

7.17 Expenses. An Independent Trustee may determine how expenses of administration and receipts are to be apportioned between principal and income.

7.18 Terminate Small Trusts. To exercise its discretion to refrain from funding or to terminate any trust whenever the value of the principal of that trust would be or is too small to administer economically, and to distribute the remaining principal and all accumulated income of the trust as provided in Section 7.9 to the income beneficiary of that trust. The Trustee shall exercise this power to terminate in its discretion as it deems prudent for the best interest of the beneficiaries at that time. This power cannot be exercised by the Settlor or any beneficiary, either alone or in conjunction with any other Trustee, but must be exercised solely by the other Trustee, or if none, by a special Trustee appointed for that purpose by a court having jurisdiction.

7.19 Allocations to Income and Principal. To treat premiums and discounts on bonds and other obligations for the payment of money in accordance with either generally accepted accounting principles or tax accounting principles and, except as otherwise provided to the contrary, to hold nonproductive assets without allocating any principal to income, despite any laws or rules to the contrary. The Trustee in its discretion may exercise the power described in Section 738.104 of the Florida Statutes to adjust between principal and income, as appropriate, and, in addition, may convert any income interest into a unitrust interest, or a unitrust interest to an income interest, as it sees fit, all as provided in Section 738.1041 of the Florida Statutes, despite any provision of those sections to the contrary.

7.20 Use of Income. Except as otherwise provided in this Trust Agreement, and in addition to all other available sources, to exercise its discretion in the use of income from the assets of the Trust to satisfy the liabilities described in this Trust Agreement, without accountability to any beneficiary.

7.21 Valuations. In making distributions or allocations under the terms of this Trust Agreement to be valued as of a particular date, the Trustee may use asset valuations obtained for a date reasonably close to that particular date (such as a quarterly closing date before or after that date) if, in the Trustee's judgment, obtaining appraisals or other determinations of value on that date would result in unnecessary expense, and if in the Trustee's judgment, the fair market value as determined is substantially the same as on that actual date. This paragraph will not apply if valuation on a specific date is required to preserve a qualification for a tax benefit, including any deduction, credit, or most favorable allocation of an exemption.

7.22 Incorporation. To incorporate any business or venture, and to continue any unincorporated business that the Trustee determines to be not advisable to incorporate.

7.23 Delegation. To delegate periodically among themselves the authority to perform any act of administration of any trust.

7.24 Advances. To make cash advances or loans to beneficiaries, with or without security.

7.25 Investment Manager. To employ any investment management service, financial institution, or similar organization to advise the Trustee and to handle all investments of the Trust and to render all accountings of funds held on its behalf under custodial, agency, or other agreements. If the Trustee is an individual, these costs may be paid as an expense of administration in addition to fees and commissions.

7.26 Depreciation. To deduct from all receipts attributable to depreciable property a reasonable allowance for depreciation, computed in accordance with generally accepted accounting principles consistently applied.

7.27 Disclaim Assets or Powers. To disclaim any assets otherwise passing or any fiduciary powers pertaining to any trust created hereunder, by execution of an instrument of disclaimer meeting the requirements of applicable law generally imposed upon individuals executing disclaimers. No notice to or consent of any beneficiary, other interested person, or any court is required for any such disclaimer, and the Trustee is to be held harmless for any decision to make or not make such a disclaimer.

7.28 Transfer Situs. To transfer the situs of any trust or any trust property to any other jurisdiction as often as the Trustee deems advisable, and if necessary to appoint a substitute or ancillary Trustee to act with respect to that property. The Trustee may delegate to the substitute Trustee any or all of the powers given to the Trustee; may elect to act as advisor to the substitute Trustee and receive reasonable compensation for that service; and may remove any acting or substitute Trustee and appoint another, or reappoint itself, at will.

7.29 Related Parties. To enter into any transaction on behalf of the Trust despite the fact that another party to that transaction may be: (i) a business or trust controlled by the Trustee, or of which the Trustee, or any director, officer, or employee of the Corporate Trustee, is also a director, officer, or employee; (ii) an affiliate or business associate of any beneficiary or the Trustee; or (iii) a beneficiary or Trustee under this Trust Agreement acting individually, or any relative of such a party.

7.30 Additional Powers for Income-Producing Real Estate. In addition to the other powers set forth above or otherwise conferred by law, the Trustee has the following powers with respect to any income-producing real property which is or may become a part of the Trust Estate:

- To retain and operate the property for as long as it deems advisable;
- To control, direct, and manage the property, determining the manner and extent of its active participation in these operations, and to delegate all or any part of its supervisory power to other persons that it selects;

- To hire and discharge employees, fix their compensation, and define their duties;
- To invest funds in other land holdings and to use those funds for all improvements, operations, or other similar purposes;
- Except as otherwise provided with respect to mandatory income distributions, to retain any amount of the net earnings for working capital and other purposes that it deems advisable in conformity with sound and efficient management; and
- To purchase and sell machinery, equipment, and supplies of all kinds as needed for the operation and maintenance of the land holdings.

ARTICLE 8
SUBCHAPTER S STOCK

Despite any other provisions of this Trust Agreement, if a trust created in this instrument is to become the owner of, or already owns, stock in a corporation that has an election in effect (or one that proposes to make an election) under Section 1362 of the Internal Revenue Code (an "S Corporation"), and that trust would not otherwise be permitted to be an S Corporation shareholder, the following provisions will apply:

8.1 Electing Small Business Trust. The Trustee in its discretion may elect for the trust to become an Electing Small Business Trust ("ESBT") as defined in the Internal Revenue Code.

8.2 Qualified Subchapter S Trust. If the Trustee does not cause the trust to become an ESBT, the Trustee shall set aside the S Corporation stock in a separate trust for the current income beneficiary of such trust, so that a Qualified Subchapter S Trust ("QSST") election under Section 1361 of the Internal Revenue Code can be filed with respect to that trust. The Trustee shall hold each share as a separate QSST for the persons described above, and each such person will be the sole beneficiary of his or her QSST. To the greatest extent possible, the Trustee shall administer each QSST under the terms of the trust from which it was derived, but subject to the following overriding provisions:

(a) **Consent.** The Trustee shall notify the beneficiary of each separate trust promptly that a QSST election must be filed with the Internal Revenue Service. Thereafter, each beneficiary shall file a timely and proper QSST election with the Internal Revenue Service. If a beneficiary fails or refuses to make the QSST election, the Trustee shall make an ESBT election for that trust. If the beneficiary does make the QSST election, then his or her separate trust will be administered as set forth below.

(b) **Income Payments.** During the beneficiary's life, the Trustee shall pay all net income of the trust to the beneficiary (and only to that beneficiary) in quarterly or more frequent installments. The beneficiary's income interest in the trust

will terminate on the earlier of his or her death or the termination of the trust under its terms.

(c) **Principal Invasions.** If the beneficiary is otherwise entitled to receive principal distributions, the Trustee may distribute principal from that separate trust during the beneficiary's life only to or for the benefit of that beneficiary (and no one else).

(d) **Final Distribution.** If the QSST is terminated during the beneficiary's life, the Trustee shall distribute all remaining assets of that separate trust to that beneficiary. If the beneficiary dies before that trust's termination, all remaining assets of the QSST are to be distributed as provided in the original trust, but subject to this article.

(e) **Termination of QSST Status.** If a separate trust would cease to qualify as an S Corporation shareholder, the Trustee in its discretion may: (i) make an ESBT election for that separate trust, or (ii) distribute all S Corporation stock to the beneficiary. The Trustee in its discretion also may convert a QSST to an ESBT, whether or not the beneficiary has consented to QSST treatment and, if the beneficiary consents, may convert an ESBT into a QSST.

ARTICLE 9 PERPETUITIES PROVISION

Despite any contrary provisions of this Trust Agreement, from the creation of this Trust and for up to 21 years after the death of the last of the Settlor's grandparents' descendants who are living at the creation of this Trust, a trust beneficiary (which includes persons succeeding to the interest of a deceased beneficiary) will be entitled to terminating distributions only at the ages specified in this Trust Agreement. In all events, however, the share of each beneficiary will vest (in the beneficiary or his or her estate) immediately prior to the expiration of the 21 year period described above.

ARTICLE 10 ADMINISTRATION AND CONSTRUCTION

10.1 Rules for Distributions. In making distributions to beneficiaries under this Trust Agreement, the Trustee must use the following criteria.

(a) **Other Resources.** Whenever the Trustee has the authority to decide how much to distribute to or for the benefit of a beneficiary, the Trustee can make decisions without taking into account any information about the beneficiary's other available income and resources. The Trustee can make payments directly to a beneficiary or to other persons for the beneficiary's benefit, but it does not have to make payments to a court appointed guardian.

(b) **Trustee's Decision.** Absent clear and convincing evidence of bad faith, the Trustee's decisions as to amounts to be distributed will be final.

(c) **Standard of Living.** Distributions to a beneficiary for health, education, support, or maintenance are to be based on his or her standard of living, determined as of the date of the distribution.

10.2 Funding Gifts. The following rules will apply to funding gifts under this Trust Agreement.

(a) **Pecuniary Gifts.** All pecuniary gifts under this Trust Agreement that are paid by an in-kind distribution of assets must use values having an aggregate fair market value at the date or dates of distribution equal to the amount of this gift as finally determined for federal estate tax purposes.

(b) **Adjustments.** The Trustee shall select one or more dates of allocation or distribution for purposes of satisfying gifts and funding shares or trusts. The Trustee may make allocations before the final determination of federal estate tax, with those allocations being based upon the information then available to the Trustee, and may thereafter adjust properties among the shares or trusts if it is determined that the allocation should have been made differently.

10.3 Accumulated Income. Any income not distributed to the beneficiaries pursuant to either a mandatory direction or a discretionary power is to be incorporated into principal, at such intervals as the Trustee deems convenient.

10.4 Estate Tax on Included Property. If assets of any trust created under this Trust Agreement are included in a beneficiary's estate for federal estate tax purposes, the following will apply.

(a) **Appointed Assets.** If the beneficiary exercises a power of appointment over those assets, the Trustee is authorized to withhold from those assets the amount of estate taxes apportioned to them by applicable law, if the beneficiary does not make provisions for the payment of those taxes from other sources.

(b) **Other Assets.** If the beneficiary does not have or does not exercise a power of appointment over those assets, the Trustee will pay the estate taxes attributable to those assets. The estate taxes attributable to those assets will be the amount that the beneficiary's estate taxes are increased over the amount those taxes would have been if those assets had not been included in the beneficiary's gross estate.

(c) **Certification and Payment.** The Trustee may rely upon a written certification by the beneficiary's personal representative of the amount of the estate taxes, and may pay those taxes directly or to the personal representative of the beneficiary's estate. The Trustee will not be held liable for making payments as directed by the beneficiary's personal representative.

10.5 Transactions With Other Entities. The Trustee may buy assets from other estates or trusts, or make loans to them, so that funds will be available to pay claims, taxes, and expenses. The Trustee can make those purchases or loans even if it

serves as the fiduciary of that estate or trust, and on whatever terms and conditions the Trustee thinks are appropriate, except that the terms of any transaction must be commercially reasonable.

ARTICLE 11
MISCELLANEOUS PROVISIONS

11.1 Definitions. As used in this Trust Agreement, the following terms have the meanings set forth below:

(a) Trustees.

- (1) **Independent Trustee** means a trustee of a particular trust, either individual or corporate, who is not the Settlor or a beneficiary, and who is not a Related Person as to the Settlor or a beneficiary (if the Settlor or the beneficiary, respectively, is living and participated in that person's appointment). For purposes of this definition a beneficiary is a person who is a permissible distributee of income or principal, or someone with an interest in the trust in excess of five percent (5%) of its value, assuming a maximum exercise of discretion in his or her favor. Whenever this Trust Agreement requires an action be taken by, or in the discretion of, an Independent Trustee but no such Trustee is then serving, a court may appoint an Independent Trustee to serve as an additional Trustee whose sole function and duty will be to exercise the specified power.
- (2) **Corporate Trustee** means a trustee that is a bank, trust company, or other entity authorized to serve as a trustee under the laws of the United States or any state thereof that is not a Related Person to the Settlor. A bank or trust company that does not meet this requirement cannot serve as Trustee.

(b) Internal Revenue Code Terms.

- (1) **Internal Revenue Code** means the federal Internal Revenue Code of 1986, as amended from time to time, or successor provisions of future federal internal revenue laws.
- (2) The terms **health, education, support, and maintenance** are intended to set forth an "ascertainable standard," as described in the Internal Revenue Code and its associated Regulations. To the extent not inconsistent with the foregoing, "health" means a beneficiary's physical and

mental health, including but not limited to payments for examinations, surgical, dental, or other treatment, medication, counseling, hospitalization, and health insurance premiums; "education" means elementary, secondary, post-secondary, graduate, or professional schooling in an accredited institution, public or private, or attendance at other formal programs in furtherance of the beneficiary's spiritual, athletic, or artistic education, including but not limited to payments for tuition, books, fees, assessments, equipment, tutoring, transportation, and reasonable living expenses.

- (3) **Related Person** as to a particular individual is someone who is deemed to be "related or subordinate" to that individual under Section 672(c) of the Internal Revenue Code (as though that individual was a grantor).

(c) **Other Terms.**

- (1) Distributions that are to be made to a person's **descendants, per stirpes**, will be divided into equal shares, so that there will be one share for each living child (if any) of that person and one share for each deceased child who has then living descendants. The share of each deceased child will be further divided among his or her descendants on a per stirpes basis, by reapplying the preceding rule to that deceased child and his or her descendants as many times as necessary.
- (2) **Disabled or under a disability** means (i) being under the legal age of majority, (ii) having been adjudicated to be incapacitated, or (iii) being unable to manage properly personal or financial affairs because of a mental or physical impairment (whether temporary or permanent in nature). A written certificate executed by an individual's attending physician confirming that person's impairment will be sufficient evidence of disability under item (iii) above, and all persons may rely conclusively on such a certificate.
- (3) Removal of a Trustee **for cause** includes, without limitation, the following: the willful or negligent mismanagement of the trust assets by that individual Trustee; the abuse or abandonment of, or inattention to, the trust by that individual Trustee; a federal or state charge against that individual Trustee involving the commission of a felony or serious misdemeanor; an act of theft,

dishonesty, fraud, embezzlement, or moral turpitude by that individual Trustee; or the use of narcotics or excessive use of alcohol by that individual Trustee.

- (4) The words **will** and **shall** are used interchangeably in this Trust Agreement and mean, unless the context clearly indicates otherwise, that the Trustee must take the action indicated; as used in this Trust Agreement, the word **may** means that the Trustee has the discretionary authority to take the action but is not automatically required to do so.

11.2 Powers of Appointment. The following provisions relate to all powers of appointment under this Trust Agreement.

- (a) A **general power of appointment** granted to a person is one that can be exercised in favor of that person or his or her estate, his or her creditors, or the creditors of his or her estate.
- (b) A **special power of appointment** is any power that is not a general power.
- (c) A **testamentary power of appointment** (either general or special) is exercisable upon the powerholder's death by his or her Last Will or by a revocable trust agreement established by that person, but only by specific reference to the instrument creating the power. A "testamentary power of appointment" may not be exercised in favor of the person possessing the power.
- (d) In determining whether a person has exercised a testamentary power of appointment, the Trustee may rely upon an instrument admitted to probate in any jurisdiction as that person's Last Will, or upon any trust agreement certified to be valid and authentic by sworn statement of the trustee who is serving under that trust agreement. If the Trustee has not received written notice of such an instrument within six months after the powerholder's death, the Trustee may presume that the powerholder failed to exercise that power and will not be liable for acting in accordance with that presumption.

11.3 Notices. Any person entitled or required to give notice under this Trust Agreement shall exercise that power by a written instrument clearly setting forth the effective date of the action for which notice is being given. The instrument may be executed in counterparts.

11.4 Certifications.

- (a) **Facts.** A certificate signed and acknowledged by the Trustee stating any fact affecting the Trust Estate or the Trust Agreement will be conclusive

evidence of such fact in favor of any transfer agent and any other person dealing in good faith with the Trustee. The Trustee may rely on a certificate signed and acknowledged by any beneficiary stating any fact concerning the Trust beneficiaries, including dates of birth, relationships, or marital status, unless an individual serving as Trustee has actual knowledge that the stated fact is false.

(b) **Copy.** Any person may rely on a copy of this instrument (in whole or in part) certified to be a true copy by the Settlor; by any person specifically named as a Trustee (or successor Trustee); by any Corporate Trustee whether or not specifically named; or, if there are none of the above, by any then serving Trustee.

11.5 Applicable Law. All matters involving the validity and interpretation of this Trust Agreement are to be governed by Florida law. Subject to the provisions of this Trust Agreement, all matters involving the administration of a trust are to be governed by the laws of the jurisdiction in which the trust has its principal place of administration.

11.6 Gender and Number. Reference in this Trust Agreement to any gender includes either masculine or feminine, as appropriate, and reference to any number includes both singular and plural where the context permits or requires. Use of descriptive titles for articles and paragraphs is for the purpose of convenience only and is not intended to restrict the application of those provisions.

11.7 Further Instruments. The Settlor agrees to execute such further instruments as may be necessary to vest the Trustee with full legal title to the property transferred to this Trust.

11.8 Binding Effect. This Trust Agreement extends to and is binding upon the Settlor's Personal Representative, successors, and assigns, and upon the Trustee.

INITIAL

Executed as of the date first written above.

Signed in the presence of:

Joseph M. Johnson
JM

Two witnesses as to Simon Bernstein

SETTLOR

[Signature]
Simon Bernstein

Signed in the presence of:

Joseph M. Johnson
JM

Two witnesses as to Traci Kratish

TRUSTEE

Traci Kratish, P.A.

[Signature] FOR TRACI KRATISH, P.A.
[Signature] AS PRESIDENT

Traci Kratish, ~~PA~~, President

Schedule A
Initial Transfers to Trust

Transfer of 6 shares of LIC Holdings, Inc.

W/n



MRACHEK
FITZGERALD
ROSE
KONOPKA
THOMAS
& WEISS, P.A.

WRITER'S DIRECT DIAL NUMBER: (561) 355-6991

WRITER'S E-MAIL ADDRESS: arose@mrachek-law.com

November 28, 2016

The Honorable Rosemarie Scher
North County Courthouse
3188 PGA Boulevard
Palm Beach Gardens, FL 33410

Re: *Estate of Simon L. Bernstein*
Case No.: 502012CP004391XXXXNBIH

Estate of Shirley Bernstein
Case No.: 502011CP000653XXXXNBIH

Shirley Trust Construction: Ted Bernstein, etc., et al. v. Alexandra Bernstein, et al.,
Case No.: 502014CP003698XXXXNB-IH

Dear Judge Scher:

As discussed at the UMC hearing last Tuesday, this is intended to be a short summary of the status of Bernstein matters, filed by the Trustee of the two relevant trusts: Simon L. Bernstein Amended and Restated Trust dtd 7-25-2012 ("Simon Trust") and Shirley Bernstein Trust Agreement dtd 5-20-2008 ("Shirley Trust"). This summary is as short as possible, but it takes two pages just to explain the names of the parties and interested persons.

Although there have been four prior judges, only Judge Colin and Judge Phillips conducted substantive hearings. When the case was before Judge Colin, it seemed like an unmanageable circus, in large part due to uncertainty as to who were proper beneficiaries and repeated attacks on fiduciaries and counsel.¹ Judge Phillips brought order to chaos; determined after a trial who are the rightful beneficiaries of these estates and trusts; appointed a Guardian ad Litem to protect the interests of three children whose father was acting in an adverse and destructive manner; and shepherded the case much closer to the finish line. The most important thing now, regardless of how any issue gets resolved or the outcome of any hearing or trial, is to continue moving forward and not revert to the past.

¹ This is explained in a 14-page Omnibus Status Report submitted to Judge Phillips at an initial Status Conference. [Case 502012CP004391 DE 393] Among other things, Eliot Bernstein harassed, defamed and later sued the Trustee, professionals, the beneficiaries, and even hinted at suing Judge Colin.

Estate of Simon L. Bernstein

Case Number: 502012CP004391XXXXNBIH

November 28, 2016

Page 2

Judge Phillips first set a trial to determine the validity of the Wills and Trusts, which determined the proper beneficiaries. A one-day trial was held on December 15, 2016, at which time Judge Phillips heard evidence and entered a Final Judgment upholding the validity of Simon's and Shirley's Wills and Trusts, and finding that Ted Bernstein had done nothing wrong.² [Case 502014CO003698 DE 113]

Based upon the Final Judgment, we have made great progress. At a mediation in July, everyone but two parties (Stansbury and Eliot, as described below) were able to resolve all of their disagreements. There is a signed Mediation Settlement Agreement subject to Court approval. As a result, we are near the finish line on the Shirley side. However, Stansbury and Eliot continue to disrupt and delay the orderly administration of Simon's Estate; are trying to influence the Simon Trust even though neither has standing on those issues; and are causing unnecessary expense.

Briefly, let us introduce you to the players:

Our law firm represents Ted S. Bernstein, the Trustee of both trusts and the PR of Shirley's Estate. Ted is the oldest child of Shirley (died 12-8-2010) and Simon (died 9-13-2012). Their deaths have led to four cases: Shirley's Estate (Case 502011CP000653); Shirley's Trust (Case 502014CP003698); Simon's Estate (Case 502012CP004391); and Simon's Trust.³

Simon and Shirley had five children and ten grandchildren; all of these are aligned and in agreement except for Eliot Ivan Bernstein ("Eliot").

Eliot lives in a world filled with conspiracy and fraud, where everyone is a thief, forger or murderer, and where he was car-bombed to cover up the theft of his trillion dollar invention. (<http://iviewit.tv/>) Faced with certain poverty after his parents' deaths, Eliot lashed out against his parent's surrogate – his older brother Ted – and others in vicious and cruel ways. (<http://tedbernsteinreport.blogspot.com/>)⁴

² "Based on the evidence presented, the Court finds that Plaintiff, Ted S. Bernstein, Trustee, was not involved in . . . any other improper act, contrary to the allegations of Eliot Bernstein made in the pleadings in this case or in various blogs and websites in which Eliot Bernstein has attacked the actions of Ted Bernstein." *Id.* ¶5.

³ There currently is no pending case directly involving Simon's Trust. Eliot's Petition to remove Ted as Trustee was dismissed by Judge Phillips on April 8, 2016. [Case 502015CP001162 DE # 39]

⁴ Eliot's cyber-terrorism, which no court is equipped to stop, was not limited to Ted, and included the undersigned and most of the other professional and fiduciaries, including the judges. One post was entitled "*Judge David French, Judge Martin Colin and the Corrupt Overreaching Florida Probate Courts*"

Estate of Simon L. Bernstein

Case Number: 502012CP004391XXXXNBIH

November 28, 2016

Page 3

The root of Eliot's anger is understandable. One minute he was living the Life of Riley, based upon his parents' agreement to provide him a house and pay all of his living expenses and private school for his three sons (\$80,000 per year), providing total support of more than \$200,000/year. Once Simon died, Eliot's support ended immediately. In an instant Eliot was flat broke – disinherited, and cut-off from all means of support. Eliot does not work, and claims to be indigent.

Moreover, Eliot expected to be rich once his parents died. According to Eliot's court filings and testimony, he believed his parents' net worth was more than \$100 million, and he would inherit \$30 million more. Instead, he gets nothing. His children are beneficiaries, and do get 10% each, but Eliot has done all he can to destroy what little (perhaps \$3 million total) his parents left behind.

The other disgruntled person Simon left behind is William Elwood "Bill" Stansbury ("Stansbury"), now represented by Peter Feaman, Esq. Stansbury claims that Simon cheated him out of millions of dollars in a business venture. (Simon, Ted and Stansbury had each been involved in the insurance business, but never worked together except for a few years [2006-2012] when they all were involved in a Florida life insurance business started by Simon and Ted.)

Stansbury sued Simon shortly before his death; has timely filed an independent action against Simon's Estate; and should be focused on litigating that claim rather than trying to control the strings of these probate court proceedings. Stansbury succeeded in stirring things up and installing a neutral PR after the initial PRs resigned (opposing Ted's Petition to be appointed as Simon's PR), but otherwise has been thwarted by adverse judicial rulings. Now, with a new judge, he seeks to revisit prior rulings of Judges Colin and Phillips.

The only other players who need specific mention are Simon's prior counsel. Those lawyers took some improper actions after Simon's death, but have been replaced and have suffered severe consequences. Indeed, there is a pending settlement between those lawyers and everyone else – Mr. O'Connell, as Simon's PR; Ted as Shirley's PR and Trustee of both trusts; the GAL and all beneficiaries (other than Eliot of course). Eliot has tried to leverage the conduct of these lawyers to fuel his conspiracy theories, but their actions caused limited harm to the estates and trusts, and no harm to Eliot.

Against that backdrop, and with Judge Phillips' retirement, this has landed before Your Honor. We have made great progress, but need to keep moving these cases forward before the professional fees eat the rest of the money. To date, the replacement curator and PR have incurred more than \$300,000 in professional fees, and made little progress toward getting the Simon Estate closer to the finish line. That needs to start changing on the Simon side.

... " (<http://tedbernsteinreport.blogspot.com/2016/02/judge-david-french-judge-martin-colin.html>).

On the Shirley side, we are essentially at the finish line. The Final Judgment (on appeal) resolved that the beneficiaries are ten grandchildren and that Eliot has no standing.⁵ Once a GAL was appointed to represent the interests of Eliot's children, the parties attended mediation in July with Retired Judge Ronald Alvarez, and entered into a confidential Mediation Settlement Agreement. (A copy is provided to the Court for *in camera* review.) The settlement resolves everything, and includes resolution of the claim against the former attorneys; the closure of the Estate; and the distribution of assets as soon as Eliot's appeals are rejected. All we need is (i) an order approving the settlement; (ii) appointment of a trustee for the three Eliot Children Trusts;⁶ and (iii) orders determining the GAL's compensation, to be paid from Eliot's Children's share, and discharging the GAL.

On the Simon side, there are more loose ends, but the most important thing to do is handle the 800-pound gorilla, Stansbury's \$2.5 million claim. Nothing can happen until that claim has been settled or tried, and settlement efforts have been exhausted. When Stansbury did not settle at the July mediation, the beneficiaries agreed to get the case tried quickly and by the Mrachek Firm, which has extensive prior knowledge and involvement in that case. Stansbury did not object to Mrachek's retention, and an Order was entered. [DE 496] But once the Stansbury independent action actually began moving forward, Stansbury tried to put the brakes on by moving to vacate the Order retaining Mrachek. [DE 497] That Motion threatens to hold up the critical issue of moving Stansbury's case forward, so we can decide if he has no claim (in which case we can get rid of him once and for all) or he has a valid claim against the assets of the Estate.

There are a number of other matters to resolve on the Simon side, as set forth on the List of Pending Matters being submitted in advance of the Status Conference, but what cannot be allowed to happen is the slow bleed of money that soon will render the Estate penniless.

On behalf of the Trustee, who now speaks with a singular and clear voice on behalf of all of beneficiaries, the Court should not allow Stansbury or Eliot to cause further disruption. Stansbury is just a potential claimant to whom no money is now due, and he cannot be allowed to continue disrupting the interests of the fiduciaries and beneficiaries. Making matters worse, Stansbury has done little to prosecute his claim against the Estate, and now is trying to put on the brakes.

The Court also cannot allow Eliot to continue his involvement unchecked. Eliot has been barred from participation in the Shirley matters, but may have some limited rights in Simon's estate

⁵ The appeal has little chance of success. Eliot presented no witnesses or evidence to establish any challenge to the Wills and Trusts. The appeal is fully briefed.

⁶ Simon's Trust names Eliot to that role, but he has refused to serve.

Estate of Simon L. Bernstein

Case Number: 502012CP004391XXXXNBIH

November 28, 2016

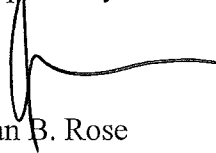
Page 5

because he filed a personal claim against Simon's Estate. He cannot be allowed to bootstrap those limited rights to continue an all-out assault as he has been doing for years, and cannot be allowed to cause the Estate and Trust to "burn all the money" so no one gets any. For example, the Final Judgment ruling that Eliot lacked standing would have ended the nonsense in a normal case, but this one is not normal. In addition to filing numerous appeals (Eliot has filed nine appeals to the Fourth DCA since his father's death⁷ and one to the Supreme Court), Eliot continued to disrupt the probate proceedings. On motion in each case and after evidentiary hearings, Judge Phillips entered Orders Appointing a Guardian Ad Litem. [Case 50214CP3698 DEs 154, 161, 175; and Case 502012CP004391 DE 443] In those orders, Judge Phillips expressly found that Eliot was acting adverse and destructive to the interests of his children, and appointed former probate judge Diana Lewis as GAL.

Both Stansbury and Eliot already have tried to remove Ted as Successor Trustee, but both failed.⁸ Eliot continues to pursue his agenda, but for the most part is no longer relevant to these proceedings. However, Stansbury continues to persist in trying to control the course of these proceedings. If Stansbury has a legitimate and valid claim, his primary goal should be trying that case. Anything else makes no sense, and certainly cannot be of any help to the Estate and Trust beneficiaries.

We appreciate Your Honor's time and attention to these matters, and look forward to working with Your Honor to bring about an orderly, just and fair outcome.

Respectfully submitted,



Alan B. Rose

Enclosure (for *in camera* review)

cc: All parties on attached service list, w/o enclosure

⁷ Eliot filed at the 4th DCA a Motion for Rehearing En Banc on December 15, 2015, after the denial of a writ petition in Case No. 4D15-3849, stating: "The case is thus of not only exceptional importance but statewide importance as not only implicating related ongoing frauds upon the United States but the fundamental Due Process issue of whether the Florida Courts themselves can be an appropriate forum for the Petitioner given the current Florida Supreme Court Judge Jorge Labarga's involvement in the underlying frauds . . . in a case where possible murder has been alleged."

⁸ Stansbury's petition to remove Ted was dismissed by Judge Phillips for lack of standing under § 736.0706(1), Fla. Stat. [Case 5012CP004391 DE # 240] Eliot's petition also was dismissed. (see fn. 1)

Estate of Simon L. Bernstein

Case Number: 502012CP004391XXXXNBIH

November 28, 2016

Page 6

SERVICE LIST - CASE NO. 502012CP004391XXXXNBIH

Eliot Bernstein
2753 NW 34th Street
Boca Raton, FL 33434
(561) 245-8588 - Telephone
(561) 886-7628 - Cell
(561) 245-8644 - Facsimile
Email: [Eliot I. Bernstein \(iviewit@iviewit.tv\)](mailto:Eliot.I.Bernstein@iviewit.tv)

John P. Morrissey, Esq.
330 Clematis Street, Suite 213
West Palm Beach, FL 33401
(561) 833-0766 - Telephone
(561) 833-0867 - Facsimile
Email: [John P. Morrissey \(john@jmorrisseylaw.com\)](mailto:John.P.Morrissey@jmorrisseylaw.com)
Counsel for Molly Simon, Alexandra Bernstein,
Eric Bernstein, Michael Bernstein

Pamela Beth Simon
303 E. Wacker Drive, Suite 2725
Chicago, IL 60601
Email: psimon@stpcorp.com

Lisa Friedstein
2142 Churchill Lane
Highland Park, IL 60035
lisa@friedsteins.com
Individually and as trustee for her children, and
as natural guardian for M.F. and C.F., Minors

Peter M. Feaman, Esq.
Peter M. Feaman, P.A.
3695 West Boynton Beach Blvd., Suite 9
Boynton Beach, FL 33436
(561) 734-5552 - Telephone
(561) 734-5554 - Facsimile
Email: service@feamanlaw.com;
mkoskey@feamanlaw.com
Counsel for William Stansbury

Gary R. Shendell, Esq.
Kenneth S. Pollock, Esq.
Matthew A. Tornincasa, Esq.
Shendell & Pollock, P.L.
2700 N. Military Trail, Suite 150
Boca Raton, FL 33431
(561) 241-2323 - Telephone
(561) 241-2330 - Facsimile
Email: gary@shendellpollock.com
ken@shendellpollock.com
matt@shendellpollock.com
estella@shendellpollock.com
britt@shendellpollock.com
grs@shendellpollock.com
robyne@shendellpollock.com

Diana Lewis, Esq.
ADA & Mediations Services, LLC
2765 Tecumseh Drive
West Palm Beach, FL 33409
(561) 758-3017 - Telephone
Email: dzlewis@aol.com
Guardian *Ad Litem* for
Eliot Bernstein's minor children,
Jo.B., Ja.B., and D.B.

Estate of Simon L. Bernstein

Case Number: 502012CP004391XXXXNBIH

November 28, 2016

Page 7

Jill Iantoni

2101 Magnolia Lane

Highland Park, IL 60035

jilliantoni@gmail.com

Individually and as trustee for her children, and
as natural guardian for J.I. a minor

Brian M. O'Connell, Esq.

Joielle A. Foglietta, Esq.

Ciklin Lubitz Martens & O'Connell

515 N. Flagler Dr., 20th Floor

West Palm Beach, FL 33401

561-832-5900 - Telephone

561-833-4209 - Facsimile

Email: boconnell@ciklinlubitz.com;

jfoglietta@ciklinlubitz.com;

service@ciklinlubitz.com;

slobdell@ciklinlubitz.com

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

CASE NO. 502012CP004391XXXXNB-IH
Probate – Judge John L. Phillips

IN RE:

ESTATE OF SIMON L. BERNSTEIN.
_____ /

**TRUSTEE'S OMNIBUS STATUS REPORT AND REQUEST
FOR CASE MANAGEMENT CONFERENCE**

Ted S. Bernstein, as Successor Personal Representative of the Estate of Shirley Bernstein, as Successor Trustee of the Shirley Bernstein Trust, and as Successor Trustee of the Simon Bernstein Trust which is the residuary beneficiary of the Estate, files this Omnibus Case Status Report and Requests a Case Management Conference in all pending matters, in advance of the one-hour Status Conference set for Tuesday, September 15, 2015, at 9:30a.m.

Introduction

The overarching issue in these cases is Eliot Bernstein. He is not named as a beneficiary of anything; yet he alone has derailed these proceedings for more than two years and has harassed and attacked the prior judges, fiduciaries and their counsel. (See, by way of example only, Exhibit A) His demands have caused the former curator and now the PR to incur far in excess of \$100,000 in unnecessary fees, pursuing his agenda not their own. With regard to Judge Colin's final action before recusing himself, Eliot's delay of the Trust's sale of real estate is going on six months, and already his objections and "appeal" to the Florida Supreme Court have cost the Trust more than \$125,000. These sums are not insignificant in this case – these are relatively small trusts and estates which likely will have between \$1 million to \$2 million left to distribute in the end. Even less with every billable hour incurred, especially if things continue on their current path.

For reasons which will become apparent to the Court, although these matters should be fully concluded by now – Shirley died first, nearly five years ago, and Simon followed nearly three years ago – it feels like we still are closer to the starting line than the finish line. The sole reason for the lack of progress is their disinherited son, Eliot Bernstein.

If the Court were to appoint a guardian ad litem ("Guardian") for Eliot's three kids, who are beneficiaries of both trusts, everything else could be resolved quickly and easily between the remaining parties. Instead, while Eliot continues to turn the courtroom into his private circus and continues his online attacks, the limited assets in these estates and trusts continue to dwindle. This has been going on far too long, and now that this Court is overseeing these matters,¹ Eliot must be stopped before it is too late to salvage anything for the beneficiaries.

By way of brief background, in 2008, Simon and Shirley created their estate plan and executed mirror image documents. Their plan was simple and typical of a long-term marriage – the surviving spouse would receive everything for life, and the limited right to decide who to benefit when he or she died. The residuary of each Estate passed to a Revocable Trust. The surviving spouse was the sole successor trustee and beneficiary for life, and was granted a limited power of appointment. Simon, as the survivor, had the sole and absolute right to do whatever he pleased with his own assets, and also possessed a limited power to appoint the assets remaining in the Shirley Trust to any of Shirley's lineal descendant or their spouse.

¹ *In Re: Estate of Simon L. Bernstein, Case #502012CP004391XXXXNB;*
In Re: Estate of Shirley Bernstein, Case #502011CP000653XXXXNB;
Eliot Bernstein, etc., et al. v. Theodore Stuart Bernstein, etc., et al.,
Case #502015CP001162XXXXNB;
Ted Bernstein, etc., et al. v. Alexandra Bernstein, et al.,
Case #502014CP003698XXXXNB;
Oppenheimer Trust Co. v. Eliot Bernstein, et al., Case #502014CP002815XXXXNB.

When Shirley died, Simon was PR, successor Trustee, and sole beneficiary of her estate and trust. He apparently did as he pleased with her estate and her assets, and shared virtually no information about Shirley's assets or finances with any of his children. The Shirley Estate was opened in early 2011, and by early 2012 Simon wanted to close it. He had taken all of her assets, as was his right, and he requested that each of his children sign a waiver of accounting etc. to close the estate. It is undisputed that each child signed a Waiver – Eliot was the first to sign. Shirley's estate would have been closed long ago except Judge Colin required Waivers to be notarized and the six Waivers in this case (one by Simon and one by each of the five children) were not notarized. So the Waivers were rejected by the Court, and Simon had died before the last Waiver was signed. Rather than move the Court to overlook the notary requirement, someone in the office of Simon's counsel falsely traced the original signatures onto a new Waiver document and falsely put a notary stamp. The irony here is that while the Court had rejected all six of the original, *authentic* Waivers; the Court accepted the false ones and closed the Estate.²

Shirley had appointed her eldest child, Ted, to succeed Simon after his death. Soon thereafter, Eliot learned that his parents left behind only a small fortune – then estimated at less than \$4 million, to be split among ten grandchildren. Eliot had been expecting for himself a sizeable share of what he believed would be \$100 million; instead he got nothing and his children stood to inherit a tiny fraction of what Eliot expected and hoped for. After learning of his poor fortune, Eliot embarked on a mission to destroy everyone involved with this, starting with his father's lawyers and his older brother Ted, acting as a fiduciary appointed by his mother, and anyone else who stands in his way.

² The only persons to benefit from closing Shirley's estate were the beneficiaries. The lawyers whose employee falsely notarized the document stood to *gain nothing*, and stood only to lose legal fees to be earned administering and closing the estate. But they clearly and inexcusably erred.

The starting point for Eliot, beyond simply complaining that someone must have stolen the rest of his parents' \$100 million, was the notary of the Waiver form. Although Eliot signed the Waiver, he knew it had not been notarized, so he complained about this issue. The Shirley Estate was reopened; the Will specified that Ted Bernstein³ be the successor PR; and Ted has been trying to re-close the estate ever since; so far with no luck.

Eliot now is the self-proclaimed detector of fraud and fabricated documents, and is crusading against what he perceives to be corruption in the court system. His circus will continue until either (i) the money runs out and all the professionals go home; or (ii) the Court stops him by appointing a guardian ad litem and requiring him to cease, desist, and remove the harassing internet nonsense about judges, PRs, Trustees and their lawyers.

Ted has tried to sell the Trust's real estate and distribute monies to the intended beneficiaries. He has been thwarted at every turn, and viciously attacked on the internet as well, solely by Eliot. Every aspect of this case is on display at <http://tedbernsteinreport.blogspot.com/> or <http://tedbernsteininsurance.blogspot.com/>, with Ted being accused of "massive fraud, forgery and alleged murder." Eliot leaves no one out of his trashing internet harassment, including Judge Colin. It is difficult to find any professional (lawyer or accountant) willing to submit to such abuse by agreeing to work on these matters. That appears to be Eliot's plan, which must be stopped.

³ Ted is the oldest of Simon's and Shirley's five children; lives in Palm Beach County; worked essentially as equal partner with Simon in businesses from the early 2000s through Simon's death. The other family members are three daughters who live in Chicago. Since the death of his father in September, 2012, Ted has faithfully carried out his duties as Trustee. Ted is not a beneficiary of any of these trusts and estates, and stands to gain nothing personally. Indeed, none of the five children are beneficiaries, as all of their parents' wealth was left to ten grandchildren.

The Court may be wondering "Who is Eliot Bernstein?" and "Why is he doing this?" It is an important question, as Eliot is the proverbial elephant in this room. Eliot appears to be disillusioned and disappointed due to his apparent belief that he would inherit tens of millions when his parent's died, but in the end their fortune was modest and they left none of it to him: "[Eliot] . . . shall be deemed to have predeceased me as I have adequately provided for [him] during my lifetime."⁴ Eliot now apparently is without income or assets, or at least claims to be in numerous indigency filings he makes with courts to avoid paying filing fees. But while his parents were alive he lived the life of Riley⁵ – he lived and continues to live expense free in a home his parents bought and renovated for him; his parents paid him over \$100,000 annually in health insurance and living expenses⁶; and his parents while alive apparently paid more than \$75,000 per year to send Eliot's three boys to a Boca Raton private school.

Eliot, now flat-broke with no visible means of supporting himself, has decided to avenge the loss of his inheritance by punishing everyone associated with these trusts and estates, even suing his father's estate for Eliot's living expenses after his father died. He has been prolific in filing motions, complaints, responses and objections in these proceedings. The net result of his legal filings has

⁴ Simon L. Bernstein Amended and Restated Trust Agreement dated 7/25/2012 at 6.

⁵ "The expression, 'Living the life of Riley' suggests an ideal contented life, possibly living on someone else's money, time or work. Rather than a negative freeloading or golddigging aspect, it implies that someone is kept or advantaged." en.wikipedia.org/wiki/The_Life_of_Riley

⁶ Pursuant to a written contract entered on or about August 15, 2007, Simon and Shirley agreed to make advances to Eliot of a portion of his inheritance, in the amount of \$100,000 per year. As preconditions for this arrangement, Eliot could not "harass or threaten to sue or initiate litigation with anyone in the family at any time" and had to allow his parents the opportunity to visit their grandchildren at least four times a year. In June 2008, the parents also purchased a home for him in Boca Raton, titled in the name of an LLC, and encumbered by a \$365,000 second mortgage which is one of the largest assets in the estate.

been nothing but a loss for the grandchildren – after three years of him searching, there are no additional assets to be found. All of his considerable efforts simply have delayed the progress of the case and *dramatically* increased the expense in these modest trusts and estates.

For the past three years, Eliot has questioned and viciously challenged virtually every action taken by the fiduciaries, has continued to harass and threaten (including repeatedly threatening persons involved in this estate or end up in prison), and when none of that worked, has taken to the internet blogosphere to trash and tarnish the reputations of everyone involved. This is a tragedy of significant proportion to the ten grandchildren of Simon and Shirley Bernstein, the sole beneficiaries of their wealth. The fiduciaries and beneficiaries of Simon and Shirley Bernstein are trapped in Eliot's game, being played at no cost to him but at a very high price to the beneficiaries. Three of these ten grandchildren are Eliot's kids, but he acts as if he rather burn all of the remaining money than let his kids settle for 30% of what remains.

Status of Significant Current and Pending Motions:

SHIRLEY ESTATE:

Motion to Re-Close Estate
Eliot's Objections to Estate Inventory and Accounting

SHIRLEY TRUST

Count II of Complaint to Determine Validity/Authenticity of Trusts and Wills
Count I of Complaint for Construction of Trust
Petition to Remove Ted S. Bernstein as Trustee
Eliot's Counterclaim against numerous lawyers and others (currently stayed)
Professional/Fiduciary Fees and Potential Claims vs. Former Counsel
Distribute Assets to Beneficiaries of Trust
Motion to Compel Trust Accounting

SIMON ESTATE

Resolve claim of claimant, William Stansbury
Resolve claim of claimant, Eliot Bernstein
Resolve interpleader litigation in Illinois relating to Life Insurance
Objections to Accounting and Potential Claims vs. Former PR/Counsel
Discharge PR and Distribute Assets to Trust

SIMON TRUST

Petition to Remove Ted S. Bernstein as Trustee
Professional/Fiduciary Fees
Distribute Assets to 10 Grandchildren as Beneficiaries of Trust

Matters to be Filed if Needed

The above is a short list of items that could be accomplished quickly and easily if Eliot were not involved. Now is the time to appoint a Guardian. And, once there is a Guardian in place and up to speed, the Court can decide what else needs to be done to close the administration, while some funds still remain available. Left to Eliot's devices, the pursuit of his agenda and conspiracy theories will end only when the money runs out. The choice is very clear: Is Eliot or the court-appointed fiduciaries going to run this estate?⁷ If there is a Guardian appointed, almost all of the above-listed "pending issues" can be avoided because a Guardian likely would be willing to mediate and likely settle the controversies given the amounts in dispute. Eliot has no interest in letting anything go or in negotiating, advising on several occasions that he does not negotiate with "terrorists."

Importantly, in addition to considering whether to appoint a Guardian as a suitable representative for Eliot's children, the Trustee believes the Court immediately should impose a

⁷ In a related case, Oppenheimer moved for appointment of a Guardian. It is a compelling Motion. Judge Colin deferred. It is anticipated that some of the beneficiaries here will be filing a similar motion, as will the Trustee. Now, or at some point in near future, this Court needs to consider such an appointment, before it is too late.

confidentiality order on these proceedings to prevent further internet bombardment and harassment of professionals, fiduciaries, and this Court. This case involves minor grandchildren and young adult grandchildren *who are the sole beneficiaries of Simon and Shirley Bernstein* – there should be nothing on the internet about this private civil matter. And, if it is not stopped, a Guardian no doubt will become the next victim, as might this Court in the event it should ever rule against Eliot on a significant matter. Also, the beneficiaries believe that Eliot's threats are causing the successor PR, Brian O'Connell, to take steps which cause unnecessary expense, solely to appease Eliot.

For example, Eliot, who claims he cannot afford a lawyer, has engaged a systematic effort to make it difficult for Ted to retain professionals. Eliot somehow got the Clerk of the Court to add onto the docket sheet the word "Respondent" after the names of all lawyers in these cases. After doing that, Eliot advised that the undersigned is a party to the case and should hire his own lawyer and withdraw due to the conflict of interest. When the harassment did not work, he moved to disqualify counsel, which was heard and denied at an evidentiary hearing on July 11, 2014. Next, he filed a Counterclaim against the undersigned personally and professionally, and against my law firm for legal malpractice, even though he is not our client and has no standing to do so.⁸ This was done not to assert a legitimate claim, but solely in an attempt to force our withdrawal. It seems that when a lawyer appears to take adverse positions to Eliot, Eliot demands that the lawyer cease representing the party and withdraw due to serious conflicts of interest:

[I] "remind you again that you and your client Ted are defendants who have been formally served process in related matters to these and your continued representation

⁸ Judge Colin stayed Eliot's counterclaims and, eventually, entered an Order prohibiting Eliot from filing any paper without first sending it to the Court for review. For the sake of apparent fairness, the Court imposed the same requirement on all parties, that no new motions or claims be filed without first being submitted to Judge Colin for review.

without counsel appears to be conflicted and more"; "in your capacity as defendant . . . do you have counsel yet that I may contact"; "will you be representing yourself pro se"; "I have you served formally already as a partner in your firm and wondered as the firm is also sued if you have their counsel's name and yet will the partners, et al. be representing themselves or have individual counsel"; "please take a lesson from all of Ted's former counsel . . . and resign as his counsel in these continued frauds and frauds on the Courts (state and federal) for irreconcilable differences as they did, as it appears you are only compounding problems for yourself, the beneficiaries, the Courts and others."

