANGLE, YET EACH AND EVERY TIME THAT ELIOT I. BERNSTEIN ATTEMPTED TO EXERCISE HIS CONSTITUTIONAL DUE PROCESS RIGHT AND OPPORTUNITY TO BE HEARD. BY REVIEWING THE TOTALITY OF THE TRANSCRIPT A DETACHED NEUTRAL INDEPENDENT REVIEWER CAN SEE THAT JUDGE JOHN L. PHILLIPS RUSHES TO CUT ELIOT BERNSTEIN OFF AND SHUT HIM DOWN KNOWINGLY AND INTENTIONALLY DENYING HIS DUE PROCESS OPPORTUNITY TO BE HEARD.
12. HOWEVER, AN INDEPENDENT, NEUTRAL, CONSTITUTIONALLY PROPER JUDGE WOULD SIMPLY SAY: THIS IS NOT RIGHT. THIS IS NOT RATIONALE? IF JUDGE PHILLIPS ACTUALLY DIDN’T KNOW WHAT WAS GOING ON IN THE CASE AND IS NOT THAT SMART AND IS STUPID BY HIS OWN WORDS, WHY DOES HE ONLY LET TED BERNSTEIN’S ATTORNEY ALAN ROSE SPEAK VOLUMES AT LENGTH WITHOUT INTERRUPTION AND YET CUT OFF ELIOT BERNSTEIN AT EACH STEP OF THE CONFERENCE WHEN A NEUTRAL DETACHED PROPER JUDGE TRYING TO BECOME BOTH EDUCATED AND GIVE EACH PARTY A FAIR AND PROPER OPPORTUNITY TO BE HEARD WOULD ALLOW ELIOT BERNSTEIN AND EACH PARTY FAIR OPPORTUNITY TO STATE THE FACTS AND LAW AND POSITION DURING THE CONFERENCE. THE TRANSCRIPTS CLEARLY SHOW OTHERWISE AND JUDGE PHILLIPS HAD TO BE DISQUALIFIED.

13. IT IS NOTED AGAIN FOR THE RECORD THAT WHEN JUDGE PHILLIPS IS PERMITTING TED BERNSTEIN'S ATTORNEY ALAN ROSE TO SPEAK VOLUMES REPEATEDLY AT LENGTH AT THE CONFERENCE ON SEPT. 15, 2015 IT WAS ATTORNEY ALAN ROSE WHO FILED A "LAST MINUTE" / "AFTER HOURS" MEMO WITH THE COURT ON THE "EVE OF THE CONFERENCE" AND FOR SOME REASON THIS APPEARS TO BE THE ONLY PART OF THE CASE JUDGE PHILLIPS IS FAMILIAR WITH DESPITE HAVING BEEN FILED AFTER HOURS THE NIGHT BEFORE.

14. FOR EXAMPLE, WHEN ELIOT BERNSTEIN BEGINS TO ANSWER WHY MORE THAN A DAY IS NEEDED FOR TRIAL HE BEGINS A DISCUSSION ABOUT WHY THE TRIAL SHOULD TAKE SEVERAL DAYS AND BEING A COMPLICATED CASE AND TED BERNSTEIN'S VALIDITY AS TRUSTEE AND THE CASE INVOLVING FRAUD YET JUDGE PHILLIPS SHUTS THIS DOWN, PRE-DETERMINES AND PREJUDGES THE MATTER. SEE, PAGES 23, STARTING AT LINES 23 AND PAGE 24, SEPT. 15, 2015 TRANSCRIPT ALREADY EXHIBITED HEREIN.

15. YET THE CASE IS COMPLEX, INVOLVES 6-7 DIFFERENT CASE NUMBERS, IS INTER-RELATED TO FEDERAL LITIGATION INVOLVING THE ESTATE OF SIMON BERNSTEIN BEING HEARD IN ILLINOIS, A DIFFERENT STATE AND HAS MULTIPLE OUTSTANDING MOTIONS AND PLEADINGS IN THE SEVERAL CASES PENDING AT THE TIME JUDGE PHILLIPS HOLDS THE CASE MANAGEMENT CONFERENCE ON SEPT. 15, 2015.

16. JUDGE PHILLIPS ACTUALLY KNOWS AND SHOULD HAVE KNOWN AS OF SEPT. 15, 2015 THAT THE ISSUE OF TED BERNSTEIN ACTING AS A VALID TRUSTEE TO EVEN HEAR AND DETERMINE A VALIDITY TRIAL ON THE INVOLVED INSTRUMENTS IS CRITICAL TO THE INTEGRITY OF PROCEEDINGS SINCE ACTUAL FRAUDED DOCUMENTS BY TED BERNSTEIN AS ALLEGED FIDUCIARY ALONG WITH HIS OWN ATTORNEYS TESCHER AND SPALLINA AND A PARALEGAL ACTING AND WORKING FOR TESCHER AND SPALLINA HAD ALREADY BEEN EXPOSED IN JUDGE COLIN'S COURT AND YET THE ATTORNEYS

INVOLVED WITH THE FRAUD TESCHER AND SPALLINA WERE STILL HOLDING ONTO ORIGINAL DOCUMENTS NEARLY TWO YEARS LATER WITHOUT TED BERNSTEIN AS ALLEGED “TRUSTEE” OR THE COURT OR THE PALM BEACH SHERIFF’S DEPARTMENT SEIZING AND IMPOUNDING THE DOCUMENTS FROM TESCHER AND SPALLINA FOR FORENSIC EXAMINATION.

17. IT IS ABSOLUTELY CLEAR AND UNDENIABLE THAT JUDGE PHILLIPS HAD ACTUAL KNOWLEDGE OF AT LEAST SOME OF THIS BACKGROUND AS OF SEPT. 15, 2015 SINCE AT THE PRIOR STATUS CONFERENCE IN JULY OF 2015 IT IS BROUGHT UP ON THE RECORD FIRST BY ELIOT BERNSTEIN AND THEN BY JUDGE PHILLIPS HIMSELF AT THE CLOSE OF THE STATUS CONFERENCE THAT ELIOT BERNSTEIN’S OBJECTIONS TO THE CASE EVEN MOVING FORWARD WOULD BE HEARD AT THE NEXT CONFERENCE SINCE A PETITION FOR ALL WRITS WAS PENDING AT THE FLORIDA SUPREME COURT SPECIFICALLY SEEKING MANDAMUS AND PROHIBITION AGAINST THE PRIOR JUDGE MARTIN COLIN AS A NECESSARY AND MATERIAL FACT WITNESS TO THE FRAUDS IN THE COURT AND SEEKING THE VOIDING OF ALL HIS ORDERS.

18. YET DESPITE JUDGE PHILLIPS HAVING STATED ON THE RECORD AT THE STATUS CONFERENCE IN JULY 2015 THAT THE OBJECTIONS TO THE CASE MOVING FORWARD BASED ON THE ALL WRITS PETITION BY ELIOT BERNSTEIN WOULD BE HEARD AT THE NEXT CONFERENCE, IT IS ABSOLUTELY UNDENIABLY CLEAR THAT JUDGE PHILLIPS PREJUDICED THE ENTIRE CASE AND PRE-JUDGED THE CASE AT LEAST BY SEPT. 15, 2015 AS HE COMPLETELY AND WHOLLY DENIES ELIOT BERNSTEIN AN OPPORTUNITY TO BE HEARD ON THE WRIT DESPITE THE FACT THAT JUDGE COLIN HIMSELF IS A NECESSARY MATERIAL FACT WITNESS WHICH DIRECTLY RELATED TO JUDGE PHILLIPS QUESTION OF HOW LONG A TRIAL WOULD TAKE SINCE JUDGE COLIN WOULD ALSO HAVE TO BE A WITNESS YET JUDGE PHILLIPS SHUTS THIS ALL DOWN IN BIASED, PREJUDGING PREJUDICIAL MANNER CREATING

REASONABLE FEAR THAT A FAIR TRIAL WOULD NOT BE HELD WHICH MEANS JUDGE PHILLIPS HAD TO DISQUALIFY BEFORE THE TRIAL EVEN BEGAN.

19. AS SET OUT IN THE LEGALLY SUFFICIENT DISQUALIFICATION MOTIONS AGAINST JUDGE PHILLIPS, JUDGE PHILLIPS FURTHER PREJUDICED AND BIASED THE PROCEEDINGS ON SEPT. 15, 2015 BY NOT ONLY NOT PERMITTING ELIOT BERNSTEIN TO BE HEARD ON THE WRITS AND JUDGE COLIN AS A NECESSARY AND MATERIAL FACT WITNESS BUT FURTHER BY DECLARING ACTUAL “LOVE” FOR JUDGE COLIN AND FURTHER STATING HE WOULD MAKE NO FINDING THAT ANYTHING WAS DONE WRONG BY COLIN. SEE, TRANSCRIPTS AND DISQUALIFICATION MOTIONS.
20. MORE EGREGIOUS, HOWEVER, IS THE FACT THAT MOST EVERY ONE OF THESE ISSUES WHOLLY DISREGARDED INTENTIONALLY BY JUDGE PHILLIPS USING THE MACHINERY OF THE COURTS TO FURTHER FRAUD UNDER THE DISGUISE OF BEING A STUPID, NOT SMART OCTOPUS WRANGLER BY HIS OWN WORDS WERE PREVIOUSLY FILED IN THE COURT OF JUDGE COLIN AND THUS WERE IN THE CASE FILES THAT JUDGE PHILLIPS SHOULD HAVE BEEN REVIEWING IN ADDITION TO ALAN ROSE’S LAST MINUTE AFTER HOURS MEMO OF SEPT. 14, 2015.
21. FOR EXAMPLE, A MAY 6, 2013 EMERGENCY MOTION TO JUDGE COLIN EXPOSING THE FRAUDS IN THE COURT BY TESCHER SPALLINA KIMBERLY MORAN AND TED BERNSTEIN IS BUT ONE MOTION NEVER FULLY HEARD TO THIS DAY AND NOT HEARD OR ALLOWED TO BE PRESENTED BY JUDGE PHILLIPS ON SEPT. 15, 2015 EVEN THOUGH THE ISSUES IN SUCH MOTION ESPECIALLY THE FRAUD SHOULD HAVE BEEN GUIDING THE CASE MANAGEMENT AND CERTAINLY ANY TRIAL.
22. THUS FROM A RATIONALE BASIS PERSPECTIVE FROM A NEUTRAL DETACHED CONSTITUTIONALLY PROPER REVIEWER, IF JUDGE PHILLIPS WAS NOT AWARE OF THE SERIOUSNESS AND COMPLEXITY OF THESE PLEADINGS AND MOTIONS, THEN THERE IS NO WAY AS A NEUTRAL JUDGE HE WOULD SIMPLY SHUT DOWN ELIOT BERNSTEIN EACH TIME HE SPOKE WITHOUT PERMITTING A FAIR OPPORTUNITY TO

BE HEARD AS JUDGE PHILLIPS WOULD HAVE SOUGHT TO BECOME KNOWLEDGEABLE AND EDUCATED ON THE CASE BUT INSTEAD THE CLEAR EVIDENCE SHOWS HE PREJUDGED THE CASE AND PREJUDGED THE TRIAL ITSELF AS OF SEPT. 15, 2015 PARTICULARLY BY LIMITING THE TRIAL TO ONE DAY AND ANY SUCH TRIAL JUDGEMENT ORDER MUST NOW BE VACATED AS A NULLITY AND FRAUD.