In an e-mail Mr. Bernstein further advised the undersigned: "you were involved ground floor in the schemes and advancing me taking fraudulent distributions and more since . . . I will notify the Florida Bar in your ongoing complaint with their offices . . . and other state and federal authorities."

The attacks are most vicious against Ted Bernstein, who was left behind in charge of the business he and Simon started together, and who became the fiduciary under the terms of Shirley's will and trust. Anyone who "googles" Ted Bernstein hits blogs run by Eliot and his colleague. Insurance is a trust business; many of Ted's clients are law firms representing clients in estate and wealth planning. All one need do is Google the name Ted Bernstein and on the front page is the Ted Bernstein report (<http://tedbernsteinreport.blogspot.com/>), accusing Ted of "massive fraud and forgery."

Ted has tried to ignore the onslaught of Eliot's cyber attacks. Judge Colin was aware of them, but did not fully appreciate the magnitude or effectiveness of this information in harming Ted. Although Judge Colin too was a target of the attacks, as a sitting jurist not running a business built on trust relationships, he may not have appreciated the severity of these issues. Indeed, at a recent hearing, Judge Colin wondered who in the world would see any of this nonsense on the internet. What this Court needs to understand as we move forward is that, in this day and age, everyone about

to engage in a significant transaction "googles" the other side, and regardless of the fact that no one might randomly stumble on this false information, everyone who googles Ted Bernstein finds this nonsense almost instantly. It is having a very harmful and negative effect on Ted Bernstein's ability to conduct his business affairs, and destroyed any chance of trying to sustain the companies Ted and Simon started.

Before agreeing to serve in this case, there was no negative press on Ted or internet "blogs" tarnishing his reputation. No one who agrees to serve as a fiduciary should be forced to put up with any such attacks, nor to be pressured to deviate from the decedent's wishes by either giving in to Eliot's demands or resigning from this important duty. And, the only family member who opposes Ted serving is Eliot – the others simply want this administration process to conclude.

These attacks branch out to each new person who steps in Eliot's way, and are expected to shortly include Brian O'Connell, PR, once he too is forced to take action adverse to Eliot. Ted has had difficulty retaining an accountant to help in these estates, because no amount of fee is worth being attacked online or sued simply for performing professional services. Ted already has attempted to curtail these attacks, but now will be filing formal motions to appoint a guardian ad litem and to stop the internet harassment of professionals. The Court needs to be aware of this critical issue as the case moves forward, and we believe should address these issues first.

As a final point on the Shirley Bernstein Trust, this Court needs to be aware of what is occurring right now. When Ted became successor trustee after his father's death, there were two primary assets in the Trusts: (i) an oceanfront condo; and (ii) a single family residence which was his parents' homestead. The condo was sold in an arm's length sale, through a highly-reputable real estate broker. Eliot continues to threaten some litigation to clawback the property, and refused to

accept for his children the partial interim distribution the Trustee elected to make to each of the ten beneficiaries. In mid-March 2015, the Trustee finally obtained a contract to sell the remaining property, a single family home in a country club community. The house was on the market for over 1,000 days. The offer accepted was the first in excess of a million dollars and was by far the highest and best offer ever received for the property. The buyer wanted to pay \$1.1 million, all cash, and close quickly, because the country club equity membership fee was increasing by \$30,000. Because it is a large home in a country club, the monthly carrying costs are very high. Eliot objected to the sale, and Judge Colin agreed to delay the sale so Eliot could obtain an independent appraisal or provide competent evidence to support his claim that the house was being sold in a fire sale fashion. At the evidentiary hearing in May, Eliot produced no witnesses and no admissible evidence. Judge Colin entered a final order approving the sale on May 6, 2015, and the closing was set for June 10th. The delay between March 31st and June 10th cost the Trust at least \$75,000.

Eliot did not timely appeal the sale order, but on June 10, 2015, the date of the projected closing, filed a Petition for All Writs with the Florida Supreme Court. The transaction still cannot close until that Petition is resolved. To date, and despite the fact that he produced no evidence to support his assertion that the property was being sold too cheaply, and despite the fact that he is not a beneficiary of the trust, Eliot's obstinance and disregard has cost the Trust far more than \$125,000 and counting in actual cash lost due to extra sale expenses, carrying costs, repair costs, and the legal fees incurred solely to get a simple real estate transaction closed. And there remains no end in sight.

Despite the best efforts of the Trustee and counsel, the need to react to Eliot has been driving this case, dictating its pace and dictating which issues get heard, to the exclusion of all of the other beneficiaries and their best interests. There are two simple but significant issues which must be

addressed before we can make any progress in the Shirley Bernstein side of the equation. First, the Court must consider how to re-close Shirley's Estate which has no assets. (There are prior Waivers signed by all potential beneficiaries, including Eliot Bernstein, and in the past five-plus years, nothing new has been found.) In particular, because Simon outlived Shirley and was thus alive at the time of her bequests to him, Eliot is not a beneficiary of Shirley's estate. The belts and suspenders of getting a waiver from him, which he admittedly signed, should not overshadow the fact that the empty estate simply should be closed.

Second, because Eliot alone contests Simon's exercise of his power of appointment over the funds in the Shirley Bernstein Trust, and unless the matter can be resolved with a rational Guardian for Eliot's kids, some Trust Construction Action is needed. That action has been filed, as a one-count Complaint, and names as defendants all 14 potential beneficiaries. Eliot Bernstein is named solely because he is a potential beneficiary and is the parent and natural guardian of three of the other potential beneficiaries. This is not a personal attack on him; it simply is a legal issue which needs to be resolved by the Court through a trial. The trial affects everyone, not simply Eliot Bernstein. Those two issues must be resolved, and once they are, the Shirley Bernstein Trust can begin the process of final wind down and distribution once the remaining assets are liquidated. Those two things must happen and without them we will go nowhere, other than continuing to burn money fulfilling the visions, delusions and fantasies of Eliot Bernstein.

Conclusion

There is not enough room in this filing nor would one expect this Court to have the patience to learn the entire tragedy. The purpose of this summary is to focus the Court on where we started, and where we have been for the past three years. The Court must decide where we need to go to from here to close the administration of these estates and trusts, and distribute what little wealth will remain to Simon and Shirley's grandchildren. There is documentary evidence and testimony of witnesses with competent and relevant evidence to support the assertions set forth herein. In stark contrast, almost four years after Simon's death there are no documents, evidence or credible testimony to support the assertions of Eliot Bernstein. Eliot might be smart and clever, and skilled in maneuvering through the court systems. One would have to at least have some experience litigating to file papers as lengthy and often as he does. It is unclear if this is real or a game to him,⁹ but what is absolutely clear is: **Eliot will not inherit any money, and his kids will not inherit enough to sustain his lifestyle.**

Although very sad, what is important here is that the Court put an end to Eliot's involvement in this case and order him to remove all of the blogs he and Crystal Cox have created that refer to these matters or the judiciary, fiduciaries or professionals involved. Eliot lacks standing because he is not a beneficiary of either Simon's or Shirley's trusts. He has demonstrated no desire to serve the best interest of his children. Now is the time for the Court to take back control from Eliot.

⁹ Through nearly three years of litigation here, Eliot has been given the benefit of the doubt many times, and it remains unclear how much of what he files he actually believes. For example, Eliot has asserted in recent court filings: his minivan was car bombed; his father was murdered; and he needs to be placed into the federal witness protection program as a whistle blower who has been exposing judicial corruption throughout the land. He has demanded emergency loans, despite the fact that he has turned down several distributions the Trustee tried to make for his kids' benefit.

CERTIFICATE OF SERVICE

I CERTIFY that a copy of the foregoing has been furnished to parties listed on attached Service List by: Facsimile **and** U.S. Mail; U.S. Mail; E-mail Electronic Transmission; FedEx; Hand Delivery this 14th day of September, 2015.

MRACHEK, FITZGERALD, ROSE, KONOPKA,
THOMAS & WEISS, P.A.
505 South Flagler Drive, Suite 600
West Palm Beach, FL 33401
(561) 655-2250 Telephone / (561) 655-5537 Facsimile
Email: arose@mrachek-law.com
Secondary: mchandler@mrachek-law.com
Attorneys for Ted S. Bernstein, as Successor Personal
Representative

By: /s/ Alan B. Rose
Alan B. Rose (Fla. Bar No. 961825)

SERVICE LIST - Case No. 502011CP000653XXXXNBIJ

Eliot Bernstein, individually
and Eliot and Candice Bernstein,
as Parents and Natural Guardians of
D.B., Ja. B. and Jo. B, Minors
2753 NW 34th Street
Boca Raton, FL 33434
(561) 245-8588 - Telephone
(561) 886-7628 - Cell
(561) 245-8644 - Facsimile
Email: Eliot I. Bernstein (iviewit@iviewit.tv)

John P. Morrissey, Esq.
330 Clematis Street, Suite 213
West Palm Beach, FL 33401
(561) 833-0766 - Telephone
(561) 833-0867 - Facsimile
Email: John P. Morrissey
(john@jmorrisseylaw.com)
Counsel for Molly Simon, Alexandra Bernstein,
Eric Bernstein, Michael Bernstein

Lisa Friedstein
2142 Churchill Lane
Highland Park, IL 60035
lisa@friedsteins.com
Individually and as trustee for her children, and
as natural guardian for M.F. and C.F., Minors

Jill Iantoni
2101 Magnolia Lane
Highland Park, IL 60035
jilliantoni@gmail.com
Individually and as trustee for her children, and
as natural guardian for J.I. a minor

Peter M. Feaman, Esq.
Peter M. Feaman, P.A.
3695 West Boynton Beach Blvd., Suite 9
Boynton Beach, FL 33436
(561) 734-5552 - Telephone
(561) 734-5554 - Facsimile
Email: pfeaman@feamanlaw.com;
service@feamanlaw.com;
mkoskey@feamanlaw.com
Counsel for William Stansbury

Robert Spallina, Esq.
Donald Tescher, Esq.
Tescher & Spallina
925 South Federal Hwy., Suite 500
Boca Raton, Florida 33432
rspallina@tescherspallina.com
dtescher@tescherspallina.com

Pam Simon
Pam Simon <psimon@stpcorp.com>

Exhibit A

Florida Probate Fraud, Forgery and Corruption; Simon Berns Estate Case

Florida Estate and Probate Case, Forgery, and Alleged Murder, blog written upon information, knowledge and belief of Crystal L. Co Blogger.

| | | | |
|--|---------------------------------|----------------------------------|--|
| Alan Rose | 7020 Lions Head Lane Boca Raton | Docket Northern Illinois Case | Simon Bernstein Trust Heritage Jackson National District Court |
| Shirley Bernstein Estate Docket | Simon Bernstein Estate Docket | 7020 Lions Head Lane Boca Raton | Shirley Bernstein |
| Tescher, Spallina, Ted Bernstein, Proskauer Rose MAJOR Technology Theft Case | Judge David E. French | Robert Spallina | Mark Manceri |
| Tescher and Spallina Law Firm | Mark Manceri | Petition to Freeze Estate Assets | Estate Fraud Docket |
| Robert Spallina | Ted and Deborah Bernstein | Life Insurance Concepts Boca | Ted Bernstein Fraud |
| | | Insurance Proceed Scheme | Donald Tescher |

Sunday, August 2, 2015

Why is Judge Martin Colin Still on the Bench with as much as the Department of Justice and the FBI clearly knows about him?

YEARS and YEARS of Corruption and Judge Martin Colin continues to Dish it out, WHY?

"Anonymous said...

The JQC does nothing! We have a corrupt sick Judge in Palm Beach County MARTIN COLIN. He abused his step son, had attys rep his now Betsy savitt and did NOT disclose any conflicts. ROOT, HANDLER, KARTAGENA appaer before him. READ THE BAEZ DECISION 4th DCA. JQC WAKE UP!!

August 3, 2008 at 11:26 AM

Anonymous said...

I agree Judge Martin Colin must be REMOVED. He is corrupt! Colin is a case fixer! Ignores the 4th DCA in BAEZ....

THE JQC SHOULD REMOVE COLIN NOW!!!

October 7, 2008 at 6:40 PM

Anonymous said...

CORRUPTION IS RAMPANT IN PALM BEACH COUNTY.... WINNET AND COLIN ARE SICK EVIL CORRUPT JUDGES AND SHOULD BE JAILED.. MARTIN COLIN IS A CRIMINAL....

THE FEDS ARE HOT ON THE ROBES OF COLIN..... AND HIS BOCA RATON BUDDIE HENRY HANDLER AND THE BOYS.. SCHUTZ, ROOT, JETTE...

CMON FEDS -- DO YOUR JOB!!!

October 16, 2008 at 8:54 AM

Anonymous said...

THE JQC is a "JOKE" The protect these corrupt Judges... Brooke Kennerly should be removed... Gov. Crist does NOT a clue and looks the other way.... Just Look at Palm Beach County judge Martin Colin, a corrupt judge....

October 25, 2008 at 10:32 AM

Anonymous said...

Serial CORRUPT JUDGE MARTIN COLIN has be sent to the CIVIL Court - Judge Kroll removed Colin from the FAMILY COURT.

JUST THE START - HENRY HANDLER & CAROL A. KARTAGENER soon to be charged by the Florida Bar for many ETHICAL VIOLATIONS and other crimes.

Its about time, KARTAGENER was CAUGHT making perjurious statements to Judges Burton, Colin & Crow. One lie after another. KARTAGENER IS A HABITUAL & PATHOLICIAL LIAR!!!! A sick a demented evil lady ---- Lacking Skills....

December 30, 2008 at 1:46 PM

To Read this WHOLE BLOG posts on the bottom right page. Don't let this Florida Insurance FRAUD and Forg YOU.

Posts

Alan B. Rose of Page Mr Fitzgerald & Rose LI...

Eliot Bernstein Ivie Interview Dick Wo...

Alexandra aka Monica in Bernstein

Alan B. Rose is MADD as he ain't goin...

Hey Lindsay, you may w the ol' digital...

Alan B. Rose of Page Mr Fitzgerald & Rose Ge...

UNITED STATES DISTRICT SOUTHERN DISTRICT OF

You know that Mark Tw: "Truth is stranger...

John Pankauski, Pankau Alan B. Rose, ...

Who does Alan B. Rose (Mrachek, Fitzgerald ...

Don Sanders, Jackson N seems to have m...

Oh and you Spineless, C Lawless, Free Spee...

Burke, Warren, Mackay i Taking a Look

Alan B. Rose of Page Mr Fitzgerald & Rose se...

Folks, Alan Rose is a MA Hypocrite. ...

Alan B. Rose, Esq. seem suppressing speech...

Eliot Bernstein and ivie

Isn't Armonk, New York Lamont's neck of th...

Don Sanders, assistant \ National Life ...

Life Reassurance Corp. Bankers Life Insu...

Judge Amy J. St. Eve is Davis Polk & W...

Anonymous said...
THE "FEDS" WERE AT THE OFFICES OF WEISS & HANDLER....

JUSTICE SOON!!!!"


Source

<http://fraudonthecourt.blogspot.com/2008/07/july-11-2008-certified-mail-return.html>

More on Judge Martin Colin's Reign of Corruptin

<http://judgemartincolin.blogspot.com/>

Posted by Crystal L. Cox at 11:31 AM No comments:

 Recommend this on Google

Judge Martin Colin Gets CAUGHT over and over protecting Florida Corruption and Florida Probate Attorneys. Why are those attorneys still licensed and why is Judge Martin Colin still on the Bench BREAKING THE LAW and Violating Constitutional Rights?

SERIOUS Abuse of Power, Violations of Ethics, Aiding and Abetting Corruption, Protecting Attorneys and Violating the rights of Florida Citizens.

Judge Martin Colin has been CAUGHT and yet is still ruining lives with BOGUS, Lawless, Fraud on the Court Rulings.

Hey remember when Judge Martin Colin wanted the Millions in Heritage Life / Jackson National insurance money moved from Illinois Courts to his tiny lawless court. MILLIONS in life insurance in regard to a man that the Palm County Sheriff Office is SUPPOSED to be investigating the Murder of???

Corruption in FLORIDA is very Bad. And Judge Martin Colin seems to be in charge of protecting the most lawless schemes in Florida and aiding HUGE RICH law firms such as Tescher and Spallina and Alan Rose / Alan B. Rose of Mrachek, Fitzgerald, Rose, Konopka, Thomas & Weiss, P.A. in West Palm Beach, Fla.

Judge Martin Colin has no issue with the deceased signing documents, nor attorneys forging documents, and has no respect for the law, rights or children, judicial cannons or well, anyone that is not possibly bribing him or giving him some other motive to BREAK THE LAW and Ruin Lives.

So why is the Palm County Sheriff NOT looking into murder allegations, forgery, fraud and more in the Simon Bernstein Estate Case? Well I suppose its because they are seriously CORRUPT. And Judge Colin seems to be their buddy.

The PBSO has NO Respect for CIVIL Rights or the Law PERIOD.

Check this Out:

"FBI Raid on PBSO: Deputies Routinely Violate Civil Rights of Minorities!

WEST PALM BEACH — This week's FBI activity at the Palm Beach County Sheriff's Office came after a push by Guatemalan-Maya Center lawyer Jack Scarola for the U. S. Department of Justice to investigate what he claims is the unfair treatment of minorities by sheriff's deputies.

Jack Scarola

Guatemalan-Maya Center lawyer Jack Scarola (via Facebook)

It's another Gossip Extra exclusive: Last month, Scarola wrote a lengthy letter to U. S. Attorney General Eric Holder that outlined a series of PBSO shootings and incidents of brutality against minorities, mostly Hispanics.

The letter also blasted Sheriff Ric Bradshaw's handling of such incidents, including the agency's "growing militarization" and the sheriff's message in television appearances that minority neighborhoods are akin to "war zones."

And to make sure that Holder got the message that PBSO's handling of such incidents didn't pass muster, Scarola forwarded his missive to members of the local delegation to the U.S. Congress, including U.S. Reps. Patrick Murphy, Alcee Hastings and Lois Frankel.

When asked if his effort caused Monday's arrival of the feds at PBSO headquarters on Gun Club Road, Scarola said: "There have been stranger coincidences."

"I'm not surprised," the high-profile lawyer said. "And I am pleased they're acting as requested. I contacted various government officials about this problem and I'm just pleased someone's taking action."

Cedarhurst, New York

WOW, a full days wages
National Empl...

Pam and Ted CUT out of
they seem to be...

Whatch all worried abou
Fines, Judgement...

Not Getting Much Work
ya? I sure ho...

303 East Wacker Drive S
Chicago Illinois

STP Enterprises, Inc. - f

Jackson National Life Di
Registere...

So Where Does Christop
Ex Proskauer...

Carol Ann Kindred at He
Life Insurance...

Heritage Union Life Inst
is well awar...

So, who at Jackson Nati
palms, all ...

So is Pamela Simon the
in all this?...

Jackson National Life In
Company has HUGE L...

oh and Don't Forget the
CONDO and how...

More on Michael A. Well
National Life Co...

Looks to me like Jackso
Little SPOO...

So Funny, that Heritage
Insurance Compa...

Heritage Union Life Inst
is well awar...

Ted Bernstein



Life Insurance Concepts

Blog Posts

Is Google Really the Best
Conduct a Fraud, ...

Welcome Back, How is t
Investigation Goi...

Order for Discharge and
Counsel Tesc...

Morgan Stanley Group N
Tescher & Spalli...

Judge Martin Colin seen
the Right Thi...

Why is Ted Bernstein NC
to this Story? ...

Motion to Halt Hat Trick
Believe this is ...

Hmmm.. Friend or Foe?

BATES NO. EIB 001260
02/27/2017

Scarola said the riots in Ferguson, Missouri, that followed the shooting death of a black man by a white police officer have placed a renewed emphasis on the use of lethal force by police on minorities.

But, Scarola says, the FBI's apparent investigation into PBSO is independent of what's happening near St. Louis.

"I believe that I wrote a persuasive letter," Scarola said.

Gossip Extra broke the story last night: FBI agents were spotted at PBSO Monday to seize files pertaining to deputy-involved shootings and complaints.

Among the documents taken by the G Men were files about the public's complaints against Lake Worth deputy Russell Brinson.

Minority leaders in Lake Worth have been asking that Brinson be fired after they found out he had a long string of use-of-force incidents, and most of them involving minorities.

Instead, the 40-year-old Brinson was re-assigned to Palm Beach International Airport security.

In his letter, Scarola mentioned one Brinson incident in which a Hispanic immigrant who tried to report a crime to Brinson was allegedly beaten down.

Scarola also reminded Holder of the principles of modern policing, including that the cooperation of the public with police is inversely proportional to police's use of physical force.

There is, Scarola's letter reads, a growing perception in Palm Beach County that (deputies) "are too quick to resort to the use of force — even deadly force — particularly when confronting members of the civilian population whose racial and ethnic appearance differs from their own."

Source

<http://www.gossipextra.com/2014/11/26/fbi-raid-palm-beach-county-sheriff-civil-rights-violations-4196/>

The Florida / Palm Beach County Sheriff DOES NOTHING to help solve murder cases, jewelry and real estate theft, massive attorney fraud, corruption and collusion in the Simon Bernstein Case. And Judge Martin Colin seems to be assisted by Palm County to violate the rights of the poor, minorities or anyone that Judge Colin does not WANT to be on top of the PILE. Maybe it's about who pays him the most. As I allege that Judge Martin Colin has taken bribes from Tescher and Spallina and possible Ted Bernstein's legal team including Alan B. Rose of Mrachek, Fitzgerald, Rose, Konopka, Thomas & Weiss, P.A. in West Palm Beach, Florida.

"What will the FEDS do — They should start with SA Dave Aronberg & Alan Johnson — i.e., there relationship with the crooks at Weiss Handler & Cornwell, P.A. Fraud case fixing fraudulent documents Civil theft and legal Malpractice.

Legal Assistants sleeping with certain wealthy clients and be billed as well.. Handler is operating a brothel for his clients.


Handler creates fraudulent and back dates legal DOCS. Does Handler BILL his client for his legal assistant to sleep with clients.... Mostly, yes, before Judge Martin Colin in South County.

Colin is on the handler "PAYROLL" FBI SAC Piro you have your work cut out for you.. Henry Handler and Howard Weiss should be indicted and jailed.... BTW Jack Scarola is well aware of Weiss Handler... Jack, perhaps you should write a letter to DOJ regarding WEISS HANDLER. This is CORRUPTION COUNTY!!!! As Judge Kastranakes!!!! He indicted most of em..."

Source

<http://www.gossipextra.com/2014/11/26/fbi-raid-palm-beach-county-sheriff-civil-rights-violations-4196/>

Posted by Crystal L. Cox at 11:23 AM No comments:

 Recommend this on Google

Saturday, August 1, 2015

WOW Judge Martin Colin protecting Corruption?? no say it ain't so... - and WOW the Palm County Sheriff Office involved?? Hmmm

"November 27, 2014 at 9:24 am

What will the FEDS do — They should start with SA Dave Aronberg & Alan Johnson — i.e., there relationship with the crooks at Weiss Handler & Cornwell, P.A. Fraud case fixing fraudulent documents Civil theft and legal Malpractice. Legal Assistants sleeping with certain wealthy clients and be billed as well.. Handler is operating a brothel for his clients.

Alan B. Rose, Mrachek, I Rose, Konopka &...

Hello Marc Randazza, W PARTY, Hope yo...

Alan Rose Wants the Fir to Be Set Asid...

Hey Liars, Thugs, Thieve Murdering, Gre...

Hey Alan B. Rose, Mrach Rose, Konop...

Judge Martin Colin has a protecting the...

I keep waiting for Judge punish, o...

Whatch hiding FROM Bo

Hey Flushing New York . Raymond or possib...

Objection to Motion to Personal Repres...

Objection to Motion to Personal Repres...

I am getting me some "E that somethin...

Why is Heritage Union L Company Filin...

"Criminal Action through Simulated Legal Pr...

Letter to Judge Martin Opposition to Ted...

What is Going on with J about not ...

Motion for Appointment Administrator...

Ted Petition for Appoin Successor Personal...

Alan Rose Esq., John J. Pankauski Law F...

Chicago Insurance and C Litigation Law Fi...

Morgan Stanley Group, J and Tescher & ...

Wow, the Fraud Sure Se Piling Up. Is Ted ...

Full Docket Of Heritage Insurance Case ...

Heritage Lawsuit Illinois Response Regar...

Reported as a Murder, y checked is medic...

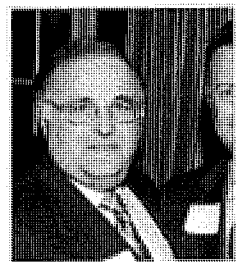
"The Document in Ques the Inheritance ...

Looks like the Tescher & Bemstein F...

Ted Bernstein, Tescher and Sp

- Florida Estate Forgery, F DOCKET

Donald Tescher on Left



- Florida Estate Forgery, F DOCKET

Blog Archive

- ▼ 2015 (116)
 - ▼ August (3)
 - Why is Judge Martin on the Bench with ...
 - Judge Martin Colin Gr over and over prot
 - WOW Judge Martin C Corruption?? no ...
 - July (1)
 - June (4)
 - May (22)
 - April (63)
 - March (8)
 - February (7)
 - January (8)
- 2014 (248)
- 2013 (31)


Handler creates fraudulent and back dates legal DOCS. Does Handler BILL his client for his legal assistant to sleep with clients.... Mostly, yes, before Judge Martin Colin in South County.

Colin is on the handler "PAYROLL" FBI SAC Piro you have your work cut out for you.. Henry Handler and Howard Weiss should be indicted and jailed.... BTW Jack Scarola is well aware of Weiss Handler... Jack, perhaps you should write a letter to DOJ regarding WEISS HANDLER. This is CORRUPTION COUNTY!!!! As Judge Kastanakes!!!! He indicted most of em..."

Source

<http://www.gossipextra.com/2014/11/26/fbi-raid-palm-beach-county-sheriff-civil-rights-violations-4196/>

Posted by Crystal L. Cox at 8:04 PM No comments:

 Recommend this on Google

Monday, July 20, 2015


Is Detective Andrew Panzer Investigating this fraud, forgery, theft and possible murder case or NOT?

Detective Andrew Panzer Letter from Eliot Bernstein January 2015
<https://drive.google.com/file/d/0Bzn2NurXrSkiMHNpa29Zc2VmbEU/view>

Why has Detect Andrew Panzer not arrested anyone? The FACTS sure look pretty clear. Why are these lawyers still creating victims and even still in business? The Palm County Sheriff has known for years and yet all these same players / attorneys are still in business and harming more people.

Below is lot's of details, in this Florida Supreme Court Filing
<https://drive.google.com/file/d/0Bzn2NurXrSkiZFdpU3F3WjZQWnM/view?usp=sharing>

Posted by Crystal L. Cox at 5:09 PM No comments:

 Recommend this on Google

Monday, June 29, 2015

Why has the Palm County Sheriff office NOT arrested Robert Spallina and Donald Tescher? Why is Palm Beach County Sheriff's Office protecting Robert Spallina and Donald Tescher even in the face of admitted crimes. Has the PBSO Office been paid off or threatened? Has Andrew Panzer personally been paid off or threatened? Are these admitted crimes legal in Palm Beach County ? With detectives like Andrew Panzer it is easy to see where there is so much probate crime in Palm Beach County Florida.

The Simon Bernstein Estate Case and the Shirley Bernstein Estate Case out of Boca Raton Florida is still going on, three years later. Judges are not ruling per law, Detectives are looking the other way and high finance crimes are RAMPANT.

Below is an email yet AGAIN from Eliot Bernstein to Palm Beach County Sheriff's Office, Detective Andrew Panzer, who seems to have no interest in protecting the victims of crimes in Palm Beach county Florida.

"From: Eliot Ivan Bernstein [mailto:iviewit@gmail.com]
Sent: Monday, June 29, 2015 5:58 AM
To: Detective Andrew Panzer @ Palm Beach County Sheriff (PanzerA@pbso.org); Captain Carol Gregg @ Palm Beach County Sheriff (greggc@pbso.org)

Subject: Bernstein Cases - RE: CASES NO: 13097087 MORAN FORGERY AND FRAUDULENT NOTARIZATION; 13159967 JEWELRY THEFT, 14029489 TESCHER AND SPALLINA ET AL. SUPPLEMENTAL, 12121312 ALLEGED MURDER OF SIMON BERNSTEIN

Detective Panzer,

After our last several calls it is apparent that the PBSO investigations into the Bernstein case matters has been derailed, stymied and delayed and that instead of investigating these ongoing crimes you have begun doing research on my federal RICO filed and who I copy on emails to you as if this were more important than the crimes reported to your agency.

I am not sure why it matters to you at all why I copied Judge Scheindlin on these matters, especially where there are growing correlations between these new crimes committed to my prior RICO filed and those defendants.

BATES NO. EIB 001262
02/27/2017

Ted Bernstein Insurance

written upon knowledge and belief of Crystal L. Cox

Friday, December 5, 2014

Petition to Remove Ted Bernstein and attorney Alan Rose along with him in Florida Estate Case riddled with fraud, alleged murder, forgery, bullying, abuse of court documents, dead guys signing legal documents and more.

Blog Archive

- ▼ 2014 (4)
 - ▼ December (1)
 - Petition to Remove Ted Bernste attorney Alan...
 - May (2)
 - January (1)
- 2013 (5)

Filing # 21273992 Electronically Filed 12/05/2014 10:19:19 AM

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

In Re: Case No. 502014C/P003698XXXXSB
SHIRLEY BERNSTEIN TRUST Hon. Martin Colin
AGREEMENT, dated, May 20, 2008.

Deceased

ELIOT IVAN BERNSTEIN, Individually;
ELIOT IVAN BERNSTEIN in his capacity as
Natural Guardian of his minor children,
JOSHUA, JACOB and DANIEL;
and as beneficiary of the SHIRLEY
BERNSTEIN TRUST dated May 20, 2008, as
amended and ELIOT IVAN BERNSTEIN
as Trustee of the ELIOT BERNSTEIN FAMILY
TRUST dated May 20, 2008.

Counter Plaintiffs,

v.

Tescher & Spallina, P.A., and all Partners Associates and of Counsel.

Click Below to Read the Petition to Remove Ted Bernstein
<https://docs.google.com/file/d/0Bzn2NurXr5kiSEd2OGVqRmRxeUU/edit>

More documents and information at
<http://tedbernsteinreport.blogspot.com/>

Posted by Crystal L. Cox at 12:13 PM No comments:

 Recommend this on Google

Friday, May 23, 2014

Ted Bernstein, Alan B. Rose of Mrachek, Fitzgerald & Rose and John Pankauski and the case of Florida estate fraud, forgery and fraudulent documents. Ted Bernstein is HOPPING mad and wants access to EVERYTHING, Everywhere or ELSE you all are FIRED. See, if you will not aid and abet Ted Bernstein of Life Insurance Concepts, well then what's the use in him paying ya???

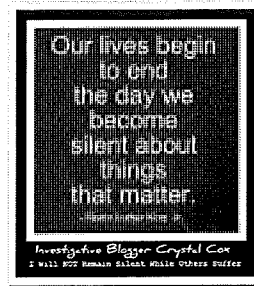
Ted Bernstein, Alan B. Rose of Mrachek, Fitzgerald & Rose and John Pankauski - John J. Pankauski - Pankauski Law Firm PLLC sure seem to be up to NO GOOD.

Ted Bernstein, Life Insurance Concepts, Alan B. Rose of Mrachek, Fitzgerald & Rose and John Pankauski - John J. Pankauski - Pankauski Law Firm PLLC sure seem to be up to NO GOOD.

Ted Bernstein, Alan B. Rose of Mrachek, Fitzgerald & Rose and John Pankauski like to operate in the dark. The thing is God / Goddess, the Great Spirit has a way of bringing the dark to the light, in support of the "good guy" and of doing the **BATESON** NO. EIB 001263
02/27/2017

Poor Baby TEDDY does not want to spend another dime on attorneys who will not cover up his corruption, aid and abet him or defend his rights to break the law.

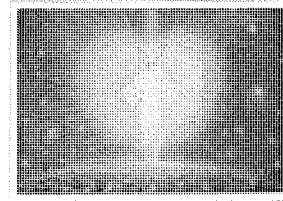
Below is an eMail that seems to suggest "Foul Play" and lawless, over the top aggressive, you be the judge. And also read this entire blog, and I would say that FLORIDA is not the best place to actually have your wishes carried out when you die. Especially not with this gang of seemingly corrupt THUGS.



oH and Ted Bernstein accusing Crystal Cox, me, of Extortion, but no BALLS to file a police report, what? If I have extorted your whiny, corrupt ASS then file a police report, ya spineless coward.

God / Goddess works in mysterious ways and this eMail is one of those ways in which the LIGHT is coming in and God is working for the Greater Good.

Thank You God <takes a bow> <hands firmly pressed>



*

"Alan - I want Eliot's deposition scheduled as soon as you can notice him. We can discuss the strategy once he is served. I want to go through each claim with you and/or John to determine the legal necessity to respond. If any reply is necessary, the record must be straight with respect to each.

This is a rambling, filled with contradictions that need to be exposed for what they are. If John does not want to tangle with Eliot, remove John immediately. I am sorry to be this blunt, but I do not want to address the John issue again.

If he is not 100% in support of me as trustee, including how I have protected myself with trust assets and will continue doing so as necessary, and being aggressive and forceful, if need be, with eliot, remove him as counsel.

I do not want to spend another unnecessary dollar with counsel that is not going to zealously defend me as trustee and protect trust assets.

I cannot be more decisive re this and I say this with no animosity - simply for efficiency sake and my best interest.

Eliot is in default of production. Let's serve notice on him that he is in default.

I want Eliot to produce everything he has with respect to these cases, including:

Documents he refers to having that provide trusts for him and/or his children.

Agreements he has signed with my father and mother, together or separately.

All correspondence between him and my parents, together or separately concerning anything he has referenced in his ramblings through this one.

Anything and everything pertaining to iviewit, including his harassment of Jerry Lewin, Al Gortz of Proskauer and their firms.

I want court proceedings, lawsuits, all correspondence to him and from him including paper and electronic, including video tapes and electronic interviews.

History of incidents at st. Andrews school.

All correspondence with bill Stansbury. Everything related to Feaman / Stansbury

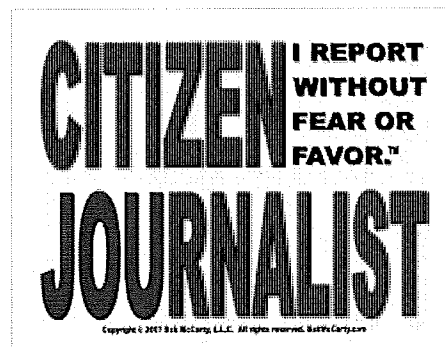
All bank accounts, credit cards, sources of income, loans and gifts.

All correspondence with anyone he has shared estate details.

All correspondence of every type with: walker, puzzio, SAHM, Diana banks, Scott banks, NACLERIO, Dietz, Gefen and every person on his email distribution list. If he doesn't comply, I want all of them deposed.

Everything in which he has mentioned my name including emails, phone calls, letters, complaints to whatever agencies he has made complaints including police, federal, state, regulatory.

Everything and anything he is doing that we are not yet aware of such as online web site attacks.



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

Probate Division
Case No.: 502014CP003698XXXXSB

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

Plaintiff,

**ELIOT I. BERNSTEIN'S OPPOSITION
TO IMPROPER HEARING CALLED
UP BY TRUSTEE TED BERNSTEIN
AND COUNSEL ALAN ROSE**

v.

ALEXANDRA BERNSTEIN; et al.,

Defendants.

COMES NOW Eliot I. Bernstein, being duly sworn who hereby deposes and says under oath and penalties of perjury in filing this Opposition to an improper hearing called up by Trustee Ted Bernstein and Alan Rose and says as follows:

1. I file this opposition to the improperly noticed Hearing filed by Florida licensed attorney Alan Rose on behalf of the alleged Trustee Ted Bernstein and move to Strike the Hearing from the Calendar and move that attorney Rose be sanctioned accordingly.
2. Attorney Alan Rose and alleged Trustee Ted Bernstein had actual knowledge of my filing of a Notice of Unavailability throughout the month of January and have now called up their second Motion for a Hearing disregarding said Notice and in this instance not even providing 2 days Notice while failing to call the motion or Notice an Emergency. See,

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20151223%20Notice%20of%20Unavailability%20Eliot%20Bernstein%2036989%20case%20ECF%20STAMPED%20COP Y.pdf>

3. The motion should be struck from the Calendar or at minimum rescheduled.

4. These actions are even more egregious as the Notice for the Hearing on Jan. 7, 2016 was not even filed by Alan Rose until after regular business hours on Jan. 5th, 2016 being filed after 5 pm despite the fact that Alan Rose and Ted Bernstein were both on a phone Conference Call / Meeting earlier in the day which included my attorney Candice Schwager of Texas who is seeking Pro Hac Vice admission and previously sought a continuance of the alleged validity Trial of Dec. 15, 2015, yet Alan Rose at no time mentioned any issue of emergency nature involving minor children to attorney Schwager either before, during or after this phone Meeting just yesterday.
5. Attorney Alan Rose not only never contacted my attorney Candice Schwager who he was on the phone with just yesterday, Jan. 5, 2016, but he also never contacted me in the scheduling of this matter.
6. I have already had to reschedule medical/dental related appointments due to Alan Rose's actions this New Year, I am currently on prescription medication since January 02, 2016, including painkillers and muscle relaxers and am not fit to attend hearings, which is part of the reason for my unavailability this month. This scheduling and notice is improper and further harassment and this is not the first time Alan Rose has deployed these tactics as the record for the cases reflects.
7. This is nothing but more of the same "sharp practices" and legal process abuses that Alan Rose and Trustee Ted Bernstein have perpetuated throughout the litigation.
8. Florida Licensed attorney (presently) Alan Rose and his client Ted Bernstein fail to point out to this Court their continuing Conflicts of Interest since both Alan Rose and Ted Bernstein have actively worked Against the Interests of the "grandchildren" to Shirley and

Simon Bernstein by trying to block \$1.7 in Life Insurance proceeds from coming into the Estate.

9. Both attorney Alan Rose and Ted Bernstein have been involved in actions which directly were contrary to the best interests of minor children by refusing to agree to a Continuance of the validity trial in Dec. 2015 even for 30 days so my minor children could have Counsel by Candice Schwager, Esq. and yet now try to claim to come to this court for the welfare of minor children. See,

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20151212%20Candice%20Schwager%20Pro%20Hac%20Vice%20ECF%20Filing%20Stamped%20Copy.pdf>

and

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20151215%20ESIGNED%20Phillips%20Trial%20Stay%20ECF%20STAMPED%20COPY.pdf>

10. Ted Bernstein and Alan Rose have articulated no adequate basis to impose a Gag order.

11. In fact according to the Email Letter sent by attorney Schwager today to Alan Rose (see

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20160106%20Schwager%20Letter%20to%20Alan%20Rose%20to%20Cancel%20Hearings.pdf>) to seek his voluntary withdrawal

of this Hearing, even one of the cases cited by Alan Rose actually has the District Court of Appeals reversing a Trial Court's Order closing a Trial from the public: "The orders of the trial court sealing the file and closing the proceedings are REVERSED. The public shall be permitted access to the court file and the transcript or reporter's notes of any proceedings in the trial court. ERVIN, J., concurs. NIMMONS, J., concurs, with written opinion."

<https://casetext.com/case/florida-freedom-newspapers-v-sirmons>

12. There was minimal if virtually any naming of the “grandchildren” and/or “minor children” in the Trial in any event and I should have every right to inspect and have my own copy of the Transcript and this appears to be nothing more than the bully sharp practices of Alan Rose and Ted Bernstein in trying to deny due process and access to the courts and the ability to seek proper appeal, collateral attack and other motions concerning the trial.
13. As attorney Schwager pointed out in her letter, “Thus, it truly appears that your motion is more of a “smoke-screen” and “sharp practices” which are more designed to further delay, obstruct and hinder the due process rights of Eliot Bernstein and his minor children and perhaps others in the truth seeking processes by this motion which must be withdrawn.”
14. In one breathe, Alan Rose and Ted Bernstein rush to push a validity Trial through that had been requested years before by Plaintiff Eliot and do so in a manner to Deny Counsel to Minor Children but now that the hour of Truth is at hand where Ted Bernstein’s business partner / former business partner Robert Spallina’s testimony Admitting to mail fraud, fraudulently creating an Invalid Trust and Fraud Upon the Court in these matters and related Testimony is about to be available as it should be, Alan Rose and Ted Bernstein are now suddenly (and frantically) the big heroes for minor children and rushing in by an improperly Noticed Hearing to gag truth without providing any specific justification that this will benefit any minor children.
15. Yet, as stated by the very case Alan Rose and Ted Bernstein have cited for this Court, “ Preserving the independence and integrity of the judicial process through open and publicly scrutinized judicial proceedings is the issue.”

16. “A strong and independent judiciary is the bulwark of a free society. If there were no public access to proceedings before the trial judge, there would be no safeguard for judicial independence nor any assurance of judicial integrity.”
17. “It is the existence of the right of access that is critical to the court's autonomy, not the public's exercise of that right. Knowing the public can attend these proceedings and review judicial records helps guarantee that those matters will be conducted with due regard for the public's interest in a fair and impartial judiciary.” See, <https://casetext.com/case/florida-freedom-newspapers-v-sirmons>.
18. Minor children ultimately have to grow up and learn the laws of civil societies.
19. There is nothing in the Transcripts that relates to the actions and behaviors of the minor children and thus Alan Rose and Ted Bernstein have shown ***nothing specific of a compelling nature*** with respect to the minor children and this motion should be struck from the Calendar and denied.
20. Instead the Trial consisted of testimony and actions by Ted Bernstein’s business partners and his former counsel to him as fiduciary Robert Spallina and Donald Tescher who admitted to (i) illegally using the Mails to mail a fraudulently created invalid trust to the three minor children’s prior counsel Christine Yates, (ii) that his law firm deposited fraudulent documents in the Court record in the cases, (iii) that he fraudulently used a deceased Personal Representative to Fraudulently close the Estate of Shirley Bernstein in these matters leading to the reopening of the Estate of Shirley and three years of litigation costs and expenses and (iv) that he was under an SEC Consent order for Felony Insider Trading charges and other matters.

21. The SEC Consent Orders¹ for Spallina and Tescher are already of Public Record by the Washington, DC Office of the US SEC itself naming Robert Spallina and Donald Tescher, Ted Bernstein's business partners and former disgraced counsel to him as fiduciary in these matters, who he and Alan Rose allowed to "hold onto" Original records even after Spallina's admitting to fraud that benefited his client Ted directly and also having the firm's paralegal notary public Kimberly Moran admit to criminal charges in this matter of forging documents, fraudulently notarizing them, including Post Mortem for Simon Bernstein and committing multiple frauds on the Court and beneficiaries in these matters.
22. See, "**FOR IMMEDIATE RELEASE 2015-213** *Washington D.C., Sept. 28, 2015* — The Securities and Exchange Commission today charged five Florida residents – including two lawyers and an accountant – with insider trading in advance of the acquisition of Pharmasset Inc. by Gilead Sciences Inc. In a complaint filed in federal court in Newark, New Jersey, the SEC alleged that attorneys Robert L. Spallina and Donald R. Tescher and accountant Steven G. Rosen illegally traded on confidential information obtained from a mutual client who served on the board of directors of Princeton, New Jersey-based Pharmasset."
23. Spallina, Tescher, Rosen, Palermo, and Markowitz collectively agreed to pay approximately \$489,000 to settle the charges. The settlements are subject to court approval.

¹ September 28, 2015 SEC Press Release Regarding SPALLINA and TESCHER INSIDER TRADING CHARGES, "SEC Charges Five With Insider Trading, Including Two Attorneys and an Accountant"

<http://www.sec.gov/news/pressrelease/2015-213.html>

and

September 28, 2015 SEC Government Complaint filed against TESCHER and SPALLINA @

<http://www.sec.gov/litigation/complaints/2015/comp-pr2015-213.pdf>

and

October 01, 2015 SEC Consent Orders Felony Insider Trading SPALLINA signed September 16, 2015 and TESCHER signed June 15, 2014

<http://www.iviewit.tv/Simon%20and%20Shirley%20Estate/2015%20Spallina%20and%20Tescher%20SEC%20Settlement%20Consent%20Orders%20Insider%20Trading.pdf>

24. “Lawyers and accountants occupy special positions of trust and confidence and are required to protect the information entrusted to them by their clients,” said Joseph G. Sansone, Co-Chief of the SEC’s Market Abuse Unit. “It is illegal for them to steal their clients’ confidential information to trade securities for their own profit or to tip others.” See, <http://www.sec.gov/news/pressrelease/2015-213.html>
25. Thus, those matters regarding Ted Bernstein’s business partners and prior counsel to him as fiduciaries are already a matter of public record being made public by the federal government.
26. No compelling circumstances are shown by Ted Bernstein and his attorney Alan Rose to gag any part of the Trial herein other than what my attorney Candice Schwager says in her Letter Email that the standard in federal court for Pleadings is to simply abbreviate the minor child’s name instead of spelling it out such as “J.B.”, “D.B”, etc. Where none of the parents of the minor children have objected on their children’s behalf either.
27. Nothing else more than that should happen here.
28. Alan Rose and Ted Bernstein’s desperate attempt to hide and conceal the Truth of the Trial is just like what the District Court of Appeals found offensive in the case their papers cited, “In essence, one of the parties wished to conduct the proceedings in private to prevent the disclosure of certain information the party would otherwise prefer not be made public. The information is of a somewhat general nature and not specifically tied to a domestic relations case.⁸The information is not related to the marital relationship nor its breakup, to the welfare of the children, nor to the marital property.”
29. “This may be so, but we do not find this reason to be sufficiently compelling, rising to the level that would deny the party an opportunity to receive a fair trial, to justify closing these

proceedings.” District Court of Appeal of Florida, First District. 508 So.2d 462 (Fla. Dist. Ct. App. 1987) <https://casetext.com/case/florida-freedom-newspapers-v-sirmons>

30. Having acted to repeatedly Deny minor children Counsel by denial of proper Trust funds and thus deny minor children rights, these actions now by Ted Bernstein and Alan Rose are a sham and must be denied.
31. Ted Bernstein would have this Court disregard and deny the actual history of fraud and abusive, bullying, extortive, illegal and coercive tactics and conduct of he and his business partners and his former counsel against Minor children as if Ted Bernstein had the Court on his own Payroll. See, May 6, 2013 Emergency Motion² and See Motion on St. Andrew’s School³,
32. I, Eliot Bernstein, further renews and reminds this Court that it lacks jurisdiction to hear the matter as this Court was mandatorily disqualified at least as of Dec. 4, 2015⁴ and was further moved to mandatory disqualify Dec.28, 2015⁵ and thus no further action may be taken at this time beyond mandatory Disqualification.