23. JUST UNDER RULE 1.200 THE TRIAL JUDGMENT ORDER SHOULD BE VACATED AND DECLARED A LEGAL NULLITY AS JUDGE PHILLIPS HAS ACTUAL KNOWLEDGE AND KNOWS THE TRIAL WAS SET IN THE SHIRLEY BERNSTEIN CASE WHICH WAS NOT NOTICED TO BE HEARD ON SEPT. 15, 2015 AND THUS THIS RULE WAS KNOWINGLY VIOLATED BY JUDGE PHILLIPS IN WHAT IS A PRE-DETERMINED PRE-JUDGE PLAN TO FURTHER AID AND ABET ONGOING FRAUD AND COVER FRAUD UP HOPING ELIOT BERNSTEIN WILL SIMPLY CAVE FROM THE WAR OF FRAUDULENT ATTRITION.

24. HAD JUDGE PHILLIPS MARGINALLY AND COMPETENTLY REVIEWED ANY OF THE PRIOR PLEADINGS AND THE TRANSCRIPT HE WOULD HAVE SEEN THAT TED BERNSTEIN WAS IN FACT KNOWINGLY INVOLVED IN THE FRAUD AND INTERTWINED WITH TESCHER SPALLINA AND JUDGE COLIN BY THE APPEARANCE ON SEPT. 13, 2013 WHEN THE FRAUD IS FINALLY ADDRESSED IN A VERY MINIMAL PARTIAL DEFICIENT MANNER BY JUDGE COLIN ON THE RECORD AND YET TED BERNSTEIN STANDS SILENT BEFORE JUDGE COLIN WHEN AN APRIL 9, 2012 DOCUMENT IS REFERENCED WHICH WAS CLEARLY FRAUDED BY SPALLINA AND FILED IN JUDGE COLIN'S COURT AFTER SIMON BERNSTEIN'S DEATH, BY SIMON AS IF HE WAS ALIVE AND YET TED BERNSTEIN HAD TO KNOW THIS WAS FRAUD AS IT REFERRED TO WAIVERS HE ALLEGEDLY SIGNED BUT TED BERNSTEIN KNEW THE WAIVERS HAD NOT BEEN SIGNED YET AND INSTEAD STOOD SILENT BEFORE COLIN.

25. MORE EGREGIOUSLY ON THIS DATE SEPT. 13, 2013 WHICH IS WHY JUDGE COLIN HAS TO BE A MATERIAL FACT WITNESS NECESSARY FOR INTEGRITY AND TRUTH AND THUS A NEW TRIAL GRANTED WHERE HE IS A WITNESS IS THAT TED BERNSTEIN ANNOUNCES HE IS THERE WITH SPALLIN

AS THE TRUSTEE / PR OF THE SHIRLEY BERNSTEIN ESTATE AND YET JUDGE COLIN KNOWS THIS IS THE ESTATE HE HIMSELF AS JUDGE CLOSED ILLEGALLY IN JAN. 2013 ON FRAUDDED DOCUMENTS BY TESCHER SPALLINA AND MORAN FILED BY SIMON WHILE DECEASED AND YET JUDGE COLIN NEVER ASKS TED BERNSTEIN WHEN HE BECAME TRUSTEE OR PR AND IF HE WAS WHY HE SIMPLY DIDN'T MOVE TO CLOSE THE ESTATE HIMSELF AND INSTEAD HAS PERMITTED HIS ATTORNEYS TESCHER SPALLINA TO CLOSE HIS MOTHER'S ESTATE FRAUDULENTLY USING HIS DECEASED FATHER TO DO SO, ALL LEADING TO JUDGE COLIN BEING FORCED TO REOPEN SHIRLEY BERNSTEIN'S ESTATE DUE TO THE FRAUDULENT CLOSURE BY TED AS FIDUCIARY, ALONG WITH HIS RETAINED COUNSEL TESCHER AND SPALLINA.

26. AS JUDGE PHILLIPS CLEARLY SHOULD HAVE DISCERNED FROM THE RECORD, INSTEAD OF JUDGE COLIN ASKING ANY OF THESE QUESTIONS OF TED BERNSTEIN IN SEPT. 2013, HE CONTINUES TO ALLOW THE FRAUDULENTLY ACTING ATTORNEYS TESCHER SPALLINA TO CONTINUE TO ACT FOR MANY MORE MONTHS UNTIL JAN. OF 2014 AND THEN GIVES FURTHER TIME FOR THE TESCHER SPALLINA FIRM TO "PREP" THEIR FILES BY GIVING THEM MONTHS TO TURN FILES OVER WHEN IN FACT ALL FILES SHOULD HAVE BEEN IMPOUNDED AS OF THE MAY 2013 EMERGENCY MOTION FILING WHICH IS WHAT ANY PROPER COURT WOULD BE DOING AT THIS TIME AND CERTAINLY AFTER THE SEPTEMBER 13, 2013 HEARING WHERE TED, TESCHER, SPALLINA AND OTHERS WERE INFORMED BY JUDGE COLIN THAT HE HAD ENOUGH EVIDENCE AT THAT TIME TO READ THEM ALL THEIR MIRANDA RIGHTS FOR TWO SEPARATE AND DISTINCT FRAUDS ON THE COURT HE DISCOVERED THAT DAY.

27. THIS IS NOT JUST AN AVERAGE FRAUD AND FRAUD ON THE COURT CASE AND JUDGE PHILLIPS HAD ACTUAL KNOWLEDGE OF THIS WHEN HE ILLEGALLY SCHEDULED THE TRIAL IN THE CASE THAT WAS NOT NOTICED FOR THE CONFERENCE ON SEPT. 15, 2015.

28. THIS IS A CASE THAT BEGAN IN PART IN SEPT. 2012 WITH TED BERNSTEIN ALLEGING POSSIBLE MURDER OF HIS FATHER SIMON BERNSTEIN AND HOSPITAL PERSONNEL BLOCKING PETITIONER OUT OF THE ICU PRIOR TO HIS PASSING WHERE IT WAS ALLEGED MY FATHER SIMON BERNSTEIN HAD BEEN POISONED AND WHERE TED BERNSTEIN GOES ON TO CLAIM HE HAS LAWYERS TO DEAL WITH THE SHERIFF'S AND AUTHORITIES AND IS ASKING FOR AN AUTOPSY AND THE BODY OF SIMON BERNSTEIN IS CLAIMED TO BE IN MIAMI, FL WHILE I DISCOVERED ALL OF SIMON BERNSTEIN'S COMPUTER FILES WERE "WIPED CLEAN" ON THE NIGHT OF HIS PASSING.

29. THIS THEN TURNS INTO A SCENARIO WHERE TED BERNSTEIN'S ATTORNEYS TESCHER AND SPALLINA ARE NOT TURNING OVER DOCUMENTS FOR MONTHS AND IN SOME CASES YEARS ONLY TO COME TO FIND OUT THAT TESCHER AND SPALLINA USED FRAUDULENT DOCUMENTS IN THE CASE TO CLOSE SHIRLEY BERNSTEIN'S ESTATE BEFORE JUDGE COLIN USING SIMON AS IF HE WAS ALIVE WHEN TED BERNSTEIN IS LATER PURPORTING TO BE THE FIDUCIARY OF THE CLOSED ESTATE OF HIS MOTHER TO LATER FIND OUT NOT ONLY WERE FRAUDULENT DOCUMENTS USED BUT KIMBERLY MORAN WHO WAS CONSPICUOUSLY ABSENT FROM THE VALIDITY TRIAL AND SHOULD HAVE BEEN A NECESSARY WITNESS DEMANDED TO ATTEND BY JUDGE PHILLIPS LATER ADMITS TO ACTUALLY FORGING SOME OF THE DOCUMENTS BY PLACING FALSE SIGNATURES ON DOCUMENTS AFTER TRACING PRIOR SIGNATURES AND THUS JUDGE PHILLIPS ACTUALLY KNEW AND SHOULD HAVE KNOWN FORENSIC EXPERTS WERE NECESSARY FOR THE TRIAL AND TED BERNSTEIN AS TRUSTEE SHOULD HAVE ARRANGED FOR THIS YET TED BERNSTEIN WAS NOT A PROPER TRUSTEE BY THE LANGUAGE OF THE DOCUMENTS AND IS INVOLVED IN THE FRAUDS THEMSELVES AND THUS SHOULD HAVE BEEN REMOVED WITH ALL PARTIES WHO WERE INVOLVED IN THE MULTIPLE FRAUDS ON THE COURT AND BENEFICIARIES.

30. YET AS JUDGE PHILLIPS ACTUALLY KNEW AND SHOULD HAVE KNOWN, THERE ARE MISSING TRUSTS AND ORIGINAL DOCUMENTS FROM THE ILLINOIS FEDERAL LITIGATION, AND THEN “OTHER” ORIGINALS IN THE OPPENHEIMER AND SHIRLEY CASES MAGICALLY POPPING UP IN THE POSSESSION OF TED’S ATTORNEY ALAN ROSE YEARS LATER WHICH IS WHY ALAN ROSE HAD TO BE DISQUALIFIED NOW AS A NECESSARY MATERIAL FACT WITNESS FOR TRIAL (ALAN ROSE IS ALSO ALREADY A SERVED COUNTER DEFENDANT IN THE COUNTER COMPLAINT FILED IN THE SHIRLEY TRUST CASE) AND SHOULD HAVE BEEN A WITNESS FOR TRIAL BUT ONLY AFTER PROPER PRE-TRIAL PROCEDURES IN THIS COMPLEX LITIGATION WHERE DEPOSITIONS AND DISCOVERY WERE COMPLETED PROPERLY BEFORE TRIAL.

31. JUDGE PHILLIPS ACTUALLY KNEW AND SHOULD HAVE KNOWN THAT THE “OTHER” “ORIGINALS” WERE RELEVANT BOTH FROM CHAIN OF CUSTODY OF THE EVIDENCE BUT ALSO FOR COMPARISON PURPOSES THAT ANY EXPERT WOULD WISH TO REVIEW WHEN BLATANT IRREGULARITIES ARE CLEAR TO THE NAKED HUMAN EYE OF THE ORDINARY PERSON AND THUS JUDGE PHILLIPS KNEW WHEN HE WAS ILLEGALLY SCHEDULING THIS TRIAL FOR ONE DAY ONLY IN A CASE NOT NOTICED FOR THE CONFERENCE THAT HE HAD IN FACT ENTIRELY PRE-DETERMINED AND PRE-JUDGED THE ACTUAL TRIAL ITSELF AND IN FACT IS FOUND “DOODLING” DURING THE TRIAL WHILE THE ONLY WITNESS TO VERIFY AND VALIDATE DOCUMENTS IS ROBERT SPALLINA WHO WAS PLED GUILTY OF INSIDER TRADING AND BREACH OF FIDUCIARY DUTIES IN AN ALLEGED UNRELATED CASE BY THE US SECURITIES AND EXCHANGE COMMISSION IN THE MONTHS PRIOR TO TRIAL AND WHO HAD ADMITTED TO ALTERING THE SHIRLEY TRUST TO THE PALM BEACH SHERIFF’S AND EVEN ADMITTED AT TRIAL TO USING THE MAILS TO MAIL THE FRAUDULENT SHIRLEY TRUST DOCUMENT THAT HE CREATED AND YET ELIOT BERNSTEIN WAS LEFT AS A PRO SE LITIGANT WHO SHOULD HAVE HAD TRUST FUNDS TO FUND COUNSEL FOR HIMSELF AND MINOR CHILDREN BUT INSTEAD LEFT WITHOUT

AN ATTORNEY WHERE EVEN THE PR OF THE SIMON BERNSTEIN ESTATE BRIAN O'CONNELL AND JOY FOGLIETTA ABANDONED THEIR INVOLVEMENT IN THE TRIAL LAST MINUTE AND DID NOT APPEAR DESPITE HAVING RAISED DEFENSES THAT TED BERNSTEIN IS NOT A VALID TRUSTEE AND BEING FURTHER INTERTWINED WITH ALAN ROSE AS NECESSARY WITNESSES IN THE CUSTODY POSSESSION AND CONTROL OF OPERATIVE ORIGINAL DOCUMENTS AND OTHER RECORDS.