² May 06, 2013 Bernstein Emergency Petition Florida Probate Simon and Shirley Estate Cases @ <http://iviewit.tv/Simon%20and%20Shirley%20Estate/20130506%20FINAL%20SIGNED%20Petition%20Freeze%20Estates%20Orginal%20Large.pdf>

³ August 24, 2014 Emergency Motion <http://iviewit.tv/Simon%20and%20Shirley%20Estate/20140824%20Amended%20Emergency%20Motion%20to%20Compel%20Eliot%20School%20Saint%20Andrews%20Payments.pdf>

⁴ 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>

⁵ Dec 28, 2015 Disqualification of Judge Phillips <http://iviewit.tv/Simon%20and%20Shirley%20Estate/20151228%20FINAL%20SIGNED%20NOTARIZED%20Second%20Disqualification%20of%20Judge%20Phillips%20after%20Validity%20Hearing%20on%20December%202015.%202015%20ECF%20STAMPED%20COPY.pdf>

and

Corrections

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

WHEREFORE, it is respectfully prayed for an Order mandatorily Disqualifying Judge John L. Phillips and striking the improperly Noticed Hearing of Alan Rose and Ted Bernstein from the calendar, sanctions against Alan Rose and Ted Bernstein and such other and further relief as may be just and proper.

Dated: January 06, 2016

/s/Eliot Ivan Bernstein

Eliot Ivan Bernstein
2753 NW 34th St
Boca Raton, FL 33434
561-245-8588
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 6th day of January, 2016.

By: /s/ Eliot Ivan Bernstein

Eliot Ivan Bernstein
2753 NW 34th St.
Boca Raton, FL 33434
561-245-8588
iviewit@iviewit.tv

SERVICE LIST - CASE NO. SC15-1077 & LOWER CASES DEFENDANTS, RESPONDENTS, COUNTER DEFENDANTS

| | |
|---|--|
| John P. Morrissey, Esq. 330 Clematis Street, Suite 213 West Palm Beach, FL 33401 (561) 833-0766-Telephone (561) 833-0867 -Facsimile Email: John P. Morrissey (iohn@jmoiTisseylaw.com) | Lisa Friedstein 2142 Churchill Lane Highland Park, IL 60035 lisa@friedsteins.com |
| Peter M. Feaman, Esq. Peter M. Feaman, P.A. 3695 West Boynton Beach Blvd., Suite 9 Boynton Beach, FL 33436 (561) 734-5552 -Telephone (561) 734-5554 -Facsimile | Jill Iantoni 2101 Magnolia Lane Highland Park, IL 60035 jilliantoni@gmail.com |

| | |
|--|---|
| Email: service@feamanlaw.com: mkoskey@feamanlaw.com | |
| Gary R. Shendell, Esq. Kenneth S. Pollock, Esq. Shendell & Pollock, P.L. 2700 N. Military Trail, Suite 150 Boca Raton, FL 33431 (561)241-2323 - Telephone (561)241-2330-Facsimile Email: gary@shendellpollock.com ken@shendellpollock.com estella@shendellpollock.com britt@shendellpollock.com grs@shendellpollock.com | Counter Defendant Robert Spallina, Esq. Donald Tescher, Esq. Tescher & Spallina 925 South Federal Hwy., Suite 500 Boca Raton, Florida 33432 |
| Brian M. O'Connell, Esq. Joielle A. Foglietta, Esq. Ciklin Lubitz Martens & O'Connell 515 N. Flagler Dr., 20th Floor West Palm Beach, FL 33401 561-832-5900-Telephone 561-833-4209 - Facsimile Email: boconnell@ciklinlubitz.com; ifoglietta@ciklinlubitz.com; service@ciklinlubitz.com; slobdell@ciklinlubitz.com | Counter Defendant John J. Pankauski, Esq. Pankauski Law Firm PLLC 120 South Olive Avenue 7th Floor West Palm Beach, FL 33401 courtfilings@pankauskilawfirm.com john@pankauskilawfirm.com |
| Counter Defendant Mark R. Manceri, Esq., and Mark R. Manceri, P.A., 2929 East Commercial Boulevard Suite 702 Fort Lauderdale, FL 33308 mrmlaw@comcast.net | Counter Defendant Donald Tescher, Esq., Tescher & Spallina, P.A. Wells Fargo Plaza 925 South Federal Hwy Suite 500 Boca Raton, Florida 33432 dtescher@tescherspallina.com |
| Theodore Stuart Bernstein 880 Berkeley Boca Raton, FL 33487 tbernstein@lifeinsuranceconcepts.com | Counter Defendant TESCHER & SPALLINA, P.A.. Wells Fargo Plaza 925 South Federal Hwy Suite 500 Boca Raton, Florida 33432 dtescher@tescherspallina.com |
| Theodore Stuart Bernstein Life Insurance Concepts, Inc. 950 Peninsula Corporate Circle Suite 3010 Boca Raton, FL 33487 tbernstein@lifeinsuranceconcepts.com | Counter Defendant Alan B. Rose, Esq. PAGE, MRACHEK, FITZGERALD, ROSE, KONOPKA, THOMAS & WEISS, P.A. 505 South Flagler Drive, Suite 600 West Palm Beach, Florida 33401 561-355-6991 arose@pm-law.com arose@mrachek-law.com |
| Pamela Beth Simon 950 N. Michigan Avenue | Counter Defendant L. Louis Mrachek, Esq. |

| | |
|---|---|
| <p>Apartment 2603 Chicago, IL 60611 psimon@stpcorp.com</p> | <p>PAGE, MRACHEK, FITZGERALD, ROSE, KONOPKA, THOMAS & WEISS, P.A. 505 South Flagler Drive, Suite 600 West Palm Beach, Florida 33401 561-355-6991 lmrachek@mrachek-law.com</p> |
| <p>Jill Iantoni 2101 Magnolia Lane Highland Park, IL 60035 jilliantoni@gmail.com</p> | <p>Counter Defendant Pankauski Law Firm PLLC 120 South Olive Avenue 7th Floor West Palm Beach, FL 33401</p> |
| <p>Lisa Sue Friedstein 2142 Churchill Lane Highland Park, IL 60035 lisa.friedstein@gmail.com lisa@friedsteins.com</p> | <p>Dennis McNamara Executive Vice President and General Counsel Oppenheimer & Co. Inc. Corporate Headquarters 125 Broad Street New York, NY 10004 800-221-5588 Dennis.mcnamara@opco.com info@opco.com</p> |
| <p>Dennis G. Bedley Chairman of the Board, Director and Chief Executive Officer Legacy Bank of Florida Glades Twin Plaza 2300 Glades Road Suite 120 West – Executive Office Boca Raton, FL 33431 info@legacybankfl.com DBedley@LegacyBankFL.com</p> | <p>Hunt Worth, Esq. President Oppenheimer Trust Company of Delaware 405 Silverside Road Wilmington, DE 19809 302-792-3500 hunt.worth@opco.com</p> |
| <p>James Dimon Chairman of the Board and Chief Executive Officer JP Morgan Chase & CO. 270 Park Ave. New York, NY 10017-2070 Jamie.dimon@jpmchase.com</p> | <p>Neil Wolfson President & Chief Executive Officer Wilmington Trust Company 1100 North Market Street Wilmington, DE 19890-0001 nwolfson@wilmingtontrust.com</p> |
| <p>William McCabe Oppenheimer & Co., Inc. 85 Broad St Fl 25 New York, NY 10004 William.McCabe@opco.com</p> | <p>STP Enterprises, Inc. 303 East Wacker Drive Suite 210 Chicago IL 60601-5210 psimon@stpcorp.com</p> |
| <p>Charles D. Rubin Managing Partner Gutter Chaves Josepher Rubin Forman Fleisher Miller PA Boca Corporate Center 2101 NW Corporate Blvd., Suite 107 Boca Raton, FL 33431-7343</p> | <p>Ralph S. Janvey Krage & Janvey, L.L.P. Federal Court Appointed Receiver Stanford Financial Group 2100 Ross Ave, Dallas, TX 75201 rjanvey@kjllp.com</p> |

| | |
|--|--|
| crubin@floridatx.com | |
| Kimberly Moran Tescher & Spallina, P.A. Wells Fargo Plaza 925 South Federal Hwy Suite 500 Boca Raton, Florida 33432 k Moran@tescherspallina.com | Lindsay Baxley aka Lindsay Giles Life Insurance Concepts 950 Peninsula Corporate Circle Suite 3010 Boca Raton, FL 33487 lindsay@lifeinsuranceconcepts.com |
| Gerald R. Lewin CBIZ MHM, LLC 1675 N Military Trail Fifth Floor Boca Raton, FL 33486 | CBIZ MHM, LLC General Counsel 6480 Rockside Woods Blvd. South Suite 330 Cleveland, OH 44131 ATTN: General Counsel generalcounsel@cbiz.com (216)447-9000 |
| Albert Gortz, Esq. Proskauer Rose LLP One Boca Place 2255 Glades Road Suite 421 Atrium Boca Raton, FL 33431-7360 agortz@proskauer.com | Heritage Union Life Insurance Company A member of WiltonRe Group of Companies 187 Danbury Road Wilton, CT 06897 cstroup@wiltonre.com |
| Estate of Simon Bernstein Brian M O'Connell Pa 515 N Flagler Drive West Palm Beach, FL 33401 boconnell@ciklinlubitz.com | Counter Defendant Steven Lessne, Esq. Gray Robinson, PA 225 NE Mizner Blvd #500 Boca Raton, FL 33432 steven.lessne@gray-robinson.com |
| Byrd F. "Biff" Marshall, Jr. President & Managing Director Gray Robinson, PA 225 NE Mizner Blvd #500 Boca Raton, FL 33432 biff.marshall@gray-robinson.com | Steven A. Lessne, Esq. Gunster, Yoakley & Stewart, P.A. 777 South Flagler Drive, Suite 500 East West Palm Beach, FL 33401 Telephone: (561) 650-0545 Facsimile: (561) 655-5677 E-Mail Designations: slessne@gunster.com jhoppel@gunster.com eservice@gunster.com |
| T&S Registered Agents, LLC Wells Fargo Plaza 925 South Federal Hwy Suite 500 Boca Raton, Florida 33432 dtescher@tescherspallina.com | David Lanciotti Executive VP and General Counsel LaSalle National Trust NA CHICAGO TITLE LAND TRUST COMPANY, as Successor 10 South LaSalle Street Suite 2750 Chicago, IL 60603 David.Lanciotti@ctt.com |

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

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,

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.,

Defendants.

Probate Division

Case.: 502014CP003698XXXXNB

Judge John Phillips

**Response in Opposition
Motions for Guardian & Gag
Order filed by Alan M. Rose**

RESPONSE IN OPPOSITION MOTIONS FOR GUARDIAN & GAG FILED BY ALAN B. ROSE

COMES NOW, PRO SE, Eliot Ivan Bernstein (“Eliot”) or (“Petitioner”) as Beneficiary and Interested Party both for himself personally and as Guardians for his three minor children Beneficiaries of the Shirley Bernstein Trust and hereby files this and in support thereof states, on information and belief, as follows:

1. I oppose the motion by Alan M. Rose to appoint a Guardian for my children and oppose his motion for any “gag” order and since an Evidentiary Hearing and Testimony are both necessary with respect to the factual pleadings by Alan Rose and such evidence and testimony including my own testimony on both matters which would last well beyond 30 minutes alone it is inappropriate and improper process to achieve anything at the Uniform Motion Calendar Hearing on Jan. 14, 2016 beyond Scheduling of Compliance for outstanding Discovery and Production, depositions and then an evidentiary hearing and a proper Case Management Conference for this “Complex” case.
2. This, however, naturally raises the issue of first scheduling the hearings on the motions to remove Ted Bernstein as Trustee for not being qualified under the language of the trusts, for misconduct in fiduciary capacity, for waste and fraud upon the estate and other matters wherein even this very response by myself in this filing has been delayed by Representations by Creditor William Stansbury that his Florida Licensed Attorney Peter Feaman would be filing yesterday with the Court and Alan Rose a request to delay any hearing on these motions until a Status Conference / Case Management Conference for the Orderly scheduling of further hearings wherein Peter Feaman already notified this Court on Sept. 15, 2015 at the Case Management Conference that removal of Ted Bernstein as Trustee should be the first order of business instead of a validity trial with Ted Bernstein as Trustee, but whereupon this Court improperly moved to Schedule Trial in Shirley Bernstein’s Trust case as Alan Rose misled the Court to believe that all cases were called up, which was untrue, where Shirley’s

Trust case was Not Notified for the Case Management Conference¹ requested by the current PR of Simon's Estate being Mr. Brian O'Connell and Joy Foglietta of the Ciklin Lubitz Martens & O'Connell firm who filed the Notice to bring the matter up for the Case Management Conference on Sept. 15, 2015 in the first instance.

3. Thus, both alleged Creditor William Stansbury and Florida Licensed Attorney Peter Feaman are both Necessary Witnesses in relation to the Integrity of these proceedings and the good faith efforts I have undertaken to uncover fraud upon the Court and in the Court which is directly relevant to resolution of any sham claim by attorney Alan Rose or Steven Lessne regarding guardianship, both being Florida licensed attorneys who have directly Misled this Court in many ways including but not limited to falsely citing language from other Court orders such as Southern District of New York Judge Shira Scheindlin, or Alan Rose falsely claiming during the alleged validity trial that there has been no prior Order for Production of all Original Records by Tescher and Spallina when in fact this was part of the Discharge Order of Judge Colin to the extent any such Order of Judge Colin remains valid. See, Order of Colin on Production².
4. Specifically, Alan Rose, a Served Counter Defendant in this very action has knowingly misquoted an Order of SDNY Judge Shira Scheindlin by falsely portraying a Proskauer Rose proposed language in an Order as an actual Order, quote, finding of Hon. Judge Scheindlin

¹ Case Management Notice of Hearing for Only Simon Bernstein Estate Case
<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20150803%20Notice%20of%20Hearing%20for%20Sept%202015%202015%20930am%20Case%20Management.pdf>

²February 18, 2014 Colin Order Regarding Turning Over ALL Records to Curator
<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20140218%20ORDER%20ON%20PETITION%20FOR%20DISCHARGE%20TESCHER%20SPALLINA%20Case%20502012CP004391XXXXSB%20SIMON.pdf>

herself and while this conduct recently occurred in matters before the 4th DCA³, this evidence is representative of the sharp practices that Alan Rose and Ted Bernstein have employed to avoid full and fair hearings, obstruct due process, and obscure actual truth seeking processes acting in conflict of interest and more while simultaneously not only denying proper funds for myself to obtain proper counsel for my minor children and myself but further denied retained Texas attorney Candice Schwager documents to review for her to further an application to be admitted pro hac vice after having opportunity to scope potential conflicts of interest between myself and minor children.

5. Alan Rose falsely stated to this Court at the Case Management Conference⁴ that no hearings were held prior for guardianship hearings but yet Alan Rose had only a year earlier been denied⁵ by Judge Colin who claimed Eliot and Candice did not need Guardians for their children.
6. Thus, attorney Alan Rose's conduct himself in these proceedings has relevance to his sham motion for guardianship since his own conduct has caused waste and harm to beneficiaries and delayed and obstructed the fact finding and truth seeking processes of this court and thus right there alone are 3 Witnesses in addition to myself that should be part of any Evidentiary hearing relating to appointment of a Guardianship and thus arriving at a Schedule would be the most that can happen on Jan. 14, 2016, or at least should be the most that can happen on this date.

³ December 17, 2015 Sur Reply Showing Alan Rose Misquoting Federal Judge Shira Scheindlin Order <http://iviewit.tv/Simon%20and%20Shirley%20Estate/20151217%204th%20DCA%20Rose%20Ted%20Sur%20Reply%20Dec%2016%202015.pdf>

⁴ September 15, 2015 Case Management Hearing Transcript Scheduled In Simon Estate ONLY, Page 28 Line 7-16
<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20150915%20Judge%20Phillips%20Hearing%20Transcript%20-%20Estate%20of%20%20Simon%20Bernstein.pdf>

⁵ August 14, 2014 Order DENYING GUARDIAN
<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20140814%20Order%20Judge%20Martin%20Colin%20NO%20GUARDIAN%20FOR%20ELIOT%20CHILDREN.pdf>

7. In fact, Florida licensed attorney Peter Feaman has directly prepared pleadings and correspondence showing myself as being the only sibling in these cases to expose fraud and forgery and other proper matters in these cases and eligible to be a Successor. See, below.
8. See filings by Peter Feaman on behalf of alleged Creditor William Stansbury relevant to the sham filing for Guardianship by Alan Rose on behalf of Ted Bernstein.
 - a. <http://iviewit.tv/Simon%20and%20Shirley%20Estate/20140217%20Stansbury%20Response%20in%20Opposition.pdf> Page 4-6 (C)
 - b. <http://iviewit.tv/Simon%20and%20Shirley%20Estate/20140522%20JOINDER%20IN%20PETITION%20FILED%20BY%20ELIOT%20IVAN%20BERNSTEIN%20FOR%20REMOVAL%20OF%20TRUSTEE%20AND%20FOR%20TRUST%20ACCOUNTING.pdf>
 - c. <http://iviewit.tv/Simon%20and%20Shirley%20Estate/20140627%20Response%20in%20Opposition%20to%20the%20Appointment%20of%20Ted%20Bersntein%20as%20Successor%20PR%20etc%20filed%20by%20Feaman%20Stansbury.pdf>
9. Then of course is the letter by Florida Licensed attorney Peter Feaman from August of 2014, nearly 17 months ago claiming PR Brian O'Connell had an absolute "duty" to file to Remove Ted Bernstein in showing failure to provide Accountings, waste of Trust assets and other matters, yet no action taken by PR O'Connell and no present follow-up by Peter Feaman although as indicated I have been delayed in this very filing by Representations of William Stansbury that Peter Feaman would be filing with the Court relative to these matters including holding hearings off until a Status or Case Management Conference but has yet to do that either, although it was represented it would be filed Tuesday, Jan., 12, 2016 further knowing I had filed for Unavailability with this Court which was served upon Alan Rose and

further filed in my last opposition to the Gag order that I was under medication and needing medical care. See,

- a. August 29, 2014 Letter from Attorney at Law Peter Feaman, Esq. to Personal Representative Attorney Brian O'Connell re Conflicts and more of Ted and Alan Rose.

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20140829%20Feaman%20Stansbury%20Letter%20to%20Brian%20O'Connell.pdf>

- b. December 16, 2014, Letter from Attorney Peter Feaman to PR and Attorney Brian O'Connell Letter re O'Connell's Absolute Duty to Remove Ted –

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20141216%20Attorney%20>

- c. [Peter%20Feaman%20Letter%20to%20Attorney%20Personal%20Representative%20Brian%20O'Connell%20re%20Ted%20and%20Alan%20Conflicts.pdf](http://iviewit.tv/Simon%20and%20Shirley%20Estate/20141216%20Attorney%20Peter%20Feaman%20Letter%20to%20Attorney%20Personal%20Representative%20Brian%20O'Connell%20re%20Ted%20and%20Alan%20Conflicts.pdf)

- d. September 19, 2014 Attorney Peter Feaman to PR Attorney Brian O'Connell re Assets of Estates -

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20140919%20Feaman%20Letter%20to%20Brian%20Oconnell%20re%20assets%20of%20Simon%20Estate%209%2019%202014.pdf>

10. William Stansbury is further a necessary Witness as he has information relating to an ongoing Federal investigation of Ted Bernstein by the US Dept. of Labor in relation to Ted Bernstein's fiduciary actions as Plan Administrator / Trustee involving Arbitrage International an asset of the Estate and Trusts where it is likely that further financial harm to beneficiaries including my minor children has occurred according to William Stansbury and yet Alan Rose and Ted Bernstein have not only failed to Disclose these matters to the Court

and parties but further failed to disclose these matters in an alleged Meeting involving Bernstein Holdings and Bernstein Family Investments where Ted Bernstein and Alan Rose .

11. It is unknown why neither Creditor William Stansbury or his Florida licensed attorney Peter Feaman has yet to bring this information to the Court further making them necessary witnesses while it is further noted that just last week Alan Rose improperly scheduled a Hearing without contacting me although being on the phone that same morning with my retained attorney Candice Schwager of Texas seeking pro hac vice admission yet never mentioned the hearing and yet Rose later claimed in an email on Jan. 7, 2016 that an agreement he made with Attorney Peter Feaman to appear on short notice further justified his filing thus playing a “circus” / “charade” game of having Stansbury/Feaman in some parts of the cases but then not having them in on others all the while claiming that Ted Bernstein should be removed.

12. Further that the Estate itself by and through Brian O’Connell and Joy Foglietta has failed to account or provide Documents and Records despite prior Court Ordered Production⁶ upon the former PR’s, Tescher and Spallina, after their removal after admissions to fraudulently altering and creating a fraudulent Shirley Trust that Alan Rose misleads this Court about there being no such Court Order during an alleged Validity Trial⁷ and having multiple cross examination questions sustained as a result of such misstatement to the Court where it appears that in **contempt of such order** for Tescher & Spallina to Produce and turn over all Originals and files, Alan Rose, alleged Fiduciary and Trustee Ted Bernstein, Brian

⁶ February 18, 2014 Court Ordered Production of ALL Records of Tescher and Spallina to Curator <http://iviewit.tv/Simon%20and%20Shirley%20Estate/20140218%20ORDER%20ON%20PETITION%20FOR%20DISCHARGE%20TESCHER%20SPALLINA%20Case%20502012CP004391XXXXSB%20SIMON.pdf>

⁷ December 15, 2015 Validity Hearing Transcript - Transcript Page 123 Lines 10-18 & Page 124 3-7 and Pages 124 Line 17 to 125 Line 17. <http://iviewit.tv/Simon%20and%20Shirley%20Estate/20151215%20Hearing%20Transcript%20Phillips%20Validity%20Hearing.pdf>

O'Connell and Joy Foglietta and potentially others have left "Original" documents and files instead in the Custody of Tescher & Spallina where Spallina has now admitted to fraud upon beneficiaries and their counsel, mail fraud, fraud upon the Court in the filings his office prepared and other crimes and misconduct during the alleged "validity" trial before Your Honor where the PRs O'Connell & Foglietta are *wholly and conspicuously absent from the "Validity trial"* (despite having pleaded to the Court in the Shirley Trust Construction case that Ted was NOT A VALID TRUSTEE⁸ in the SIMON TRUST, which would have materially affected the outcome of such hearing on the Simon Trust case and Ted's ability to argue the validity in the first place) among many other "*missing Witnesses*" at the alleged validity Trial such as Traci Kratish, Notaries Diana Banks, Kimberly Moran (charged with Felony fraudulent notarization and admitted Forgery of documents in these matters) and Lindsay Baxkey and Donald Tescher and an unknown signatory witnesses, leaving the Estate of Simon Bernstein *without counsel* despite the fact that one of the First Orders of Business PRs O'Connell and Foglietta should have sought at the Case Management Conference held Sept. 15, 2015 which was Held and Noticed only in the Estate of Simon Bernstein is a Compliance Order to obtain all the "Originals" and files/documents from Tescher & Spallina so proper Discovery and Production could occur to prove validity but instead results in an improperly schedule Trial in Shirley's Trust case which was not Noticed for Sept. 15, 2015 as required in the procedural rules of the Court.

13. Thus, Brian O'Connell and Joy Foglietta should further be called as Necessary Witnesses in relation to the integrity of proceedings and were further factual Witnesses in relation to

⁸ February 17, 2015 Answer Affirmative Defenses Filed by PR Attorney Brian O'Connell stating Ted is NOT A VALID TRUSTEE under the terms of the Trust.
<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20150217%20Answer%20%20Affirmative%20Defenses%20O'Connell%20States%20Ted%20is%20NOT%20VALID%20TRUSTEE.pdf>

missing documents, missing production, missing business records and intertwined in conduct with Alan Rose in sudden emerging “original” documents from the St. Andrew’s Home allegedly for the Oppenheimer matters and other dispositive Estate and Trust documents yet Creditor William Stansbury had previously stated that his Florida licensed attorney Peter Feaman suggested that a Meeting at his Office and or Brian O’Connell’s Office and inviting the Palm Beach County Sheriff’s for Criminal investigation and prosecution of Ted Bernstein in relation to the missing Tangible Personal Property (“TTP”) should occur, thus intertwining all of the various parties as witnesses in relation to any Guardianship hearing and necessity.

14. Licensed attorney Peter Feaman and his client alleged Creditor William Stansbury further being Witnesses as both claimed to have observed Donald Tescher at the Courthouse after the validity trial yet was not produced by Alan Rose suggesting Tescher’s presence was under Alan Rose’s control and yet because this Court had impermissibly prejudiced and “pre-judged” the validity trial by improperly limiting it to one day ordered in the wrong case without addressing discovery and dispositive motions there was no timing remaining for further necessary witnesses and thus the validity trial should be vacated.
15. While I understand it was filed in a different case number, Steven Lessne is intertwined with Rose on numerous issues including not only the sudden emergence of “original” documents in the Oppenheimer case but further the sharp practices conduct wherein Lessne has **directly mislead this Court** by an almost identical sharp practice of Alan Rose where Southern District of New York Judge Hon. Shira Scheindlin is again knowingly misquoted wherein Lessne claims Judge Scheindlin issued some nationwide injunction against me again misquoting language “proposed” by Proskauer Rose where in actuality the language Judge Scheindlin determined in the Order was as follows: “IV. CONCLUSION For the foregoing

reasons, a monetary sanction in the amount of \$3,500 is hereby imposed on Bernstein as is the injunctive sanction described above. The money is to be paid to the Clerk of the Court, Southern District of New York, forthwith. If Bernstein ignores the monetary sanction, defendants may obtain an enforceable judgment in the amount of \$3,500. If Bernstein continues to file motions in this case, he may be subject to additional monetary sanctions. The Clerk of the Court is directed to close the motion for sanctions (Docket Entry # 145).

Dated: 14 New York, New York August 29, 2013 Opposition at 13. 7⁹“

16. Thus, the only injunctive limitation determined by SDNY Judge Scheindlin is that if I file motions “*in this case*”, being the SDNY case, I “*may be subject to additional monetary sanctions*”, thus showing Lessne himself directly misleading this Court as a Florida licensed attorney.
17. The Court should note that Lessne left his firm Gray Robinson and took with him the Bernstein / Oppenheimer case as he transitioned to Alan Rose’s prior law firm Gunster.
18. To the extent any Order of Judge Colin remains valid, he has already ruled upon motions by Alan Rose and Ted Bernstein on Guardianship and the related matters and DENIED those matters. See below Orders Colin in Rose Denial Guardian Shirley Trust Construction stating no Guardian necessary and Oppenheimer denial of same, This renewed attempt on virtually the same grounds constitutes further harassment and a 2nd bite at apple hoping for a better outcome than with Judge Colin.

- a. Oppenheimer Denial

<http://www.iviewit.tv/Simon%20and%20Shirley%20Estate/20141107%20Omnibus%20Order%20Colin%20Oppenheimer%20Case.pdf>

⁹August 29, 2013 Order the Most Honorable Shira A. Scheindlin
<http://www.iviewit.tv/20130829%20Scheidlin%20Order%20Sanctioning%20Bernstein.pdf>

b. Rose Trust Construction Denial

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20140814%20Order%20Judge%20Martin%20Colin%20NO%20GUARDIAN%20FOR%20ELIOT%20CHILDREN.pdf>

c. Order Denying Contempt Against Eliot -

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20150504%20Order%20on%20Motion%20to%20Hold%20Eliot%20Bernstein%20in%20Contempt%20DENIED.pdf>

19. There has been no “construction” hearing scheduled much less any full and fair hearing after proper discovery and depositions.

20. Moreover, alleged Creditor William Stansbury’s attorney has previously written to Rose directly regarding Rose’s conflicts of interest and other matters of testimony relevant at any hearing as follows:

a. August 08, 2014 Feaman Letters to Rose

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20140808%20Response%20to%20Motion%20for%20Contempt%20-%20Exhibit%20Feaman%20Letter%20to%20Alan%20Re%20St%20Andrews%20Tuition.pdf>

b. Pleading filed by PR Attorney Brian O’Connell in Shirley Trust – Ted NOT A VALID TRUSTEE IN SIMON -

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20150217%20Answer%20%20Affirmative%20Defenses%20O'Connell%20States%20Ted%20is%20NOT%20A%20VALID%20TRUSTEE.pdf>

- c. January 16, 2015 Nevada District Court Ruling - Crystal Cox ruling Eliot and Crystal not associated -

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20150116%20Cox%20Bernstein%20Nevada%20RICO%20Order%20Denying%20Motions%20for%20Summary%20Judgement.pdf>

21. I re-plead and re-allege the following in further opposition to any continued improper attempts at a gag order which should be denied and stricken but certainly would require an adversarial evidentiary hearing first not part of the Uniform Motion Calendar Hearing of Jan. 14, 2016 and certainly not in 10 minutes.
22. I have already had to reschedule medical/dental related appointments due to Alan Rose's actions this New Year, I am currently on prescription medication since January 02, 2016, including painkillers and muscle relaxers and am not fit to attend hearings, which is part of the reason for my unavailability this month. This scheduling and notice is improper and further harassment and this is not the first time Alan Rose has deployed these tactics as the record for the cases reflects.
23. This is nothing but more of the same "sharp practices" and legal process abuses that Alan Rose and Trustee Ted Bernstein have perpetuated throughout the litigation.
24. Florida Licensed attorney (presently) Alan Rose and his client Ted Bernstein fail to point out to this Court their continuing Conflicts of Interest since both Alan Rose and Ted Bernstein have actively worked Against the Interests of the "grandchildren" to Shirley and Simon Bernstein by trying to block \$1.7 in Life Insurance proceeds from coming into the Estate.

25. Both attorney Alan Rose and Ted Bernstein have been involved in actions which directly were contrary to the best interests of minor children by refusing to agree to a Continuance of the validity trial in Dec. 2015 even for 30 days so my minor children could have Counsel by Candice Schwager, Esq. and yet now try to claim to come to this court for the welfare of minor children. See,

a. December 12, 2015 Attorney Candice Schwager Pro Hac Vice Letter to Court

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20151212%20Candice%20Schwager%20Pro%20Hac%20Vice%20ECF%20Filing%20Stamped%20Copy.pdf>

and

b. December 15, 2015 Phillips Trial Stay

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20151215%20ESIGNED%20Phillips%20Trial%20Stay%20ECF%20STAMPED%20COPY.pdf>

26. Ted Bernstein and Alan Rose have articulated no adequate basis to impose a Gag order.

27. In fact according to the Email Letter sent by attorney Schwager today to Alan Rose (see

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20160106%20Schwager%20Letter%20to%20Alan%20Rose%20to%20Cancel%20Hearings.pdf>) to seek his voluntary withdrawal

of this Hearing, even one of the cases cited by Alan Rose actually has the District Court of Appeals reversing a Trial Court's Order closing a Trial from the public: "The orders of the trial court sealing the file and closing the proceedings are REVERSED. The public shall be permitted access to the court file and the transcript or reporter's notes of any proceedings in the trial court. ERVIN, J., concurs. NIMMONS, J., concurs, with written opinion."

<https://casetext.com/case/florida-freedom-newspapers-v-sirmons>

28. There was minimal if virtually any naming of the “grandchildren” and/or “minor children” in the Trial in any event and I should have every right to inspect and have my own copy of the Transcript and this appears to be nothing more than the bully sharp practices of Alan Rose and Ted Bernstein in trying to deny due process and access to the courts and the ability to seek proper appeal, collateral attack and other motions concerning the trial.
29. As attorney Schwager pointed out in her letter, “Thus, it truly appears that your motion is more of a “smoke-screen” and “sharp practices” which are more designed to further delay, obstruct and hinder the due process rights of Eliot Bernstein and his minor children and perhaps others in the truth seeking processes by this motion which must be withdrawn.”
30. In one breathe, Alan Rose and Ted Bernstein rush to push a validity Trial through that had been requested years before by Plaintiff Eliot and do so in a manner to Deny Counsel to Minor Children but now that the hour of Truth is at hand where Ted Bernstein’s business partner / former business partner Robert Spallina’s testimony Admitting to mail fraud, fraudulently creating an Invalid Trust and Fraud Upon the Court in these matters and related Testimony is about to be available as it should be, Alan Rose and Ted Bernstein are now suddenly (and frantically) the big heroes for minor children and rushing in by an improperly Noticed Hearing to gag truth without providing any specific justification that this will benefit any minor children.
31. Yet, as stated by the very case Alan Rose and Ted Bernstein have cited for this Court, “ Preserving the independence and integrity of the judicial process through open and publicly scrutinized judicial proceedings is the issue.”

32. “A strong and independent judiciary is the bulwark of a free society. If there were no public access to proceedings before the trial judge, there would be no safeguard for judicial independence nor any assurance of judicial integrity.”
33. “It is the existence of the right of access that is critical to the court's autonomy, not the public's exercise of that right. Knowing the public can attend these proceedings and review judicial records helps guarantee that those matters will be conducted with due regard for the public's interest in a fair and impartial judiciary.” See, <https://casetext.com/case/florida-freedom-newspapers-v-sirmons>.
34. Minor children ultimately have to grow up and learn the laws of civil societies.
35. There is nothing in the Transcripts that relates to the actions and behaviors of the minor children and thus Alan Rose and Ted Bernstein have shown *nothing specific of a compelling nature* with respect to the minor children and this motion should be struck from the Calendar and denied.
36. Instead the Trial consisted of testimony and actions by Ted Bernstein’s business partners and his former counsel to him as fiduciary Robert Spallina and Donald Tescher who admitted to (i) illegally using the Mails to mail a fraudulently created invalid trust to the three minor children’s prior counsel Christine Yates, (ii) that his law firm deposited fraudulent documents in the Court record in the cases, (iii) that he fraudulently used a deceased Personal Representative to Fraudulently close the Estate of Shirley Bernstein in these matters leading to the reopening of the Estate of Shirley and three years of litigation costs and expenses and (iv) that he was under an SEC Consent order for Felony Insider Trading charges and other matters.

37. The SEC Consent Orders¹⁰ for Spallina and Tescher are already of Public Record by the Washington, DC Office of the US SEC itself naming Robert Spallina and Donald Tescher, Ted Bernstein's business partners and former disgraced counsel to him as fiduciary in these matters, who he and Alan Rose allowed to "hold onto" Original records even after Spallina's admitting to fraud that benefited his client Ted directly and also having the firm's paralegal notary public Kimberly Moran admit to criminal charges in this matter of forging documents, fraudulently notarizing them, including Post Mortem for Simon Bernstein and committing multiple frauds on the Court and beneficiaries in these matters.
38. See, "**FOR IMMEDIATE RELEASE 2015-213** *Washington D.C., Sept. 28, 2015* — The Securities and Exchange Commission today charged five Florida residents – including two lawyers and an accountant – with insider trading in advance of the acquisition of Pharmasset Inc. by Gilead Sciences Inc. In a complaint filed in federal court in Newark, New Jersey, the SEC alleged that attorneys Robert L. Spallina and Donald R. Tescher and accountant Steven G. Rosen illegally traded on confidential information obtained from a mutual client who served on the board of directors of Princeton, New Jersey-based Pharmasset."
39. Spallina, Tescher, Rosen, Palermo, and Markowitz collectively agreed to pay approximately \$489,000 to settle the charges. The settlements are subject to court approval.

¹⁰ September 28, 2015 SEC Press Release Regarding SPALLINA and TESCHER INSIDER TRADING CHARGES, "SEC Charges Five With Insider Trading, Including Two Attorneys and an Accountant"

<http://www.sec.gov/news/pressrelease/2015-213.html>

and

September 28, 2015 SEC Government Complaint filed against TESCHER and SPALLINA @

<http://www.sec.gov/litigation/complaints/2015/comp-pr2015-213.pdf>

and

October 01, 2015 SEC Consent Orders Felony Insider Trading SPALLINA signed September 16, 2015 and TESCHER signed June 15, 2014

<http://www.iviewit.tv/Simon%20and%20Shirley%20Estate/2015%20Spallina%20and%20Tescher%20SEC%20Settlement%20Consent%20Orders%20Insider%20Trading.pdf>

40. “Lawyers and accountants occupy special positions of trust and confidence and are required to protect the information entrusted to them by their clients,” said Joseph G. Sansone, Co-Chief of the SEC’s Market Abuse Unit. “It is illegal for them to steal their clients’ confidential information to trade securities for their own profit or to tip others.” See, <http://www.sec.gov/news/pressrelease/2015-213.html>
41. Thus, those matters regarding Ted Bernstein’s business partners and prior counsel to him as fiduciaries are already a matter of public record being made public by the federal government.
42. However in the December 15, 2015 Hearing Spallina testifying to the validity of documents he already admitted in the hearing to having fraudulently altered and disseminated via mail, states to Your Honor that he had **NOT** pled guilty to either felony or misdemeanor criminal conduct and yet the Consent Order signed by Spallina directly contradicts his testimony before this Court and this Court should take Judicial Notice and report such misconduct.
43. That SPALLINA perjured his testimony and further misled this court as he did plead guilty of criminal misconduct and the SEC Consent signed by SPALLINA states, ,
- “2. Defendant [Robert Spallina] has agreed to plead guilty to criminal conduct relating to certain matters alleged in the complaint in this action and acknowledges that his conduct violated the federal securities laws. Specifically, Defendant has agreed to plead guilty to a one count information which charges him with committing securities fraud involving insider trading in the securities of Pharmasset, Inc. in a matter to be filed in the United States District Court for the District of New Jersey, (the “Criminal Action”).”
44. Yet, in a December 15, 2015 hearing under sworn oath as a witness in a Validity Hearing before Judge PHILLIPS, SPALLINA stated the following from the hearing transcript Page 93 Lines 14-17¹¹;

¹¹ December 15, 2015 PHILLIPS VALIDITY HEARING TRANSCRIPT

14. THE COURT: You can answer the question, which
15. is, did you plead to a felony?
16. MR. BERNSTEIN: Sorry, sir.
17. THE WITNESS: I have not.

45. Further, in the SEC Consent signed by SPALLINA reads,

“12. Defendant understands and agrees to comply with the term of 17 C.P.R. f 202,S(e). which provides in part that it is the Commission's policy "not to permit a defendant or respondent to consent to a judgment or order that imposes a sanction while denying the allegations in the complaint or order for proceedings." As part of Defendant's agreement to comply with the terms of Section 202.5(e), Defendant acknowledges that he has agreed to plead guilty for related conduct as described in paragraph 2 above, and: (i) will not take any action or make or permit to be made any public statement denying, directly or indirectly, any allegation in the complaint or creating the impression that the complaint is without factual basis; (ii) will not make or permit to be made any public statement to the effect that Defendant does not admit the allegations of the complaint, or that this Consent contains no admission of the allegations; (iii) upon the filing of this Consent, Defendant hereby withdraws any papers filed in this action to the extent that they deny any allegation in the complaint; and (iv) stipulates for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C.. §523. that the allegations in the complaint are true...”

46. No compelling circumstances are shown by Ted Bernstein and his attorney Alan Rose to gag any part of the Trial herein other than what my attorney Candice Schwager says in her Letter Email that the standard in federal court for Pleadings is to simply abbreviate the minor child’s name instead of spelling it out such as “J.B.”, “D.B”, etc. Where none of the parents of the minor children have objected on their children’s behalf either.

47. Nothing else more than that should happen here.

48. Alan Rose and Ted Bernstein’s desperate attempt to hide and conceal the Truth of the Trial is just like what the District Court of Appeals found offensive in the case their papers cited, “In essence, one of the parties wished to conduct the proceedings in private to prevent the disclosure of certain information the party would otherwise prefer not be made public. The information is of a somewhat general nature and not specifically tied to a domestic relations

case.⁸ The information is not related to the marital relationship nor its breakup, to the welfare of the children, nor to the marital property.”

49. “This may be so, but we do not find this reason to be sufficiently compelling, rising to the level that would deny the party an opportunity to receive a fair trial, to justify closing these proceedings.” District Court of Appeal of Florida, First District. 508 So.2d 462 (Fla. Dist. Ct. App. 1987) <https://casetext.com/case/florida-freedom-newspapers-v-sirmons>
50. Having acted to repeatedly Deny minor children Counsel by denial of proper Trust funds and thus deny minor children rights, these actions now by Ted Bernstein and Alan Rose are a sham and must be denied.
51. Ted Bernstein would have this Court disregard and deny the actual history of fraud and abusive, bullying, extortive, illegal and coercive tactics and conduct of he and his business partners and his former counsel against Minor children as if Ted Bernstein had the Court on his own Payroll. See, May 6, 2013 Emergency Motion¹² and See Motion on St. Andrew’s School¹³,
52. I, Eliot Bernstein, further renews and reminds this Court that it lacks jurisdiction to hear the matter as this Court was mandatorily disqualified at least as of Dec. 4, 2015¹⁴ and was further

¹² May 06, 2013 Bernstein Emergency Petition Florida Probate Simon and Shirley Estate Cases @ <http://iviewit.tv/Simon%20and%20Shirley%20Estate/20130506%20FINAL%20SIGNED%20Petition%20Freeze%20Estates%20Orginal%20Large.pdf>

¹³ August 24, 2014 Emergency Motion <http://iviewit.tv/Simon%20and%20Shirley%20Estate/20140824%20Amended%20Emergency%20Motion%20to%20Compel%20Eliot%20School%20Saint%20Andrews%20Payments.pdf>

¹⁴ 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>

moved to mandatory disqualify Dec.28, 2015¹⁵ and thus no further action may be taken at this time beyond mandatory Disqualification.

WHEREFORE, it is respectfully prayed for an Order mandatorily Disqualifying Judge John L. Phillips, striking or alternatively Continuing the motions of Ted Bernstein and Alan Rose until after a properly scheduled, noticed and held Case Management Conference for a “complex” case, proper Discovery, depositions and proper evidentiary hearings held first, sanctions against Alan Rose and Ted Bernstein and such other and further relief as may be just and proper.

Dated: January 13, 2016

/s/Eliot Ivan Bernstein

Eliot Ivan Bernstein
2753 NW 34th St
Boca Raton, FL 33434
561-245-8588
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 13th day of January, 2016.

/s/Eliot Ivan Bernstein

Eliot Ivan Bernstein
2753 NW 34th St
Boca Raton, FL 33434
561-245-8588
iviewit@iviewit.tv

¹⁵ Dec 28, 2015 Disqualification of Judge Phillips

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20151228%20FINAL%20SIGNED%20NOTARIZED%20Second%20Disqualification%20of%20Judge%20Phillips%20after%20Validity%20Hearing%20on%20December%202015.%202015%20ECF%20STAMPED%20COPY.pdf>

and

Corrections

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

SERVICE LIST

| | | |
|---|---|--|
| <p>COUNTER DEFENDANT Robert L. Spallina, Esq., Tescher & Spallina, P.A. Wells Fargo Plaza 925 South Federal Hwy Suite 500 Boca Raton, Florida 33432 rspallina@tescherspallina.com kmoran@tescherspallina.com ddustin@tescherspallina.com</p> | <p>COUNTER DEFENDANT Ted Bernstein, Individually 880 Berkeley Boca Raton, FL 33487 tbernstein@lifeinsuranceconcepts.com</p> | <p>COUNTER DEFENDANT John J. Pankauski, Esq. Pankauski Law Firm PLLC 120 South Olive Avenue 7th Floor West Palm Beach, FL 33401</p> |
| <p>COUNTER DEFENDANT Donald Tescher, Esq., Tescher & Spallina, P.A. Wells Fargo Plaza 925 South Federal Hwy Suite 500 Boca Raton, Florida 33432 dtescher@tescherspallina.com ddustin@tescherspallina.com kmoran@tescherspallina.com</p> | <p>COUNTER DEFENDANT Ted Bernstein Life Insurance Concepts et al. 950 Peninsula Corporate Circle Suite 3010 Boca Raton, FL 33487 tbernstein@lifeinsuranceconcepts.com</p> | <p>COUNTER DEFENDANT Pankauski Law Firm PLLC 120 South Olive Avenue 7th Floor West Palm Beach, FL 33401 courtfilings@pankauskilawfirm.com john@pankauskilawfirm.com</p> |
| <p>COUNTER DEFENDANT Donald Tescher, Esq., Tescher & Spallina, P.A. Wells Fargo Plaza 925 South Federal Hwy Suite 500 Boca Raton, Florida 33432 dtescher@tescherspallina.com ddustin@tescherspallina.com kmoran@tescherspallina.com</p> | <p>COUNTER DEFENDANT & COUNSEL TO TED BERNSTEIN SERVED Alan B. Rose, Esq. PAGE, MRACHEK, FITZGERALD, ROSE, KONOPKA, THOMAS & WEISS, P.A. 505 South Flagler Drive, Suite 600 West Palm Beach, Florida 33401 arose@pm-law.com and arose@mrachek-law.com</p> | <p>Counter Defendant TESCHER & SPALLINA, P.A. Wells Fargo Plaza 925 South Federal Hwy Suite 500 Boca Raton, Florida 33432 dtescher@tescherspallina.com ddustin@tescherspallina.com kmoran@tescherspallina.com</p> |
| | <p>Pamela Simon</p> | <p>Counter Defendant</p> |

| | | |
|--|---|--|
| | <p>President STP Enterprises, Inc. 303 East Wacker Drive Suite 210 Chicago IL 60601-5210 psimon@stpcorp.com</p> | <p>Mark R. Manceri, Esq., and Mark R. Manceri, P.A., 2929 East Commercial Boulevard Suite 702 Fort Lauderdale, FL 33308 mrmlaw@comcast.net mrmlaw1@gmail.com</p> |
| <p>Counter Defendant L. Louis Mrachek, Esq. PAGE, MRACHEK, FITZGERALD, ROSE, KONOPKA, THOMAS & WEISS, P.A. 505 South Flagler Drive, Suite 600 West Palm Beach, Florida 33401 lmrachek@mrachek-law.com</p> | <p>Counter Defendant Charles D. Rubin Managing Partner Gutter Chaves Josepher Rubin Forman Fleisher Miller PA Boca Corporate Center 2101 NW Corporate Blvd., Suite 107 Boca Raton, FL 33431-7343 crubin@floridatax.com</p> | <p>Counter Defendant Kimberly Moran Tescher & Spallina, P.A. Wells Fargo Plaza 925 South Federal Hwy Suite 500 Boca Raton, Florida 33432 kmoran@tescherspallina.com</p> |
| <p>Counter Defendant Lindsay Baxley aka Lindsay Giles Life Insurance Concepts 950 Peninsula Corporate Circle Suite 3010 Boca Raton, FL 33487 lindsay@lifeinsuranceconcepts.com</p> | <p>Counter Defendant Estate of Simon Bernstein Personal Representative Brian M. O'Connell, Partner Ciklin Lubitz Martens & O'Connell 515 N Flagler Drive 20th Floor West Palm Beach, FL 33401 boconnell@ciklinlubitz.com jfoglietta@ciklinlubitz.com</p> | <p>Jill Iantoni 2101 Magnolia Lane Highland Park, IL 60035 jilliantoni@gmail.com</p> |
| <p>Lisa Friedstein 2142 Churchill Lane Highland Park, IL 60035 Lisa@friedsteins.com lisa.friedstein@gmail.com lisa@friedsteins.com</p> | <p>Pamela Beth Simon 950 N. Michigan Avenue Apartment 2603 Chicago, IL 60611 psimon@stpcorp.com</p> | |

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.

**Objections to Proposed Order of Alan
Rose / Ted Bernstein**

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.,

Defendants.

**OBJECTIONS TO PROPOSED ORDER OF ALAN B. ROSE AND TED BERNSTEIN "ORDER
DETERMINING ELIOT BERNSTEIN LACKS STANDING INDIVIDUALLY
AND STRIKING ELIOT'S FILINGS, AND DEFERRING RULING ON THE APPOINTMENT OF
A GUARDIAN AD LITEM AND OTHER RELIEF SOUGHT" AND PROPOSED ALTERNATIVE
ORDER FOR HEARING HELD JANUARY 14, 2016**

1. That Florida licensed attorney Alan Rose on behalf of Ted Bernstein misled this Court on Sept. 15, 2015¹ including whether all four cases had been properly Noticed² and where due to this misinformation at the case management conference a Trial was improperly set in Shirley Bernstein's Trust case in violation of Florida Civil Rules of Procedure 1.200³ and in violation of due process while the PRs of the Simon Bernstein Estate Brian O'Connell and Joy Foglietta stood silent despite their office having sent the Notice for the Case Management Conference in the first instance,

4 MR. ROSE: I'm not planning on doing the
5 whole hearing, but briefly there are,
6 technically, four other cases that all were
7 assigned. I think we've noticed a status
8 conference in all four cases.

That Florida licensed attorney Alan Rose requested January 14, 2016 at 12:17pm⁴ that Eliot Bernstein submit comments to a proposed Order from a January 14, 2016 hearing by 3pm that same day or else he would file with the Court as an unopposed Order and Eliot replied and 3:30pm⁵ on January that he would try to get his changes to him timely on January 15th, 2016 to submit to the Court together with his proposed Order (Eliot did not know at the time that Rose was supposed to give him five days under the rules);

2. Mr. Rose in violation of ADMINISTRATIVE ORDER 5.204-5/09⁶ then ignored said received email indicating that Eliot would send comments and a proposed order to him the next day and instead sent a letter to Judge Phillips with his proposed Order only to the Court on January 14,

¹ Sept 15, 2015 Hearing Transcript

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

² August 03, 2015 Notice of Hearing Status Conference for Simon Bernstein Estate Case Only

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20150803%20Notice%20of%20Hearing%20for%20Sept%2015%202015%20930am%20Case%20Management.pdf>

³Florida Rules of Civil Procedure 1.200

http://phonl.com/fl_law/rules/frcp/frcp1200.htm

⁴ January 14, 2016 Email Rose

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20160114%20at%2012.12pm%20Alan%20Rose%20Proposed%20Order%20Email.pdf>

⁵ January 14, 2016 Eliot Email to Rose with Dr. Report

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20160114%20at%203.30pm%20Eliot%20response%20to%20Rose%20re%20Order.pdf>

⁶<http://15thcircuit.co.palm-beach.fl.us/documents/10179/15133/5.204.pdf>

2016 at 4:15pm⁷ without waiting for Eliot's comments and proposed order and this too in violation of Administrative Order 5.204-5/09⁸ and further asked for an immediate ruling that day from Judge Phillips, knowing there are five days for my response and proposed order to be sent to him before seeking relief with the court as if unopposed with no counter order. This further evidences Mr. Rose's continued Sharp Practices and violation and contempt of the court decorum, efforts to obstruct due process and tortiously interfere with the fair administration of justice;

3. Florida licensed attorney Alan Rose on behalf of Ted Bernstein having further misled this Court about the status of the case and the time necessary for a proper validity Trial at the September 15, 2015 case management conference and left no time for a proper trial for the 10 witnesses called by the Trustee or for Eliot to properly cross examine witnesses available that day leaving Eliot and this Court with insufficient time for a proper trial / hearing which was improperly held without proper pre-trial procedures to determine outstanding discovery and requests for production and proper witnesses.
4. That the January 14, 2016 hearing for standing was also improperly scheduled at a UMC hearing by Alan Rose, despite needing an evidentiary hearing as requested by Eliot at the hearing to give testimony and have any witnesses present but which Eliot was denied opportunity for such by this Court;
5. Where Judge Phillips asked Eliot at the January 14, 2016 hearing what statute gave him standing as a named Beneficiary in the Shirley Trust document that Phillips has Ordered to be valid and when Eliot, a Pro Se litigant, did not know off the top of his head the Florida Statute giving

⁷ January 14, 2016 4:15 pm Alan Rose Letter to Judge Phillips

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20160114%204.06pm%20ExParte%20Letter%20to%20Judge%20Phillips%20Alan%20Rose%20Proposed%20Order.pdf>

⁸<http://15thcircuit.co.palm-beach.fl.us/documents/10179/15133/5.204.pdf>

named beneficiaries standing in a Trust case where they are named, Judge Phillips, who is supposed to know the statutes himself improperly ruled against Eliot's standing for this sole reason of his lack of knowing the statute at the hearing and based solely on the claims of Alan Rose and not on the merits after proper hearing with testimony from both sides or giving Eliot a chance to find the correct statute to preserve his standing. Judge Phillips, then quite rudely told Eliot if he did not like it to get a lawyer despite the fact that a prior motion for a Continuance of the validity trial itself was filed timely before Trial so that Texas attorney Candice Schwager could get admitted pro hac vice yet attorney Alan Rose denied Candice Schwager any such courtesy even though it was to benefit the minor children and Alan Rose has further denied Candice Schwager access to document production to further her review of the case while this Court improperly stated the motion for continuance was untimely when the statute permits it to be made even at the time of trial and where it was filed in writing before the trial.

6. That Florida Statutes 733.707, 736.0103, 731.201 (2)(4)(9)(11)(20) and (23) give Eliot standing as a Beneficiary, Heir and Interested Person and Trustee of the Eliot Bernstein Family Trust in this case and the Simon Estate, the Simon Trust and the Shirley Estate.
7. That for instance in the Shirley Trust case addressed herein, Eliot and his two sisters are the beneficiaries of Shirley's Trust at the time it become irrevocable with a defined class of beneficiaries in stone upon her death, as stated in the trust;

ARTICLE II. AFTER MY DEATH - E. Disposition of Trusts Upon Death of Survivor of My Spouse and Me.

2. Disposition of Balance. Any parts of the Marital Trust and the Family Trust my spouse does not or cannot effectively appoint (including any additions upon my spouse's death), or all of the Family Trust if my spouse did not survive me, shall be divided among and **held in separate Trusts for my lineal descendants then living, per stirpes [emphasis added]**. Any assets allocated under this Subparagraph 11.D. to my children (**as that term is defined under this Trust [emphasis added]**), shall be distributed to the then serving Trustees of each of their respective Family Trusts, established by my spouse

as grantor on even date herewith (the "Family Trusts" which term includes any successor trust thereto), to be held and administered as provided under said Trusts. The provisions of the Family Trusts are incorporated herein by reference, and if any of the Family Trusts are not then in existence and it is necessary to accomplish the foregoing dispositions, the current Trustee of this Trust is directed to take such action to establish or reconstitute such applicable trust(s), or if the Trustee is unable to do so, said assets shall be held in separate trusts for such lineal descendants and administered as provided in Subparagraph 11.E. below. Each of my lineal descendants for whom a separate Trust is held hereunder shall hereinafter be referred to as a "beneficiary," with their separate trusts to be administered as provided in Subparagraph 11.E. below.

and

F. Trusts for Beneficiaries. The Trustee shall pay to a beneficiary the net income of such beneficiary's trust. The Trustee shall pay to the beneficiary and the beneficiary's children, such amounts of the principal of such beneficiary's trust as is proper for the Welfare of such individuals. After a beneficiary has reached any one or more of the following birthdays, the beneficiary may withdraw the principal of his or her separate trust at any time or times, not to exceed in the aggregate 1/3 in value after the beneficiary's 25th birthday, 1/2 in value (after deducting any amount previously subject to withdrawal but not actually withdrawn) after the beneficiary's 30th birthday, and the balance after the beneficiary's 35th birthday, provided that the withdrawal powers described in this sentence shall not apply to any child of mine as beneficiary of a separate trust. The value of each trust shall be its value as of the first exercise of each withdrawal right, plus the value of any subsequent addition as of the date of addition. The right of withdrawal shall be a privilege which may be exercised only voluntarily and shall not include an involuntary exercise. If a beneficiary dies with assets remaining in his or her separate trust, upon the beneficiary's death the beneficiary may appoint his or her trust to or for the benefit of one or more of my lineal descendants and their spouses (excluding from said class, however, such beneficiary and such beneficiary's creditors, estate, and creditors of such beneficiary's estate). Any part of his or her trust such beneficiary does not effectively appoint shall upon his or her death be divided among and held in separate Trusts for the following persons:

1. for his or her lineal descendants then living, per stirpes; or
2. if he or she leaves no lineal descendant then living, per stirpes for the lineal descendants then living of his or her nearest ancestor (among me and my lineal descendants) with a lineal descendant then living who is also a lineal descendant of my spouse.

A trust for a lineal descendant of mine shall be held under this paragraph, or if a trust is then so held, shall be added to such trust.

ARTICLE III. GENERAL - E1 - Definitions. In this Agreement,

1. Children, Lineal Descendants. The terms "child," "children" and "lineal descendant" mean only persons whose relationship to the ancestor designated is created entirely by or through (a) legitimate births occurring during the marriage of the joint biological parents to each other, (b) children and their lineal descendants arising from surrogate births and/or third party donors when (i) the child is raised from or near the time of birth by a married couple (other than a same sex married couple) through the

pendency of such marriage, (ii) one of such couple is the designated ancestor, and (iii) to the best knowledge of the Trustee both members of such couple participated in the decision to have such child, and (c) lawful adoptions of minors under the age of twelve years. No such child or lineal descendant loses his or her status as such through adoption by another person. **Notwithstanding the foregoing, as I have adequately provided for them during my lifetime, for purposes of the dispositions made under this Trust, my children, TED S. BERNSTEIN ("TED") and PAMELA B. SIMON ("PAM"), and their respective lineal descendants shall be deemed to have predeceased the survivor of my spouse and me [Emphasis Added],**

That the trust language is clear that Ted and Pamela and their lineal descendants, at the time of Shirley's death were not beneficiaries and Eliot and his two sisters Lisa and Jill are. Further, the Court should note that Ted is considered predeceased for ALL PURPOSES OF DISPOSITIONS of the Shirley Trust, which would disqualify him as a Trustee to make dispositions, including holding hearings for construction and validity or making any disbursements and thus further reason to strike the Validity Hearing on December 15, 2015 as a Sham Hearing conducted by a deceased person under the trust.

8. Similarly, at Judge Phillips' validity hearing Order on December 16, 2016, Eliot was never shown a copy of beforehand or had chance to submit comments and a counter order to Rose was also issued in violation of ADMINISTRATIVE ORDER 5.204-5/09*⁹, the order issued contains rulings on issues that were not Noticed to be Heard, not Scheduled for the Trial and in fact not heard at the hearing at all, no testimony or anything from either party on the ruled on items as evidenced in the transcript and thus the December 16, 2015 Order should further be stricken as an improper Void Order and for other far more serious reasons further defined herein. That the Rose Proposed Order for the January 14, 2016 hearing feeds off the December 16, 2016 Order and for this reason the December 16, 2016 Order and the Proposed Order should be stricken.

⁹ Administrative Order Regarding Preparation of Order - ADMINISTRATIVE ORDER 5.204-5/09*

9. That Eliot further stated to the Court that the hearing was improperly scheduled by Rose when he knew Eliot had filed in December a Notice of Unavailability for the month of January and further learned that he was under medical care and prescription medications¹⁰ making him medically unfit during the time of the January 14, 2016 hearing and again, using sharp practice unbecoming of an Attorney at Law, Rose scheduled the hearing and would not withdraw it despite knowing Eliot was not well and was still seeking to have counsel admitted to protect the children.
10. Eliot stated on the record that he was medically unfit and on heavy medications for any hearing that day and yet Judge Phillips ignored the request to postpone and schedule a proper evidentiary hearing to determine standing and rushed to rule without even having proper testimony on any of the items in Rose's Proposed Order.
11. That having declared in a September 15, 2015 hearing "love"¹¹ for Judge Colin and pre-judging that he would not question Colin's actions that have been called into question and alleged as Fraud by the Court and that he would not find that Colin did something wrong, wholly prejudiced Eliot's position and denies him fundamental due process rights.
12. Having further reviewed the Record of the Cases having determined that an outstanding Order by Judge Colin for Production¹² against prior fiduciaries Tescher & Spallina was never performed or complied with fundamentally prejudicing a proper validity Trial. In fact it was learned at the December 15, 2015 trial that NONE of the Original Dispositive Documents were available for inspection at the hearing and that Trustee Ted Bernstein claimed under oath he had

¹⁰ Dr. Ronik Seecharan Letter

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20160114%20Seecharan%20Letter%20Regarding%20procedure.pdf>

¹¹ September 15, 2015 Hearing Transcript Page 27 Lines 14-25 and Page 28 Lines 1-6

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

¹² February 18, 2014 Order to Turn Over **ALL** records of Tescher and Spallina to Curator

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20140218%20ORDER%20ON%20PETITION%20FOR%20DISCHARGE%20TESCHER%20SPALLINA%20Case%20502012CP004391XXXXSB%20SIMON.pdf>

never seen the original trust he operates under nor took any steps to validate the documents in light of the fact that his prior counsel SPALLINA had admittedly fraudulently created a Shirley Trust document at the December 15, 2015 hearing he testified at as to the validity of the documents he admitted fraud in creating and then sent the fraudulent trust via mail to Attorney at Law Christine Yates representing Eliot's minor children and finally it was learned at the hearing that Tescher and Spallina had violated the Colin Court Order to turn over their records in entirety and still possessed Original dispositive documents;

13. That the totality of the related cases should have determined this case to be a "complex" case and the case management conference should have been conducted properly as such, again such deprivation of rights severely prejudiced the outcome;
14. That proper pre-trial procedures thus were not followed and must be corrected in furtherance of justice;
15. That missing necessary witnesses and missing discovery were existent at the time of the validity trial including but not limited to witnesses Notary Publics who signed documents, Kimberly Moran and Lindsay Baxley (where Governor Rick Scott's Notary Public Division has already prosecuted in conjunction with the Palm Beach County Sheriff Moran for fraudulent notarization in these matters and Lindsay Baxley aka Lindsay Giles was also found to have improperly notarized a Will and Amended Trust of Simon) and Witnesses to the Execution of the alleged documents, Traci Kratish, Esq., Diana Banks, Rachel Walker and a John Doe signor, as well as, other witnesses William Stansbury and Donald Tescher, Esq. thus necessitating a new Trial after proper pre-trial proceedings are completed and a Case-Management Conference for a "complex" case is held before a non-conflicted and non-adverse judge;

16. That the circumstances of Judge Colin's handling of the case and specifically, including but not limited to, hearings held on Sept. 13, 2013¹³ whereupon alleged Trustee Ted Bernstein appeared on the record claiming his fiduciary status as fiduciary for the Estate at a time he had not yet been appointed, a year after Simon's death at the time of the hearing, yet remaining silent as to various Frauds upon the Court admitted by his counsel, including an April 9, 2012 Petition for Discharge¹⁴ claiming all beneficiaries had properly waived their interests and rights and Simon was in possession of them on that date. Ted Bernstein having known this to be false, as he did not complete his own Waiver until August 01, 2012 and therefore knew this statement that Simon had the completed Waivers in April 2012 to be false and further fraudulent actions involving the fiduciaries Tescher and Spallina who were acting as Simon's counsel at the time of the alleged signing and Ted's counsel when it was finally delivered to the Court as if Simon were delivering it alive Post Mortem months after his death while still acting as PR.
17. For clarification of this complex Post Mortem scheme, it should be noted that when Simon died, Ted was NOT appointed Successor PR by the Court while he maintained to the family on the day Simon died that he was acting as PR and acted as such and yet Ted was not appointed by Colin and issued Letters until October 13, 2013 after the hearing September 13, 2013 hearing that Colin threatened to read him Miranda's, leading to a series of bad rulings of Colin's that were designed to protect rather than have prosecuted those officers of his court involved in these frauds on the Court and the Beneficiaries. Yet, Ted's counsel Tescher and Spallina never filed for Letters for Ted when Simon died and instead they (Ted and his counsel Tescher and Spallina)

¹³ September 13, 2013 Colin Hearing - Mirand Warnings and more
<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20130913%20TRANSCRIPT%20Emergency%20Hearing%20Colin%20Spallina%20Tescher%20Ted%20Manceri.pdf>

¹⁴ April 09, 2012 Alleged Simon Full Discharge Waiver Deposited by him with the Court after he passed away.
<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20120409%20Petition%20for%20Discharge%20Full%20Waiver%20Shirley%20SIGNED%2020120409%20NOT%20FILED%20UNTIL%2020121024.pdf>

all choose to use Simon as PR for months after he died to file fraudulently filed documents and in some instance forged and fraudulently notarized for Simon Post Mortem, all these criminal acts committed as part of a complex legal scam to create the appearance that Simon closed his wife's estate properly before he died and made changes to Beneficiaries and Fiduciaries and documents prior to his own death.

18. Ted introduced his friends Tescher and Spallina to his father to do estate planning so as that Ted could get business in return from them.
19. Spallina and Tescher, Ted's close business associates that he retained as his counsel to represent him as Personal Representative and Trustee and Ted Bernstein further sat idly by as he learned that his mother's estate was closed by his deceased father acting as PR at a time after his death and while Ted was claiming he was the PR (prior to Letters issued in October 2013) through a series of fraudulent acts of his counsel Spallina and Tescher and the totality of the circumstances indicating Judge Colin is a necessary and material fact witness as Eliot Bernstein attempted to inform this Court on July 30, 2015 and Sept. 15, 2015 and at Trial Dec. 15th, 2015 and further by opposition herein;
20. That Judge Colin having issued prior Orders denying Ted Bernstein's motions to deny Eliot's Standings and that Eliot Bernstein has standing in all cases before this Court until proper hearings and trial determine otherwise;
21. Eliot Bernstein was sued individually in this action and Eliot has filed a counter complaint that also gives him individual standing. Eliot is also the alleged Trustee of his children's trusts, trusts that to this day he still has not been given a copy of. Eliot is also a beneficiary of the Simon Estate, the Shirley Bernstein Trust and the Shirley Bernstein Estate. Eliot also is alleged to be a beneficiary of Simon's Trust, as Simon's 2012 Amended Trust, allegedly done days before his

death, was improperly constructed, leaving Eliot still a beneficiary. Eliot is an interested party individually in all cases.

22. That a continuance should have been granted for Eliot Bernstein for all hearings to determine if his minor children's counsel Candice Schwager could be admitted pro hac vice or otherwise be afforded additional time to retain counsel of his choosing as the minor children have not been represented at any hearings, despite Rose's own contention that the children need independent counsel and where the Court should demand deposit of adequate funds from the Trusts or from the parties responsible for the need for counsel, Tescher and Spallina, into a proper account for no less than \$100,000.00 for immediate retention of counsel for the minors, thereby negating any need for guardians (who would then need to get counsel and so a guardian would only add additional expenses);
23. Hampering this effort to retain counsel for the minor children is Rose and his client Ted, as alleged Successor Trustee, refusal to turn over records to counsel Schwager¹⁵ acting on behalf of Eliot and his minor children whom she is retained to represent but cannot enter the cases until she is approved Pro Hac Vice, a determination she will be making after getting the necessary case files from the fiduciaries. Currently, efforts underway to provide Eliot and his children with local counsel for Schwager have proved unsuccessful and perhaps that is because Eliot has exposed Fraud on the Court and alleges Fraud by the Court and several South Florida lawyers and judges involved, leading to a blackballing effect whereby many contacted will not even return calls after learning of who is involved in the case and many are already aware and instantly refuse.

¹⁵ Rose Letter Refusing to turn over documents to Attorney at Law Candice Schwager
<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20160106%20Rose%20Denying%20to%20talk%20o%20r%20give%20information%20to%20Attorney%20Schwager.pdf>

24. The refusal to turn over documents by fiduciaries including Ted Bernstein have plagued this case from the start and continue to this day and in fact are what forced Eliot to seek counsel and Court relief to get documents statutorily owed to him in the first place as he and his children were denied dispositive documents for months after the death of his father and years after the death of his mother by Ted, Spallina, Tescher and others. Production requests are still outstanding and unheard by the Court, including records of the Court in toto due to the Fraud on the Court, which requires now discovery.
25. That no construction hearings have been held on the Wills, Trusts and instruments herein and / or not fully and fairly heard to determine beneficiaries, standing, valid trustees (where the PR of Simon's Estate Brian O'Connell has asserted an affirmative defense to the complaint in the Shirley Trust Construction case that Ted is NOT A VALID trustee serving in the Simon Trust under the terms of the trust¹⁶ and if true would call for a rehearing of the validity hearing entirely with a new legally proper Trustee who is valid, not conflicted and not adverse to Beneficiaries as Ted is;
26. That hearings should be held on the removal of Ted Bernstein instantly by this Court from all fiduciary capacities PRIOR TO ANY ACTIONS involving Ted proceeding further and as the referenced September 13, 2013 hearing transcript footnoted herein already shows, Judge Colin had at that time of the first hearing in September 13, 2013 enough evidence involving TWO criminal acts learned and admitted to in the hearing involving Fraud on the Court and Fraud on the Beneficiaries, to state that he had enough evidence at that moment to read Ted and his counsel Spallina, Tescher (who did not appear but was represented) and Manceri their Miranda

¹⁶ Brian O'Connell pleading Ted is NOT A VALID Trustee Under Slmon L Bernstein Amended and Restated Trust, Page 7
<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20150217%20Answer%20%20Affirmative%20Defenses%20O'Connell%20States%20Ted%20is%20NOT%20VALID%20TRUSTEE.pdf>

Warnings, twice, yet no action has since been taken by Colin or the Phillips Court to remedy such actions that leave Ted and his counsel with “unclean hands” and involvement in criminal activities;

27. That the present motions of Ted Bernstein and Alan Rose should be stayed indefinitely;
28. That this Court having given reason to Eliot Bernstein that he would not receive a fair trial and having not received fair trials based upon the findings herein should now for this reason and others stated in two disqualification petitions filed against Judge Phillips, voluntarily mandatorily Disqualify from these proceedings.
29. Further, Judge Phillips is also now a necessary material and fact witness to the improper Post Recusal steering of the cases by Judge Colin to his Court, first to Judge Coates, a former Proskauer Rose Partner and where Proskauer is Counter Defendant in this action and also Coates formerly was retained by Eliot’s Iviewit technology companies at the heart of the estate and trust matters, yet Coates took the cases and files and concealed in Court in this case his prior involvement with Eliot and Simon Bernstein’s companies when he was a Proskauer Partner and held a hearing where he then Sua Sponte recused himself (after getting all the court’s confidential and non published records sent to him) and then passed the cases to Judge Phillips, the alleged intended target all along of Colin’s improper Post Recusal steering as cited in the disqualification motions filed¹⁷ and ¹⁸ and thus Phillips should also instantly disqualify and void

¹⁷ December 04, 2015 First Disqualification of Phillips
<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20151204%20FINAL%20SIGNED%20NOTARIZED%20Disqualification%20of%20Florida%20Circuit%20Court%20Judge%20John%20L%20Phillips%20ECF%20STAMPED.pdf>

and

Corrections

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

¹⁸ December 28, 2015 Second Disqualification of Phillips

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20151228%20FINAL%20SIGNED%20NOTARIZED>

his orders as required by Judicial Canons as he will soon be subpoenaed for deposition and as a witness to relevant matters about the case steering, for his acts outside the color of law in taking this case while knowing of his witness status, if not made a defendant in any further proceedings, state and federal, for continued Fraud by the Court and aiding and abetting and more.

30. That Judge Phillips knowing he is a material and fact witness and now potential defendant of charges of Fraud By the Court in these cases has an adverse interest to Eliot, his wife and their minor children that reflect in his intent to deprive Eliot and his three minor children and lovely wife of their fundamental due process rights.
31. Phillips has threatened Eliot and his wife Candice repeatedly with contempt for nothing other than to create false record, while at the December 15, 2015 hearing an attorney at law, Spallina and an officer the court commits and admits Fraud on the Court, Fraud on the Beneficiaries, Mail Fraud and more, yet at the same hearing Phillips is too busy threatening Candice and then removing her from participating and forcing her from the bench with Eliot as the records of the hearings reflect and simultaneously doing nothing when Spallina admits criminal misconduct in the proceedings directly involving the cases before him. This adverse interest and conflict with Eliot is because Eliot has accused Phillips, Judge Colin and Judge Coates of being part of the improper Post Recusal steering by Colin and transfer of the cases by Colin (who recused 1 day after denying a disqualification motion that alleged **FRAUD BY THE COURT OF COLIN**). Judge Phillips rude and threatening behaviors reflected in the transcripts of the hearings appear entirely in retaliation and to suppress Eliot's rights to fair hearings and Eliot fears that he and his children have not and cannot receive due process in the Phillips court.

[%20Second%20Disqualification%20of%20Judge%20Phillips%20after%20Validity%20Hearing%20on%20December%202015,%202015%20ECF%20STAMPED%20COPY.pdf](#)

32. The Proposed Order of Rose now attempts to remove Eliot's standing and his prior pleadings filed on behalf of himself and as Guardian of his minor children and remove his standing in the matters through this improper proposed Order without due process and in violation of Administrative Orders. The Order Rose has prepared for Phillips to sign does not accurately reflect the truth of the proceedings and is designed to remove Eliot's rights to his inheritancy through further denial of due process and procedure, even moving the court to attempt Gag Orders on Eliot and to suppress distribution of the December 15, 2016 hearing that exposes new frauds on the court and more.

33. That the Court should take **JUDICIAL NOTICE** and REPORT THE FOLLOWING CRIMINAL MISCONDUCT AND NEW FRAUD ON THE COURT INFORMATION ADMITTED TO BEFORE JUDGE PHILLIPS UNDER OATH BY SPALLINA, the sole witness to the validity hearing before Judge Phillips, who in the hearing violated his signed SEC consent Order for criminal conduct involving insider trading and admitted to new crimes under oath, including Fraud on the Court, Fraud on Beneficiaries, Mail Fraud and more in the December 15, 2016 hearing. **Spallina Perjured his testimony about not having pled to felony or misdemeanor charges as the SEC Order shows he plead to criminal conduct thus mandating it be either felony or misdemeanor criminal conduct.**

34. The following information is cause for impeachment of Spallina's testimony made with "unclean hands" and voiding of the validity hearings ruling due to the criminal conduct learned and committed in the Court on December 15, 2015 by Spallina, a court appointed officer of the court and a court appointed fiduciary in these matters. Therefore, immediate actions should be taken by the Court to notify proper authorities, including but not limited to, the SEC of the violation of his Consent Order that Spallina signed as evidenced in the referenced herein Consent Order, the

FBI regarding the newly admitted Mail Fraud, the Sheriff department regarding the newly admitted Fraud on the Court, Fraud on Beneficiaries and their counsel and the misuse of a deceased person's identity to close another deceased person's estate (now fully admitted), the Inspector General of the Courts due to the Fraud on the Court and alleged Fraud by the Court, the Chief Judge and where the Court is the scene of fresh new crimes of continued Fraud on the Court in these matters, this Court should disqualify itself entirely from the matters as it appears that one cannot investigate oneself or one's court and judicial friends and loves without a MASSIVE APPEARANCE OF IMPROPRIETY;

- a. On or about September 28, 2015, the SEC out of Washington, DC publicly announced Insider Trading and related charges in a separate action against Florida attorneys and Third-Party Defendants herein SPALLINA and TESCHER. That SPALLINA pled guilty of criminal misconduct and the SEC Consent signed by SPALLINA states,

“2. Defendant has agreed to plead guilty to criminal conduct relating to certain matters alleged in the complaint in this action and acknowledges that his conduct violated the federal securities laws. Specifically, Defendant has agreed to plead guilty to a one count information which charges him with committing securities fraud involving insider trading in the securities of Pharmasset, Inc. in a matter to be filed in the United States District Court for the District of New Jersey, (the “Criminal Action”).”¹⁹
- b. December 15, 2015 hearing under sworn oath as a witness in a Validity Hearing before Judge PHILLIPS, SPALLINA stated the following from the hearing transcript Page 93 Lines 14-22²⁰;

¹⁹ September 28, 2015 SEC Government Complaint filed against TESCHER and SPALLINA @ <http://www.sec.gov/litigation/complaints/2015/comp-pr2015-213.pdf>

²⁰ December 15, 2015 PHILLIPS VALIDITY HEARING TRANSCRIPT
<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20151215%20Hearing%20Transcript%20Phillips%20Validity%20Hearing.pdf>

14. THE COURT: You can answer the question, which
 15. . . . is, did you plead to a felony?
 16. MR. BERNSTEIN: Sorry, sir.
 17. THE WITNESS: I have not.
 18. THE COURT: Okay. Next question.
 19. BY MR. BERNSTEIN:
 20. . . . Q. Have you pled guilty to a misdemeanor?
 21. . . . A. **I have not. [emphasis added]**
 22. . . . Q. Were you involved in a insider trading case?
 23. MR. ROSE: Objection. Relevance.
 24. THE COURT: Sustained. Next question.

c. Further, in the SEC Consent signed by SPALLINA reads,

“12. Defendant understands and agrees to comply with the term of 17 C.P.R. f 202,S(e). which provides in part that it is the Commission's policy "not to permit a defendant or respondent to consent to a judgment or order that imposes a sanction while denying the allegations in the complaint or order for proceedings." As part of Defendant's agreement to comply with the terms of Section 202.5(e), Defendant acknowledges that he has agreed to plead guilty for related conduct as described in paragraph 2 above, and: (i) will not take any action or make or permit to be made any public statement denying, directly or indirectly, any allegation in the complaint or creating the impression that the complaint is without factual basis; (ii) will not make or permit to be made any public statement to the effect that Defendant does not admit the allegations of the complaint, or that this Consent contains no admission of the allegations; (iii) upon the filing of this Consent, Defendant hereby withdraws any papers filed in this action to the extent that they deny any allegation in the complaint; and (iv) stipulates for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C.. §523. that the allegations in the complaint are true...”

d. SPALLINA further states under sworn testimony at the Validity Hearing regarding the trust documents he created being valid admits to fraudulently altering a Shirley Trust Document and sending to Attorney at Law Christine Yates, Esq. representing the minor children of Eliot via the mail, Page 95 Lines 14-25 and Page 96 Line 1-19,

14. . . . Q. Mr. Spallina, have you been in discussion with
 15. the Palm Beach County Sheriff's Office regarding the

16· ·Bernstein matters?
17· ······MR. ROSE:· Objection.· Relevance.
18· ······THE COURT:· Overruled.
19· ······You can answer that.
20· ······THE WITNESS:· Yes, I have.
21· ·BY MR. BERNSTEIN:
22· ··· Q· ·And did you state to them that you
23· ·fraudulently altered a Shirley trust document and then
24· ·sent it through the mail to Christine Yates?
25· ··· A· ·Yes, I did.
·1· ··· Q· ·Have you been charged with that by the Palm
·2· ·Beach County Sheriff yet?
·3· ··· A· ·No, I have not.
·4· ··· Q· ·Okay· How many times were you interviewed by
·5· ·the Palm Beach County Sheriff?
·6· ······MR. ROSE:· Objection.· Relevance.
·7· ······THE COURT:· Sustained.
8· ·BY MR. BERNSTEIN:
·9· ··· Q· ·Did you mail a fraudulently signed document to
10· ·Christine Yates, the attorney for Eliot Bernstein's
11· ·minor children?
12· ······MR. ROSE:· Objection.· Relevance.
13· ······THE COURT:· Overruled.
14· ······THE WITNESS:· Yes.
15· ·BY MR. BERNSTEIN:
16· ··· Q· ·And when did you acknowledge that to the
17· ·courts or anybody else?· When's the first time you came
18· ·about and acknowledged that you had committed a fraud?
19· ··· A· ·**I don't know that I did do that [emphasis added].**

e. SPALLINA then perjures himself in self contradiction when he tries to claim that his law firm did not mail Fraudulent documents to the court and commits here further FRAUD ON THE COURT when he then slips up and admits that his legal assistant and notary public Kimberly Moran, already prosecuted in these matters for fraudulent notarization and who has admitted forgery of six persons in these matters then sent the fraudulent documents back to the court when he states;

10· ·BY MR. BERNSTEIN:
11· ··· Q· ·And what was she convicted for?
12· ··· A· ·She had notarized the waiver releases of
13· ·accounting that you and your siblings had previously
14· ·provided, and we filed those with the court.

15 · · · · Q · We filed those with the court.
16 · · · · · Your law firm submitted fraudulent documents
17 · to the court?
18 · · · · A · No · We filed -- we filed your original
19 · documents with the court that were not notarized, and
20 · the court had sent them back.
21 · · · · Q · And then what happened?
22 · · · · A · And then Kimberly forged the signatures and
23 · notarized those signatures and sent them back.

- f. That not only does SPALLINA admit to Felony criminal acts that have not yet been investigated but admits that his office members are also involved in proven Fraudulent Creation of a Shirley Trust and where MORAN has already admitted six counts of forgery for six separate parties (including for a deceased Simon and for Eliot) and fraudulent notarizations of such documents when Spallina states in the hearing Pages 102-103,

102
20 · · · · · MR. BERNSTEIN: · Sure.
21 · BY MR. BERNSTEIN:
22 · · · · Q · You've testified here about Kimberly Moran.
23 · · · · · Can you describe your relationship with her?
24 · · · · A · She's been our long-time assistant in the
25 · office.

103
·1 · · · · Q · Was she convicted of felony fraudulent
·2 · notarization in the Estate of Shirley Bernstein?
·3 · · · · · MR. ROSE: · Objection · Relevance.
·4 · · · · · THE COURT: · Overruled.
·5 · · · · · You're asking if she was convicted of a felony
·6 · · · with respect to the Estate of Shirley Bernstein?
·7 · · · · · You can answer the question.
·8 · · · · · MR. BERNSTEIN: · Correct.
·9 · · · · · THE WITNESS: · I believe she was.

- g. SPALLINA then claims that it is “standard operating procedure” for he and his clients to sign sworn Final Waivers under penalty of perjury with knowingly and irrefutably false statements and admitting that the April 09, 2012 Full Waiver

(already referenced and linked herein) submitted to this Court by Spallina's law firm in October of 2012 by Simon Bernstein, at a time after his death on September 13, 2012 and yet still acting as the Personal Representative, signed under penalty of perjury allegedly by Simon Bernstein and witnessed by Spallina, contained knowingly false statements . Then SPALLINA had a deceased Simon file that alleged sworn document with the Court as Personal Representative on a date after his death as part of a Fraud on the Court and Fraud on the Beneficiaries and Interested Parties. SPALLINA states in testimony as follows,

Pages 108-110

17 · . . . Q. · Okay. · Are you aware of an April 9th full
18 · waiver that was allegedly signed by Simon and you?
19 · . . . A. · Yeah. · That was the waiver that he had signed.
20 · And then in the May meeting, we discussed the five of
21 · you, all the children, getting back the waivers of the
22 · accountings.
23 · . . . Q. · Okay. · And in that April 9th full waiver you
24 · used to close my mother's estate, does Simon state that
25 · he has all the waivers from all of the parties?
·1 · . . . A. · He does. · We sent out -- he signed that, and
·2 · we sent out the waivers to all of you.
·3 · . . . Q. · Okay. · So on April 9th of 2012, Simon signed,
·4 · with your presence, because your signature's on the
·5 · document, a document stating he had all the waivers in
·6 · his possession from all of his children.
·7 · . . . · Had you sent the waivers out yet as of
·8 · April 9th?

...

20 · BY MR. BERNSTEIN:

21 · . . . Q. · April 9th, 2012, you have a signed full waiver
22 · of Simon's that says that he is in possession of all of
23 · the signed waivers of all of the parties?
24 · . . . A. · Standard operating procedure, to have him
25 · sign, and then to send out the documents to the kids.

...

·1 · . . . Q. · Was Simon in possession -- because it's a
·2 · sworn statement of Simon saying, I have possession of
·3 · these waivers of my children on today, April 9th,
·4 · correct, the day you two signed that?

·5· Okay. So if you hadn't sent out the waivers
·6· yet to the --
·7· . . . A. I'm not certain when the waivers were sent
·8· out.
·9· . . . Q. Were they sent out after the --
10· . . . A. I did not send them out.
11· . . . Q. Okay. More importantly, when did you receive
12· those? Was it before April 9th or on April 9th?
13· . . . A. We didn't receive the first one until May.
14· And it was your waiver that we received.
15· . . . Q. So how did you allow Simon, as his attorney,
16· to sign a sworn statement saying he had possession of
17· all of the waivers in April if you didn't get mine 'til
18· May?
19· . . . MR. ROSE: Objection. I think it's relevance
20· and cumulative. He's already answered.
21· . . . THE COURT: What's the relevance?
22· . . . MR. BERNSTEIN: Oh, this is very relevant.
23· . . . THE COURT: What is the relevance on the issue
24· that I have to rule on today?
25· . . . MR. BERNSTEIN: On the validity? Well, it's
1· relevant. If any of these documents are relevant,
·2· this is important if it's a fraud.
·3· . . . THE COURT: I'll sustain the objection.
·4· . . . MR. BERNSTEIN: Okay. Can I -- okay.
·5· BY MR. BERNSTEIN:
·6· . . . Q. When did you get -- did you get back prior to
·7· Simon's death all the waivers from all the children?
·8· . . . A. No, we did not.
·9· . . . Q. So in Simon's April 9th document where he
10· says, he, Simon, on April 9th has all the waivers from
11· his children while he's alive, and you didn't even get
12· one 'til after he passed from one of his children, how
13· could that be a true statement?
14· . . . MR. ROSE: Objection. Relevance. Cumulative.
15· . . . THE COURT: Sustained.

h. Finally, SPALLINA also perjures himself under sworn oath at the hearing when testifying to the status of his Florida Bar license, which at this time he is listed as

“Not Eligible to Practice Law in Florida”²¹” when he states in the December 15, 2015 hearing,

Page 91

7· ·BY MR. BERNSTEIN:

8· ··· Q· ·Mr. Spallina, you were called today to provide
9· ·some expert testimony, correct, on the --

10· ··· A· ·No, I was not.

11· ··· Q· ·Oh, okay· You're just going based on your
12· ·doing the work as Simon Bernstein's attorney and Shirley
13· ·Bernstein's attorney?

14· ··· A· ·Yes.

15· ··· Q· ·Okay· Are you still an attorney today?

16· ··· A· ·I am not practicing.

17· ··· Q· ·Can you give us the circumstances regarding
18· ·that?

19· ··· A· ·I withdrew from my firm.

Pages 120-121

19· ·BY MR. BERNSTEIN:

20· ··· Q· ·Did you -- are you a member of the Florida
21· ·Bar?

22· ··· A· ·Yes, I am.

23· ··· Q· ·Currently?

24· ··· A· ·Yes, I am.

25· ··· Q· ·Okay· You said before you surrendered your
·1· ·license.

·2· ··· A· ·I said I withdrew from my firm· It wasn't
·3· ·that I was not practicing.

- i. Spallina further Perjures his testimony when asked if the Fraudulent Shirley Trust he created by Post Mortem fraudulently altering a Shirley Amendment and disseminated through the mail attempted to change the beneficiaries of the Shirley Trust and he answered no. Yet, the following analysis shows different;

22· ·BY MR. BERNSTEIN:

²¹ https://www.floridabar.org/wps/portal/flbar/home/attysearch/mprofile!/ut/p/a1/jc_LDolwEAXQT-ptthRaWo6mkRazxgdCNYUWaKLowfr_42LioOrtJzs3cYZ41zA_dLftdNZyH7vjYvTxACM3dBrawxEHIOI3ZggSEHEE7girnxJMMNktoDIOr2qgtF7RM_8sjMoRf-T3zn8RJNQO5BXKtp0AxeYNIRTj-HTx_eJ2II7ycdg2C6e8_WXgh/dl5/d5/L2dBISEvZ0FBIS9nQSEh/?mid=497381

23. . . . Q. Did the fraudulently altered document change
24. the beneficiaries that were listed in Shirley's trust?
25. . . . A. **They did not [emphasis added].**

Now comparing the language in the two documents the Court can see that this statement is wholly untrue. From the alleged Shirley Trust document,

“Notwithstanding the foregoing, as I have adequately provided for them during my lifetime, for purposes of the dispositions made under this Trust, my children, TED S. BERNSTEIN ("TED") and PAMELA B. SIMON ("PAM"), **and their respective lineal descendants [emphasis added]** shall be deemed to have predeceased the survivor of my spouse and me, provided, however, if my children, ELIOT BERNSTEIN, JILL !ANTONI and LISA S. FRIEDSTEIN, and their lineal descendants all predecease the survivor of my spouse and me, then TED and PAM, and their respective lineal descendants shall not be deemed to have predeceased me and shall be eligible beneficiaries for purposes of the dispositions made hereunder.”²²

Then the language from the fraudulent amendment states;

2. I hereby amend the last sentence of Paragraph E. of Article III. to read as follows:

"Notwithstanding the foregoing, as my spouse and I have adequately provided for them during our lifetimes, for purposes of the dispositions made under this Trust, my children, TED S. BERNSTEIN ("TED") and PAMELA B. SIMON ("PAM '), shall be deemed to have predeceased the survivor of my spouse and me, provided, however, if my children, ELIOT BERNSTEIN, JILL IANTONI and LISA S. FRIEDSTEIN, and their respective lineal descendants all predecease the survivor of my spouse and me, then TED and PAM shall not be deemed to have predeceased the survivor of my spouse and me and shall become eligible beneficiaries for purposes of the dispositions made hereunder."

Clearly the fraudulent amendment attempts to remove from the predeceased language regarding TED and PAMELA’s lineal descendants from being excluded by removing them from the original trust language as being considered predeceased and thus change the beneficiaries of the Shirley Trust. In fact, adding Ted and Pam’s lineal descendants back into the trust would give them a chance to convert improperly %40 of the value to their families from %0.

²² Shirley Trust Page 7

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/Shirley%20Trust%20plus%20fraudulent%20amendment%202.pdf>

This perjury by Spallina, acting already with proven unclean hands and admitted to crimes in the Estates and Trusts of Simon and Shirley Bernstein changed the outcome of the validity hearing adding cause for a rehearing and voiding the Order that resulted, which were already void and of no effect since Judge Phillips should have already voluntarily mandatorily disqualified himself from the proceedings prior to holding any hearings.

35. That as for Ted being qualified as a fiduciary, the following passage from the December 15, 2015 hearing that Ted called for to prove the validity of the dispositive documents after his former counsel admitted criminal activities shows that Ted, who used this disgraced attorney Spallina as his star and only witness to validate the documents, did nothing to validate the documents himself as Trustee to protect the beneficiaries harmed by his former counsels actions, his friend and business associate when he states, under oath,

Page 206-210

25 · · · · Q · · Okay · Ted, you were made aware of Robert
1 · Spallina's fraudulent alteration of a trust document of
2 · your mother's when?
3 · · · · A · I believe that was in the early 2013 or '14.
4 · · · · Q · Okay · And when you found out, you were the
5 · fiduciary of Shirley's trust, allegedly?
6 · · · · A · I'm not sure I understand the question.
7 · · · · Q · When you found out that there was a fraudulent
8 · alteration [sic] of a trust document, were you the
9 · fiduciary in charge of Shirley's trust?
10 · · · · A · I was trustee, yes · I am trustee, yes.
11 · · · · Q · And your attorneys, Tescher and Spallina, and
12 · their law firm are the one who committed that fraud,
13 · correct, who altered that document?
14 · · · · A · That's what's been admitted to by them,
15 · correct.
16 · · · · Q · Okay · So you became aware that your counsel
17 · that you retained as trustee had committed a fraud,
18 · correct?
19 · · · · A · Correct.
20 · · · · Q · What did you do immediately after that?
21 · · · · A · The same day that I found out, I contacted

22· ·counsel· I met with counsel on that very day· I met
23· ·with counsel the next day· I met with counsel the day
24· ·after that.

25· ···· Q· ·Which counsel?

·1· ···· A· ·Alan Rose.

···

P 209-210

24· ·BY MR. BERNSTEIN:

25· ···· Q· ·Have you seen the original will and trust of
·1· ·your mother's?

·2· ···· A· ·Can you define original for me?

·3· ···· Q· ·The original.

·4· ···· A· ·The one that's filed in the court?

·5· ···· Q· ·Original will or the trust.

·6· ···· A· ·I've seen copies of the trusts.

·7· ···· Q· ·Have you done anything to have any of the
·8· ·documents authenticated since learning that your
·9· ·attorneys had committed fraud in altering dispositive
10· ·documents that you were in custody of?

11· ······ MR. ROSE:· Objection· Relevance.

12· ······ THE COURT:· Overruled.

13· ······ THE WITNESS:· I have not.

14· ·BY MR. BERNSTEIN:

15· ···· Q· ·So you as the trustee have taken no steps to

16· ·validate these documents; is that correct?

17· ···· A· ·Correct.

36. Finally, as reported by the Palm Beach Post²³ and others in an evolving story of

Probate/Guardian abuse emanating from Florida's courts, similar to the bank and mortgage frauds that found judges and lawyers fraudulently conveying properties through "robo signing" aka bank fraud, forgery and more, Florida's Judges are coming under fire for their bizarre behaviors of probate/guardianship abuses and basically grave robbing Florida's elderly as has been evidenced herein, where dead person's identities are used to commit Fraud on the Court and when discovered covered up by further Fraud by the Court in conjunction with the lawyers and guardians and judges.

²³ <http://www.mypalmbeachpost.com/guardianships-elizabeth-savitt/>
and
<http://aaapg.net/florida-the-judges-wife-a-frequent-court-appointed-guardian/>

WHEREFORE, the proposed Order of Ted Bernstein is Objected to herein and an Alternate Order submitted.

Dated: January 19, 2016

/s/Eliot Ivan Bernstein

Eliot Ivan Bernstein
2753 NW 34th St
Boca Raton, FL 33434
561-245-8588
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 19th day of January, 2016.