32. JUDGE PHILLIPS ACTUALLY KNEW THAT HE TOOK NO STEPS TO FOLLOW THE PRE-TRIAL RULES OF 1.200 AND DENIED DUE PROCESS BY NOT PERMITTING ELIOT BERNSTEIN TO BE HEARD ON OUTSTANDING DISCOVERY, NEED FOR DEPOSITIONS, NEED FOR EXPERT WITNESSES AND OTHER WITNESSES TO THE OPERATIVE DOCUMENTS THEMSELVES LIKE TRACI KRATISH AND THE OTHER WITNESSES TO THE ALLEGED EXECUTION OF THESE DOCUMENTS WHICH CLEARLY WOULD HAVE TAKEN THE TRIAL PAST ONE DAY AS THERE WAS NOT EVEN SUFFICIENT TIME FOR THE BARE MINIMUM WITNESSES CALLED AND THAT DOES NOT EVEN CONTEMPLATE THAT THE ESTATE OF SIMON BERNSTEIN SHOULD HAVE HAD UNCONFLICTED COUNSEL AND REPRESENTATION AT THE TRIAL BUT INSTEAD WAS UNREPRESENTED.

33. TRACI KRATISH HAD ALREADY GIVEN STATEMENTS TO THE PALM BEACH COUNTY SHERIFF'S WHICH CONTRADICTS ONE OF THE OPPENHEIMER DOCUMENTS MAGICALLY FOUND BY TED BERNSTEIN'S COUNSEL ALAN ROSE WHO MUST BE DISQUALIFIED AS A NECESSARY WITNESS AND THUS JUDGE PHILLIPS KNEW ONE DAY WOULD NEVER SUFFICE FOR THESE TWO ADDITIONAL WITNESSES AND SHOULD HAVE ALLOWED OTHER TIME FOR MORE WITNESSES SUCH AS THOSE SHOWING THE GOVERNOR'S OFFICE HAD FOUND SIMON BERNSTEIN'S WILL IMPROPERLY EXECUTED AND OTHERS SUCH AS WILLIAM STANSBURY WHO WAS FAMILIAR WITH SHIRLEY AND SIMON BERNSTEIN.

34. JUDGE PHILLIPS KNEW AND SHOULD HAVE KNOWN THE MISSING DISCOVERY AND BUSINESS RECORDS NOT PRODUCED WERE RELEVANT TO CLAIMS OF UNDUE INFLUENCE AGAINST SIMON

BERNSTEIN AND THE OVERALL PICTURE OF THE ALLEGED ESTATE PLANNING BY TESCHER AND SPALLINA AND AGAIN JUDGE PHILLIPS KNEW IT WAS IMPROPER TO FIRST SCHEDULE THIS TRIAL IN THIS MANNER AND THEN PROCEED TO HOLD SUCH TRIAL UNDER THESE CIRCUMSTANCES INCLUDING THAT HE WAS ACTING BEYOND AND OUTSIDE HIS AUTHORITY AND IN THE CLEAR ABSENCE OF JURISDICTION BEING SOMEONE WHO MANDATORILY HAD TO BE DISQUALIFIED BEFORE THE TRIAL COMMENCED.

35. JUDGE PHILLIPS KNEW HE WAS ACTING PREJUDICIALLY AND IMPROPER FURTHER FOR ALL THE REASONS SET FORTH IN THE NEW LEGALLY SUFFICIENT MOTION TO DISQUALIFY POST TRIAL WHICH IS INCORPORATED BY REFERENCE AND ATTACHED HERETO. SEE, DISQUALIFICATION POST TRIAL<sup>3</sup>.

36. JUDGE PHILLIPS FURTHER KNOWS IT WAS IMPROPER TO DENY A CONTINUANCE FOR ATTORNEY CANDICE SCHWAGER TO BE ADMITTED PRO HAC VICE TO REPRESENT THE INTERESTS OF MY MINOR CHILDREN AND MY INTERESTS TO THE EXTENT NOT CONFLICTED AND THAT ATTORNEY SCHWAGER SOUGHT A VOLUNTARY CONTINUANCE FROM ALAN ROSE WHO SHOULD BE DISQUALIFIED AS A NECESSARY AND MATERIAL FACT WITNESS IN ANY EVENT AND JUDGE PHILLIPS FURTHER ACTUALLY KNOWS HE INTENTIONALLY MISSTATED THE LAW TO MYSELF AS A PRO SE PARTY ON THE DAY OF THE ILLEGALLY SCHEDULED TRIAL OF DEC. 15, 2015 BY DECLARING MY MOTION FOR CONTINUANCE TO HAVE COUNSEL SCHWAGER ADMITTED PRO HAC VICE AS UNTIMELY WHEN THE LAW ALLOWS FOR THE MOTION TO EVEN BE MADE ORALLY AT TRIAL AND INSTEAD WAS FILED WITH THE COURT IN WRITING BEFORE THE ILLEGAL TRIAL COMMENCED.

37. JUDGE PHILLIPS FURTHER KNOWS UNDER THE CIRCUMSTANCES AND THE COMPLEXITY OF THE CASE AND THE EXISTENCE OF OTHER ‘ORIGINALS’ AND PROVEN FRAUD ON DOCUMENTS DEPOSITED INTO

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<sup>3</sup> December 28, 2015 - 2nd Disqualification Motion Judge Phillips  
<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20151228%20FINAL%20SIGNED%20NOTARIZED%20Second%20Disqualification%20of%20Judge%20Phillips%20after%20Validity%20Hearing%20on%20December%2015,%202015%20ECF%20STAMPED%20COPY.pdf>

THE COURT INCLUDING ACTUAL FORGERY OF SIGNATURES ON THE DOCUMENTS AND THE NEED FOR FORENSIC EXAMINATION THAT THE TESTIMONY OF A BARE WITNESS BEING ONE WHO ADMITTED TO COMMITTING FRAUD UPON THE COURT AND FURTHER VALIDATING THE SIGNATURE OF THE NOTARY WHO ALSO ADMITTED TO FRAUD IN THIS ACTUAL CASE WAS LEGALLY INSUFFICIENT AS A WHOLE TO DETERMINE OR DECLARE THE VALIDITY OF ANY OF THE DOCUMENTS AND INSTRUMENTS HEREIN.

38. JUDGE PHILLIPS FURTHER KNOWS THAT DURING THE TRIAL HE DENIED ELIOT BERNSTEIN PROPER TIME TO INSPECT ANY OF THE EVIDENCE AND EXHIBITS BEING OFFERED AND TO OBJECT THERETO AND WHILE “DOODLING” DURING THE SPALLINA TESTIMONY SOUGHT TO LATER REMOVE CANDICE BERNSTEIN WHO HAD BEEN SERVED IN THE CASE AND WAS ASSISTING ME PRO SE DURING THE TRIAL AS MY WIFE AND LEGAL GUARDIAN OF OUR THREE MINOR CHILDREN AND FURTHER DENIED AN OPPORTUNITY TO EVEN REVIEW THE IMPROPER PROPOSED ORDER HANDED TO JUDGE PHILLIPS AT THE CLOSING OF THE TRIAL BY ALAN ROSE WHO SHOULD HAVE BEEN AND SHOULD BE DISQUALIFIED AS A NECESSARY AND MATERIAL FACT WITNESS.

39. FOR ALL THE REASONS HEREIN THE TRIAL ORDER AND JUDGMENT OF DEC. 16, 2015 MUST BE VACATED AND DECLARED VOID AND A LEGAL NULLITY WHILE JUDGE PHILLIPS MUST MANDATORILY DISQUALIFY AND THE CASE RESET FOR FRAUD AND EVIDENCE AND DOCUMENTS IMPOUNDED FOR PROPER AUTHORITIES TO INVESTIGATE AND FOR SUCH OTHER AND FURTHER RELIEF AS MAY BE JUST AND PROPER.

WHEREFORE, IT IS RESPECTFULLY PRAYED FOR AN ORDER DECLARING THE TRIAL JUDGEMENT AND ORDER INVALID AND VOID AS A LEGAL NULLITY, VACATING SUCH ORDER AND JUDGE PHILLIPS DISQUALIFYING HIMSELF FROM FURTHER PROCEEDINGS HEREIN AND FOR SUCH OTHER AND FURTHER RELIEF AS MAY BE JUST AND PROPER.

Dated: December 31, 2015

/s/Eliot Ivan Bernstein

Eliot Ivan Bernstein  
2753 NW 34th St  
Boca Raton, FL 33434  
561-245-8588  
[iviewit@iviewit.tv](mailto:iviewit@iviewit.tv)

**CERTIFICATE OF SERVICE**

I CERTIFY that a copy of the foregoing has been furnished to parties listed on attached Service List by E-mail Electronic Transmission; Court ECF; this 31st day of December, 2015.

By: /s/ Eliot Ivan Bernstein  
Eliot Ivan Bernstein  
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grs@shendellpollock.com	
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<p>Counter Defendant  Mark R. Manceri, Esq., and  Mark R. Manceri, P.A.,  2929 East Commercial Boulevard  Suite 702  Fort Lauderdale, FL 33308  <a href="mailto:mrmlaw@comcast.net">mrmlaw@comcast.net</a></p>	<p>Counter Defendant  Donald Tescher, Esq.,  Tescher &amp; Spallina, P.A.  Wells Fargo Plaza  925 South Federal Hwy Suite 500  Boca Raton, Florida 33432  <a href="mailto:dtescher@tescherspallina.com">dtescher@tescherspallina.com</a></p>
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Lisa Sue Friedstein	Dennis McNamara

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Joseph M. Leccese Chairman Proskauer Rose LLP Eleven Times Square New York, NY 10036 jleccese@proskauer.com	Brian Moynihan Chairman of the Board and Chief Executive Officer 100 N Tryon St #170, Charlotte, NC 28202 Phone:(980) 335-3561

**EXHIBIT 1 - ATTACHED JUDGEMENT/ORDER OF DEC. 16, 2015**

6

IN THE CIRCUIT COURT OF THE  
FIFTEENTH JUDICIAL CIRCUIT IN AND  
FOR PALM BEACH COUNTY, FLORIDA

TED BERNSTEIN, as Trustee  
of the Shirley Bernstein Trust Agreement  
dated May 20, 2008, as amended,

Probate Division  
Case No.: 502014CP003698XXXXNBIJ

Plaintiff,

v.

ALEXANDRA BERNSTEIN; ERIC BERNSTEIN;  
MICHAEL BERNSTEIN; MOLLY SIMON;  
PAMELA B. SIMON, Individually and as Trustee  
f/b/o Molly Simon under the Simon L. Bernstein  
Trust Dtd 9/13/12; ELIOT BERNSTEIN, individually,  
as Trustee f/b/o D.B., Ja. B. and Jo. B. under the  
Simon L. Bernstein Trust Dtd 9/13/12, and on  
behalf of his minor children D.B., Ja. B. and Jo. B.;  
JILL IANTONI, Individually, as Trustee f/b/o J.I.  
under the Simon L. Bernstein Trust Dtd 9/13/12, and  
on behalf of her Minor child J.I.; MAX FRIEDSTEIN;  
LISA FRIEDSTEIN, Individually, as Trustee f/b/o  
Max Friedstein and C.F., under the Simon L.  
Bernstein Trust Dtd 9/13/12, and on behalf of her  
minor child, C.F.,

COPY

Defendants.