/s/Eliot Ivan Bernstein

Eliot Ivan Bernstein
2753 NW 34th St
Boca Raton, FL 33434
561-245-8588
iviewit@iviewit.tv

SERVICE LIST

| | | |
|--|---|--|
| COUNTER DEFENDANT Robert L. Spallina, Esq., Teschler & Spallina, P.A. Wells Fargo Plaza 925 South Federal Hwy Suite 500 Boca Raton, Florida 33432 rspallina@tescherspallina.com kmoran@tescherspallina.com ddustin@tescherspallina.com | COUNTER DEFENDANT Ted Bernstein, Individually 880 Berkeley Boca Raton, FL 33487 tbernstein@lifeinsuranceconcept.com | COUNTER DEFENDANT John J. Pankauski, Esq. Pankauski Law Firm PLLC 120 South Olive Avenue 7th Floor West Palm Beach, FL 33401 |
|--|---|--|

| | | |
|---|--|--|
| <p>COUNTER DEFENDANT Donald Tescher, Esq., Tescher & Spallina, P.A. Wells Fargo Plaza 925 South Federal Hwy Suite 500 Boca Raton, Florida 33432 dtescher@tescherspallina.com ddustin@tescherspallina.com kmoran@tescherspallina.com</p> | <p>COUNTER DEFENDANT Ted Bernstein Life Insurance Concepts et al. 950 Peninsula Corporate Circle Suite 3010 Boca Raton, FL 33487 tbernstein@lifeinsuranceconcep ts.com</p> | <p>COUNTER DEFENDANT Pankauski Law Firm PLLC 120 South Olive Avenue 7th Floor West Palm Beach, FL 33401 courtfilings@pankauskilawfirm. com john@pankauskilawfirm.com</p> |
| <p>COUNTER DEFENDANT Donald Tescher, Esq., Tescher & Spallina, P.A. Wells Fargo Plaza 925 South Federal Hwy Suite 500 Boca Raton, Florida 33432 dtescher@tescherspallina.co m ddustin@tescherspallina.co m kmoran@tescherspallina.co m</p> | <p>COUNTER DEFENDANT & COUNSEL TO TED BERNSTEIN SERVED Alan B. Rose, Esq. PAGE, MRACHEK, FITZGERALD, ROSE, KONOPKA, THOMAS & WEISS, P.A. 505 South Flagler Drive, Suite 600 West Palm Beach, Florida 33401 arose@pm-law.com and arose@mrachek-law.com</p> | <p>Counter Defendant TESCHER & SPALLINA, P.A. Wells Fargo Plaza 925 South Federal Hwy Suite 500 Boca Raton, Florida 33432 dtescher@tescherspallina.com ddustin@tescherspallina.com kmoran@tescherspallina.com</p> |
| | <p>Pamela Simon President STP Enterprises, Inc. 303 East Wacker Drive Suite 210 Chicago IL 60601-5210 psimon@stpcorp.com</p> | <p>Counter Defendant Mark R. Manceri, Esq., and Mark R. Manceri, P.A., 2929 East Commercial Boulevard Suite 702 Fort Lauderdale, FL 33308 mrmlaw@comcast.net mrmlaw1@gmail.com</p> |
| <p>Counter Defendant L. Louis Mrachek, Esq. PAGE, MRACHEK, FITZGERALD, ROSE, KONOPKA, THOMAS & WEISS, P.A. 505 South Flagler Drive, Suite</p> | <p>Counter Defendant Charles D. Rubin Managing Partner Gutter Chaves Josepher Rubin Forman Fleisher Miller PA Boca Corporate Center</p> | <p>Counter Defendant Kimberly Moran Tescher & Spallina, P.A. Wells Fargo Plaza 925 South Federal Hwy Suite 500</p> |

| | | |
|---|---|--|
| <p>600 West Palm Beach, Florida 33401 lmrachek@mrachek-law.com</p> | <p>2101 NW Corporate Blvd., Suite 107 Boca Raton, FL 33431-7343 crubin@floridatax.com</p> | <p>Boca Raton, Florida 33432 kmoran@tescherspallina.com</p> |
| <p>Counter Defendant Lindsay Baxley aka Lindsay Giles Life Insurance Concepts 950 Peninsula Corporate Circle Suite 3010 Boca Raton, FL 33487 lindsay@lifeinsuranceconcepts.com</p> | <p>Counter Defendant Estate of Simon Bernstein Personal Representative Brian M. O'Connell, Partner Ciklin Lubitz Martens & O'Connell 515 N Flagler Drive 20th Floor West Palm Beach, FL 33401 boconnell@ciklinlubitz.com jfoglietta@ciklinlubitz.com</p> | <p>Jill Iantoni 2101 Magnolia Lane Highland Park, IL 60035 jilliantoni@gmail.com</p> |
| <p>Lisa Friedstein 2142 Churchill Lane Highland Park, IL 60035 Lisa@friedsteins.com lisa.friedstein@gmail.com lisa@friedsteins.com</p> | <p>Pamela Beth Simon 950 N. Michigan Avenue Apartment 2603 Chicago, IL 60611 psimon@stpcorp.com</p> | |

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.,

Defendants.

ALTERNATE ORDER

THIS CAUSE came before the Court for hearing on January 14, 2016 on Successor Trustee Ted Bernstein and Alan Rose's Motion for Appointment of a Guardian Ad Litem to Represent the Interests of Eliot Bernstein's Children and other relief, and Eliot I. Bernstein having filed Opposition and appeared in Opposition. The Court, having considered the record, heard argument of counsel and the parties and having reconsidered the record and being otherwise fully advised in the premises, hereby ORDERS AND ADJUDGES:

1. Strike the Proposed Order of Alan B. Rose and Ted Bernstein in entirety;
2. That Florida Statutes 733.707, 736.0103, 731.201 (2)(4)(9)(11)(20) and (23) give Eliot standing as a Beneficiary, Heir and Interested Person and Trustee of the Eliot Bernstein Family Trust in this case and the Simon Estate, the Simon Trust and the Shirley Estate.
3. That there was no Construction Hearing held, Noticed or Scheduled;
4. That proper pre-trial procedures thus were not followed and must be corrected in furtherance of justice;
5. That the present motions of Ted Bernstein and Alan Rose are stayed indefinitely;
6. Judge Phillips mandatorily disqualify himself and void ALL orders for all the reasons stated in the disqualifications and for newly discovered factual admissions of fraud on the court learned at the December 15, 2015 hearing and further fraud on the court continued through perjured statements made under oath in testimony by a former officer of the court and former fiduciary constituting perjury, obstruction and more;
7. Instantly report new Admissions before this Court and perjurious statements made in the December 15, 2016 validity hearing by attorney at law, former officer of the court and former fiduciary in the Simon Bernstein Estate and Trust, Robert Spallina's admissions of his newly admitted Fraud on the Court, Fraud on Beneficiaries, Mail Fraud and Violations of his signed SEC Consent Order for Securities Fraud and Insider Trading to all the proper authorities, including but not limited to, the Inspector General of the Courts, the Chief Judge of 15th Judicial,
8. That the new Court demand deposit of adequate funds from the Trusts or from bonding of the responsible parties for causing the need for counsel into a proper account for no less than \$100,000.00 for immediate retention of counsel of Eliot's choosing for the minor

children as they have not been represented at hearings despite their standing as alleged beneficiaries and despite the fact that the conflict arises due to the fraud on the court by the prior fiduciaries and their counsel as proven already and or provide leave to Eliot Bernstein to re-apply immediately for funds for Counsel upon a new Judge presiding.

DONE and ORDERED in Chambers, North County Courthouse in Palm Beach Gardens, Florida, on this ___th day of January, 2016.

HONORABLE JOHN L. PHILLIPS
Circuit Court Judge

Copies to: Attached Service List

SERVICE LIST

| | | |
|--|--|--|
| <p>COUNTER DEFENDANT Robert L. Spallina, Esq., Tescher & Spallina, P.A. Wells Fargo Plaza 925 South Federal Hwy Suite 500 Boca Raton, Florida 33432 rspallina@tescherspallina.com kmoran@tescherspallina.com ddustin@tescherspallina.com</p> | <p>COUNTER DEFENDANT Ted Bernstein, individually 880 Berkeley Boca Raton, FL 33487 tbernstein@lifeinsuranceconcepts.com</p> | <p>COUNTER DEFENDANT John J. Pankauski, Esq. Pankauski Law Firm PLLC 120 South Olive Avenue 7th Floor West Palm Beach, FL 33401</p> |
| <p>COUNTER DEFENDANT Donald Tescher, Esq., Tescher & Spallina, P.A. Wells Fargo Plaza 925 South Federal Hwy Suite 500 Boca Raton, Florida 33432 dtescher@tescherspallina.com ddustin@tescherspallina.com kmoran@tescherspallina.com</p> | <p>COUNTER DEFENDANT Ted Bernstein Life Insurance Concepts et al. 950 Peninsula Corporate Circle Suite 3010 Boca Raton, FL 33487 tbernstein@lifeinsuranceconcepts.com</p> | <p>COUNTER DEFENDANT Pankauski Law Firm PLLC 120 South Olive Avenue 7th Floor West Palm Beach, FL 33401 courtfilings@pankauskilawfirm.com john@pankauskilawfirm.com</p> |

| | | |
|---|---|---|
| <p>COUNTER DEFENDANT Donald Tescher, Esq., Tescher & Spallina, P.A. Wells Fargo Plaza 925 South Federal Hwy Suite 500 Boca Raton, Florida 33432 dtescher@tescherspallina.com ddustin@tescherspallina.com kmoran@tescherspallina.com</p> | <p>COUNTER DEFENDANT & COUNSEL TO TED BERNSTEIN SERVED Alan B. Rose, Esq. PAGE, MRACHEK, FITZGERALD, ROSE, KONOPKA, THOMAS & WEISS, P.A. 505 South Flagler Drive, Suite 600 West Palm Beach, Florida 33401 arose@pm-law.com and arose@mrachek-law.com</p> | <p>Counter Defendant TESCHER & SPALLINA, P.A. Wells Fargo Plaza 925 South Federal Hwy Suite 500 Boca Raton, Florida 33432 dtescher@tescherspallina.com ddustin@tescherspallina.com kmoran@tescherspallina.com</p> |
| | <p>Pamela Simon President STP Enterprises, Inc. 303 East Wacker Drive Suite 210 Chicago IL 60601-5210 psimon@stpcorp.com</p> | <p>Counter Defendant Mark R. Manceri, Esq., and Mark R. Manceri, P.A., 2929 East Commercial Boulevard Suite 702 Fort Lauderdale, FL 33308 mrmlaw@comcast.net mrmlaw1@gmail.com</p> |
| <p>Counter Defendant L. Louis Mrachek, Esq. PAGE, MRACHEK, FITZGERALD, ROSE, KONOPKA, THOMAS & WEISS, P.A. 505 South Flagler Drive, Suite 600 West Palm Beach, Florida 33401 lmrachek@mrachek-law.com</p> | <p>Counter Defendant Charles D. Rubin Managing Partner Gutter Chaves Josepher Rubin Forman Fleisher Miller PA Boca Corporate Center 2101 NW Corporate Blvd., Suite 107 Boca Raton, FL 33431-7343 crubin@floridatx.com</p> | <p>Counter Defendant Kimberly Moran Tescher & Spallina, P.A. Wells Fargo Plaza 925 South Federal Hwy Suite 500 Boca Raton, Florida 33432 kmoran@tescherspallina.com</p> |
| <p>Counter Defendant Lindsay Baxley aka Lindsay Giles Life Insurance Concepts 950 Peninsula Corporate Circle Suite 3010 Boca Raton, FL 33487 lindsay@lifeinsuranceconcepts.c</p> | <p>Counter Defendant Estate of Simon Bernstein Personal Representative Brian M. O'Connell, Partner Ciklin Lubitz Martens & O'Connell 515 N Flagler Drive</p> | <p>Jill Iantoni 2101 Magnolia Lane Highland Park, IL 60035 jilliantoni@gmail.com</p> |

| | | |
|--|--|--|
| om | 20th Floor West Palm Beach, FL 33401 boconnell@ciklinlubitz.com jfoglietta@ciklinlubitz.com | |
| Lisa Friedstein 2142 Churchill Lane Highland Park, IL 60035 Lisa@friedsteins.com lisa.friedstein@gmail.com lisa@friedsteins.com | Pamela Beth Simon 950 N. Michigan Avenue Apartment 2603 Chicago, IL 60611 psimon@stpcorp.com | |

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA
CASE No. 502014CP003698XXXXNB

TED BERNSTEIN,

Plaintiff,

-vs-

DONALD R. TESCHER, ELIOT IVAN BERNSTEIN,
LISA SUE FRIEDSTEIN, JILL MARLA IANTONI, et al.,

Defendants.

TRIAL BEFORE THE HONORABLE
JOHN L. PHILLIPS
VOLUME 1 PAGES 1 - 114

Tuesday, December 15, 2015
North County Courthouse
Palm Beach Gardens, Florida 33410
9:43 a.m. - 4:48 p.m.

Reported By:
Shirley D. King, RPR, FPR
Notary Public, State of Florida
West Palm Beach Office Job #1358198 - VOL 1

2
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

APPEARANCES:

On behalf of the Plaintiff:

ALAN ROSE, ESQUIRE
GREGORY WEISS, ESQUIRE
MRACHEK FITZGERALD ROSE KONOPKA
THOMAS & WEISS, P.A.
505 South Flagler Drive, Suite 600
West Palm Beach, Florida 33401
Phone: 561.655.2250
E-mail: Arose@mrachek-law.com

On behalf of the Defendant:

ELIOT IVAN BERNSTEIN, PRO SE, ESQUIRE
2753 NW 34th Street
Boca Raton, Florida 33434
Phone: 561.245.8588
E-mail: Iviewit@iviewit.tv

On behalf of Molly Simon, Alexandra, Eric & Michael
Bernstein:

JOHN P. MORRISSEY, ESQUIRE
LAW OFFICE OF JOHN P. MORRISSEY, P.A.
330 Clematis Street
Suite 213
West Palm Beach, Florida
Phone: 561.833.0866
E-mail: John@jmorrisseylaw.com

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

- - -
I N D E X
- - -

| WITNESS: | DIRECT | CROSS | REDIRECT | RECROSS |
|-------------------|--------|-------|----------|---------|
| ROBERT SPALLINA | | | | |
| BY MR. ROSE: | 11 | | | |
| BY MR. MORRISSEY: | | 82 | | |
| BY MR. BERNSTEIN: | | 91 | | |

- - -
E X H I B I T S
- - -

| NUMBER | DESCRIPTION | PAGE |
|--------------------|---|------|
| PLAINTIFF'S EX. 1 | COPY OF SHIRLEY'S WILL | 34 |
| PLAINTIFF'S EX. 2 | SHIRLEY BERNSTEIN TRUST AGREEMENT | 62 |
| PLAINTIFF'S EX. 3 | FIRST AMENDMENT OF SHIRLEY BERNSTEIN'S TRUST | 39 |
| PLAINTIFF'S EX. 4 | SI'S NEW WILL | 70 |
| PLAINTIFF'S EX. 5 | SIMON L. BERNSTEIN AMENDED AND RESTATED TRUST AGREEMENT | 72 |
| PLAINTIFF'S EX. 7 | DOCUMENT | 20 |
| PLAINTIFF'S EX. 9 | 11/16/07 INTAKE SHEET | 13 |
| PLAINTIFF'S EX. 10 | MEETING NOTES | 14 |
| PLAINTIFF'S EX. 11 | 4/19/08 LETTER | 27 |
| PLAINTIFF'S EX. 13 | NOTES | 46 |
| PLAINTIFF'S EX. 14 | EMAIL FROM ELIOT BERNSTEIN | 61 |
| PLAINTIFF'S EX. 15 | 5/24/12 LETTER | 64 |
| PLAINTIFF'S EX. 16 | DURABLE POWER OF ATTORNEY | 66 |
| PLAINTIFF'S EX. 17 | LETTER | 73 |

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

- - -

E X H I B I T S (cont'd)

- - -

| | | |
|-----------------------|---|-----|
| PLAINTIFF'S EX. 18 | DEATH CERTIFICATE | 74 |
| PLAINTIFF'S EX. 40A-F | GREENWALD DOCUMENTS | 17 |
| DEFENDANT'S EX. 1 | FIRST AMENDMENT TO SHIRLEY BERNSTEIN TRUST AGREEMENT | 102 |

1 P R O C E E D I N G S

2 - - -

3 THE COURT: We're here on the Bernstein case.
4 Everybody ready to go?

5 MR. ROSE: Good morning, Your Honor. Yes.
6 Alan Rose on behalf of the plaintiff, Ted S.
7 Bernstein, as successor trustee.

8 THE COURT: Okay.

9 MR. ROSE: And with me is my partner, Greg
10 Weiss. May not be for the whole trial, but he is
11 with us for the beginning.

12 THE COURT: Okay. Well, great. Thanks for
13 coming.

14 And who's on the other side?

15 MR. BERNSTEIN: Eliot Bernstein, pro se, sir.

16 THE COURT: Okay. You're not going to have
17 any counsel? Who's with you at the table?

18 MR. BERNSTEIN: That's my lovely wife,
19 Candice.

20 THE COURT: All right. And why are you at the
21 table?

22 MR. BERNSTEIN: That's one of the questions I
23 would like to address. I'm here individually.

24 THE COURT: Right.

25 MR. BERNSTEIN: And I was sued individually.

1 But I'm also here on behalf, supposedly, of my
2 minor children, who aren't represented by counsel.
3 And I'm sued as a trustee of a trust that I've
4 never possessed.

5 THE COURT: Are you asking me a question?

6 MR. BERNSTEIN: Yes.

7 THE COURT: What's the question?

8 MR. BERNSTEIN: Well, my children are being
9 sued.

10 THE COURT: What's the question?

11 MR. BERNSTEIN: And I was sued as their
12 trustee, but I'm --

13 THE COURT: Stop, please.

14 MR. BERNSTEIN: Yes, sir.

15 THE COURT: I would love to talk with you all
16 day --

17 MR. BERNSTEIN: Okay.

18 THE COURT: -- but we're not going to have
19 that happen.

20 MR. BERNSTEIN: Okay.

21 THE COURT: This is not a conversation. This
22 is a trial. So my question is, What is your
23 question? You said you had a question.

24 MR. BERNSTEIN: I tried to get counsel for my
25 children who was willing to make a pro hoc vice --

1 THE COURT: When will you ask me the question?

2 Because this is all --

3 MR. BERNSTEIN: Well, I'd like to stay the
4 proceeding.

5 THE COURT: Okay. The request for a
6 continuance is denied. Thank you.

7 MR. BERNSTEIN: Have you read the filing I
8 filed? Because my children are minor --

9 THE COURT: Was that your question?

10 MR. BERNSTEIN: Well, my children are
11 minors --

12 THE COURT: Please stop.

13 MR. BERNSTEIN: -- and they're not represented
14 here.

15 THE COURT: What is your name again, sir?

16 MR. BERNSTEIN: Eliot Bernstein.

17 THE COURT: Okay. Mr. Bernstein, I'll be
18 courteous, unless it doesn't work; then I'll be
19 more direct and more aggressive in enforcing the
20 rules that I follow when I conduct trials.

21 I've asked you several times if you had
22 questions. You finally asked me one, and it was,
23 Did you read my filing? No, I did not. You asked
24 for a continuance. I have denied that because it's
25 untimely.

1 Now I'm turning back to the plaintiff, and
2 we're going forward with this trial. That is one
3 day set on my docket. We're going to have this
4 trial done by the end of the day. You'll have half
5 the time to use as you see fit; so will the other
6 side. I'll not care if you waste it, but I'll not
7 participate in that. Thank you.

8 Now, from the plaintiff's side, what is it
9 that the Court is being asked to decide today?

10 MR. ROSE: Before I answer, could
11 Mr. Morrissey make an appearance, sir?

12 THE COURT: All right.

13 MR. MORRISSEY: Yes, I'm here on behalf of
14 four of the defendants, Judge, four adult
15 grandchildren, Alexandra Bernstein, Eric Bernstein
16 Michael Bernstein and Molly Simon, all of whom have
17 joined in the plaintiff's complaint today.

18 THE COURT: Okay. Last time I'll ask this
19 question of the plaintiff. What is it that I'm
20 asked to decide today?

21 MR. ROSE: We are asking you to decide whether
22 five testamentary documents are valid, authentic
23 and enforceable. And that is set forth in count
24 two of the amended complaint in this action. The
25 five documents are a 2008 will of Shirley

1 Bernstein, a 2008 trust of Shirley Bernstein, and
2 an amendment by Shirley Bernstein to her 2008
3 trust.

4 THE COURT: When was the amendment?

5 MR. ROSE: Amendment was in November of 2008.

6 THE COURT: All right. So there's also a 2008
7 amendment?

8 MR. ROSE: Yes, sir. In fact, I have a -- I
9 don't know if you can read it, but I did put up
10 here on the -- there are seven testamentary
11 documents. We believe five of them to be valid and
12 operative, and two of them to have been with --
13 revoked by later documents.

14 So for Shirley, there are three documents that
15 count two seeks you to determine are valid,
16 authentic and enforceable according to their terms.

17 And for Simon Bernstein, he has a 2012 will,
18 and a 2012 amended and restated trust agreement.
19 And we're asking that these five documents be
20 validated today.

21 There also is a 2008 will and trust that
22 you'll hear testimony were prepared, but have been
23 revoked and superseded by later documents.

24 THE COURT: Does everybody agree that Simon's
25 2008 will and trust are invalid or is there some

1 claim that they're valid?

2 MR. ROSE: I can't answer.

3 THE COURT: All right. I'll ask.

4 Are you claiming that the Simon Bernstein 2008
5 will or 2008 trust are valid, or do you agree that
6 they are invalid?

7 MR. BERNSTEIN: Well, I individually disagree.

8 THE COURT: Okay. Thank you.

9 MR. BERNSTEIN: And my children --

10 THE COURT: I just wanted to know --

11 MR. BERNSTEIN: -- aren't represented by
12 counsel, so they can't have an opinion --

13 THE COURT: Okay.

14 MR. BERNSTEIN: -- even though they're parties
15 to the case.

16 THE COURT: Okay. Like I say, you can waste
17 all your time you want. I won't object to it, but
18 I won't participate in it.

19 You can put on your first witness.

20 MR. ROSE: Thank you. Plaintiff will call
21 Robert Spallina.

22 Thereupon,

23 (ROBERT SPALLINA)

24 having been first duly sworn or affirmed, was examined
25 and testified as follows:

1 THE WITNESS: I do.

2 MR. ROSE: May I approach, Your Honor?

3 THE COURT: Sure. All approaches are okay.

4 MR. ROSE: Okay. I brought for Your Honor --
5 would you like a book instead of the exhibits?

6 THE COURT: Nothing better than a huge book.

7 MR. ROSE: We may not use all of them, but
8 we'll adjust it later.

9 THE COURT: All right.

10 MR. ROSE: And then I was going to hand the
11 witness the original for the admission into the
12 court file as we go.

13 THE COURT: All right.

14 MR. ROSE: I have a book for Mr. Eliot
15 Bernstein.

16 DIRECT EXAMINATION

17 BY MR. ROSE:

18 Q. Would you state your name for the record?

19 A. Robert Spallina.

20 Q. Did you know Simon and Shirley Bernstein,
21 Mr. Spallina?

22 A. Yes, I did.

23 Q. And when did you first meet Simon and Shirley
24 Bernstein?

25 A. In 2007.

1 Q. What was your occupation at the time?

2 A. I was working as an estate planning attorney.

3 Q. With a law firm?

4 A. Yes.

5 Q. And what was the name of the law firm?

6 A. Tescher, Gutter, Chaves, Rubin, Ruffin and
7 Forman and Fleisher.

8 Q. And did Simon and Shirley Bernstein retain
9 your law firm?

10 A. Yes, they did.

11 Q. I'm going to approach with Exhibit No. 9 --
12 Plaintiff's Exhibit 9. Ask if you'd identify that
13 document?

14 A. This was an intake sheet to open up the file,
15 dated November 16th of 2007.

16 Q. And the clients are Simon and Shirley
17 Bernstein?

18 A. The clients were Simon and Shirley Bernstein,
19 yes.

20 MR. ROSE: I would move Exhibit 9 into
21 evidence, Your Honor.

22 THE COURT: Any objection?

23 [No verbal response]

24 THE COURT: No objection being stated, I'll
25 receive that as Plaintiff's 19.

1 (Plaintiff's Exhibit No. 9 was received into
2 evidence.)

3 BY MR. ROSE:

4 Q. Now, what was the purpose of Simon and Shirley
5 Bernstein retaining your law firm?

6 A. They wanted to review and go over their
7 existing estate planning and make changes to their
8 documents.

9 Q. I'm going to hand you Exhibit No. 10, and ask
10 you if you can identify for the record Exhibit 10.

11 A. These are meeting notes, my meeting notes,
12 and -- and then partner Don Tescher's meeting notes from
13 several different meetings that we had with Si and
14 Shirley during the time following them retaining us as
15 clients.

16 Q. And is it your standard practice to take notes
17 when you're meeting with clients?

18 A. Yes.

19 Q. And were these notes kept in your company's
20 files and were they produced with Bates stamp numbers?

21 A. Yes, they were.

22 MR. ROSE: I would move Exhibit 10 into
23 evidence, Your Honor.

24 THE COURT: Is there any objection to the
25 exhibit?

1 [No verbal response].

2 THE COURT: No objection being stated, they'll
3 be received as Plaintiff's 10.

4 (Plaintiff's Exhibit No. 10 was received into
5 evidence.)

6 BY MR. ROSE:

7 Q. Now, for today's purposes, are those notes in
8 chronological or reverse chronological order?

9 A. This is reverse chronological order.

10 Q. Okay. Can you go to the bottom of the stack
11 and start with the earliest notes. Do they reflect a
12 date?

13 A. Yes. 11/14/07.

14 Q. And if you'd turn to the last page, is that
15 your partner's notes that are in evidence?

16 A. Yes. We both would always take notes at the
17 meetings.

18 Q. And so the first -- was that the first meeting
19 with Mr. Simon or Shirley Bernstein?

20 A. I believe so, yes.

21 Q. Now, before you met with Simon and Shirley
22 Bernstein, did you have any prior relationship with
23 them?

24 A. No, we did not.

25 Q. Did you personally know either of them before

1 that date?

2 A. No, I did not.

3 Q. 11/14/2007. Okay. And if you'd just flip
4 back to the client intake. I think that was dated
5 November the 26th?

6 A. It was two days later, 11/16. The file was
7 opened two days later.

8 Q. So file open.

9 Now, did you know in advance of the meeting
10 what they were coming in to talk about?

11 A. Yeah. They were coming in to talk about their
12 estate planning.

13 Q. And did they provide you in advance of the
14 meeting with any of their prior estate planning
15 documents?

16 A. I believe we had copies of documents. I don't
17 know if they provided them at that meeting or if they
18 provided them before for us to look at, or after, but I
19 know that there were existing documents that were in our
20 file.

21 Q. Okay. Let me approach and hand you
22 Exhibit 40A, which is -- bears Tescher Spallina
23 Number 1.

24 Does that appear to be an envelope from
25 Stephen Greenwald --

1 A. Yes.

2 Q. -- directed to Simon Bernstein?

3 A. Yes, it is.

4 Q. And copy of this was in your files when they
5 were produced?

6 A. Yes.

7 Q. And was Stephen Greenwald the prior lawyer
8 that represented Simon and Shirley Bernstein, as far as
9 you know?

10 A. Yes. Yes, he was.

11 Q. I'm going to hand you Exhibit 40B, which is a
12 letter from Mr. Greenwald to Simon and Shirley
13 Bernstein.

14 Is that also -- is that also provided in your
15 files?

16 A. Yes, sir.

17 Q. Does it bear a Bates stamp of your law firm?

18 A. Yes, it does.

19 Q. Okay. And does Mr. Greenwald, in that letter,
20 disclose what he is sending to Simon --
21 Mr. and Mrs. Simon L. Bernstein?

22 A. Yes, he did. Their estate planning documents,
23 including their ancillary documents, their wills, their
24 trusts, health care powers, durable powers and living
25 wills.

1 Q. And if -- I'll show you 40C, D, E and F, and
2 ask if you can identify these as some of the documents
3 that were included with the letter from Mr. Greenwald?

4 A. We have each of the first codicils to
5 Mr. and Mrs. Bernstein's wills, and we have each of
6 their wills.

7 MR. ROSE: I would move Exhibit 40A through F
8 into evidence, Your Honor.

9 THE COURT: Any objection?

10 [No response.]

11 THE COURT: No objection being stated, I'm
12 going to receive this as Plaintiff's 40A through F.

13 (Plaintiff's Exhibit Nos. 40A-F were received
14 into evidence.)

15 BY MR. ROSE:

16 Q. Within Exhibit 40, is there a will and a --
17 for Simon and a will for Shirley?

18 A. Yes, there is.

19 Q. And could you tell the Court the date of those
20 documents?

21 A. August 15, 2000.

22 THE COURT: Are both documents the same date?

23 THE WITNESS: Yes, they are, Your Honor.

24 THE COURT: All right. Thanks. I just wanted
25 to make sure I don't get confused.

1 BY MR. ROSE:

2 Q. Can you generally describe what the estate
3 plan reflected in Exhibit 40 would be, who are the
4 beneficiaries and what percentages?

5 A. Okay. Just give me a minute. I haven't seen
6 these in...

7 The plan under the documents -- and let me
8 just make sure it's the same under both documents. The
9 plan under the documents was to provide all the assets
10 to the survivor of Shirley and Si, and that at the death
11 of the survivor of the two of them, assets would pass
12 to -- it appears to be Ted, Pam, Eliot, Jill and Sue and
13 Lisa -- and Lisa. So it looks to be a typical estate
14 plan; everything would pass to the survivor at the first
15 death, and then at the second death everything to the
16 children.

17 Q. How many of the children under the 2000
18 documents?

19 A. This shows all five. The will shows all five.

20 Q. What page are you looking at?

21 A. The first page of the will. Is this -- oh,
22 no. That's just as to tangible personal property. I'm
23 sorry.

24 Q. That's okay. Are you on -- are you in Simon's
25 or Shirley's?

1 A. I'm in -- on both documents, to make sure the
2 disposition was the same.

3 Q. Okay. So on the page -- the first page, it
4 talks under --

5 A. It speaks to tangible personal property.

6 Q. Split equally among the five children?

7 A. Among the five children.

8 Q. Let me just stop you one second right there.
9 If you would, turn --

10 MR. ROSE: This might help, Your Honor, if
11 you'd turn to Tab 7. It may be out of order.
12 Might be a good time just to go over the family
13 tree and let -- get everyone on the same page of...

14 We prepared a chart, and I'm going to put
15 the -- it lists Simon and Shirley and the names of
16 their children on the second line, and then under
17 each child with arrows, the names of the
18 grandchildren and which parents they belong to.

19 THE WITNESS: This looks accurate.

20 MR. ROSE: I would move Exhibit 7 into
21 evidence, Your Honor.

22 THE COURT: Any objection?

23 [No response.]

24 THE COURT: No objection being stated, that's
25 in evidence as Plaintiff's 7.

1 (Plaintiff's Exhibit No. 7 was received into
2 evidence.)

3 BY MR. ROSE:

4 Q. So under the 2000 documents, for personal
5 property, it's split among the five children.

6 And when you get to the residuary estate or
7 the amount that was put into trusts, who are the
8 beneficiaries?

9 A. Again, at the death of the survivor of the two
10 of them, tangible personal property would go to the five
11 children, and the residuary of the estate would go to
12 four of the five children. It appears that Pam is cut
13 out of these documents. And I recall that now, yes.

14 Q. Okay. So under the 2000 documents, Eliot
15 Bernstein would get 25 percent of the residuary?

16 A. Correct.

17 Q. Now, if you look at page 5, it talks
18 about -- page 5, near the top, it says "upon the death
19 of my husband," then "the principal of his trust shall
20 pass," and then the next sentence says "to the extent
21 that said power of appointment -- oh, "and such shares
22 equal or unequal and subject to such lawful trust terms
23 and conditions as my husband shall by will appoint."

24 Do you see what I'm talking about?

25 A. Yes, I do.

1 Q. That's a power of appointment?

2 A. Correct.

3 Q. And then it says, the next sentence, To the
4 extent the power of appointment is not effectively
5 exercised, then it goes to the four of the five
6 children?

7 A. Correct.

8 Q. So under the 2000 documents, the survivor
9 would have the power to give it all to one?

10 A. Correct.

11 Q. And theoretically change it and give some to
12 Pam?

13 A. That's true, by the language of this document.

14 Q. Okay. So I'm just going to write. We have a
15 power of appointment, which we don't need to belabor, in
16 favor of the survivor; and then if it's not exercised,
17 Eliot gets 25 percent, and three other siblings get the
18 balance?

19 A. 25 percent each.

20 Q. Okay.

21 A. Equal shares.

22 Q. Now, when Simon and Shirley came to you, did
23 they give you an indication whether they wanted to keep
24 in place the 2000 structure?

25 A. No. They wanted to change the dispositions

1 under their documents.

2 Q. Okay. So if we work through your notes now,
3 which are in evidence as Exhibit No. 10, the first
4 meeting was November the 14th, 2007. You had a
5 discussion about Simon's net worth -- Simon and
6 Shirley's net worth, how much money they had at that
7 time?

8 A. Yes.

9 Q. Okay. I'm going to show you Exhibit No. 12
10 before we --

11 Do you recognize the handwriting on
12 Exhibit 12?

13 A. No.

14 Q. Okay. I believe it's Simon Bernstein's
15 statement of his net worth.

16 But you have seen this document before?

17 A. I don't recall.

18 Q. Okay. And you're not familiar with his
19 handwriting to --

20 A. No. Other than his signature.

21 Q. That's fine.

22 But during the discussion, did you discuss
23 Simon's net worth?

24 A. Yes. Both my partner and I.

25 Q. And if I look at Mr. Tescher's notes, which

1 are a little easier to read, he lists the joint
2 brokerage account, some money for Simon, Simon, a
3 house -- the house appears to have a million dollar
4 mortgage -- a condo, some miscellaneous and some life
5 insurance. And he totals -- that totals to 13 million,
6 and then he lists 5 million for 33 shares of the
7 company.

8 Do you see that?

9 A. Yes, I do.

10 Q. Okay. So if I add up what Mr. Tescher wrote
11 in his notes, I get to about \$18 million.

12 And this is on November the 14th of '07,
13 around 18 million, but that includes life insurance?

14 A. Yes, it does.

15 Q. Okay. Now, did you meet with them -- how long
16 were these meetings with Simon and Shirley Bernstein?

17 A. They could be an hour; sometimes more.

18 Q. Now, if we flip through your notes, does it
19 reflect a second meeting?

20 A. Yes, it does.

21 Q. And what's the date of the second meeting?

22 A. 12/19/07.

23 Q. And do you have any -- I'm sorry. 12/19?

24 A. 12/19/07.

25 Q. Okay. And what's the -- let's just put all

1 the dates up here. That was the second meeting.

2 Are there notes from a third meeting?

3 A. The next meeting was January 31, '08.

4 Q. Okay. Is there a fourth meeting?

5 A. March 12 of '08.

6 Q. Now, just to put this in perspective, the
7 document that we are going to -- well, the document
8 that's been admitted into probate in this case is a will
9 of Shirley Bernstein that bears a date of May 20, 2008.

10 Does that sound consistent with your memory?

11 A. Yeah, it was clearly 2008.

12 MRS. CANDICE BERNSTEIN: Excuse me. Can you
13 turn that so we can see it?

14 THE WITNESS: Sure. Sorry.

15 THE COURT: Ma'am, you are not a party. You
16 are not an attorney. And you are not really
17 supposed to be sitting there. I'm letting you sit
18 there as a courtesy. If you ask for and inject
19 yourself any further in the proceeding than that,
20 I'll have to ask you to be seated in the gallery.
21 Do you understand?

22 MRS. CANDICE BERNSTEIN: Yes, sir.

23 THE COURT: Thank you.

24 BY MR. ROSE:

25 Q. So you have four meetings with Simon and

1 Shirley Bernstein.

2 And did it take that long to go over what they
3 wished to do with their estate planning documents?

4 A. It was more of us, you know, trying to get a
5 handle on everything that they had, the business, prior
6 planning. From the first meeting to the March meeting,
7 it was only a couple of months. The holidays were in
8 there. So it wasn't uncommon for us to meet with a
9 client more than once or twice when they had a
10 sophisticated plan and asset schedule.

11 Q. At this time --

12 A. By the last meeting, we knew what we needed to
13 do.

14 Q. And around this -- based on your notes, did
15 Simon Bernstein believe he had a net worth all in of
16 about 18 million when he met with you?

17 A. Yeah, it appears that way, 18, 19 million
18 dollars.

19 Q. And did he discuss at all with you that he was
20 involved in a business at that time, an insurance
21 business?

22 A. Yes.

23 Q. And did he give you an indication of how well
24 the business was doing at around the times of these
25 meetings between November 2007 and March or May of 2008?

1 A. Yeah, the business was doing well at that
2 time. He was -- he was very optimistic about the future
3 of the business.

4 Q. Now, did you do any -- did you prepare any
5 documents before the will was signed in May? Did you
6 prepare drafts of the documents?

7 A. Yes, we did. We always prepare drafts of
8 documents.

9 Q. And did you share the drafts with Simon and
10 Shirley?

11 A. Yes, we did.

12 Q. Okay. I'm going to hand you Exhibit 11, and
13 ask if you can identify that for the record?

14 A. This is a letter from our firm dated April 19
15 of 2008. It's transmitting the documents to the client,
16 with an explanation that they could follow, better than
17 reading their documents -- a summary of the documents.

18 Q. Is that a true and authentic copy of a
19 document that you created?

20 A. Yes, it appears to be.

21 MR. ROSE: I would move Exhibit 11 into
22 evidence, Your Honor.

23 THE COURT: All right. Any objection?

24 [No response.]

25 THE COURT: All right. Then that's in

1 evidence as Plaintiff's 11.

2 (Plaintiff's Exhibit No. 11 was received into
3 evidence.)

4 BY MR. ROSE:

5 Q. And if I read Exhibit 11, the first three
6 words say, "Enclosed are drafts of each of your wills
7 and revocable trusts, the children's family trust, each
8 of your durable powers of attorney, designations of
9 health care surrogate and living wills," correct?

10 A. Yes.

11 Q. So about a month and 11 days before anything
12 was signed, documents were sent by Federal Express to
13 Simon and Shirley Bernstein?

14 A. Correct.

15 Q. And it appears to have gone to Simon's
16 business?

17 A. Yes.

18 Q. Now, if you look at -- does your -- does your
19 letter, sort of in laymen's terms, rather than reading
20 through the legalese of a will, explain what the estate
21 planning was under the documents that have yet to be
22 signed but that you were preparing?

23 A. Yes, it does, as much as possible in laymen's
24 terms.

25 Q. Can you just give us a short -- well, the will

1 itself for both Simon and Shirley was a relatively
2 simple will that poured over into a revocable trust, one
3 for each?

4 A. Yes, poured over wills for both.

5 Q. And whoever died first would inherent the
6 personal property?

7 A. All tangible personal property under the will
8 would pass to the survivor.

9 Q. So assuming Simon survived Shirley, he would
10 be the sole beneficiary of her estate?

11 A. Correct.

12 Q. And then any of her residuary would go into a
13 trust?

14 A. That's correct.

15 Q. And he, in fact, outlived Shirley?

16 A. He did.

17 Q. Okay. Now, if you go to the second page, at
18 the top, you describe the will of Shirley Bernstein.

19 It's essentially identical to Si -- it says "Si."

20 Just for the record, that's Simon shorthand?

21 A. Yes.

22 Q. Si is the personal representative of Shirley's
23 estate, and Ted is designated as successor if Simon is
24 unable to serve.

25 That was what was in the document you sent in

1 April?

2 A. Yes. I believe so, yes.

3 Q. And that provision remained in the final
4 documents you signed?

5 A. Yes.

6 Q. Now, did Ted eventually become a successor
7 personal representative upon Simon's death?

8 A. Yes, he did.

9 Q. Then you next start to talk about the Simon L.
10 Bernstein trust agreement.

11 And theoretically, that was going to be the
12 primary testamentary document?

13 A. Correct, it was.

14 Q. And that's fairly standard?

15 A. Yes. When a client wants to avoid probate, we
16 use a revocable trust to title assets in prior to death.
17 Those assets remain confidential; they're not part of
18 the court record. And the trust is also used to avoid
19 the need for the appointment of a guardian in the event
20 of incapacity, because there's a successor trustee
21 mechanism.

22 Q. Okay. Now, under Simon's trust agreement,
23 moving down to the third paragraph, under that heading,
24 it says that both trusts provide for mandatory income
25 distributions. And then the next sentence starts, "Upon

1 Shirley's death, she has been given a special power to
2 appoint the remaining assets of both the marital trust
3 and the family trust to any of your lineal descendants
4 and their spouses, a power to redirect and reallocate."

5 Do you see that?

6 A. Yes.

7 Q. Now, is that consistent with the way the
8 documents were intended to be drafted?

9 A. Yes, it is.

10 Q. And I guess it's sort of similar to what
11 existed in the 2000 wills?

12 A. Yes. Typically, you give the survivor of the
13 spouse a power to appoint in the event that they want to
14 change any of the estate planning of the first to die.
15 Found in most first marriage documents with only
16 children from that marriage.

17 Q. And this is a first marriage with all five
18 children being the product of the same marriage --

19 A. Yes.

20 Q. -- as far as you know?

21 A. As far as I know.

22 Q. And as far as you know, Simon and Shirley
23 Bernstein, they each married only once in their
24 lifetime, to each other?

25 A. That's all I know.

1 Q. If you flip to the next page, there's a
2 shorter paragraph for Shirley.

3 It basically says -- it's virtually identical,
4 except that Simon is the initial successor, and after
5 that, Ted would be Simon's replacement if he passed
6 away?

7 A. Correct.

8 Q. And is that the mechanism by which Ted
9 Bernstein became the successor trustee in this lawsuit?

10 A. Yes, it is.

11 Q. Now, if Shirley died first, then did the
12 documents give Simon the same power of appointment over
13 the assets in her trust that was provided for in the
14 Simon document if he died?

15 A. Same power of appointment was in both
16 documents. They were identical documents, with one
17 exception.

18 Q. And what was the exception; the name of the
19 successor trustee?

20 A. The name of the successor trustee.

21 Q. And then Simon wanted his then business
22 partner, Bill Stansbury, to be his successor trustee in
23 both his will and his trust, and Shirley wanted her
24 oldest son, Ted, to be her successor in both documents?

25 A. Correct. The signer, non-survivor.

1 Q. Okay. And Shirley, I guess it says here, also
2 made a specific gift of \$200,000 to someone named
3 Matthew Logan?

4 A. Correct.

5 Q. If you look at our family tree chart, I think
6 Matthew Logan is under Ted.

7 He is the son of Ted's second wife, Deborah?

8 A. Correct.

9 Q. Okay. So there was a \$200,000 special gift to
10 Matthew that was in the documents that you sent on
11 April 9th?

12 A. Correct.

13 Q. Then you prepared family trusts for the
14 children.

15 Were those trusts created at the time?

16 A. Yes, they were.

17 Q. Now, after you sent your letter on April 9th,
18 did you have a further discussion with Simon and Shirley
19 before the documents were signed?

20 A. I can't recall, but we probably -- we probably
21 did, to set up a meeting and talk -- you know, either,
22 A, talk about the documents, the draft documents, any
23 changes that they wanted to make on the draft documents.
24 It would be typical of us to do that, although I don't
25 have any meeting notes that showed that, so...

1 Q. Now, under -- we'll talk -- let's talk about
2 the ones that matter.

3 Because Shirley died first, her 2008 trust
4 became the beneficiary of her estate?

5 A. Correct.

6 Q. And then Simon had a power of appointment,
7 correct?

8 A. Um-hum.

9 Q. And if -- you have to say yes or no.

10 A. Yes.

11 Q. And if he didn't exercise the power of
12 appointment, was there a default set of beneficiaries
13 that were designated in the documents you drafted in
14 2008?

15 A. Yes.

16 Q. And what was the default set of beneficiaries?

17 A. Simon had and Shirley had in their documents
18 excluded Pam and Ted at the death of the survivor of the
19 two of them.

20 Q. Okay. So if the power of appointment was not
21 properly exercised, it would just go to three, and Eliot
22 would end up with 33 and a third percent and two of the
23 other sisters would get the balance?

24 A. That's correct.

25 Q. Did Simon and Shirley eventually execute

1 documents in 2008?

2 A. Yes, they did.

3 Q. I'm going to hand you Exhibit No. 1, which
4 is --

5 A. A copy of Si's will from --

6 Q. Do you have Exhibit 1?

7 A. Excuse me. Sorry. Shirley's will.

8 Q. Is that a conformed copy of the document?

9 A. Yes, it is.

10 MR. ROSE: I would move Exhibit 1 into
11 evidence.

12 THE COURT: Any objection?

13 [No response.]

14 THE COURT: That's in evidence as
15 Plaintiff's 1.

16 (Plaintiff's Exhibit No. 1 was received into
17 evidence.)

18 BY MR. ROSE:

19 Q. Now, that says "conformed copy." If I turn to
20 the last page, there's no handwritten signatures.

21 A. Correct.

22 Q. Do you know where the original of that
23 document sits today?

24 A. It was filed with the court.

25 Q. Okay. So somewhere in the courthouse, the

1 original goes.

2 And that's something that the client would
3 keep?

4 A. Correct. This is what we would send to the
5 client to include with their files.

6 Q. When you filed the original with the court,
7 did anyone object while Simon was alive?

8 A. No.

9 Q. Okay. I'm going to hand you Exhibit No. 2.
10 Do you recognize that document?

11 A. Yes. This is Shirley's trust agreement that
12 she executed in 2008.

13 Q. Now, does that document have copies of her
14 signature?

15 A. Yes. These are actual copies of the signing
16 parties and their signatures.

17 Q. And how many originals would have been created
18 of this document?

19 A. We always created three originals of the trust
20 agreements.

21 Q. Okay. Now, if you turn to the next -- if you
22 turn to the last page, it says that Shirley put a dollar
23 into her trust when it was created.

24 A. Yes.

25 Q. And that's to make it a valid trust?

1 A. Yeah, I mean, it's not required today, but
2 it's pretty much just form to show a dollar. She had
3 certainly funded it more than that.

4 Q. And eventually Shirley put some assets into
5 the trust?

6 A. Yes.

7 Q. Okay. And if you go to the page before that,
8 page 27, it appears to be a signature page, correct?

9 A. Yes.

10 Q. Now, were you one of the witnesses to the
11 signature of Shirley Bernstein on Exhibit 2?

12 A. Yes, I was.

13 Q. And were you present with Shirley Bernstein
14 and the other witness, Traci Kratish, at the time of the
15 execution of the documents?

16 A. Yes, I was.

17 Q. And they're notarized by someone named
18 Kimberly Moran.

19 Does she work for your office?

20 A. Yes, she did.

21 Q. And through her involvement with your firm
22 and -- did she personally know Shirley and Traci
23 Kratish, as well as yourself?