---

**FINAL JUDGMENT ON COUNT II OF THE AMENDED COMPLAINT**

This cause came before the Court for trial on December 15, 2015, pursuant to the Court's  
*ORDER SETTING TRIAL on AMENDED COMPLAINT (DE 26) COUNT II* dated September 24,  
2015. The Court, having received evidence in the form of documents and testimony of witnesses,

having heard argument of counsel and *pro se* parties who wished to argue, and being otherwise fully advised of the premises, hereby enters a Final Judgment as to Count II of the Amended Complaint:

1. This is an action for declaratory judgment to determine the validity, authenticity and enforceability of certain wills and trusts executed by Simon Bernstein and Shirley Bernstein, as follows:

- A. Shirley Bernstein Trust Agreement dated May 20, 2008 ("Shirley Trust", attached to the Amended Complaint as Exhibit A~~3~~, *Ex. P1 AT TRIAL*) *JB*
- B. First Amendment to Shirley Bernstein Trust Agreement dated November 18, 2008 ("Shirley First Amendment", attached to the Amended Complaint as Exhibit B~~3~~, *Ex. P3 AT TRIAL*) *JB*
- C. Will of Simon L. Bernstein dated July 25, 2012 ("Simon Will", attached to the Amended Complaint as Exhibit C~~3~~, *Ex. P4 AT TRIAL*) *JB*
- D. Simon L. Bernstein Amended and Restated Trust Agreement dated July 25, 2012 ("Simon Trust", attached to the Amended Complaint as Exhibit D~~3~~ ~~and~~, *Ex. P5 AT TRIAL*), and *JB*
- E. Will of Shirley Bernstein dated May 20, 2008 ("Shirley Will", attached to the Amended Complaint as Exhibit E~~3~~, *Ex. P1 AT TRIAL*) *JB*

(collectively, the "Testamentary Documents").

2. Based upon the evidence presented during the trial, the Court finds that the Testamentary Documents, as offered in evidence by Plaintiff, are genuine and authentic, and are valid and enforceable according to their terms.

3. The Court finds that Simon's Testamentary Documents were signed by Simon and Shirley's Testamentary Documents were signed by Shirley, in the presence of two attesting witnesses who signed in the presence of the testator and in the presence of each other. § 732.502, Fla. Stat.; § 736.0403(2)(b), Fla. Stat.

4. The Court finds the Testamentary Documents meet the requirements for self-proof, as specified in §732.503, Fla. Stat. Alternatively, the Testamentary Documents were properly admitted based upon the testimony of at least one of the attesting witnesses, which occurred. §733.201, Fla. Stat.

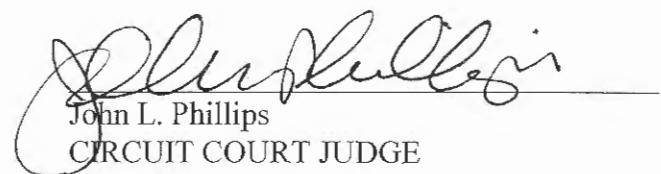
5. Based on the evidence presented, the Court finds that Plaintiff, Ted S. Bernstein, Trustee, was not involved in the preparation or creation of the Testamentary Documents. ~~Indeed,~~ <sup>JW</sup> Ted S. Bernstein had never seen the documents before his father's death. ~~Moreover,~~ <sup>JW</sup> Ted S. Bernstein played no role in any questioned activities of the law firm Tescher & Spallina, PA, who represented <sup>of ELIOT BERNSTEIN</sup> Simon and Shirley while they were alive. There is no evidence to support the assertions that Ted Bernstein forged or fabricated any of the Testamentary Documents, or aided and abetted others in ~~the evidence shows~~ forging or fabricating documents. ~~That~~ <sup>JW</sup> Ted Bernstein played no role in the preparation of any improper documents; the presentation of any improper documents to the Court; or any other improper act, contrary to the allegations of Eliot Bernstein ~~made in the pleadings in this case or in~~ <sup>JW</sup> ~~various blogs and websites in which Eliot Bernstein has attacked the actions of Ted Bernstein.~~

6. Based on the evidence presented, the Court finds that an unauthorized version of the First Amendment to Shirley Bernstein Trust Agreement was prepared sometime after Simon died. This document ~~X~~ (Pl. Ex. 6) was not signed by Shirley Bernstein and, therefore, is not an operative document.

7. This ruling is intended to be a Final Judgment under Rule 9.170 of the Florida Rules of Appellate Procedure, determining the validity of Testamentary Documents, denying any objection to the probate of Shirley's and Simon's Wills or the validity of the Trust Agreements, and determining which persons are entitled to receive distributions from these trusts and estates.

8. Based upon the rulings made by the Court in this trial of Count II, the Court reserves jurisdiction to determine the remaining issues in this action.

DONE AND ORDERED in Chambers, in Palm Beach County, Florida, this 16 day of December, 2015.



John L. Phillips  
CIRCUIT COURT JUDGE

cc: All parties on the attached service list

Eliot Bernstein, individually  
and Eliot and Candice Bernstein,  
as Parents and Natural Guardians of  
D.B., Ja. B. and Jo. B, Minors  
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Counsel for Molly Simon, Alexandra Bernstein,  
Eric Bernstein, Michael Bernstein

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children, and as natural guardian for M.F. and  
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Jill Iantoni, individually and as trustee for her  
children, and as natural guardian for J.I. a minor  
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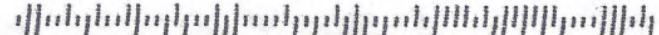
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JOHN L. PHILLIPS  
CIRCUIT JUDGE  
NORTH COUNTY COURTHOUSE  
3188 PGA BOULEVARD  
PALM BEACH GARDENS, FL 33410



Eliot I. Bernstein  
2753 N.W. 34th Street  
Boca Raton, FL 33434





IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT  
IN AND FOR PALM BEACH COUNTY, FLORIDA

PROBATE DIVISION IH  
CASE NO. 502014CP003698XXXXNB

TED BERNSTEIN, AS TRUSTEE  
OF THE SHIRLEY BERNSTEIN TRUST  
AGREEMENT DATED MAY 20, 2008  
AS AMENDED

Plaintiff

v.

ALEXANDRA BERNSTEIN; ET AL.

Defendants

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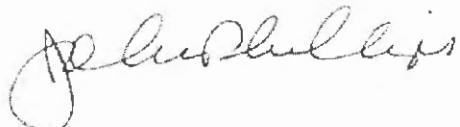
**ORDER CONFIRMING DENIAL OF DISQUALIFICATION MOTION**

This matter came before the Court at the close of trial December 15, 2015, when defendant Elliott Bernstein orally moved for recusal of the undersigned. The Court adjourned for 5 minutes to allow Mr. Bernstein to put his motion into written form. Mr. Bernstein then presented the “Verified Sworn Emergency Petition and Affidavit for Immediate Mandatory Disqualification of Circuit Judge John L Phillips”, and “Notice of Correction to Verified Sworn Emergency Petition and Affidavit for Immediate Mandatory Disqualification of Circuit Judge John Phillips”, both dated December 4, 2015. These documents had previously been presented to the Court seeking disqualification of the undersigned (see Docket Entries 94 and 98) and were denied as legally insufficient by Order entered December 8, 2015 (Docket Entry 98).

In an abundance of caution, on December 15, 2015, the undersigned entered a handwritten Order denying this new presentation of the already-ruled-upon request for disqualification. Whereupon, it is **ORDERED AND ADJUDGED:**

1. The handwritten Order dated December 15, 2015, denying defendant Elliott Bernstein's previously-ruled-upon requests for disqualification, described above, is hereby **CONFIRMED**.
2. The above-described requests for disqualification are legally insufficient, and are properly **DENIED**.

DONE AND ORDERED in West Palm Beach, Palm Beach County, Florida, this 16th day of December, 2015.



Circuit Judge

**Copies furnished to:**

Alan B. Rose Esq. [arose@pm-law.com](mailto:arose@pm-law.com)  
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Lisa Friedstein 2142 Churchill Lane, Highland Park IL, 60035  
Pamela Beth Simon 303 E. Wacker Drive, Suite 2725, Chicago IL, 60601  
Jill Iantoni 2101 Magnolia Lane Highland Park IL, 60035

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT IN AND FOR PALM BEACH COUNTY, FLORIDA

TED BERNSTEIN, AS TRUSTEE  
OF THE SHIRLEY BERNSTEIN TRUST  
AGREEMENT DATED MAY 20, 2008,  
AS AMENDED,

PROBATE DIVISION

CASE NO.: 502014CP003698XXXXSB

PLAINTIFF,

v.

ALEXANDRA BERNSTEIN; ET AL.

DEFENDANTS.

Other Applicable Related Cases this Disqualification of Circuit Judge John L. Phillips, Should Apply to:

Case # 502012CP004391XXXXSB – Simon Bernstein Estate

Case # 502011CP000653XXXXSB – Shirley Bernstein Estate

Case # 502014CP002815XXXXSB – Oppenheimer v. Bernstein Minor Children

Case # 502014CP003698XXXXSB – Shirley Trust Construction

Case# 502015CP001162XXXXSB – Eliot Bernstein v. Trustee Simon Trust Case

OLD CASE # 502014CA014637XXXXMB

**VERIFIED SWORN EMERGENCY PETITION AND AFFIDAVIT FOR  
IMMEDIATE MANDATORY DISQUALIFICATION OF CIRCUIT JUDGE JOHN L.  
PHILLIPS**

COMES NOW Eliot Bernstein (“Eliot” or “Petitioner”) and files under information and belief this Verified Emergency Petition and Affidavit for Immediate Mandatory Disqualification of Judge John L. Phillips, pursuant to Fla R. Admin P. 2.330 and section 38.10, Florida Statutes, for the following grounds and reasons:

**Rule 2.330 (a) Application. This rule applies only to county and circuit judges in all matters in all divisions of court.**

**EXHIBIT 2 - NOTICE FOR CASE MANAGEMENT CONFERENCE**

IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FLORIDA

PROBATE DIVISION

IN RE: ESTATE OF

File No. 502012CP4391XXXXNB IH

SIMON L. BERNSTEIN

Deceased.

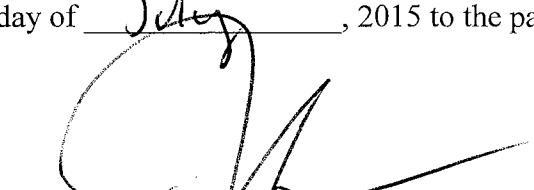
**NOTICE OF HEARING**

TO: ALL PARTIES ON CERTIFICATE OF SERVICE ATTACHED

YOU ARE HEREBY NOTIFIED that the undersigned will call up for hearing before the Honorable JOHN PHILLIPS, Judge of the above court, in the Judge's chambers in the Palm Beach North County Courthouse, 3188 PGA Blvd, Courtroom 3, Palm Beach Gardens, FL 33410 on **September 15, 2015 at 9:30 AM (one hour set aside)**:

CASE MANAGEMENT CONFERENCE

I HEREBY CERTIFY that a true and correct copy of the foregoing was sent by e-mail service or U.S. Postal Service on the 31<sup>st</sup> day of July, 2015 to the parties on the attached Service List.

  
BRIAN M. O'CONNELL  
Florida Bar No. 308471  
ASHLEY N. CRISPIN  
Florida Bar No. 037495  
JOIELLE A. FOGLIETTA  
Florida Bar No. 094238  
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