24 A. Yes, she did.

25 Q. Now, at the same time that Shirley signed her

1 documents, did Simon sign a similar set of 2008 will and
2 trust, similar to the drafts that were sent in April?

3 A. Yes, he did. We were all sitting in the main
4 conference area in their offices together.

5 Q. In Simon's office or your office?

6 A. In Simon's offices.

7 Q. Okay. So why would someone from your office
8 come to Simon's office rather than rely on the notary
9 that they have there?

10 A. Because we wanted to accommodate Shirley and
11 Si in their offices and not have them travel.

12 Q. You personally went there. Did you personally
13 go through to make sure that the documents were signed
14 with all the formalities required under Florida law to
15 make them valid and enforceable?

16 A. Yes, we did. That's why we were there.

17 Q. And if Simon did not have a 2008 will
18 and -- sorry.

19 If Simon did not have a 2002 will and trust,
20 would it be your belief that the 2008 will and trust
21 would be valid?

22 A. Yes.

23 Q. Were they properly signed with all the same
24 testamentary formalities required by Florida law?

25 A. Yes, they were.

1 Q. Okay. Did Shirley at some point amend her
2 trust agreement?

3 A. Yes, she did.

4 Q. And do you recall why she amended it?

5 A. She amended it to remove Matt Logan from the
6 document that she had included previously as a specific
7 device.

8 Q. Do you know why Matt was removed?

9 A. It's attorney-client privilege.

10 Does it matter?

11 Q. I'll withdraw the question.

12 Was Matthew removed at the direction of
13 Shirley?

14 A. Yes.

15 Q. I'll withdraw --

16 A. Yes. Yes. Yes.

17 Q. Did Shirley sign a document that effectively
18 removed Matthew?

19 A. Yes, she did.

20 Q. Let me hand you Exhibit No. 3, and ask you if
21 you recognize that document?

22 A. Yes, I do.

23 Q. Now, was this document signed with the same
24 testamentary formalities as the 2008 trust?

25 A. Yes, it was.

1 MR. ROSE: We would move Exhibit 3 into
2 evidence, Your Honor.

3 THE COURT: Any objection?

4 [No response.]

5 THE COURT: All right. That's in evidence as
6 Plaintiff's 3.

7 (Plaintiff's Exhibit No. 3 was received into
8 evidence.)

9 BY MR. ROSE:

10 Q. Now, if you look -- there's a paragraph 1 and
11 a paragraph 3, but no paragraph 2.

12 Do you know why that is?

13 A. It's just a mistake in drafting.

14 Q. And did you specifically discuss with Shirley,
15 whose privilege I technically would control -- my client
16 would control --

17 Did you specifically discuss with Shirley the
18 fact that the effect of the first amendment would be to
19 remove the specific gift that she had made for Matthew
20 Logan?

21 A. Yes. Even prior to the signing of the
22 document.

23 Q. And is this the last relevant testamentary
24 document that Shirley ever signed that you're aware of?

25 A. Yes, it is.

1 Q. Did you meet with Simon and Shirley in person
2 to talk about this amendment?

3 A. Si had called me and said that Shirley had a
4 change to her documents, and asked me to give her a call
5 and have lunch with her. I called her. We arranged for
6 a meeting in her house to execute the document.

7 Q. Now, you brought your -- you brought Kimberly
8 with you to get -- for convenience and to make sure the
9 documents were properly executed?

10 A. Correct. She had -- she had her personal
11 assistant that was there, Rachel Walker, to serve as
12 another witness.

13 Q. Just so I don't have to go back, what's the
14 date of the amendment?

15 A. November 18th, 2008.

16 Q. So now we five documents that exist; 2008,
17 will, trust, will, trust, and an amendment to Shirley's
18 trust.

19 Did you share any of those documents with any
20 of Simon and Shirley's children at that time?

21 A. No, we did not.

22 Q. Did any of the -- did any of the children play
23 any role in bringing Simon or Shirley to your offices?

24 A. Not that I'm aware, no.

25 Q. Did any of the children accompany them

1 to -- any time they came to visit you, did any of the
2 children come with them, drag them along?

3 A. No.

4 Q. So you prepared -- did you do some other
5 estate planning in addition to the 2008 testamentary
6 documents?

7 A. Yes, we did.

8 Q. Can you briefly describe some of the things
9 you did?

10 A. We had set up a Florida limited partnership.
11 We created a general partner entity for that
12 partnership, a limited liability company.

13 Q. What's the name of the Florida limited
14 partnership?

15 A. Bernstein Family Investments, LLLP.

16 Q. Was that an entity that was in existence or
17 was it created under your direction?

18 THE COURT: Can I stop you a second? Is this
19 going to help me figure out the validity of the
20 testamentary documents?

21 MR. ROSE: Only in the very narrowest sense.
22 I'm just trying to establish that they had a very
23 lengthy and extensive relationship, and they did a
24 lot of estate planning for Simon and Shirley. But
25 I'll be very brief.

1 THE COURT: Well, if that becomes relevant
2 later, perhaps you could come back to it. But I
3 don't see the relevance at this point, so I'll ask
4 you to move on.

5 MR. ROSE: Yes, sir.

6 BY MR. ROSE:

7 Q. Now, was Simon concerned at all about asset
8 protection as part of some of the things you discussed?

9 A. Yes, he was.

10 Q. Now, we have -- did you have any discussion
11 with him about who was expected to live longer or if
12 either of them had health problems that you had any
13 knowledge of?

14 A. Si was not -- he was in good health, but he
15 had had some heart issues. And Shirley had had other
16 issues as well. And I think it -- early on, he didn't
17 know, but as the relationship went on, we kind of knew
18 that Shirley was sicker than him and would probably pass
19 first.

20 Q. So Shirley died -- it's in the public
21 record -- but December --

22 A. 2010, yeah.

23 Q. -- 8th. So Simon was her -- he survived her;
24 he becomes the sole beneficiary as far as tangible
25 personal property under her will?

1 A. Yes, he does.

2 Q. The residuary goes into the Shirley Bernstein
3 Trust?

4 A. That's correct.

5 Q. He's the sole successor trustee and the sole
6 beneficiary --

7 A. Yes, he is.

8 Q. -- during the term of his life?

9 A. Correct.

10 Q. Now, was there a great deal of effort put into
11 inventorying the assets, things like that?

12 A. No, there wasn't. For purposes of opening up
13 Shirley's probate, we had asked Si to estimate the value
14 of, you know, her tangible personal property. And
15 that's what we included on the inventory that was filed
16 in the probate.

17 Q. Now, if I'm correct, 2010 was the year there
18 were no estate taxes at all?

19 A. No estate taxes.

20 Q. Simon's the sole beneficiary?

21 A. Sole beneficiary. Even if there were taxes,
22 there wouldn't have been any tax on the first death,
23 because everything went to Si, and there was a marital
24 deduction.

25 Q. While Simon was alive, did Ted have any access

1 to the documents, as far as you know? Did you ever send
2 the testamentary documents of Simon or Shirley to Ted?

3 A. No, we did not.

4 Q. Did Ted play any role in the administration of
5 the estate while Simon was alive?

6 A. No, he did not.

7 Q. Did any of the other children play any role in
8 the administration of the estate while Simon was alive?

9 A. No, they did not.

10 Q. Now, did you have to -- well, strike that.

11 Because it was only Simon, was it sort of the
12 decision by Simon, That I don't want to spend a lot of
13 time and money in this estate because it's just wasting
14 my own money?

15 A. Yes.

16 Q. And that's not unusual in a situation where
17 you have a surviving spouse that's the sole beneficiary?

18 A. Correct.

19 Q. Now, did there come a point in time when Pam,
20 who was not a named beneficiary of the -- Shirley's
21 documents, learned of the fact that she had been
22 excluded?

23 A. Yes, there was.

24 Q. Okay. And did you get involved with
25 discussions with Pam or her lawyer?

1 A. She had hired an attorney, who had made a
2 request to get a copy of her mother's documents. And I
3 called Si, spoke to Si about it, and he authorized me
4 giving Pam those documents -- or her attorney those
5 documents.

6 Q. Were they provided to any of the other
7 children; that would be Ted or his brother, Eliot, or
8 his two sisters, Lisa or Jill?

9 A. No, they were not.

10 Q. And did Simon Bernstein at some point decide
11 to change his testamentary documents?

12 A. Yes, he did.

13 Q. Do you recall approximately when that
14 happened?

15 A. Early 2012, he called and requested that we
16 meet to go over his documents.

17 Q. I'm going to hand you an exhibit marked
18 Exhibit 13, and ask you if you recognize those as your
19 own notes?

20 A. Yes. These are my notes from that meeting in
21 2012.

22 MR. ROSE: I would move Exhibit 13 into
23 evidence, Your Honor.

24 THE COURT: Any objection?

25 [No response.]

1 THE COURT: All right. That's in evidence as
2 Plaintiff's 13 then.

3 (Plaintiff's Exhibit No. 13 was received into
4 evidence.)

5 BY MR. ROSE:

6 Q. Now, during this meeting, did Simon discuss
7 the possibility of altering his estate plan?

8 A. Yes, he did.

9 Q. Did you also go over his current finances?

10 A. Yes, we did.

11 Q. Now, we've seen from 2007 that he had
12 disclosed about \$18 million.

13 As part of the meeting in February of 2012, he
14 gave you sort of a summary of where he stood at that
15 time?

16 A. Yes, he did.

17 Q. And what was the status of the Shirley
18 Bernstein probate administration in early 2012, about
19 13 months after she passed away?

20 A. It was still not closed.

21 Q. Do you know why it was not closed?

22 A. I think that we were still waiting -- I'm not
23 sure that -- we were still waiting on waivers and
24 releases from the children to close the estate, to
25 qualify beneficiaries under the estate if Si were to

1 die. We had to get waivers and releases from them.

2 Q. Standard operating procedure?

3 A. Standard operating procedure.

4 Q. Okay. So Simon here, it says -- it says at
5 the top "SIPC receivable."

6 Do you know what that is?

7 A. Yes, I do. That was -- Si had made an
8 investment in a Stanford product that was purported to
9 be a CD; it was an offshore CD. And when the Stanford
10 debacle hit, I guess he filed a claim with SIPC to get
11 those monies back, because it was supposedly a cash
12 investment.

13 Q. And so he invested in a Ponzi scheme and lost
14 a bunch of money?

15 A. Correct.

16 Q. Some of the 18 million he had in 2007 he lost
17 in the next four and a half years in investing in a
18 Ponzi scheme?

19 A. That's correct.

20 Q. And then the maximum that the SIPC -- which is
21 like the FDIC for investments.

22 You're familiar with that, correct?

23 A. Yes.

24 Q. The maximum is 500,000.

25 You don't actually necessarily recover

1 500,000? You have a receivable, right?

2 A. Yes.

3 Q. Do you know how much he actually realized from
4 the SIPC?

5 A. I believe he never received anything.

6 Q. Okay. And then it said, LIC receivable,
7 \$100,000.

8 Am I reading that correct?

9 A. Yes.

10 Q. And LIC was the company he was involved, with
11 others?

12 A. Yes.

13 Q. Okay. So I put here 600 that he put, but the
14 600 is really probably closer to 100 if you didn't get
15 the SIPC money?

16 A. Correct.

17 Q. So I'm going to just put a little star here
18 and put it's really 100,000, and sort that out.

19 So then he says -- he has -- Si's estate, this
20 would be his personal assets. He's got an interest in
21 the LLLP.

22 That is not relevant to discuss how it was
23 formed, but there was an LLLP that was owned, some by
24 Si's trust, some by Shirley's trust?

25 A. Correct.

1 Q. And at the time, he thought the value was
2 1,150,000 for his share?

3 A. That's correct.

4 MR. BERNSTEIN: Can I object, Your Honor?

5 THE COURT: What's the objection?

6 MR. BERNSTEIN: Relevance.

7 THE COURT: Overruled.

8 MR. BERNSTEIN: Okay.

9 BY MR. ROSE:

10 Q. And then he had an IRA that says 750,000.

11 A. Correct.

12 Q. And those two things totaled 1,550,000?

13 A. No. They totaled one million nine. Right?

14 Q. Okay. You're right.

15 You wrote next to it "estate tax."

16 What does that mean, on the side next to it?

17 A. I think what I had done was offset the value
18 of the assets in his estate by the loans that were
19 outstanding at the time.

20 Q. And it shows a million seven in loans?

21 A. A million seven in loans.

22 Q. So we had loans back in 2008 -- I'm sorry.
23 November of 2007 time period -- or 2008, which were
24 only -- so we have loans now, you said, a million seven?

25 A. Well, he had a \$1.2 million loan with

1 JP Morgan that was collateralized with the assets of the
2 LLLP.

3 Q. And then you list -- just to speed up, then
4 you have -- underneath that, it says Shirley's asset was
5 empty, right? Because whatever was in had gone to
6 Simon?

7 A. Yeah, her estate had nothing in it.

8 Q. She had a Bentley, I think, when she died.
9 Do you know what happened to the Bentley?

10 A. I wasn't aware that she had a Bentley.

11 Q. Did you come to learn that she had a Bentley
12 and Simon gave it to his girlfriend, and she traded it
13 in at the dealership and got a Range Rover?

14 A. Much, much, much later on --

15 Q. But you know --

16 A. -- after Si's death.

17 Q. But you know that to be the case?

18 A. I wasn't aware that it was traded for the
19 Range Rover. I thought he bought her the Range Rover.
20 I didn't realize he used a Bentley to do it.

21 Q. Okay. Somehow you know the Bentley became
22 something for Maritza?

23 A. Yes.

24 Q. That's the name of his girlfriend?

25 A. Yes.

1 Q. Okay. Then it says, in Shirley's trust,
2 condo, one million -- I'm sorry. I should go to the
3 next column. It says "FMV."

4 That would be shorthand for Fair Market Value?

5 A. Yes.

6 Q. So condo, 2 million, which is here; house,
7 3 million; half of the LLLP, which is Shirley's half
8 after -- I assume, after the deduction of the loan, was
9 800,000?

10 A. Um-hum.

11 Q. Then it says "LIC." That's the company Life
12 Insurance Concepts that Mr. -- that Simon, his son Ted,
13 and a gentleman named Bill Stansbury had formally been
14 involved, another attorney, shares by then. Because
15 we're in February of 2012.

16 But, in any event, that's Simon's company?

17 A. Correct.

18 Q. And he told you in 2007 it was worth --
19 Mr. Tescher's -- notes, like -- his interest was worth
20 5 million.

21 What did he tell you it was worth in 2012?

22 A. Zero.

23 Q. Then underneath that -- I put zero here, so
24 zero today.

25 So his net worth -- and then there was a home

1 that he owned for -- that Eliot lives in, right? He
2 didn't really own it, but he controlled it, Simon?

3 A. Yes.

4 Q. Okay. Did you set up the entity that owned
5 the home?

6 A. Yes, I did.

7 Q. Just to save time, there's an entity called
8 Bernstein Family Realty that owns the house.

9 Simon controlled that entity while he was
10 alive?

11 A. Yes, he did.

12 Q. And his estate holds a mortgage on the house
13 for 365,000?

14 A. Correct.

15 Q. So there's some interest there.

16 He didn't put it on his sheet when he talked
17 to you, but that still would have existed in some form,
18 right?

19 A. Yes.

20 Q. And it still exists to this day.

21 We don't know the value of it, but there still
22 is a mortgage, right?

23 A. Yes.

24 Q. Okay. But either way, the point of this whole
25 story is, his net worth went down significantly between

1 2007 and 2012?

2 A. Yes, it did.

3 Q. And in your world, that's not uncommon, with
4 the stock market crash, the depression, things like
5 that, that a lot of clients with high net worth would
6 have suffered losses during that time?

7 A. Many, many of them did. And even the values
8 that are on this sheet were not the real values.

9 Q. We know that the --

10 A. Clients have a tendency to overstate their net
11 worth.

12 Q. All right. And we know the Ocean Drive house
13 sold for about a million four?

14 A. Correct.

15 Q. And the Court -- there's an order that
16 approved the sale, the gross sale price of a million one
17 for St. Andrews?

18 A. Correct.

19 Q. Okay. So that's still -- that's less than
20 half, even then, Simon thought he would get.

21 Now, if you look at the bottom of the
22 Exhibit No. 13, it says a word, begins with an "I." I
23 can't really read it.

24 Can you read that?

25 A. Insurance.

1 Q. Well, did you have some discussions with Simon
2 about his insurance?

3 A. Yes, we did.

4 Q. In fact, I think -- Mr. Spallina, we talked
5 about he had -- I'm sorry.

6 Mr. Tescher's notes had a \$2 million life
7 insurance?

8 A. Correct.

9 Q. Okay. Is this the same life insurance?

10 A. Yes, it is.

11 Q. And was there a discussion about -- I guess it
12 says 1 million --

13 That's one million seven-fifty?

14 A. A million 75 -- yeah, one million seven-fifty
15 was the value of the policy.

16 Q. And the death benefit was a million six?

17 A. Million six. There was a small loan or
18 something against the policy.

19 Q. Okay. And then it says "Maritza."

20 What was Maritza down there for?

21 A. Si was considering changing -- the purpose of
22 the meeting was to meet, discuss his assets. And he
23 was, you know, having a lot of, I guess, internal -- he
24 had received another letter from his daughter -- he
25 asked me to read the letter from Pam -- that she still

1 was not happy about the fact that she had been
2 disinherited under her mother's documents if the assets
3 were to pass under the documents and he didn't exercise
4 his power of appointment. And this meeting was to kind
5 of figure out a way, with the assets that he had, to
6 take care of everybody; the grandchildren, the children,
7 and Maritza.

8 And so he thought maybe that he would change
9 the beneficiary designation on his life insurance to
10 include her. And we had talked about providing for her,
11 depending on -- an amount -- an increasing scale,
12 depending on the number of years that he was with her.

13 Q. So if you look at the bottom, it says 0 to
14 2 years, 250.

15 Is that what you're referring to?

16 A. Yes. Two to four years, 500,000. And then
17 anything over plus-four years would be -- I think that's
18 600,000.

19 Q. Now, during this discussion, was Simon
20 mentally sharp and aware of what was going on?

21 A. Oh, yeah. Yeah, he was -- he was the same
22 Simon. He was just -- you know, he was struggling with
23 his estate now. He was getting -- he felt -- I guess he
24 was getting pulled. He had a girlfriend that wanted
25 something. He had his daughter who, you know, felt like

1 she had been slighted. And he wanted to try to make
2 good by everybody.

3 Q. And at that point in time, other than the
4 house that he had bought that Eliot lived in, were you
5 aware that he was supporting Eliot with a very
6 significant amount of money each year?

7 A. I was not.

8 MR. BERNSTEIN: Object to the relevance.

9 THE COURT: Overruled.

10 BY MR. ROSE:

11 Q. Okay. So that's February.

12 A. Yes.

13 Q. What happens next in relation to Simon coming
14 in to meet with you to talk about changing his
15 documents?

16 A. He had called me on the phone and he -- we
17 talked again about, you know, him changing his
18 documents. He had been thinking about giving his estate
19 and Shirley's estate to his grandchildren. And at the
20 February meeting, I did not think it was a great idea
21 for him to include his girlfriend, Maritza, as a
22 beneficiary of the life insurance policy.

23 Q. He took your advice? He didn't change that,
24 as far as you know?

25 A. He did not.

1 Q. Okay. I'm sorry. Continue.

2 A. He did not.

3 I had suggested that he provide for her in
4 other ways; a joint account that would pass to her at
5 his death, but not to mix her in with his family in
6 their dispositive documents. And he ultimately took
7 that advice and decided that he wanted to give his
8 estate to his ten grandchildren, and that the policy --
9 which I had never seen a copy of the policy, but, you
10 know -- he had had. And I knew that he was paying for
11 it, because -- it almost lapsed, or did lapse at one
12 point, and it got reinstated -- that that policy was to
13 pass to an insurance trust that named his five children
14 as beneficiaries.

15 Q. And that's something Simon specifically
16 discussed with you when you were going over his estate
17 planning in 2012?

18 A. Correct -- or something that we had known
19 about before that meeting. But he was -- at the
20 meeting, he was starting to talk about doing a change to
21 the beneficiary designation to include Maritza, and I
22 wanted to talk him out of that.

23 Q. And at some point, he made a decision to
24 actually change his documents, correct?

25 A. He did. He did.

1 Q. And did he direct you to set up any kind of a
2 communication with his children?

3 A. Yes. He said, I want you to get -- put
4 together a conference call with me and you and my five
5 children so I can talk to them about what I want to do
6 with my estate and Shirley's estate.

7 THE COURT: All right. This would be a good
8 time for us to take a pause for a morning break.
9 We'll be in session again in 10 minutes.

10 As far as time use goes, so far Plaintiff's
11 side has used 60 minutes. So you have 90 remaining
12 in your portion of the day. And that's where we
13 stand.

14 MR. ROSE: We'll be well within our time, sir.

15 THE COURT: Great. Okay.

16 We'll be in recess for ten minutes. Is ten
17 minutes enough time for everybody? That's what
18 it'll be then.

19 (A break was taken.)

20 THE COURT: We're ready to proceed. Please
21 continue.

22 MR. ROSE: Thank you.

23 BY MR. ROSE:

24 Q. I think we were when Shirley died in December
25 of 2010, and you meet with Si, according to

1 Plaintiff's 13, on February 1st of 2012.

2 I think by May of 2012 was when this
3 conference call that you mentioned was?

4 A. Yes, it was.

5 Q. Okay. And did the five children attend the
6 conference call?

7 A. Yes, they all did.

8 Q. Were you present on the call?

9 A. Yes, I was.

10 Q. Was Simon present?

11 A. Yes, he was.

12 Q. Where was Simon physically during the call?

13 A. His office -- I believe his office.

14 Q. Were you in the same room as Simon?

15 A. No, I was not.

16 Q. You were in your office?

17 A. I was in my office.

18 Q. Okay. Generally, what was discussed during
19 this conference call?

20 A. Simon wanted to talk to his children about
21 providing for his estate and his wife's estate to go to
22 the ten grandchildren; wanted to have a discussion with
23 his children and see what they thought about that.

24 Q. And was he asking them for their approval or
25 permission or...

1 A. Well, I think he wanted to see what they all
2 thought, you know, based on things that had happened in
3 the past and documents that had been created in the
4 past. And I don't know that it was going to sway his
5 opinion, but when he told me, you know, to -- you know,
6 to have the conference call, to contact his -- he said,
7 This is what I'm going to do, so...

8 Q. During the call, did Simon ask his children if
9 anybody had an objection to him leaving his and
10 Shirley's wealth to the ten grandchildren?

11 A. Yes. He asked what everybody thought.

12 Q. Did Eliot respond?

13 A. Yes, he did.

14 Q. What did he say?

15 A. I'm paraphrasing, but he said something to the
16 effect of, Dad, you know, whatever you want to do,
17 whatever makes you happy, that's what's important.

18 Q. Did you also discuss during that call the need
19 to close Shirley's estate?

20 A. Yes, we did. We had told Si that we needed to
21 get back the waivers of accounting, the releases, and we
22 asked -- he asked them to get those back to us as soon
23 as possible.

24 Q. Okay. If I hand you Exhibit 14, it appears to
25 be an email from Eliot Bernstein to you addressing the

1 waiver that he needed to sign?

2 A. Yes, it is.

3 MR. ROSE: I move Exhibit 14 into evidence.

4 THE COURT: Any objection?

5 [No response.]

6 THE COURT: All right. That's in evidence
7 then as Plaintiff's 14.

8 (Plaintiff's Exhibit No. 14 was received into
9 evidence.)

10 MR. ROSE: As a matter of housekeeping, Your
11 Honor, I think I might have failed to move in
12 Exhibit 2, which is Shirley Bernstein's 2008 trust
13 agreement, which I would move, to the extent it's
14 not in evidence, 1, 2 and 3, which are the
15 operative documents Mr. Spallina's already
16 testified about.

17 THE COURT: Any objection?

18 MR. BERNSTEIN: What was that? I'm sorry.

19 THE COURT: Is there any objection to
20 Plaintiff's 1, which is the will of Shirley
21 Bernstein, Plaintiff's 2, which is the Shirley
22 Bernstein Trust Agreement, and Plaintiff's 3, which
23 is the First Amendment to the Shirley Bernstein
24 Trust Agreement?

25 MR. BERNSTEIN: No.

1 THE COURT: All right. Those are all in
2 evidence then as Plaintiff's 1, 2 and 3.

3 (Plaintiff's Exhibit No. 2 was received into
4 evidence.)

5 BY MR. ROSE:

6 Q. Okay. This email is dated May -- May 17,
7 2012, from Eliot, correct?

8 A. Yes, it is.

9 Q. This would have been after the conference
10 call?

11 A. This, I believe, was after the conference
12 call, yep.

13 Q. And he says he's attached the waiver
14 accounting and portions of petition for discharge,
15 waiver of service for a petition for discharge, and
16 receipt of beneficiary and consent to discharge that he
17 had signed.

18 Did you receive those from Eliot?

19 A. Yes, I did. We received -- that was the first
20 waivers that we received.

21 Q. Then it says "as I mentioned in the phone
22 call."

23 Did you have any separate phone calls with
24 Eliot Bernstein, you and he, or is he referring to the
25 conference call?

1 A. I think he's referring to the conference call.

2 Q. Okay. I have not yet -- "I have not seen any
3 of the underlying estate documents or my mother's will
4 at this point, yet I signed this document after our
5 family call so that my father can be released of his
6 duties as personal representative and put whatever
7 matters that were causing him stress to rest."

8 Do you see that?

9 A. Yes, I do.

10 Q. Now, while Simon was alive, did you ever get
11 authorization to share the testamentary documents with
12 Eliot Bernstein?

13 A. I did not.

14 Q. Now, after the call and after the discussion
15 with the siblings, did you prepare a draft of -- of new
16 documents for Simon?

17 A. Yes, I did.

18 Q. I'm going to hand you Exhibit 15; ask if
19 that's a letter that you sent to Simon Bernstein
20 enclosing some new drafts?

21 A. Yes, it is.

22 Q. Now, what's the date of that?

23 A. May 24th, 2012.

24 Q. And what's -- what is the summary -- well,
25 strike that.

1 You sent this letter to Simon Bernstein?

2 A. Yes, I did.

3 Q. By FedEx to his home?

4 A. Yes, I did.

5 MR. ROSE: I would move Exhibit 15 in
6 evidence.

7 THE COURT: Any objection?

8 [No response.]

9 THE COURT: All right. That's in evidence as
10 Plaintiff's 15.

11 (Plaintiff's Exhibit No. 15 was received into
12 evidence.)

13 BY MR. ROSE:

14 Q. Okay. So then first page says, "Dear Si, we
15 have prepared drafts of a new will and an amended and
16 restated trust agreement."

17 Are those the 2012 documents that were his
18 final ones?

19 A. Yes, they are.

20 Q. Okay. Then you sort of do the same thing you
21 did in 2008; you give a little summary of what the
22 estate plan is.

23 "Your amended and restated trust provides that
24 on your death, your assets will be divided among and
25 held in separate trusts for your then living

1 grandchildren," correct? I was reading paragraph -- the
2 middle paragraph.

3 A. Yes, I see that. Yes.

4 Q. I actually skipped the part above, which is
5 probably more important, which says -- in the middle of
6 the first paragraph, it says, "In addition, you have
7 exercised the special power of appointment granted to
8 you under Shirley's trust agreement in favor of your
9 grandchildren who survive you."

10 Do you see that?

11 A. Yes.

12 Q. Okay. And so that was Simon's intent as
13 discussed on the conference call?

14 A. Yes, it was.

15 Q. Do you know if you made any changes to these
16 draft documents from May 24th until the day they were
17 signed?

18 A. I don't believe so. If I did, it was for
19 grammar or something else. The dispositive plan that
20 was laid out in this memo was ultimately the subject of
21 the documents that he executed in July.

22 Q. I'm going to hand you Exhibit 16, which is a
23 durable power of attorney.

24 If you flip to Exhibit 16, the last page, does
25 it bear a signature of Simon Bernstein?

1 A. Yes, it does.

2 Q. And it indicates you were a witness to the
3 signature?

4 A. Yes.

5 Q. Along with Kimberly Moran, who is someone from
6 your office?

7 A. Correct.

8 Q. And someone named Lindsay Baxley notarized the
9 documents?

10 A. Yes, she did.

11 Q. Do you know who Lindsay Baxley was?

12 A. Lindsay Baxley worked in Ted and Si's office.

13 Q. She was like a secretary?

14 A. Assistant to Ted, I believe, maybe.

15 Q. Okay. And if you look at --

16 MR. ROSE: Well, first of all, I'll move
17 Exhibit 16 into evidence.

18 THE COURT: Any objection?

19 [No response.]

20 THE COURT: No objection made, then I'll
21 receive this as Plaintiff's 16.

22 (Plaintiff's Exhibit No. 16 was received into
23 evidence.)

24 BY MR. ROSE:

25 Q. If you look at the last page where the notary

1 block is there, it says "personally known" with an
2 underline, or "produced identification" with an
3 underline. And she's checked the box "personally
4 known" -- or she's checked the line.

5 Do you see that?

6 A. Yes.

7 Q. So do you believe that -- did you know Lindsay
8 Baxley by that point in time?

9 A. Yes, I did.

10 Q. And you believe -- she obviously knew Simon,
11 she knew Kim Moran from other dealings between your
12 offices?

13 A. Yes.

14 Q. Okay. And did you all sign this durable power
15 of attorney with testamentary formalities?

16 A. Yes, we did.

17 Q. And what's the date of that?

18 A. July 25, 2012.

19 Q. I'm going to approach with Exhibit 4, and ask
20 you if you recognize Exhibit 4?

21 A. Yes, I do.

22 Q. Okay. And what is Exhibit 4?

23 A. This is Si's new will that he executed in
24 2012, on July 25th, the same day as that durable power
25 of attorney.

1 Q. Now, were you present when Simon executed his
2 new will, which is Exhibit 4?

3 A. Yes, I was.

4 Q. If you turn to the last page --

5 Well, actually, if you turn to the first page,
6 does it say "copy" and bear a clerk's stamp?

7 A. It does.

8 Q. Okay.

9 MR. ROSE: I would represent to the Court that
10 I went to the clerk's office -- unlike with
11 Shirley's will, I went to the clerk's office and
12 obtained a -- like, a copy made by the clerk of the
13 document itself, rather than have the typewritten
14 conformed copy.

15 MR. BERNSTEIN: Can I object to that?

16 THE COURT: What's the objection?

17 MR. BERNSTEIN: Is he making a statement? I'm
18 not sure --

19 THE COURT: You're asking me a question. I
20 don't know.

21 MR. BERNSTEIN: I'm objecting. Is that a
22 statement?

23 THE COURT: The objection is? What are you
24 objecting to?

25 MR. BERNSTEIN: With the statement being

1 from --

2 THE COURT: Okay. That was a statement by
3 somebody who's not a sworn witness, so I'll sustain
4 the objection.

5 MR. BERNSTEIN: And the chain of custody of
6 the document, I'm just trying to clarify that.
7 Okay.

8 THE COURT: The objection was to the
9 statement. I've sustained the objection.

10 Next question, please.

11 BY MR. ROSE:

12 Q. Unlike the trust, how many originals of a will
13 do you have the client sign?

14 A. There's only one.

15 Q. And then you give the client the one with the
16 typewritten -- you call it conformed copy?

17 A. We conform the copy of the will.

18 Q. And after Simon died, was your law firm
19 counsel for the personal representative of the Estate of
20 Simon Bernstein?

21 A. Yes, we were.

22 Q. Did you file the original will with the court?

23 A. Yes, we did.

24 Q. Is it your belief that the original of this
25 document is somewhere in the Palm Beach County Court

1 system with the clerk's office?

2 A. Yes, I do.

3 MR. ROSE: I'd move Exhibit 4 in evidence,
4 Your Honor.

5 THE COURT: All right. Any objection?

6 [No response.]

7 MR. BERNSTEIN: No objection stated, I'll
8 receive this as Plaintiff's 4.

9 (Plaintiff's Exhibit No. 4 was received into
10 evidence.)

11 BY MR. ROSE:

12 Q. Now, if you turn to the next to the last page
13 of Exhibit --

14 A. Yes.

15 Q. -- Exhibit 4, you'll see it bears a signature
16 of Simon Bernstein and two witnesses, yourself and
17 Kimberly Moran, who all assert that you signed in the
18 presence of each other?

19 A. Yes.

20 Q. And then in the next page, it has what would
21 be a self-proving affidavit?

22 A. Correct.

23 Q. Now, if you look at the signature block where
24 the notary signed, where it says "who is personally
25 known to me," it doesn't seem to have a check box there.

1 It just says "who is personally known to me or who has
2 produced [blank] as identification," right?

3 A. Correct.

4 Q. Is this the same person who notarized the
5 exhibit we just put in evidence, Exhibit 15, the durable
6 power of attorney -- 16, the durable power of attorney?

7 A. Yes.

8 Q. Okay. And again, with regard to
9 Exhibit 4 -- strike that.

10 Do you recall where you signed Exhibit 4?

11 A. Yes.

12 Q. In whose office?

13 A. This was also done in Si's office.

14 Q. Okay. So you took -- you went personally
15 again, along with Kim Moran, as your practice, to make
16 sure that the documents were signed properly; true?

17 A. Correct.

18 Q. And that's important because, if the documents
19 aren't properly signed, they might not be valid and
20 enforceable?

21 A. That's correct.

22 Q. And I'm going to hand you Exhibit 5. This is
23 the Simon L. Bernstein Amended and Restated Trust
24 Agreement.

25 Was that signed the same day, at the same

1 time, with the same procedures?

2 A. Yes, it was.

3 Q. And would this have been signed with three
4 originals?

5 A. Yes, it would be.

6 MR. ROSE: I would move Exhibit 5 into
7 evidence, Your Honor.

8 THE COURT: Any objection?

9 [No response.]

10 THE COURT: All right. That's in evidence as
11 Plaintiff's 5.

12 (Plaintiff's Exhibit No. 5 was received into
13 evidence.)

14 BY MR. ROSE:

15 Q. Now, we looked at the history when you did the
16 first set of documents. In the second set, you started
17 in February through July.

18 Did you have a number of telephone conferences
19 with Simon during that time?

20 A. Yes, we did.

21 Q. And at least a couple of face-to-face
22 meetings?

23 A. Yes, we did.

24 Q. Did at any time Simon give you any indication
25 that he was not fully mentally sharp and aware and

1 acting of his own volition?

2 A. Nope. He was Si that we had known since 2007.

3 Q. I'll close with Exhibit 17. This is a letter
4 you sent to Simon Bernstein, enclosing a copy of his
5 conformed will for him.

6 A. Yes, it is.

7 Q. And it's dated the 26th, the day after he
8 signed the documents?

9 A. Correct.

10 Q. And did you also leave him with two of the
11 originals of his trust?

12 A. Yes, we did.

13 MR. ROSE: I move -- did I move 17 in? Or I
14 will move it in.

15 THE COURT: Number 7, is it?

16 MR. ROSE: Seventeen, sir.

17 THE COURT: Oh, I'm sorry.

18 Any objection?

19 [No response.]

20 THE COURT: All right. Then that's in
21 evidence as Plaintiff's 17.

22 (Plaintiff's Exhibit No. 17 was received into
23 evidence.)

24 BY MR. ROSE:

25 Q. Now, Simon passed away on September 13, 2012.

1 Does that sound right?

2 A. Yes, it does.

3 Q. I have Exhibit 18 as his death certificate.

4 MR. ROSE: I'll just move 18 into evidence.

5 THE COURT: Any objection?

6 [No response.]

7 THE COURT: All right. That's in evidence as
8 Plaintiff's 18.

9 (Plaintiff's Exhibit No. 18 was received into
10 evidence.)

11 BY MR. ROSE:

12 Q. So that's the death certificate for Simon
13 Bernstein.

14 Did you have any further discussions or
15 meetings with Simon after he signed the will and trust
16 in 2012 and before he died?

17 A. Not that I recall, no.

18 Q. And you filed a notice of administration,
19 opened an asset, published it in the Palm Beach Daily
20 Review, did what you had to do?

21 A. Yes, we did.

22 Q. And you and Mr. Tescher were the personal
23 representatives of the estate?

24 A. Yes, we were.

25 Q. And you and Mr. Tescher became the successor

1 trustees of Simon's amended trust after he passed away?

2 A. Yes, we did.

3 Q. I guess while he was still alive, he was still
4 the sole trustee of his trust, which was revocable
5 still?

6 A. Correct.

7 Q. And then upon his death, at some point, did
8 Ted Bernstein become aware that he was going to become
9 the successor trustee to the Shirley trust?

10 A. Yes. We had a meeting with Ted.

11 Q. And that was the first time he learned about
12 the contents of her trust, as far as you know?

13 A. Correct.

14 Q. Initially, did anybody object to the documents
15 or the fact that the beneficiaries were supposed to be
16 the 10 grandchildren?

17 A. No.

18 Q. When was there first some kind of an objection
19 or a complaint?

20 A. I can't recall exactly when it happened.

21 Q. Okay. Did you at some point get a letter from
22 a lawyer at the Tripp Scott firm?

23 A. Yes, we did.

24 Q. Okay. I think she was asking you about
25 something called the status of something called I View

1 It Company? Do you recall that?

2 A. Vaguely.

3 Q. Did you know what the Iviewit company was
4 before you received a letter from the Tripp Scott
5 lawyer?

6 A. I'm not sure. I'm not sure. I know today. I
7 can't tell if I'm answering because I know about it
8 today or if I knew about it at that time.

9 Q. Okay. And did -- was she asking for some
10 documents from you?

11 A. Is this Ms. Yates?

12 Q. Yes.

13 A. Yes.

14 Q. And did you provide her with certain
15 documents?

16 A. She had asked for copies of all of Shirley's
17 and Si's estate planning documents.

18 Q. And did you provide her with all of the
19 documents?

20 A. Yes, we did.

21 Q. Was one of the documents that you provided her
22 not an accurate copy of what Shirley had executed during
23 her lifetime?

24 A. That is true.

25 Q. Okay. And I guess I'll hand you Exhibit 6,

1 and this -- is Exhibit 6 a document that is not a
2 genuine and valid testamentary document of Shirley
3 Bernstein?

4 A. That's correct.

5 Q. Can you explain to the Court why Exhibit 6 was
6 prepared and the circumstances?

7 A. It was prepared to carry out the intent of
8 Mr. Bernstein in the meeting that he had had with his
9 five children, and perhaps a vague -- or a layman -- a
10 layman can make a mistake reading Shirley's documents
11 and not understand who the intended beneficiaries were
12 or what powers I had. So this document was created.

13 Q. Is it your belief that under the terms of
14 Shirley's document from -- the ones she actually signed,
15 that Simon had the power to appoint the funds to the ten
16 grandchildren?

17 A. Yes. We -- we prepared the documents that
18 way, and our planning transmittal letter to him
19 reflected that.

20 Q. And this document is, I think you said, to
21 explain it to a layperson in simpler fashion?

22 A. It was created so that the person that, you
23 know, didn't read estate planning documents and prepare
24 estate planning documents for a living -- you know,
25 there was no intent to cut out Pam and Ted's children,

1 basically.

2 Q. Now, did you ever file this exhibit in the
3 courthouse?

4 A. No, we did not.

5 Q. Did you ever use it for any purpose?

6 A. No, we did not.

7 Q. Was it at one point provided to Eliot's
8 counsel?

9 A. Yes, it was.

10 Q. Now, the fact -- putting aside this document,
11 were any of the other documents that we're talking about
12 in any way altered or changed from the ones that were
13 signed by Shirley or Simon?

14 A. No, they were not.

15 Q. Now, after these issues came to light, did
16 Mr. Eliot Bernstein begin to attack you through the
17 internet and through blogging and things like that?

18 A. He was doing that long before this document
19 came to light.

20 Q. Okay. What was Eliot doing?

21 A. His first thing that he did was -- with
22 respect to the courts, was to file an emergency petition
23 to freeze assets and after his brother as successor
24 trustee of his mother's trust had sold the condo.

25 MR. BERNSTEIN: Your Honor, can I object to

1 this line of questioning for relevance to validity?

2 THE COURT: What's the line of questioning
3 you're talking about?

4 MR. BERNSTEIN: The slander defamation going
5 on about me with, you know, what I do and --

6 THE COURT: Well, I wasn't aware there's a
7 line of questioning going on. There is a question.
8 You've objected to it.

9 MR. BERNSTEIN: Yes.

10 THE COURT: What's the objection to that
11 question?

12 MR. BERNSTEIN: The relevancy to a validity
13 hearing.

14 THE COURT: Okay. Can I have the court
15 reporter read the question back?

16 (A portion of the record was read by the
17 reporter.)

18 THE COURT: What is the relevance of whether
19 this guy's posting on Facebook that's negative or
20 not?

21 MR. ROSE: Well, a couple of things, but,
22 primarily, we're just trying to determine whether
23 these documents are valid.

24 THE COURT: Right.

25 MR. ROSE: And he is the only one who's saying

1 they're not valid, so I want to give some
2 explanation as to why he's saying they're not
3 valid, as opposed to --

4 THE COURT: I don't care why he's saying
5 they're valid or invalid. I'll wait to see what
6 the facts are. So I'll sustain the objection.

7 MR. ROSE: That's fine.

8 BY MR. ROSE:

9 Q. Did Simon Bernstein make any special
10 arrangements, other than -- strike that.

11 Did Simon or Shirley make any special
12 arrangements, other than the testamentary documents that
13 are admitted into evidence, for special benefits for
14 Eliot Bernstein and his family?

15 A. No, they did not.

16 Q. Any special education trusts, other than
17 the -- these five documents? And I believe there was
18 some shares of stock that were put in trust for all ten
19 grandchildren, right?

20 A. There was no special arrangements made other
21 than the estate planning documents.

22 Q. After Simon died, did Eliot claim to you that
23 Simon was supposed to have made some special
24 arrangements for him?

25 MR. BERNSTEIN: Object to the relevancy again.

1 THE COURT: Overruled.

2 THE WITNESS: Yes, he did.

3 BY MR. ROSE:

4 Q. Did he ever give you an indication how much
5 money he thought he was going to inherit when his
6 father died, or his children would inherit when his
7 father died?

8 A. Through his subsequent attorney, yes, he did.

9 Q. And how much money did he indicate he thought
10 there should be?

11 A. I heard a number from one of his attorneys of
12 40- to a \$100 million.

13 Q. Are you aware of any assets that Simon
14 Bernstein had other than what he disclosed to you at the
15 two times that we've looked at in 2007 and again in
16 February of 2012?

17 A. No, I am not.

18 MR. ROSE: No further questions, Your Honor.

19 THE COURT: All right. Thanks.

20 Is there any cross?

21 MR. BERNSTEIN: Yes.

22 MR. MORRISSEY: Judge, I have questions as
23 well.

24 THE COURT: Okay. Well, then, let me have the
25 direct finished. That way, all the

1 cross-examination can take place without
2 interruption. So everybody make sure you're
3 fitting within the Plaintiff's side of the room's
4 time limitations. We'll strictly obey those.

5 CROSS (ROBERT SPALLINA)

6 BY MR. MORRISSEY:

7 Q. Good afternoon, Mr. Spallina. My name's John
8 Morrissey. I represent four of the adult grandchildren
9 of Simon Bernstein.

10 And since we're here today about validity, I'm
11 just going to go over, and try to be very brief,
12 concerning the execution of these documents and your
13 knowledge about the execution.

14 Exhibit 1, which has been entered as the will
15 of Shirley Bernstein, I'd ask you to direct your
16 attention to that document. And I'm looking here at
17 page 7. I ask that you turn to page 7 of Exhibit 1.

18 Were you a witness of this document, this will
19 that was executed by Shirley Bernstein on May 20th of
20 2008?

21 A. Yes, I was.

22 Q. And was Diana Banks the other witness?

23 A. Yes, she was.

24 Q. And did you and Diana witness Mrs. Bernstein's
25 execution of this document?

1 A. Yes, we did.

2 Q. You were present during her execution?

3 A. Yes, we were.

4 Q. And was she present during your execution of
5 this document as a witness?

6 A. Yes, she was.

7 Q. And was she, Shirley Bernstein, present during
8 Diana Banks' execution of this document?

9 A. Yes, she was.

10 Q. Okay. And I'm again focused on this
11 Exhibit No. 1, this will of Shirley Bernstein dated
12 May 20th of 2008.

13 Is it your opinion that at the time Shirley
14 Bernstein executed this document she understood
15 generally the nature and extent of her property?

16 A. Yes, she did.

17 Q. Okay. And at the time Shirley Bernstein
18 executed Exhibit 1, did she have a general understanding
19 of those who would be the natural objects of her bounty?

20 A. Yes, she did.

21 Q. Okay. And at the time she -- Shirley
22 Bernstein executed Exhibit 1, did she have a general
23 understanding of the practical effect of this will?

24 A. I believe she did.

25 Q. Okay. And in your opinion, was Shirley

1 Bernstein unduly influenced by any beneficiary of
2 Exhibit 1 in connection with its execution?

3 A. Not to my knowledge.

4 Q. Okay. And do you have any knowledge of any
5 beneficiary or anyone actively procuring Exhibit 1?

6 A. No, I do not.

7 Q. Okay. Moving on to Exhibit 2, which is
8 Shirley Bernstein's trust executed on the same date,
9 that is May 20th of 2008, I'll direct your attention to
10 page 27 of Exhibit No. 2. And it appears that Shirley
11 Bernstein executed that document on May 20th of 2008.
12 And the witnesses were yourself and Traci -- I can't
13 read her last name.

14 A. Traci Kratish.

15 Q. Okay. Did Shirley Bernstein execute
16 Exhibit No. 2 in the presence of both you and Traci
17 Kratish?

18 A. Yes, she did.

19 Q. Okay. And did you execute Exhibit No. 2 in
20 the presence of Shirley Bernstein and Traci Kratish?

21 A. Yes, I did.

22 Q. Okay. And did Traci Kratish execute
23 Exhibit No. 2 in your presence and Shirley Bernstein's
24 presence?

25 A. Yes, she did.

1 Q. Okay. And at the time Shirley Bernstein
2 executed Exhibit No. 2, which is her 2008 trust, is it
3 your opinion that she had a general understanding of the
4 nature and extent of her property?

5 A. Yes, she did.

6 Q. Okay. And at the time that Shirley Bernstein
7 executed Exhibit No. 2, is it your opinion that she
8 understood generally the relationship of those who
9 would -- were the natural objects of her bounty?

10 A. Yes.

11 Q. Okay. And at the time Shirley Bernstein
12 executed Exhibit No. 2, is it your opinion that she
13 generally understood the practical effect of this
14 document?

15 A. I believe she did.

16 Q. Okay. And did you have any belief that
17 Shirley Bernstein was unduly influenced in connection
18 with -- by any beneficiary in connection with her
19 execution of Exhibit No. 2?

20 A. Not to my knowledge.

21 Q. Okay. And do you know or have any information
22 about any beneficiary or anyone else actively procuring
23 Exhibit No. 2?

24 A. I do not.

25 Q. Okay. And with respect -- now we'll move on

1 to Exhibit No. 3, which is the first amendment of
2 Shirley Bernstein's trust, executed on November 18th of
3 2008. And I'll direct your attention on that Exhibit 3
4 to Page No. 2. And on Page No. 2 --

5 Well, let me ask this question. Did Shirley
6 Bernstein execute Exhibit No. 3 in the presence of both
7 you and Rachel Walker?

8 A. Yes, she did.

9 Q. Okay. And did you execute Exhibit No. 3 in
10 the presence of Shirley Bernstein and Rachel Walker?

11 A. Yes, I did.

12 Q. And did Rachel Walker execute this document,
13 Exhibit No. 3, in the presence of Shirley Bernstein and
14 yourself?

15 A. Yes, she did.

16 Q. Okay. And at the time Exhibit No. 3 was
17 executed, is it your opinion that Ms. Bernstein
18 understood generally the nature and extent of her
19 property?

20 A. Yes, I believe so.

21 Q. And is it your opinion that at the time
22 Shirley Bernstein executed Exhibit No. 3, she generally
23 understood the relationship of those who would be the
24 natural objects of her bounty?

25 A. Yes, I believe so.

1 Q. Okay. And at the time Shirley Bernstein
2 executed Exhibit No. 3, is it your opinion that she
3 generally understood the practical effect of this trust
4 amendment?

5 A. Yes, I believe so.

6 Q. Okay. And do you have any knowledge or
7 information about any beneficiary or any other person
8 unduly influencing Shirley Bernstein to execute
9 Exhibit No. 3?

10 A. I do not.

11 Q. Okay. And do you have any knowledge or
12 information about any person, beneficiary or otherwise,
13 actively procuring Exhibit No. 3?

14 A. I do not.

15 Q. Okay. Moving on to Exhibit No. 4 then, which
16 is the will of Simon Bernstein, and that is a will that
17 Mr. Bernstein executed on July -- yes, July 25 of 2012.
18 And let me direct your attention to page 7 of that will,
19 Exhibit No. 4.

20 And did Simon Bernstein execute this document
21 in the presence of you and Kimberly Moran on July 25,
22 2012?

23 A. Yes, he did.

24 Q. And did you execute this document,
25 Exhibit No. 4, as a witness in the presence of Simon

1 Bernstein and Kimberly Moran on that date?

2 A. Yes, I did.

3 Q. And did Kimberly Moran execute Exhibit No. 4
4 as a witness in the presence of Simon Bernstein and
5 yourself?

6 A. Yes, she did.

7 Q. Okay. And on this date -- or at the time of
8 execution on this date of July 25, 2012, did Simon
9 Bernstein understand in a general way the nature and
10 extent of his property?

11 A. Yes, he did.

12 Q. Okay. At the time that Exhibit No. 4 was
13 executed, did Simon Bernstein generally understand the
14 relationship of those who would be the natural objects
15 of his bounty?

16 A. Yes, he did.

17 Q. And at the time Exhibit No. 4 was executed,
18 did -- in your opinion, did Simon Bernstein understand
19 the practical effect of this will?

20 A. Yes, he did.

21 Q. Okay. And do you have any knowledge or
22 information about any person, whether beneficiary or
23 otherwise, actively procuring this Exhibit No. 4?

24 A. No, I do not.

25 Q. Do you have any information about any person,

1 beneficiary or otherwise, unduly influencing Simon
2 Bernstein to execute Exhibit No. 4?

3 A. I do not.

4 Q. Okay. And moving on to the last document
5 then, Exhibit No. 5, which is the Simon Bernstein
6 Amended and Restated Trust Agreement, and I'll direct
7 your attention to page 24 of that Exhibit No. 5.

8 On July 25, 2012, did Simon Bernstein execute
9 this trust agreement in the presence of you and Kimberly
10 Moran?

11 A. Yes, he did.

12 Q. And did you execute this trust, Exhibit No. 5,
13 as a witness in front of Simon Bernstein and Kimberly
14 Moran?

15 A. I did.

16 Q. And did Kimberly Moran execute Exhibit No. 5
17 as a witness in front of Simon Bernstein and yourself?

18 A. She did.

19 Q. Okay. And at the time Simon Bernstein
20 executed Exhibit No. 5, in your opinion, did he
21 generally understand the nature and extent of his
22 property?

23 A. He did.

24 Q. And at the time Exhibit No. 5 was executed,
25 did Simon Bernstein, in your opinion, generally

1 understand the relationship of those who would be the
2 natural objects of his bounty?

3 A. He did.

4 Q. And did Simon Bernstein, when Exhibit No. 5
5 was executed, understand generally the practical effect
6 of this trust agreement?

7 A. Yes, he did.

8 Q. And at the time Exhibit No. 5 was executed, do
9 you have any knowledge about any person, whether
10 beneficiary or otherwise, unduly influencing
11 Mr. Bernstein, Simon Bernstein, to execute this
12 Exhibit No. 5?

13 A. Nothing that I'm aware of.

14 Q. Okay. And do you have any knowledge or
15 information about any person, whether beneficiary or
16 otherwise, actively procuring Exhibit No. 5?

17 A. I do not.

18 MR. MORRISSEY: I have no further questions,
19 Judge.

20 THE COURT: All right. Thanks.

21 Now, is there any cross? You're not required
22 to ask any questions, but you just need to let me
23 know if you're going to.

24 MR. BERNSTEIN: Oh, are you asking me? I had
25 no idea.

1 THE COURT: I'm not asking you. I'm just
2 telling you, if you have questions for the witness,
3 this is your opportunity to ask them; if you don't
4 have any questions, you don't have to ask any. But
5 if you're going to, you have to start now.

6 CROSS (ROBERT SPALLINA)

7 BY MR. BERNSTEIN:

8 Q. Mr. Spallina, you were called today to provide
9 some expert testimony, correct, on the --

10 A. No, I was not.

11 Q. Oh, okay. You're just going based on your
12 doing the work as Simon Bernstein's attorney and Shirley
13 Bernstein's attorney?

14 A. Yes.

15 Q. Okay. Are you still an attorney today?

16 A. I am not practicing.

17 Q. Can you give us the circumstances regarding
18 that?

19 A. I withdrew from my firm.

20 Q. Are you under a consent order with the SEC?

21 MR. ROSE: Objection. Relevance.

22 THE COURT: Sustained.

23 BY MR. BERNSTEIN:

24 Q. Did you sign a consent order for insider
25 trading --

1 A. Yes, I did.

2 Q. -- with the SEC?

3 You did. Can you give us the circumstances of
4 your consent order?

5 MR. ROSE: Objection. Relevance.

6 THE COURT: That won't be relevant. Please
7 move on to the next question.

8 MR. BERNSTEIN: Okay.

9 BY MR. BERNSTEIN:

10 Q. Were you -- did you plead to a felony crime?

11 MR. ROSE: Objection. Relevance.

12 THE COURT: Overruled.

13 MR. BERNSTEIN: Well, it's relevant as to --

14 THE COURT: I didn't ask for argument.

15 MR. BERNSTEIN: Well, what did you say?

16 THE COURT: I didn't ask for argument. I
17 sustained the objection -- no, I sustained the last
18 objection. This one I'm overruling.

19 You can answer.

20 MR. BERNSTEIN: I can't ask him if he's a
21 felon?

22 THE COURT: You're asking the wrong guy.

23 MR. BERNSTEIN: Okay. Are --

24 THE COURT: The witness is -- you asked the
25 question.

1 BY MR. BERNSTEIN:

2 Q. Are you a convicted felony?

3 THE COURT: Let's back up a second.

4 MR. BERNSTEIN: Yes, sir.

5 THE COURT: When you're asking for a ruling,
6 and I make one, then we're going to have the
7 witness answer.

8 MR. BERNSTEIN: Okay.

9 THE COURT: I made my ruling. I'm letting the
10 witness answer your earlier question, unless you're
11 withdrawing it. Are you withdrawing your earlier
12 question?

13 MR. BERNSTEIN: No.

14 THE COURT: You can answer the question, which
15 is, did you plead to a felony?

16 MR. BERNSTEIN: Sorry, sir.

17 THE WITNESS: I have not.

18 THE COURT: Okay. Next question.

19 BY MR. BERNSTEIN:

20 Q. Have you pled guilty to a misdemeanor?

21 A. I have not.

22 Q. Were you involved in a insider trading case?

23 MR. ROSE: Objection. Relevance.

24 THE COURT: Sustained. Next question.

25 MR. BERNSTEIN: Does that mean he doesn't have

1 to answer that?

2 THE COURT: How many times have you been in
3 court?

4 MR. BERNSTEIN: Just a few where I've had to
5 do this.

6 THE COURT: You know how this works.

7 MR. BERNSTEIN: I really don't.

8 THE COURT: All right. If I sustain an
9 objection, that's means he does not answer the
10 question.

11 MR. BERNSTEIN: Okay. And overruled?

12 THE COURT: If I overrule an objection, that
13 means the witness does answer the question.

14 MR. BERNSTEIN: Okay.

15 THE COURT: And I've asked you to ask your
16 next question.

17 MR. BERNSTEIN: Okay.

18 BY MR. BERNSTEIN:

19 Q. Is that your picture on the Florida Law
20 Review, SEC case settled against Florida attorneys?

21 MR. ROSE: Objection. Relevance.

22 THE COURT: Sustained.

23 Do you have any questions on the issues that I
24 have to decide in this case?

25 MR. BERNSTEIN: Well, his testimony is based

1 on his truthfulness.

2 THE COURT: My question is, do you have any
3 questions you want to ask about the issues relevant
4 to this case?

5 MR. BERNSTEIN: Yes. This is relevant to this
6 case.

7 THE COURT: I disagree.

8 MR. BERNSTEIN: Oh, okay.

9 THE COURT: I thought I made that very clear
10 in my ruling. You probably want to move on to a
11 relevant issue.

12 MR. BERNSTEIN: Okay.

13 BY MR. BERNSTEIN:

14 Q. Mr. Spallina, have you been in discussion with
15 the Palm Beach County Sheriff's Office regarding the
16 Bernstein matters?

17 MR. ROSE: Objection. Relevance.

18 THE COURT: Overruled.

19 You can answer that.

20 THE WITNESS: Yes, I have.

21 BY MR. BERNSTEIN:

22 Q. And did you state to them that you
23 fraudulently altered a Shirley trust document and then
24 sent it through the mail to Christine Yates?

25 A. Yes, I did.

1 Q. Have you been charged with that by the Palm
2 Beach County Sheriff yet?

3 A. No, I have not.

4 Q. Okay. How many times were you interviewed by
5 the Palm Beach County Sheriff?

6 MR. ROSE: Objection. Relevance.

7 THE COURT: Sustained.

8 BY MR. BERNSTEIN:

9 Q. Did you mail a fraudulently signed document to
10 Christine Yates, the attorney for Eliot Bernstein's
11 minor children?

12 MR. ROSE: Objection. Relevance.

13 THE COURT: Overruled.

14 THE WITNESS: Yes.

15 BY MR. BERNSTEIN:

16 Q. And when did you acknowledge that to the
17 courts or anybody else? When's the first time you came
18 about and acknowledged that you had committed a fraud?

19 A. I don't know that I did do that.

20 Q. Well, you just said you went to the Palm Beach
21 County Sheriff and admitted altering a document and put
22 it in the mail.

23 THE COURT: Let me stop you there. If you
24 want to ask the witness questions, you're permitted
25 to do that. If you would like to argue with the

1 witness, that's not -- do you have any questions
2 you want to ask?

3 MR. BERNSTEIN: Yes.

4 BY MR. BERNSTEIN:

5 Q. So you sent a fraudulent document to Eli
6 Bernstein's minor children's counsel.

7 Can you tell us what that document did to
8 affect the dispositive Shirley trust document?

9 A. It has no effect.

10 Q. What was its intended effect of altering the
11 document?

12 A. To carry out your father's wishes in the
13 agreement that he had made with the five of you for a
14 layperson that would be reading the documents.

15 Q. You were carrying out his wishes by
16 fraudulently altering a document?

17 MR. ROSE: Objection.

18 THE COURT: Sustained.

19 That's argumentative. I don't want you to
20 argue with the witness. That's an argument.

21 MR. BERNSTEIN: Okay.

22 BY MR. BERNSTEIN:

23 Q. Did the fraudulently altered document change
24 the beneficiaries that were listed in Shirley's trust?

25 A. They did not.

1 Q. Who are the beneficiaries of Shirley's trust?

2 A. It depends on -- under the trust instrument,
3 in the absence of Si exercising his power of
4 appointment, it would be yourself and your two sisters,
5 Lisa and Jill.

6 Q. Oh. So the only beneficiaries in Shirley's
7 trust are me, Lisa and Jill.

8 Is that directly or through a family trust?

9 A. Your father had established -- your parents
10 had established family trusts for the three of you to
11 receive assets from the trust.

12 Q. Okay. So in that document that you sent to
13 Christine Yates, did you include Ted and Pam's lineal
14 descendants under the amendment that you fraudulently
15 drafted and sent to her?

16 MR. ROSE: Objection. Argumentative.

17 THE COURT: Sustained.

18 BY MR. BERNSTEIN:

19 Q. Did in any way the document that you
20 fraudulently altered and sent to Yates change the
21 beneficiaries from Eliot, Lisa and Jill and their lineal
22 descendants to anybody else?

23 THE COURT: May I ask a question?

24 MR. BERNSTEIN: Yes, sir.

25 THE COURT: This document that you're

1 referring to, is anybody asking me to probate that
2 document?

3 MR. BERNSTEIN: Well, it's part of the estate
4 plan. It's part --

5 THE COURT: Is anybody seeking relief, either
6 you or the other side, under that document?

7 MR. BERNSTEIN: Yeah. They're seeking to
8 change the beneficiaries of my mom's trust through
9 that document and others.

10 THE COURT: You're misperceiving my question.

11 MR. BERNSTEIN: Oh, okay. Sorry.

12 THE COURT: That document, which
13 is -- nobody's put it in evidence; I don't know
14 what it is, but it's -- that thing that you're
15 asking the witness about, is somebody seeking
16 relief based upon that document?

17 MR. ROSE: Absolutely not. The opposite.

18 THE COURT: All right. Are you seeking relief
19 based upon that document?

20 MR. BERNSTEIN: Yeah. Oh, absolutely.

21 THE COURT: All right. Are you claiming that
22 that document is subject to probate?

23 MR. BERNSTEIN: Yeah.

24 THE COURT: Is the lady who's giving you
25 advice your attorney?

1 MR. BERNSTEIN: No.

2 THE COURT: Ma'am, are you admitted to the bar
3 in Florida? Remember what I told you earlier.
4 I've let you sit there as a courtesy. Generally, I
5 don't let wives or friends or anybody else sit at
6 the table where the parties are because it confuses
7 me. But you're giving that guy advice and you're
8 also not listening to me, which I find odd, because
9 I'm going to have you move you back to the gallery
10 now. Please have a seat in the gallery. Please
11 have a seat in the gallery. Please have a seat in
12 the gallery. Soon. When courtesy is not returned,
13 courtesy is withdrawn. Please have a seat in the
14 gallery. Thank you.

15 Do you have any other questions of the
16 witness?

17 MR. BERNSTEIN: Can I submit this as evidence
18 to the Court?

19 THE COURT: Is that the document you've been
20 asking the witness about?

21 MR. BERNSTEIN: Yeah.

22 THE COURT: All right. Any objection to it
23 being received as an exhibit?

24 MR. ROSE: I don't have any objection to it
25 being received as an exhibit. But as Your Honor

1 noted, we aren't seeking to probate it, and we're
2 not suggesting it's valid in the first place.

3 THE COURT: All right. Well, let me see what
4 that document is, so then I'll see if I can make
5 some sense out of it.

6 You can't -- Gary's always afraid that if
7 somebody's not a member of the bar, they might do
8 something bad to me. Officers of the court aren't
9 allowed to do things bad to the judge. Other folks
10 don't know that. And so Gary watches out carefully
11 for my well-being.

12 MR. BERNSTEIN: Gotcha.

13 THE COURT: Okay. So this is a document
14 that's titled "First Amendment to Shirley Bernstein
15 Trust Agreement."

16 MR. BERNSTEIN: Correct.

17 THE COURT: And it's in the book that I've
18 been given earlier by the plaintiff as Tab 6.
19 You're seeking to put it into evidence as
20 Defendant's 1?

21 MR. BERNSTEIN: Okay.

22 THE COURT: Right?

23 MR. BERNSTEIN: Sure. Yes, sir.

24 THE COURT: You're offering it as an exhibit?

25 MR. BERNSTEIN: No, Evidence 1.

1 THE COURT: The objection to it is that it's
2 not relevant?

3 MR. ROSE: Not relevant. Right, relevance.
4 And it's also not something we're seeking to be
5 probated or treated as authentic and genuine.

6 THE COURT: Well, the other side is seeking to
7 use the terms of this document instead of the terms
8 of the amendment that's in evidence, right?

9 MR. ROSE: I don't believe that's what he's
10 doing.

11 THE COURT: I'm not sure what he's doing, but
12 in an abundance of caution, I'm going to receive it
13 for what relevance it might have. I don't perceive
14 any yet, but we'll see what happens.

15 So this is Defendant 1.

16 (Defendant's Exhibit No. 1 was received into
17 evidence.)

18 THE COURT: Any other questions of the
19 witness?

20 MR. BERNSTEIN: Sure.

21 BY MR. BERNSTEIN:

22 Q. You've testified here about Kimberly Moran.
23 Can you describe your relationship with her?

24 A. She's been our long-time assistant in the
25 office.

1 Q. Was she convicted of felony fraudulent
2 notarization in the Estate of Shirley Bernstein?

3 MR. ROSE: Objection. Relevance.

4 THE COURT: Overruled.

5 You're asking if she was convicted of a felony
6 with respect to the Estate of Shirley Bernstein?

7 You can answer the question.

8 MR. BERNSTEIN: Correct.

9 THE WITNESS: I believe she was.

10 BY MR. BERNSTEIN:

11 Q. And what was she convicted for?

12 A. She had notarized the waiver releases of
13 accounting that you and your siblings had previously
14 provided, and we filed those with the court.

15 Q. We filed those with the court.

16 Your law firm submitted fraudulent documents
17 to the court?

18 A. No. We filed -- we filed your original
19 documents with the court that were not notarized, and
20 the court had sent them back.

21 Q. And then what happened?

22 A. And then Kimberly forged the signatures and
23 notarized those signatures and sent them back.

24 Judge Colon has a rule in his court to have
25 those documents notarized, even though that's not the

1 requirement under the Florida Probate Code.

2 Q. So when you didn't follow the rule, you
3 frauded [sic] and forged the document?

4 MR. ROSE: Objection. Argumentative.

5 THE COURT: Sustained.

6 THE WITNESS: I had nothing to do with that.

7 THE COURT: You've got to stop a second.

8 MR. BERNSTEIN: Yes, sir.

9 THE COURT: If you continue to argue with the
10 witness, then I'll assume you don't have any more
11 questions. I sustained that last objection to
12 argumentative.

13 MR. BERNSTEIN: I'm a little confused --

14 THE COURT: I'm sorry about your confusion,
15 but there are ways you could have dealt with that
16 before this trial. If you are confused during the
17 trial, you better get unconfused as quickly as you
18 can because bad things will happen. And I don't
19 want bad things to happen. I want to get the facts
20 so that I can accurately decide the case on its
21 merits.

22 Stop arguing, ask questions, let the witness
23 answer, and listen to any rulings that I make on
24 the objections. That's the last time I'll repeat
25 that advice to you. Thank you.

1 BY MR. BERNSTEIN:

2 Q. What law firm submitted those documents to the
3 court?

4 A. Tescher & Spallina, P.A.

5 Q. Are you a partner in that firm?

6 A. I was.

7 Q. So your firm that you were a partner with sent
8 in documents that were fraudulent to the court?

9 MR. ROSE: Objection. Cumulative.

10 THE COURT: Sustained.

11 BY MR. BERNSTEIN:

12 Q. Did Tescher & Spallina law firm submit
13 Kimberly Moran's forged and fraudulent document waivers
14 to the court?

15 MR. ROSE: Objection. Cumulative.

16 THE COURT: He already said he did.

17 MR. BERNSTEIN: What is that?

18 THE COURT: Cumulative means you've already
19 had that answer given.

20 MR. BERNSTEIN: No, I didn't have that.

21 THE COURT: He's already said that he did.

22 MR. BERNSTEIN: I'm asking if they deposited
23 them with the court.

24 THE COURT: And he said they didn't.

25 MR. BERNSTEIN: Well, I asked him, and he

1 said --

2 THE COURT: I won't argue with you. Do you
3 want to go on to the next item or not?

4 MR. BERNSTEIN: Oh, okay, I do.

5 THE COURT: Okay. Next question, please.

6 BY MR. BERNSTEIN:

7 Q. Did your office -- did you submit documents to
8 close the estate of Shirley with Simon as the personal
9 representative at a time Simon was dead?

10 A. We did.

11 Q. You did? Excuse me? I didn't hear an answer.

12 A. I said yes.

13 Q. So Shirley's estate was closed by a dead
14 personal representative.

15 Can you give me the time that the estate was
16 closed by Simon while he was dead?

17 MR. ROSE: Objection. Argumentative.

18 THE COURT: Overruled.

19 You can answer.

20 THE WITNESS: I believe it was October,
21 November 2012.

22 BY MR. BERNSTEIN:

23 Q. Do you want to check your records on that?

24 A. I believe it was after his death. I know he
25 died September 13, 2012. And we had received late from

1 one of your sisters the signed waiver. So it was
2 probably in November, somewhere around there.

3 Q. You stated that Simon -- that Kimberly did
4 five waivers for the siblings that she sent back in
5 fraudulently to the court through your law firm.

6 Did she also do a fraudulent forged signature
7 of a waiver for Simon?

8 A. I'm not sure. I guess if you're saying she
9 did --

10 Q. Well, the court has on file a waiver of
11 Simon's that she's admitted to.

12 A. We filed all of the waivers originally with
13 the court all signed by the appropriate parties, and the
14 court kicked those back. And she forged and notarized
15 new documents and sent them to the court. She felt she
16 had made a mistake.

17 Q. Okay. Are you aware of an April 9th full
18 waiver that was allegedly signed by Simon and you?

19 A. Yeah. That was the waiver that he had signed.
20 And then in the May meeting, we discussed the five of
21 you, all the children, getting back the waivers of the
22 accountings.

23 Q. Okay. And in that April 9th full waiver you
24 used to close my mother's estate, does Simon state that
25 he has all the waivers from all of the parties?

1 A. He does. We sent out -- he signed that, and
2 we sent out the waivers to all of you.

3 Q. Okay. So on April 9th of 2012, Simon signed,
4 with your presence, because your signature's on the
5 document, a document stating he had all the waivers in
6 his possession from all of his children.

7 Had you sent the waivers out yet as of
8 April 9th?

9 THE COURT: What is it that you want the
10 witness to answer? There was several questions.

11 MR. BERNSTEIN: Oh, compounded a little bit?

12 THE COURT: Yes.

13 MR. BERNSTEIN: Sorry.

14 THE COURT: So you even --

15 MR. BERNSTEIN: I'll kick that back.

16 THE COURT: So you even know the lingo of the
17 objections.

18 MR. BERNSTEIN: I'll kick that back to one at
19 a time, because it's an important point.

20 BY MR. BERNSTEIN:

21 Q. April 9th, 2012, you have a signed full waiver
22 of Simon's that says that he is in possession of all of
23 the signed waivers of all of the parties?

24 A. Standard operating procedure, to have him
25 sign, and then to send out the documents to the kids.

1 Q. Was Simon in possession -- because it's a
2 sworn statement of Simon saying, I have possession of
3 these waivers of my children on today, April 9th,
4 correct, the day you two signed that?

5 Okay. So if you hadn't sent out the waivers
6 yet to the --

7 A. I'm not certain when the waivers were sent
8 out.

9 Q. Were they sent out after the --

10 A. I did not send them out.

11 Q. Okay. More importantly, when did you receive
12 those? Was it before April 9th or on April 9th?

13 A. We didn't receive the first one until May.
14 And it was your waiver that we received.

15 Q. So how did you allow Simon, as his attorney,
16 to sign a sworn statement saying he had possession of
17 all of the waivers in April if you didn't get mine 'til
18 May?

19 MR. ROSE: Objection. I think it's relevance
20 and cumulative. He's already answered.

21 THE COURT: What's the relevance?

22 MR. BERNSTEIN: Oh, this is very relevant.

23 THE COURT: What is the relevance on the issue
24 that I have to rule on today?

25 MR. BERNSTEIN: On the validity? Well, it's

1 relevant. If any of these documents are relevant,
2 this is important if it's a fraud.

3 THE COURT: I'll sustain the objection.

4 MR. BERNSTEIN: Okay. Can I -- okay.

5 BY MR. BERNSTEIN:

6 Q. When did you get -- did you get back prior to
7 Simon's death all the waivers from all the children?

8 A. No, we did not.

9 Q. So in Simon's April 9th document where he
10 says, he, Simon, on April 9th has all the waivers from
11 his children while he's alive, and you didn't even get
12 one 'til after he passed from one of his children, how
13 could that be a true statement?

14 MR. ROSE: Objection. Relevance. Cumulative.

15 THE COURT: Sustained.

16 Here's what I'm going to decide at the end of
17 the day; I'm going to decide whether Shirley's 2008
18 will and trust and 2008 amendment are valid and
19 enforceable. I'm going to decide whether Simon's
20 2012 will and 2012 trust documents are valid and
21 enforceable. You have a lot more on your mind than
22 I have on mine. You do. Right? But those are the
23 things that I'm working on. So I'm focused like a
24 laser and you're focused more like a shotgun. I'm
25 telling you this so that you can focus more tightly

1 on the questions you're asking and the facts you're
2 developing so they'll help me make an accurate
3 decision on those things that I'm going to decide
4 today. You can keep asking questions that don't go
5 anywhere, but I would hope that you'll adjust your
6 approach so that you'll help me make an accurate
7 decision.

8 MR. BERNSTEIN: Okay.

9 BY MR. BERNSTEIN:

10 Q. And on validity, let's just get right to that
11 real quick. You've testified to a lot of documents here
12 today, correct, of the estate documents you drafted,
13 correct?

14 A. Yes, I did.

15 Q. Did you gain any pecuniary interest, did you
16 gain any titles in those documents?

17 A. Pecuniary interest? No. I was named by your
18 father as personal representative and trustee of his
19 trust.

20 Q. And so you executed -- you drafted the
21 documents, you signed them as a witness, and you gained
22 interest in the documents, correct?

23 A. No, I did not.

24 Q. You didn't gain interest as a trustee --

25 MR. ROSE: Objection.

1 BY MR. BERNSTEIN:

2 Q. -- or a personal representative of those
3 documents?

4 MR. ROSE: Objection. Cumulative. Asked and
5 answered.

6 THE COURT: Overruled.

7 THE WITNESS: I was named as his personal
8 representative and trustee, along with my partner.

9 BY MR. BERNSTEIN:

10 Q. Did you witness the document?

11 A. I did.

12 Q. Did you draft the document?

13 A. I did.

14 Q. Okay. You mentioned there was Kimberly Moran
15 there at the signing of these documents, correct?

16 A. She was.

17 Q. Okay. Can you point her out, because I'm
18 going to need her to testify as to the validity?

19 A. I do not see her in the courtroom.

20 Q. Okay. You mentioned a Traci Kratish. Can you
21 point her out in the courtroom today to validate the
22 documents?

23 A. I don't see Traci in the room either.

24 Q. So she was another witness that is not here
25 present to validate the documents today? Well, it's

1 awful -- okay.

2 Is Kimberly Moran here who notarized the
3 documents.

4 MR. ROSE: Objection. Cumulative. Asked that
5 a minute ago.

6 MR. BERNSTEIN: I didn't -- did I? Was it
7 Moran --

8 THE COURT: No, I thought it was some other
9 name.

10 MR. BERNSTEIN: So did I.

11 THE COURT: Is Kimberly here?

12 THE WITNESS: She's not.

13 THE COURT: Okay. Next question.

14 BY MR. BERNSTEIN:

15 Q. Okay. Being a former estate planning
16 attorney. To validate a document, wouldn't you have the
17 parties who witnessed and notarized and signed present?

18 MR. ROSE: Objection. Relevance.

19 Misstates --

20 THE COURT: Sustained.

21 BY MR. BERNSTEIN:

22 Q. Is it necessary to validate documents with the
23 necessary notaries and witnesses present?

24 MR. ROSE: Objection. Calls for a legal
25 conclusion.

1 THE COURT: Well, I'm the one that's going
2 make that decision. I don't care what the witness
3 says about the law.

4 MR. BERNSTEIN: I gotcha. Okay.

5 THE COURT: So this would be a good time for
6 us to take a pause. We're not making headway.

7 You ever here of cavitation when it comes to
8 boat propellers?

9 MR. BERNSTEIN: No.

10 THE COURT: Okay. I don't know a lot about
11 the physics of it, but a boat goes forward based on
12 a propeller spinning in the water. And it happens
13 sometimes in racing boats, maybe other boats too,
14 that you get the propeller going so fast or you do
15 something so much with the propeller that it
16 cavitates, which means that it's not actually
17 pushing in the water. It's making a lot of noise.
18 It's spinning like crazy. It's furiously working,
19 but it's not propelling the boat forward. I want
20 to suggest to you that you've hit a point of
21 cavitation. So this would be a good time for us to
22 take our lunch break so that when we get back we'll
23 go forward with this ship that is our trial.

24 MR. BERNSTEIN: How long?

25 THE COURT: It'll be until 1:30.

1 MR. BERNSTEIN: Okay.

2 THE COURT: That'll give everybody a time to
3 revive, if necessary, and we'll reconstitute
4 ourselves at 1:30. Thanks.

5 (A break was taken.)

6 (Proceedings continued in Volume 2.)

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

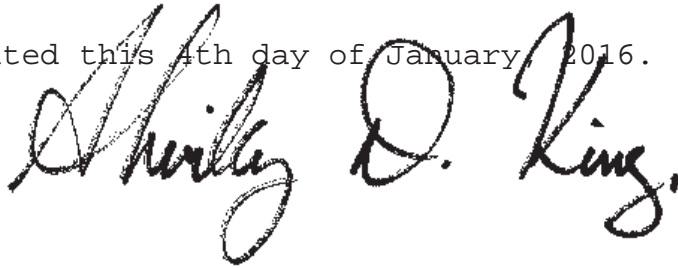
C E R T I F I C A T E

STATE OF FLORIDA

COUNTY OF PALM BEACH

I, Shirley D. King, Registered Professional Reporter, State of Florida at large, certify that I was authorized to and did stenographically report the foregoing proceedings and that the transcript is a true and complete record of my stenographic notes.

Dated this 4th day of January, 2016.



Shirley D. King, RPR, FPR

Job #1358198-VOL 1

| | | | |
|--|--|--|--|
| <hr/> <p style="text-align: center;">\$</p> <hr/> <p>\$1.2 49:25 \$100 81:12 \$100,000 48:7 \$18 23:11 46:12 \$2 54:6 \$200,000 32:2,9</p> <hr/> <p style="text-align: center;">0</p> <hr/> <p>0 55:13 07 23:12 08 24:3,5</p> <hr/> <p style="text-align: center;">1</p> <hr/> <p>1 15:23 34:3,6, 10,15,16 39:10 54:12 61:14,20 62:2 82:14,17 83:11,18,22 84:2,5 101:20, 25 102:15,16 1,150,000 49:2 1,550,000 49:12 10 13:9,10,22 14:3,4 22:3 58:9 75:16 100 48:14 100,000 48:18 11 26:12,21 27:1,2,5,11 11/14/07 14:13 11/14/2007 15:3 11/16 15:6 12 22:9,12 24:5 12/19 23:23 12/19/07 23:22, 24 13 23:5 45:18, 22 46:2,3,19 53:22 59:1 73:25 106:25 14 60:24 61:3, 7,8 14th 22:4 23:12 15 17:21 63:18 64:5,10,11</p> | <p>71:5 16 65:22,24 66:17,21,22 71:6 16th 12:15 17 62:6 73:3, 13,21,22 18 23:13 25:16, 17 47:16 74:3, 4,8,9 18th 40:15 86:2 19 12:25 25:17 26:14 1st 59:1</p> <hr/> <p style="text-align: center;">2</p> <hr/> <p>2 35:9 36:11 39:11 51:6 55:14 61:12, 14,21 62:2,3 84:7,10,16,19, 23 85:2,7,12, 19,23 86:4 20 24:9 2000 17:21 18:17 20:4,14 21:8,24 30:11 2002 37:19 2007 11:25 12:15 22:4 25:25 46:11 47:16 49:23 51:18 53:1 73:2 81:15 2008 8:25 9:1, 2,5,6,21,25 10:4,5 24:9,11 25:25 26:15 33:3,14 34:1 35:12 37:1,17, 20 38:24 40:15,16 41:5 49:22,23 61:12 64:21 82:20 83:12 84:9,11 85:2 86:3 110:17,18 2010 42:22 43:17 58:25 2012 9:17,18 45:15,21</p> | <p>46:13,18 51:15,21 53:1 57:17 59:1,2 62:7 63:23 64:17 67:18,24 73:25 74:16 81:16 87:17,22 88:8 89:8 106:21,25 108:3,21 110:20 20th 82:19 83:12 84:9,11 24 89:7 24th 63:23 65:16 25 20:15 21:17, 19 67:18 87:17,21 88:8 89:8 250 55:14 25th 67:24 26th 15:5 73:7 27 36:8 84:10</p> <hr/> <p style="text-align: center;">3</p> <hr/> <p>3 38:20 39:1,6, 7,11 51:7 61:14,22 62:2 86:1,3,6,9,13, 16,22 87:2,9, 13 31 24:3 33 23:6 33:22 365,000 52:13</p> <hr/> <p style="text-align: center;">4</p> <hr/> <p>4 67:19,20,22 68:2 70:3,8,9, 15 71:9,10 87:15,19,25 88:3,12,17,23 89:2 40 17:16 18:3 40- 81:12 40A 15:22 17:7, 12 40A-F 17:13</p> | <p>40B 16:11 40C 17:1</p> <hr/> <p style="text-align: center;">5</p> <hr/> <p>5 20:17,18 23:6 51:20 71:22 72:6,11,12 89:5,7,12,16, 20,24 90:4,8, 12,16 500,000 47:24 48:1 55:16</p> <hr/> <p style="text-align: center;">6</p> <hr/> <p>6 76:25 77:1,5 101:18 60 58:11 600 48:13,14 600,000 55:18</p> <hr/> <p style="text-align: center;">7</p> <hr/> <p>7 19:11,20,25 20:1 73:15 82:17 87:18 75 54:14 750,000 49:10</p> <hr/> <p style="text-align: center;">8</p> <hr/> <p>800,000 51:9 8th 42:23</p> <hr/> <p style="text-align: center;">9</p> <hr/> <p>9 12:11,12,20 13:1 90 58:11 9th 32:11,17 107:17,23 108:3,8,21 109:3,12 110:9,10</p> <hr/> <p style="text-align: center;">A</p> <hr/> <p>absence 98:3</p> |
|--|--|--|--|

| | | | |
|---|--|---|---|
| absolutely 99:17,20 | affidavit 70:21 | 60:24 84:10 | assume 51:8 104:10 |
| abundance 102:12 | affirmed 10:24 | appoint 20:23 30:2,13 77:15 | assuming 28:9 |
| access 43:25 | afraid 101:6 | appointment 20:21 21:1,4, 15 29:19 | attached 62:13 |
| accommodate 37:10 | afternoon 82:7 | aggressive 7:19 | attack 78:16 |
| accompany 40:25 | agree 9:24 10:5 | agreement 9:18 29:10,22 35:11 | attend 59:5 |
| account 23:2 57:4 | agreements 35:20 | approach 11:2 12:11 15:21 67:19 111:6 | attention 82:16 84:9 86:3 87:18 89:7 |
| accounting 60:21 62:14 103:13 | Alan 5:6 | approaches 11:3 | attorney 12:2 24:16 27:8 45:1,4 51:14 65:23 67:15,25 71:6 81:8 91:12,13,15 96:10 99:25 109:15 |
| accountings 107:22 | Alexandra 8:15 | approval 59:24 | attorney-client 38:9 |
| accurate 19:19 76:22 111:2,6 | alive 35:7 43:25 44:5,8 52:10 63:10 75:3 110:11 | approved 53:16 | attorneys 81:11 94:20 |
| accurately 104:20 | allegedly 107:18 | approximately 45:13 | August 17:21 |
| acknowledge 96:16 | allowed 101:9 | April 26:14 29:1 32:11,17 37:2 107:17,23 108:3,8,21 109:3,12,17 110:9,10 | authentic 8:22 9:16 26:18 102:5 |
| acknowledged 96:18 | altered 78:12 95:23 97:23 98:20 | area 37:4 | authorization 63:11 |
| acting 73:1 | altering 46:7 96:21 97:10,16 | argue 96:25 97:20 104:9 106:2 | authorized 45:3 |
| action 8:24 | amend 38:1 | arguing 104:22 | avoid 29:15,18 |
| actively 84:5 85:22 87:13 88:23 90:16 | amended 8:24 9:18 38:4,5 64:15,23 71:23 75:1 89:6 | argument 92:14, 16 97:20 | aware 39:24 40:24 50:10,18 55:20 56:5 72:25 75:8 79:6 81:13 90:13 107:17 |
| actual 35:15 | amendment 9:2, 4,5,7 39:18 40:2,14,17 61:23 86:1 87:4 98:14 101:14 102:8 110:18 | argumentative 97:19 98:16 104:4,12 106:17 | |
| add 23:10 | amount 20:7 55:11 56:6 | arranged 40:5 | <hr/> B <hr/> |
| addition 41:5 65:6 | ancillary 16:23 | arrangements 80:10,12,20,24 | back 8:1 15:4 40:13 42:2 47:11 49:22 60:21,22 79:15 93:3 100:9 103:20,23 107:4,14,21 108:15,18 110:6 |
| address 5:23 | Andrews 53:17 | arrows 19:17 | |
| addressing 60:25 | answering 76:7 | assert 70:17 | |
| adjust 11:8 111:5 | appearance 8:11 | asset 25:10 42:7 50:4 74:19 | |
| administration 44:4,8 46:18 74:18 | appears 18:12 20:12 23:3 25:17 26:20 27:15 36:8 | assets 18:9,11 29:16,17 30:2 31:13 36:4 43:11 48:20 49:18 50:1 54:22 55:2,5 64:24 78:23 81:13 98:11 | |
| admission 11:11 | | assistant 40:11 66:14 102:24 | bad 101:8,9 104:18,19 |
| admitted 24:8 80:13 96:21 100:2 107:11 | | | balance 21:18 33:23 |
| adult 8:14 82:8 | | | |
| advance 15:9,13 | | | |
| advice 56:23 57:7 99:25 100:7 104:25 | | | |
| affect 97:8 | | | |

| | | | |
|------------------------|----------------|------------------------|------------------------|
| Banks 82:22 | 6:6,8,11,14, | 103:2,6,8,10 | 22,25 63:1,5, |
| Banks' 83:8 | 17,20,24 7:3, | 104:8,13 | 14 65:13 69:16 |
| bar 100:2 101:7 | 7,10,13,16,17 | 105:1,11,17, | called 40:3,5 |
| based 25:14 | 8:15,16 9:1,2, | 20,22,25 | 45:3,15 52:7 |
| 60:2 91:11 | 17 10:4,7,9, | 106:4,6,22 | 56:16 75:25 |
| 94:25 99:16,19 | 11,14 11:15, | 108:11,13,15, | 91:8 |
| basically 31:3 | 20,24 12:8,17, | 18,20 109:22, | calls 62:23 |
| 78:1 | 18 13:5 14:19, | 25 110:4,5 | Candice 5:19 |
| Bates 13:20 | 22 16:2,8,13, | 111:8,9 | 24:12,22 |
| 16:17 | 21 20:15 23:16 | Bernstein's | care 8:6 16:24 |
| Baxley 66:8,11, | 24:9,12,22 | 17:5 22:14 | 27:9 55:6 80:4 |
| 12 67:8 | 25:1,15 27:13 | 61:12 82:24 | carefully |
| Beach 69:25 | 28:18 29:10 | 84:8,23 86:2 | 101:10 |
| 74:19 95:15 | 30:23 31:9 | 91:12,13 96:10 | carry 77:7 |
| 96:2,5,20 | 36:11,13 41:15 | 97:6 | 97:12 |
| bear 16:17 | 43:2 45:10 | Bill 31:22 | carrying 97:15 |
| 65:25 68:6 | 46:18 49:4,6,8 | 51:13 | case 5:3 10:15 |
| bears 15:22 | 52:8 56:8 | bit 108:11 | 24:8 50:17 |
| 24:9 70:15 | 60:25 61:18, | blank 71:2 | 93:22 94:20,24 |
| begin 78:16 | 21,22,23,25 | block 67:1 | 95:4,6 104:20 |
| beginning 5:11 | 62:24 63:12,19 | 70:23 | cash 47:11 |
| begins 53:22 | 64:1 65:25 | blogging 78:17 | causing 63:7 |
| behalf 5:6 6:1 | 68:15,17,21,25 | book 11:5,6,14 | caution 102:12 |
| 8:13 | 69:5,20 70:7, | 101:17 | CD 47:9 |
| belabor 21:15 | 16 71:23 73:4 | bottom 14:10 | certificate |
| belief 37:20 | 74:13 75:8 | 53:21 55:13 | 74:3,12 |
| 69:24 77:13 | 77:3,8 78:16, | bought 50:19 | chain 69:5 |
| 85:16 | 25 79:4,9,12 | 56:4 | change 21:11,25 |
| belong 19:18 | 80:9,14,25 | bounty 83:19 | 30:14 40:4 |
| beneficiaries | 81:14,21 82:9, | 85:9 86:24 | 45:11 55:8 |
| 18:4 20:8 | 15,19 83:7,11, | 88:15 90:2 | 56:23 57:20,24 |
| 33:12,16 46:25 | 14,17,22 84:1, | box 67:3 70:25 | 97:23 98:20 |
| 57:14 75:15 | 11,15,20 85:1, | break 58:8,19 | 99:8 |
| 77:11 97:24 | 6,11,17 86:6, | briefly 41:8 | changed 78:12 |
| 98:1,6,21 99:8 | 10,13,17,22 | bringing 40:23 | changing 54:21 |
| beneficiary | 87:1,8,16,17, | brokerage 23:2 | 56:14,17 |
| 28:10 33:4 | 20 88:1,4,9, | brother 45:7 | charged 96:1 |
| 42:24 43:6,20, | 13,18 89:2,5, | 78:23 | chart 19:14 |
| 21 44:17,20 | 8,13,17,19,25 | brought 11:4 | 32:5 |
| 55:9 56:22 | 90:4,11,24 | 40:7 | Chaves 12:6 |
| 57:21 62:16 | 91:7,23 92:8, | bunch 47:14 | check 70:25 |
| 84:1,5 85:18, | 9,13,15,20,23 | business 25:5, | 106:23 |
| 22 87:7,12 | 93:1,4,8,13, | 20,21,24 26:1, | checked 67:3,4 |
| 88:22 89:1 | 16,19,25 94:4, | 3 27:16 31:21 | child 19:17 |
| 90:10,15 | 7,11,14,17,18, | <hr/> | children 6:2,8, |
| benefit 54:16 | 25 95:5,8,12, | C | 25 7:8,10 10:9 |
| benefits 80:13 | 13,16,21 96:8, | <hr/> | 18:16,17 19:6, |
| Bentley 50:8,9, | 15 97:3,4,21, | call 10:20 40:4 | 7,16 20:5,11, |
| 10,11,20,21 | 22 98:18,24 | 58:4 59:3,6,8, | 12 21:6 30:16, |
| Bernstein 5:3, | 99:3,7,11,20, | 12,19 60:6,8, | 18 32:14 |
| 7,15,18,22,25 | 23 100:1,17,21 | 18 62:10,12, | 40:20,22,25 |
| | 101:12,14,16, | | |
| | 21,23,25 | | |
| | 102:20,21 | | |

| | | | |
|---|--|---|--|
| 41:2 44:7 45:7 46:24 55:6 57:13 58:2,5 59:5,20,23 60:8 77:9,25 81:6 96:11 107:21 108:6 109:3 110:7, 11,12 children's 27:7 97:6 Christine 95:24 96:10 98:13 chronological 14:8,9 circumstances 77:6 91:17 92:3 claim 10:1 47:10 80:22 claiming 10:4 99:21 clarify 69:6 clear 95:9 clerk 68:12 clerk's 68:6, 10,11 70:1 client 15:4 25:9 26:15 29:15 35:2,5 39:15 69:13,15 clients 12:16, 18 13:15,17 53:5,10 close 46:24 60:19 73:3 106:8 107:24 closed 46:20,21 106:13,16 closer 48:14 Code 104:1 codicils 17:4 collateralized 50:1 Colon 103:24 column 51:3 committed 96:18 communication 58:2 company 23:7 41:12 48:10 | 51:11,16 76:1, 3 company's 13:19 complaint 8:17, 24 75:19 compounded 108:11 Concepts 51:12 concerned 42:7 conditions 20:23 condo 23:4 51:2,6 78:24 conduct 7:20 conference 37:4 58:4 59:3,6,19 60:6 62:9,11, 25 63:1 65:13 conferences 72:18 confidential 29:17 conform 69:17 conformed 34:8, 19 68:14 69:16 73:5 confused 17:25 104:13,16 confuses 100:6 confusion 104:14 connection 84:2 85:17,18 consent 62:16 91:20,24 92:4 consistent 24:10 30:7 contact 60:6 contents 75:12 continuance 7:6,24 continue 57:1 58:21 104:9 control 39:15, 16 controlled 52:2,9 convenience 40:8 conversation 6:21 | convicted 93:2 103:1,5,11 copies 15:16 35:13,15 76:16 copy 16:4 26:18 34:5,8,19 45:2 57:9 68:6,12, 14 69:16,17 73:4 76:22 correct 20:16 21:2,7,10 27:9,14 28:11, 14 29:13 31:7, 25 32:4,8,12 33:5,7,24 34:21 35:4 36:8 40:10 43:4,9,17 44:18 47:15, 19,22 48:8,16, 25 49:3,11 51:17 52:14 53:14,18 54:8 57:18,24 62:7 65:1 66:7 70:22 71:3,17, 21 73:9 75:6, 13 77:4 91:9 101:16 103:8 109:4 111:12, 13,22 counsel 5:17 6:2,24 10:12 69:19 78:8 97:6 count 8:23 9:15 County 69:25 95:15 96:2,5, 21 couple 25:7 72:21 79:21 court 5:3,8,12, 16,20,24 6:5, 7,10,13,15,18, 21 7:1,5,9,12, 15,17 8:9,12, 18 9:4,6,24 10:3,8,10,13, 16 11:3,6,9, 12,13 12:22,24 13:24 14:2 17:9,11,19,22, 24 19:22,24 | 24:15,23 26:23,25 29:18 34:12,14,24 35:6 39:3,5 41:18 42:1 45:24 46:1 49:5,7 53:15 56:9 58:7,15, 20 61:4,6,17, 19 62:1 64:7,9 66:18,20 68:9, 16,19,23 69:2, 8,22,25 70:5 72:8,10 73:15, 17,20 74:5,7 77:5 79:2,6, 10,14,18,24 80:4 81:1,19, 24 90:20 91:1, 22 92:6,12,14, 16,22,24 93:3, 5,9,14,18,24 94:2,3,6,8,12, 15,22 95:2,7, 9,18 96:7,13, 23 97:18 98:17,23,25 99:5,10,12,18, 21,24 100:2, 18,19,22 101:3,8,13,17, 22,24 102:1,6, 11,18 103:4, 14,15,17,19, 20,24 104:5,7, 9,14 105:3,8, 10,14,16,18, 21,23,24 106:2,5,18 107:5,10,13, 14,15 108:9, 12,14,16 109:21,23 110:3,15 courteous 7:18 courtesy 24:18 100:4,12,13 courthouse 34:25 78:3 courts 78:22 96:17 crash 53:4 |
|---|--|---|--|

| | | | |
|--|---|--|---|
| created 26:19 32:15 35:17, 19,23 41:11,17 60:3 77:12,22 | 16 30:1 33:18 43:22 50:16 54:16 57:5 64:24 74:3,12 75:7 106:24 110:7 | Diana 82:22,24 83:8 | divided 64:24 |
| crime 92:10 | debacle 47:10 | die 30:14 47:1 | docket 8:3 |
| cross 81:20 82:5 90:21 91:6 | Deborah 32:7 | died 28:5 31:11,14 33:3 42:20 50:8 58:24 69:18 74:16 80:22 81:6,7 106:25 | document 12:13 21:13 22:16 24:7 26:19 28:25 29:12 31:14 34:8,23 35:10,13,18 38:6,17,21,23 39:22,24 40:6 63:4 68:13 69:6,25 77:1, 2,12,14,20 78:10,18 82:16,18,25 83:5,8,14 84:11 85:14 86:12 87:20,24 89:4 95:23 96:9,21 97:5, 7,8,11,16,23 98:12,19,25 99:2,6,9,12, 16,19,22 100:19 101:4, 13 102:7 104:3 105:13 108:5 110:9 |
| cross-examination 82:1 | December 42:21 58:24 | direct 7:19 11:16 58:1 81:25 82:15 84:9 86:3 87:18 89:6 | |
| cumulative 105:9,15,18 109:20 110:14 | decide 8:9,20, 21 45:10 94:24 104:20 110:16, 17,19 111:3 | directed 16:2 | |
| current 46:9 | decided 57:7 | direction 38:12 41:17 | |
| custody 69:5 | decision 44:12 57:23 111:3,7 | directly 98:8 | |
| cut 20:12 77:25 | deduction 43:24 51:8 | disagree 10:7 95:7 | |
| <hr/> D <hr/> | defamation 79:4 | discharge 62:14,15,16 | |
| Dad 60:16 | default 33:12, 16 | disclose 16:20 | |
| Daily 74:19 | Defendant 102:15 | disclosed 46:12 81:14 | |
| date 14:12 15:1 17:19,22 23:21 24:9 40:14 63:22 67:17 84:8 88:1,7,8 | defendant's 101:20 102:16 | discuss 22:22 25:19 39:14,17 46:6 48:22 54:22 60:18 | documents 8:22, 25 9:11,13,14, 19,23 13:8 15:15,16,19 16:22,23 17:2, 20,22 18:7,8, 9,18 19:1 20:4,13,14 21:8 22:1 25:3 26:5,6,8,15,17 27:12,21 29:4 30:8,15 31:12, 16,24 32:10, 19,22,23 33:13,17 34:1 36:15 37:1,13 40:4,9,16,19 41:6,20 44:1, 2,21 45:2,4,5, 11,16 55:2,3 56:15,18 57:6, 24 60:3 61:15 63:3,11,16 64:17 65:16,21 66:9 71:16,18 72:16 73:8 |
| dated 12:15 15:4 26:14 62:6 73:7 83:11 | defendants 8:14 | discussed 42:8 57:16 59:18 65:13 107:20 | |
| dates 24:1 | denied 7:6,24 | discussion 22:5,22 32:18 42:10 54:11 55:19 59:22 63:14 95:14 | |
| daughter 54:24 55:25 | depending 55:11,12 | discussions 44:25 54:1 74:14 | |
| day 6:16 8:3,4 52:20 58:12 65:16 67:24 71:25 73:7 109:4 110:17 | depends 98:2 | disinherited 55:2 | |
| days 15:6,7 27:11 | deposited 105:22 | disposition 19:2 | |
| dead 106:9,13, 16 | depression 53:4 | dispositions 21:25 | |
| deal 43:10 | descendants 30:3 98:14,22 | dispositive 57:6 65:19 97:8 | |
| dealership 50:13 | describe 18:2 28:18 41:8 102:23 | distributions 29:25 | |
| dealings 67:11 | designated 28:23 33:13 | | |
| dealt 104:15 | designation 55:9 57:21 | | |
| Dear 64:14 | designations 27:8 | | |
| death 18:10,15 20:9,18 29:7, | determine 9:15 79:22 | | |
| | developing 111:2 | | |
| | device 38:7 | | |

| | | | |
|--|--|---|---|
| 75:14 76:10, 15,17,19,21 77:10,17,23,24 78:11 79:23 80:12,17,21 82:12 97:14 103:16,19,25 105:2,8 106:7 107:15 108:25 110:1,20 111:11,12,16, 21,22 dollar 23:3 35:22 36:2 dollars 25:18 Don 13:12 draft 32:22,23 63:15 65:16 drafted 30:8 33:13 98:15 111:12,20 drafting 39:13 drafts 26:6,7,9 27:6 37:2 63:20 64:15 drag 41:2 Drive 53:12 duly 10:24 durable 16:24 27:8 65:23 67:14,24 71:5, 6 duties 63:6 | effort 43:10 Eli 97:5 Eliot 5:15 7:16 11:14 18:12 20:14 21:17 33:21 45:7 52:1 56:4,5 60:12,25 62:7, 18,24 63:12 78:16,20 80:14,22 96:10 98:21 Eliot's 78:7 email 60:25 62:6 emergency 78:22 empty 50:5 Enclosed 27:6 enclosing 63:20 73:4 end 8:4 33:22 110:16 enforceable 8:23 9:16 37:15 71:20 110:19,21 enforcing 7:19 entered 82:14 entity 41:11,16 52:4,7,9 envelope 15:24 equal 20:22 21:21 equally 19:6 Eric 8:15 essentially 28:19 establish 41:22 established 98:9,10 estate 12:2 13:7 15:12,14 16:22 18:2,13 20:6,11 25:3 27:20 28:10,23 30:14 33:4 41:5,24 43:18, 19 44:5,8,13 46:7,24,25 48:19 49:15,18 50:7 52:12 | 55:23 56:18,19 57:8,16 58:6 59:21 60:19 63:3 64:22 69:19 74:23 76:17 77:23,24 80:21 99:3 103:2,6 106:8, 13,15 107:24 111:12 estimate 43:13 event 29:19 30:13 51:16 eventually 29:6 33:25 36:4 evidence 12:21 13:2,23 14:5, 15 17:8,14 19:21,25 20:2 22:3 26:22 27:1,3 34:11, 14,17 39:2,5,8 45:23 46:1,4 61:3,6,9,14 62:2,4 64:6,9, 12 66:17,23 70:3,10 71:5 72:7,10,13 73:21,23 74:4, 7,10 80:13 99:13 100:17 101:19,25 102:8,17 EXAMINATION 11:16 examined 10:24 exception 31:17,18 excluded 33:18 44:22 Excuse 24:12 34:7 106:11 execute 33:25 40:6 84:15,19, 22 86:6,9,12 87:8,20,24 88:3 89:2,8, 12,16 90:11 executed 35:12 40:9 65:21 67:23 68:1 76:22 82:19 83:14,18,22 | 84:8,11 85:2, 7,12 86:2,17, 22 87:2,17 88:13,17 89:20,24 90:5, 8 111:20 execution 36:15 82:12,13,25 83:2,4,8 84:2 85:19 88:8 exercise 33:11 55:3 exercised 21:5, 16 33:21 65:7 exercising 98:3 exhibit 12:11, 12,20 13:1,9, 10,22,25 14:4 15:22 16:11 17:7,13,16 18:3 19:20 20:1 22:3,9,12 26:12,21 27:2, 5 34:3,6,10,16 35:9 36:11 38:20 39:1,7 45:17,18,22 46:3 53:22 60:24 61:3,8, 12 62:3 63:18 64:5,11 65:22, 24 66:17,22 67:19,20,22 68:2 70:3,9, 13,15 71:5,9, 10,22 72:6,12 73:3,22 74:3,9 76:25 77:1,5 78:2 82:14,17 83:11,18,22 84:2,5,7,10, 16,19,23 85:2, 7,12,19,23 86:1,3,6,9,13, 16,22 87:2,9, 13,15,19,25 88:3,12,17,23 89:2,5,7,12, 16,20,24 90:4, 8,12,16 100:23,25 101:24 102:16 |
| <hr/> <p style="text-align: center;">E</p> <hr/> | | | |
| earlier 93:10, 11 100:3 101:18 earliest 14:11 early 42:16 45:15 46:18 easier 23:1 education 80:16 effect 39:18 60:16 83:23 85:13 87:3 88:19 90:5 97:9,10 effectively 21:4 38:17 | | | |

| | | | |
|------------------------|------------------------|------------------------|------------------------|
| exhibits 11:5 | FDIC 47:21 | FMV 51:3 | Gary's 101:6 |
| exist 40:16 | February 46:13 | focus 110:25 | gave 46:14 |
| existed 30:11 | 51:15 56:11,20 | focused 83:10 | 50:12 |
| 52:17 | 59:1 72:17 | 110:23,24 | general 41:11 |
| existence 41:16 | 81:16 | folks 101:9 | 83:18,22 85:3 |
| existing 13:7 | Federal 27:12 | follow 7:20 | 88:9 |
| 15:19 | Fedex 64:3 | 26:16 104:2 | generally 18:2 |
| exists 52:20 | felon 92:21 | forged 103:22 | 59:18 83:15 |
| expected 42:11 | felony 92:10 | 104:3 105:13 | 85:8,13 86:18, |
| expert 91:9 | 93:2,15 103:1, | 107:6,14 | 22 87:3 88:13 |
| explain 27:20 | 5 | form 36:2 52:17 | 89:21,25 90:5 |
| 77:5,21 | felt 55:23,25 | formalities | 100:4 |
| explanation | 107:15 | 37:14,24 38:24 | gentleman 51:13 |
| 26:16 80:2 | figure 41:19 | 67:15 | genuine 77:2 |
| Express 27:12 | 55:5 | formally 51:13 | 102:5 |
| extensive 41:23 | file 11:12 | Forman 12:7 | gift 32:2,9 |
| extent 20:20 | 12:14 15:6,8, | formed 48:23 | 39:19 |
| 21:4 61:13 | 20 69:22 78:2, | forward 8:2 | girlfriend |
| 83:15 85:4 | 22 107:10 | Found 30:15 | 50:12,24 55:24 |
| 86:18 88:10 | filed 7:8 34:24 | fourth 24:4 | 56:21 |
| 89:21 | 35:6 43:15 | fraud 96:18 | give 18:5 21:9, |
| | 47:10 74:18 | 110:2 | 11,23 25:23 |
| | 103:14,15,18 | frauded 104:3 | 27:25 30:12 |
| | 107:12 | fraudulent 97:5 | 31:12 40:4 |
| F | files 13:20 | 103:1,16 | 57:7 64:21 |
| face-to-face | 16:4,15 35:5 | 105:8,13 107:6 | 69:15 72:24 |
| 72:21 | filing 7:7,23 | fraudulently | 80:1 81:4 |
| Facebook 79:19 | final 29:3 | 95:23 96:9 | 91:17 92:3 |
| fact 9:8 28:15 | 64:18 | 97:16,23 | 106:15 |
| 39:18 44:21 | finally 7:22 | 98:14,20 107:5 | giving 45:4 |
| 54:4 55:1 | finances 46:9 | freeze 78:23 | 56:18 99:24 |
| 75:15 78:10 | find 100:8 | friends 100:5 | 100:7 |
| facts 80:6 | fine 22:21 80:7 | front 89:13,17 | good 5:5 19:12 |
| 104:19 111:1 | finished 81:25 | full 107:17,23 | 42:14 56:2 |
| failed 61:11 | firm 12:3,5,9 | 108:21 | 58:7 82:7 |
| Fair 51:4 | 13:5 16:17 | fully 72:25 | Gotcha 101:12 |
| fairly 29:14 | 26:14 36:21 | funded 36:3 | grammar 65:19 |
| familiar 22:18 | 69:18 75:22 | funds 77:15 | grandchildren |
| 47:22 | 91:19 103:16 | future 26:2 | 8:15 19:18 |
| family 19:12 | 105:2,5,7,12 | | 55:6 56:19 |
| 27:7 30:3 | 107:5 | G | 57:8 59:22 |
| 32:5,13 41:15 | fit 8:5 | gain 111:15,16, | 60:10 65:1,9 |
| 52:8 57:5 63:5 | fitting 82:3 | 24 | 75:16 77:16 |
| 80:14 98:8,10 | Fleisher 12:7 | gained 111:21 | 80:19 82:8 |
| fashion 77:21 | flip 15:3 23:18 | gallery 24:20 | granted 65:7 |
| father 63:5 | 31:1 65:24 | 100:9,10,11, | great 5:12 |
| 81:6,7 98:9 | Florida 37:14, | 12,14 | 43:10 56:20 |
| 111:18 | 24 41:10,13 | Gary 101:10 | 58:15 |
| father's 97:12 | 94:19,20 100:3 | | Greenwald 15:25 |
| favor 21:16 | 104:1 | | 16:7,12,19 |
| 65:8 | | | 17:3 |

| | | | |
|--|--|--|---|
| Greg 5:9 gross 53:16 guardian 29:19 guess 30:10 32:1 47:10 54:11,23 55:23 75:3 76:25 107:8 guilty 93:20 Gutter 12:6 guy 92:22 100:7 guy's 79:19 | holds 52:12 holidays 25:7 home 51:25 52:5 64:3 Honor 5:5 11:2, 4 12:21 13:23 17:8,23 19:10, 21 26:22 39:2 45:23 49:4 61:11 70:4 72:7 78:25 81:18 100:25 hope 111:5 hour 23:17 house 23:3 40:6 51:6 52:8,12 53:12 56:4 housekeeping 61:10 huge 11:6 husband 20:19, 23 | indication 21:23 25:23 72:24 81:4 individually 5:23,25 10:7 influenced 84:1 85:17 influencing 87:8 89:1 90:10 information 85:21 87:7,12 88:22,25 90:15 inherent 28:5 81:5,6 initial 31:4 Initially 75:14 inject 24:18 insider 91:24 93:22 instrument 98:2 insurance 23:5, 13 25:20 51:12 53:25 54:2,7,9 55:9 56:22 57:13 intake 12:14 15:4 intended 30:8 77:11 97:10 intent 65:12 77:7,25 interest 48:20 51:19 52:15 111:15,17,22, 24 internal 54:23 internet 78:17 interruption 82:2 interviewed 96:4 invalid 9:25 10:6 80:5 inventory 43:15 inventorying 43:11 invested 47:13 investing 47:17 investment 47:8,12 | investments 41:15 47:21 involved 25:20 44:24 48:10 51:14 93:22 involvement 36:21 IRA 49:10 issue 95:11 109:23 issues 42:15,16 78:15 94:23 95:3 item 106:3 Iviewit 76:3 |
| <hr/> H <hr/> | <hr/> I <hr/> | <hr/> J <hr/> | <hr/> K <hr/> |
| half 8:4 47:17 51:7 53:20 hand 11:10 13:9 15:21 16:11 26:12 34:3 35:9 38:20 45:17 60:24 63:18 65:22 71:22 76:25 handle 25:5 handwriting 22:11,19 handwritten 34:20 happen 6:19 104:18,19 happened 45:14 50:9 60:2 75:20 103:21 happy 55:1 60:17 heading 29:23 health 16:24 27:9 42:12,14 hear 9:22 106:11 heard 81:11 hearing 79:13 heart 42:15 held 64:25 high 53:5 hired 45:1 history 72:15 hit 47:10 hoc 6:25 | idea 56:20 90:25 identical 28:19 31:3,16 identification 67:2 71:2 identify 12:12 13:10 17:2 26:13 important 60:17 65:5 71:18 108:19 110:2 importantly 109:11 incapacity 29:20 include 35:5 55:10 56:21 57:21 98:13 included 17:3 38:6 43:15 includes 23:13 including 16:23 income 29:24 increasing 55:11 | January 24:3 Jill 18:12 45:8 98:5,7,21 John 82:7 joined 8:17 joint 23:1 57:4 JP 50:1 judge 8:14 81:22 90:19 101:9 103:24 July 65:21 67:18,24 72:17 87:17,21 88:8 89:8 | kick 108:15,18 kicked 107:14 kids 108:25 Kim 67:11 71:15 Kimberly 36:18 40:7 66:5 70:17 87:21 88:1,3 89:9, 13,16 102:22 103:22 105:13 107:3 kind 42:17 55:4 58:1 75:18 knew 25:12 42:17 57:10 67:10,11 76:8 |

| | | | |
|---|---|---|--|
| knowledge 42:13 82:13 84:3,4 85:20 87:6,11 88:21 90:9,14 | life 23:4,13 43:8 51:11 54:6,9 55:9 56:22 | love 6:15 lovely 5:18 lunch 40:5 | maximum 47:20, 24 means 94:9,13 105:18 |
| Kratish 36:14, 23 84:14,17, 20,22 | lifetime 30:24 76:23 | | mechanism 29:21 31:8 |
| <hr/> L <hr/> | light 78:15,19 | <hr/> M <hr/> | meet 11:23 23:15 25:8 40:1 45:16 54:22 56:14 58:25 |
| lady 99:24 | limitations 82:4 | made 32:2 39:19 45:1 47:7 57:23 65:15 66:20 68:12 80:20,23 93:9 95:9 97:13 107:16 | meeting 13:11, 12,17 14:18 15:9,14,17 22:4 23:19,21 24:1,2,3,4 25:6,12 32:21, 25 40:6 45:20 46:6,13 54:22 55:4 56:20 57:19,20 75:10 77:8 107:20 |
| laid 65:20 | limited 41:10, 12,13 | mail 95:24 96:9,22 | meetings 13:13 14:17 23:16 24:25 25:25 72:22 74:15 |
| language 21:13 | Lindsay 66:8, 11,12 67:7 | main 37:3 | member 101:7 |
| lapse 57:11 | lineal 30:3 98:13,21 | make 6:25 8:11 13:7 17:25 18:8 19:1 32:23 35:25 37:13,15 40:8 56:1 71:15 77:10 80:9,11 82:2 93:6 101:4 104:23 111:2,6 | memo 65:20 |
| lapsed 57:11 | lingo 108:16 | making 68:17 | memory 24:10 |
| laser 110:24 | Lisa 18:13 45:8 98:5,7,21 | mandatory 29:24 | mentally 55:20 72:25 |
| late 106:25 | list 50:3 | March 24:5 25:6,25 | mentioned 59:3 62:21 |
| law 12:3,5,9 13:5 16:17 37:14,24 69:18 94:19 103:16 105:2,12 107:5 | listed 97:24 | marital 30:2 43:23 | merits 104:21 |
| lawful 20:22 | listen 104:23 | Maritza 50:22 54:19,20 55:7 56:21 57:21 | met 14:21 25:16 |
| lawsuit 31:9 | listening 100:8 | marked 45:17 | Michael 8:16 |
| lawyer 16:7 44:25 75:22 76:5 | lists 19:15 23:1,6 | market 51:4 53:4 | middle 65:2,5 |
| layman 77:9,10 | live 42:11 | marriage 30:15, 16,17,18 | million 23:3,5, 6,11,13 25:16, 17 46:12 47:16 49:13,20,21, 24,25 51:2,6, 7,20 53:13,16 54:6,12,13,14, 16,17 81:12 |
| laymen's 27:19, 23 | lived 56:4 | married 30:23 | mind 110:21 |
| layperson 77:21 97:14 | lives 52:1 | Matt 38:5,8 | mine 109:17 110:22 |
| learn 50:11 | living 16:24 27:9 64:25 77:24 | matter 33:2 38:10 61:10 | minor 6:2 7:8 96:11 97:6 |
| learned 44:21 75:11 | L LLP 41:15 48:21,23 50:2 51:7 | matters 63:7 95:16 | minors 7:11 |
| leave 73:10 | loan 49:25 51:8 54:17 | Matthew 32:3,6, 10 38:12,18 39:19 | |
| leaving 60:9 | loans 49:18,20, 21,22,24 | | |
| legalese 27:20 | Logan 32:3,6 38:5 39:20 | | |
| lengthy 41:23 | long 23:15 25:2 78:18 | | |
| letter 16:12,19 17:3 26:14 27:19 32:17 54:24,25 63:19 64:1 73:3 75:21 76:4 77:18 | long-time 102:24 | | |
| letting 24:17 93:9 | longer 42:11 | | |
| liability 41:12 | looked 72:15 81:15 | | |
| LIC 48:6,10 51:11 | losses 53:6 | | |
| | lost 47:13,16 | | |
| | lot 41:24 44:12 53:5 54:23 110:21 111:11 | | |

| | | | |
|---|---|---|--|
| minute 18:5 minutes 58:9, 11,16,17 miscellaneous 23:4 misdemeanor 93:20 misperceiving 99:10 mistake 39:13 77:10 107:16 mix 57:5 Molly 8:16 mom's 99:8 money 22:6 23:2 44:13,14 47:14 48:15 56:6 81:5,9 monies 47:11 month 27:11 months 25:7 46:19 Moran 36:18 66:5 67:11 70:17 71:15 87:21 88:1,3 89:10,14,16 102:22 Moran's 105:13 Morgan 50:1 morning 5:5 58:8 Morrissey 8:11, 13 81:22 82:6, 8 90:18 mortgage 23:4 52:12,22 mother's 45:2 55:2 63:3 78:24 107:24 move 12:20 13:22 17:7 19:20 26:21 34:10 39:1 42:4 45:22 61:3,11,13 64:5 66:16 70:3 72:6 73:13,14 74:4 85:25 92:7 95:10 100:9 | moving 29:23 84:7 87:15 89:4 <hr/> <p style="text-align:center">N</p> <hr/> name's 82:7 named 32:2 36:17 44:20 51:13 57:13 66:8 111:17 names 19:15,17 narrowest 41:21 natural 83:19 85:9 86:24 88:14 90:2 nature 83:15 85:4 86:18 88:9 89:21 necessarily 47:25 needed 25:12 60:20 61:1 negative 79:19 net 22:5,6,15, 23 25:15 51:25 52:25 53:5,10 nobody's 99:13 non-survivor 31:25 Nos 17:13 notarization 103:2 notarized 36:17 66:8 71:4 103:12,19,23, 25 107:14 notary 37:8 66:25 70:24 noted 101:1 notes 13:11,12, 16,19 14:7,11, 15,16 22:2,25 23:11,18 24:2 25:14 32:25 45:19,20 51:19 54:6 notice 74:18 November 9:5 12:15 15:5 22:4 23:12 | 25:25 40:15 49:23 86:2 106:21 107:2 number 15:23 55:12 72:18 73:15 81:11 numbers 13:20 <hr/> <p style="text-align:center">O</p> <hr/> obey 82:4 object 10:17 35:7 49:4 56:8 68:15 75:14 78:25 80:25 objected 79:8 objecting 68:21,24 objection 12:22,24 13:24 14:2 17:9,11 19:22,24 26:23 34:12 39:3 45:24 49:5 60:9 61:4,17, 19 64:7 66:18, 20 68:16,23 69:4,8,9 70:5, 7 72:8 73:18 74:5 75:18 79:10 80:6 91:21 92:5,11, 17,18 93:23 94:9,12,21 95:17 96:6,12 97:17 98:16 100:22,24 102:1 103:3 104:4,11 105:9,15 106:17 109:19 110:3,14 111:25 objections 104:24 108:17 objects 83:19 85:9 86:24 88:14 90:2 obtained 68:12 occupation 12:1 Ocean 53:12 | October 106:20 odd 100:8 offering 101:24 office 36:19 37:5,7,8 59:13,16,17 66:6,12 68:10, 11 70:1 71:12, 13 95:15 102:25 106:7 Officers 101:8 offices 37:4,6, 11 40:23 67:12 offset 49:17 offshore 47:9 oldest 31:24 open 12:14 15:8 opened 15:7 74:19 opening 43:12 operating 47:2, 3 108:24 operative 9:12 61:15 opinion 10:12 60:5 83:13,25 85:3,7,12 86:17,21 87:2 88:18 89:20,25 opportunity 91:3 opposed 80:3 opposite 99:17 optimistic 26:2 order 14:8,9 19:11 53:15 91:20,24 92:4 original 11:11 34:22 35:1,6 69:22,24 103:18 originally 107:12 originals 35:17,19 69:12 72:4 73:11 outlived 28:15 outstanding 49:19 overrule 94:12 |
|---|---|---|--|

| | | | |
|--|---|---|--|
| overruled 49:7 56:9 81:1 92:12 94:11 95:18 96:13 103:4 106:18 | passed 31:5 46:19 73:25 75:1 110:12 | 20:1 27:1,2 34:15,16 39:6, 7 46:2,3 58:10 59:1 61:7,8, 20,21,22 62:2, 3 64:10,11 66:21,22 70:8, 9 72:11,12 73:21,22 74:8, 9 82:3 | 11,20 55:4 65:7,23 67:14, 24 71:6 77:15 98:3 |
| overruling 92:18 | past 60:3,4 | 20,21,22 62:2, 3 64:10,11 66:21,22 70:8, 9 72:11,12 73:21,22 74:8, 9 82:3 | powers 16:24 27:8 77:12 |
| overstate 53:10 | pause 58:8 | plan 18:3,7,9, 14 25:10 46:7 64:22 65:19 99:4 | practical 83:23 85:13 87:3 88:19 90:5 |
| owned 48:23 52:1,4 | paying 57:10 | percentage 18:4 | practice 13:16 71:15 |
| owns 52:8 | pecuniary 111:15,17 | period 49:23 | practicing 91:16 |
| <hr/> P <hr/> | perceive 102:13 | permission 59:25 | prepare 26:4,6, 7 63:15 77:23 |
| | percent 20:15 21:17,19 33:22 | permitted 96:24 | prepared 9:22 19:14 32:13 41:4 64:15 77:6,7,17 |
| | percentages 18:4 | person 40:1 71:4 77:22 87:7,12 88:22, 25 90:9,15 | preparing 27:22 |
| | period 49:23 | personal 18:22 19:5 20:4,10 28:6,7,22 29:7 40:10 42:25 43:14 48:20 63:6 69:19 74:22 106:8,14 111:18 | presence 70:18 84:16,20,23,24 86:6,10,13 87:21,25 88:4 89:9 108:4 |
| | permission 59:25 | personally 14:25 36:22 37:12 67:1,3 70:24 71:1,14 | pretty 36:2 |
| | permitted 96:24 | pled 92:10 93:15 | previously 38:6 103:13 |
| | person 40:1 71:4 77:22 87:7,12 88:22, 25 90:9,15 | pled 93:20 | price 53:16 |
| | personal 18:22 19:5 20:4,10 28:6,7,22 29:7 40:10 42:25 43:14 48:20 63:6 69:19 74:22 106:8,14 111:18 | plus-four 55:17 | primarily 79:22 |
| | personally 14:25 36:22 37:12 67:1,3 70:24 71:1,14 | point 38:1 42:3 44:19 45:10 52:24 56:3 57:12,23 63:4 67:8 75:7,21 78:7 108:19 | primary 29:12 |
| | perspective 24:6 | policy 54:15,18 56:22 57:8,9, 12 | principal 20:19 |
| | petition 62:14, 15 78:22 | Ponzi 47:13,18 | prior 14:22 15:14 16:7 25:5 29:16 39:21 110:6 |
| | phone 56:16 62:21,23 | portion 58:12 79:16 | privilege 38:9 39:15 |
| | physically 59:12 | portions 62:14 | pro 5:15 6:25 |
| | picture 94:19 | possessed 6:4 | probate 24:8 29:15 43:13,16 46:18 99:1,22 101:1 104:1 |
| | place 21:24 82:1 101:2 | possession 108:6,22 109:1,2,16 | problems 42:12 |
| | plaintiff 5:6 8:1,19 10:20 101:18 | possibility 46:7 | procedure 47:2, 3 108:24 |
| | plaintiff's 8:8,17 12:12, 25 13:1 14:3,4 17:12,13 19:25 | posting 79:19 | |
| | | poured 28:2,4 | |
| | | power 20:21 21:1,4,9,15 30:1,4,13 31:12,15 33:6, | |

| | | | |
|---|---|--|---|
| <p>procedures 72:1 proceed 58:20 proceeding 7:4 24:19 procuring 84:5 85:22 87:13 88:23 90:16 produced 13:20 16:5 67:2 71:2 product 30:18 47:8 properly 33:21 37:23 40:9 71:16,19 property 18:22 19:5 20:5,10 28:6,7 42:25 43:14 83:15 85:4 86:19 88:10 89:22 protection 42:8 provide 15:13 18:9 29:24 57:3 76:14,18 91:8 provided 15:17, 18 16:14 31:13 45:6 76:21 78:7 103:14 providing 55:10 59:21 provision 29:3 public 42:20 published 74:19 pulled 55:24 purported 47:8 purpose 13:4 54:21 78:5 purposes 14:7 43:12 put 9:9 10:19 19:14 20:7 23:25 24:6 35:22 36:4 43:10 48:13, 17,18 51:23 52:16 58:3 63:6 71:5 80:18 96:21 99:13 101:19 putting 78:10</p> | <p style="text-align: center;">Q</p> <hr/> <p>qualify 46:25 question 6:5,7, 10,22,23 7:1,9 8:19 38:11 68:19 69:10 79:7,11,15 86:5 92:7,25 93:10,12,14, 18,24 94:10, 13,16 95:2 98:23 99:10 103:7 106:5 questioning 79:1,2,7 questions 5:22 7:22 81:18,22 90:18,22 91:2, 4 94:23 95:3 96:24 97:1 100:15 102:18 104:11,22 108:10 111:1,4 quick 111:11 quickly 104:17</p> <hr/> <p style="text-align: center;">R</p> <hr/> <p>Rachel 40:11 86:7,10,12 Range 50:13,19 read 7:7,23 9:9 23:1 27:5 53:23,24 54:25 77:23 79:15,16 84:13 reading 26:17 27:19 48:8 65:1 77:10 97:14 ready 5:4 58:20 real 53:8 111:11 realize 50:20 realized 48:3 reallocate 30:4 Realty 52:8 recall 20:13 22:17 32:20</p> | <p>38:4 45:13 71:10 74:17 75:20 76:1 receipt 62:16 receivable 47:5 48:1,6 receive 12:25 17:12 62:18 66:21 70:8 98:11 102:12 109:11,13 received 13:1 14:3,4 17:13 20:1 27:2 34:16 39:7 46:3 48:5 54:24 61:8 62:3,19,20 64:11 66:22 70:9 72:12 73:22 74:9 76:4 100:23,25 102:16 106:25 109:14 recess 58:16 recognize 22:11 35:10 38:21 45:18 67:20 record 11:18 13:10 26:13 28:20 29:18 42:21 79:16 records 106:23 recover 47:25 redirect 30:4 referring 55:15 62:24 63:1 99:1 reflect 14:11 23:19 reflected 18:3 77:19 regard 71:8 reinstated 57:12 relation 56:13 relationship 14:22 41:23 42:17 85:8 86:23 88:14 90:1 102:23</p> | <p>released 63:5 releases 46:24 47:1 60:21 103:12 relevance 42:3 49:6 56:8 79:1,18 91:21 92:5,11 93:23 94:21 95:17 96:6,12 102:3, 13 103:3 109:19,21,23 110:14 relevancy 79:12 80:25 relevant 39:23 42:1 48:22 92:6,13 95:3, 5,11 102:2,3 109:22 110:1 relief 99:5,16, 18 rely 37:8 remain 29:17 remained 29:3 remaining 30:2 58:11 Remember 100:3 remove 38:5 39:19 removed 38:8, 12,18 repeat 104:24 replacement 31:5 reporter 79:15, 17 represent 68:9 82:8 representative 28:22 29:7 63:6 69:19 106:9,14 111:18 representatives 74:23 represented 6:2 7:13 10:11 16:8 request 7:5 45:2</p> |
|---|---|--|---|

| | | | |
|------------------------|------------------------|------------------------|------------------------|
| requested 45:15 | 45:22 46:5 | send 35:4 44:1 | 25 37:10 38:1, |
| required 36:1 | 49:9 56:10 | 108:25 109:10 | 13,17 39:14, |
| 37:14,24 90:21 | 58:14,22,23 | sending 16:20 | 17,24 40:1,3, |
| requirement | 61:3,10 62:5 | sense 41:21 | 23 41:24 |
| 104:1 | 64:5,13 66:16, | 101:5 | 42:15,18,20 |
| residuary 20:6, | 24 68:9 69:11 | sentence 20:20 | 43:2 44:2 |
| 11,15 28:12 | 70:3,11 72:6, | 21:3 29:25 | 46:17 58:24 |
| 43:2 | 14 73:13,16,24 | separate 62:23 | 61:12,20,21,23 |
| respect 78:22 | 74:4,11 79:21, | 64:25 | 75:9 76:22 |
| 85:25 103:6 | 25 80:7,8 | September 73:25 | 77:2 78:13 |
| respond 60:12 | 81:3,18 91:21 | 106:25 | 80:11 82:15,19 |
| response 12:23 | 92:5,11 93:23 | serve 28:24 | 83:7,11,13,17, |
| 14:1 17:10 | 94:21 95:17 | 40:11 | 21,25 84:8,10, |
| 19:23 26:24 | 96:6,12 97:17 | service 62:15 | 15,20,23 85:1, |
| 34:13 39:4 | 98:16 99:17 | session 58:9 | 6,11,17 86:2, |
| 45:25 61:5 | 100:24 102:3,9 | set 8:3,23 | 5,10,13,22 |
| 64:8 66:19 | 103:3 104:4 | 32:21 33:12,16 | 87:1,8 91:12 |
| 70:6 72:9 | 105:9,15 | 37:1 41:10 | 95:23 97:8 |
| 73:19 74:6 | 106:17 109:19 | 52:4 58:1 | 101:14 103:2,6 |
| rest 63:7 | 110:14 111:25 | 72:16 | 106:8 |
| restated 9:18 | Rover 50:13,19 | settled 94:20 | Shirley's 18:25 |
| 64:16,23 71:23 | Rubin 12:6 | seven-fifty | 22:6 28:22 |
| 89:6 | Ruffin 12:6 | 54:13,14 | 30:1 34:7 |
| retain 12:8 | rule 103:24 | Seventeen 73:16 | 35:11 40:17,20 |
| retaining 13:5, | 104:2 109:24 | share 26:9 | 43:13 44:20 |
| 14 | rules 7:20 | 40:19 49:2 | 48:24 50:4 |
| returned 100:12 | ruling 93:5,9 | 63:11 | 51:1,7 56:19 |
| reverse 14:8,9 | 95:10 | shares 20:21 | 58:6 60:10,19 |
| review 13:6 | rulings 104:23 | 21:21 23:6 | 65:8 68:11 |
| 74:20 94:20 | | 51:14 80:18 | 76:16 77:10,14 |
| revocable 27:7 | | sharp 55:20 | 97:24 98:1,6 |
| 28:2 29:16 | | 72:25 | 106:13 110:17 |
| 75:4 | | sheet 12:14 | short 27:25 |
| revoked 9:13,23 | sale 53:16 | 52:16 53:8 | shorter 31:2 |
| robert 10:21,23 | save 52:7 | Sheriff 96:2,5, | shorthand 28:20 |
| 11:19 82:5 | scale 55:11 | 21 | 51:4 |
| 91:6 | schedule 25:10 | Sheriff's 95:15 | shotgun 110:24 |
| role 40:23 | scheme 47:13,18 | Shirley 8:25 | show 17:1 22:9 |
| 44:4,7 | Scott 75:22 | 9:1,2,14 | 36:2 |
| room 59:14 | 76:4 | 11:20,23 12:8, | showed 32:25 |
| room's 82:3 | seat 100:10,11, | 16,18 13:4,14 | shows 18:19 |
| Rose 5:5,6,9 | 13 | 14:19,21 16:8, | 49:20 |
| 8:10,21 9:5,8 | seated 24:20 | 12 17:17 18:10 | Si 13:13 18:10 |
| 10:2,20 11:2, | SEC 91:20 92:2 | 19:15 21:22 | 28:19,22 37:11 |
| 4,7,10,14,17 | 94:20 | 23:16 24:9 | 40:3 42:14 |
| 12:20 13:3,22 | secretary 66:13 | 25:1 26:10 | 43:13,23 45:3 |
| 14:6 17:7,15 | seeking 99:5,7, | 27:13 28:1,9, | 46:25 47:7 |
| 18:1 19:10,20 | 15,18 101:1,19 | 15,18 30:22 | 54:21 58:25 |
| 20:3 24:24 | 102:4,6 | 31:2,11,23 | 60:20 64:14 |
| 26:21 27:4 | seeks 9:15 | 32:1,18 33:3, | 73:2 98:3 |
| 34:10,18 39:1, | self-proving | 17,25 35:22 | Si's 34:5 |
| 9 41:21 42:5,6 | 70:21 | 36:4,11,13,22, | 48:19,24 50:16 |

| | | | |
|--|---|--|---|
| 71:13 76:17 siblings 21:17 63:15 103:13 107:4 sic 104:3 sicker 42:18 side 5:14 8:6,8 49:16 58:11 82:3 99:6 102:6 sign 37:1 38:17 61:1 67:14 69:13 91:24 108:25 109:16 signature 22:20 35:14 36:8,11 65:25 66:3 70:15,23 107:6 signature's 108:4 signatures 34:20 35:16 103:22,23 signed 26:5 27:12,22 29:4 32:19 36:25 37:13,23 38:23 39:24 62:17 63:4 65:17 70:17,24 71:10,16,19,25 72:3 73:8 74:15 77:14 78:13 96:9 107:1,13,18,19 108:1,3,21,23 109:4 111:21 signer 31:25 significant 56:6 significantly 52:25 signing 35:15 39:21 similar 30:10 37:1,2 Simon 8:16 9:17 10:4 11:20,23 12:8,16,18 13:4 14:19,21 16:2,8,12,20, 21 17:17 19:15 | 21:22 22:5,14 23:2,16 24:25 25:15 26:9 27:13 28:1,9, 20,23 29:9 30:22 31:4,12, 14,21 32:18 33:6,17,25 35:7 37:1,17, 19 40:1,20,23 41:24 42:7,23 43:25 44:2,5, 8,11,12 45:10 46:6 47:4 50:6,12 51:12 52:2,9 53:20 54:1 55:19,22 56:13 57:15 59:10,12,14,20 60:8 63:10,16, 19 64:1 65:25 67:10 68:1 69:18,20 70:16 71:23 72:19,24 73:4,25 74:12, 15 77:15 78:13 80:9,11,22,23 81:13 82:9 87:16,20,25 88:4,8,13,18 89:1,5,8,13, 17,19,25 90:4, 11 91:12 106:8,9,16 107:3,7,18,24 108:3 109:1,2, 15 110:10 Simon's 9:24 18:24 22:5,23 27:15 29:7,22 31:5 37:5,6,8 43:20 51:16 65:12 75:1 107:11 108:22 110:7,9,19 simple 28:2 simpler 77:21 SIPC 47:5,10,20 48:4,15 sir 5:15 6:14 7:15 8:11 9:8 16:16 24:22 42:5 58:14 | 73:16 93:4,16 98:24 101:23 104:8 sisters 33:23 45:8 98:4 107:1 sit 24:17 100:4,5 sits 34:23 sitting 24:17 37:3 situation 44:16 skipped 65:4 slander 79:4 slighted 56:1 small 54:17 sold 53:13 78:24 sole 28:10 42:24 43:5,20, 21 44:17 75:4 somebody's 101:7 son 31:24 32:7 51:12 sophisticated 25:10 sort 27:19 30:10 44:11 46:14 48:18 64:20 sound 24:10 74:1 Spallina 10:21, 23 11:19,21 15:22 54:4 82:5,7 91:6,8 95:14 105:4,12 Spallina's 61:15 speaks 19:5 special 30:1 32:9 65:7 80:9,11,13,16, 20,23 specific 32:2 38:6 39:19 specifically 39:14,17 57:15 speed 50:3 | spend 44:12 split 19:6 20:5 spoke 45:3 spouse 30:13 44:17 spouses 30:4 St 53:17 stack 14:10 stamp 13:20 16:17 68:6 stand 58:13 standard 13:16 29:14 47:2,3 108:24 Stanford 47:8,9 Stansbury 31:22 51:13 star 48:17 start 14:11 29:9 91:5 started 72:16 starting 57:20 starts 29:25 state 11:18 95:22 107:24 stated 12:24 14:2 17:11 19:24 70:7 107:3 statement 22:15 68:17,22,25 69:2,9 109:2, 16 110:13 stating 108:5 status 46:17 75:25 stay 7:3 Stephen 15:25 16:7 stock 53:4 80:18 stood 46:14 stop 6:13 7:12 19:8 41:18 96:23 104:7,22 story 52:25 stress 63:7 strictly 82:4 strike 44:10 63:25 71:9 |
|--|---|--|---|

| | | | |
|------------------------|------------------------|------------------------|------------------------|
| 80:10 | sway 60:4 | terms 9:16 | 56:3 58:8,10, |
| structure 21:24 | sworn 10:24 | 20:22 27:19,24 | 14,17 67:8 |
| struggling | 69:3 109:2,16 | 77:13 102:7 | 72:1,19,24 |
| 55:22 | system 70:1 | Tescher 12:6 | 75:11 76:8 |
| subject 20:22 | | 15:22 23:10 | 82:4 83:13,17, |
| 65:20 99:22 | T | 74:22,25 | 21 85:1,6,11 |
| submit 100:17 | | 105:4,12 | 86:16,21 87:1 |
| 105:12 106:7 | Tab 19:11 | Tescher's 13:12 | 88:7,12,17 |
| submitted | 101:18 | 22:25 51:19 | 89:19,24 90:8 |
| 103:16 105:2 | table 5:17,21 | 54:6 | 96:17 104:24 |
| subsequent 81:8 | 100:6 | testamentary | 106:9,15 |
| successor 5:7 | talk 6:15 | 8:22 9:10 | 108:19 |
| 28:23 29:6,20 | 15:10,11 29:9 | 29:12 37:24 | times 7:21 |
| 31:4,9,19,20, | 32:21,22 33:1 | 38:24 39:23 | 25:24 81:15 |
| 22,24 43:5 | 40:2 56:14 | 41:5,20 44:2 | 94:2 96:4 |
| 74:25 75:9 | 57:20,22 58:5 | 45:11 63:11 | title 29:16 |
| 78:23 | 59:20 | 67:15 77:2 | titled 101:14 |
| Sue 18:12 | talked 52:16 | 80:12 | titles 111:16 |
| sued 5:25 6:3, | 54:4 55:10 | testified 10:25 | today 8:9,17,20 |
| 9,11 | 56:17 | 61:16 102:22 | 9:20 34:23 |
| suffered 53:6 | talking 20:24 | 111:11 | 36:1 51:24 |
| suggested 57:3 | 78:11 79:3 | testimony 9:22 | 76:6,8 82:10 |
| suggesting | talks 19:4 | 91:9 94:25 | 91:8,15 109:3, |
| 101:2 | 20:17 | theoretically | 24 111:4,12 |
| summary 26:17 | tangible 18:22 | 21:11 29:11 | today's 14:7 |
| 46:14 63:24 | 19:5 20:10 | thing 64:20 | told 51:18 |
| 64:21 | 28:7 42:24 | 78:21 99:14 | 60:5,20 100:3 |
| superseded 9:23 | 43:14 | things 41:8 | top 20:18 28:18 |
| supporting 56:5 | tax 43:22 49:15 | 42:8 43:11 | 47:5 |
| supposed 24:17 | taxes 43:18,19, | 49:12 53:4 | totaled 49:12, |
| 75:15 80:23 | 21 | 60:2 78:17 | 13 |
| supposedly 6:1 | technically | 79:21 101:9 | totals 23:5 |
| 47:11 | 39:15 | 104:18,19 | Traci 36:14,22 |
| surrogate 27:9 | Ted 5:6 18:12 | 110:23 111:3 | 84:12,14,16, |
| survive 65:9 | 28:23 29:6 | thinking 56:18 | 20,22 |
| survived 28:9 | 31:5,8,24 32:6 | thought 49:1 | traded 50:12,18 |
| 42:23 | 33:18 43:25 | 50:19 53:20 | trading 91:25 |
| surviving 44:17 | 44:2,4 45:7 | 55:8 59:23 | 93:22 |
| survivor 18:10, | 51:12 66:12,14 | 60:2,11 81:5,9 | transmittal |
| 11,14 20:9 | 75:8,10 98:13 | 95:9 | 77:18 |
| 21:8,16 28:8 | Ted's 32:7 | tightly 110:25 | transmitting |
| 30:12 33:18 | 77:25 | til 109:17 | 26:15 |
| sustain 69:3 | telephone 72:18 | 110:12 | travel 37:11 |
| 80:6 94:8 | telling 91:2 | time 8:5,18 | treated 102:5 |
| 110:3 | 110:25 | 10:17 12:1 | tree 19:13 32:5 |
| sustained 69:9 | ten 57:8 58:16 | 13:14 19:12 | trial 5:10 6:22 |
| 91:22 92:17 | 59:22 60:10 | 22:7 25:11,20 | 8:2,4 104:16, |
| 93:24 94:22 | 77:15 80:18 | 26:2 32:15 | 17 |
| 96:7 97:18 | tendency 53:10 | 36:14,25 40:20 | trials 7:20 |
| 98:17 104:5,11 | term 43:8 | 41:1 44:13,19 | Tripp 75:22 |
| 105:10 110:15 | | 46:15 49:1,19, | 76:4 |
| | | 23 52:7 53:6 | |

| | | | |
|--|--|--|--|
| true 21:13 26:18 71:16 76:24 110:13 | Typically 30:12 | values 53:7,8 | wished 25:3 |
| trust 6:3 9:1, 3,18,21,25 10:5 20:19,22 27:7 28:2,13 29:10,16,18,22 30:2,3 31:13, 23 33:3 35:11, 19,23,25 36:5 37:2,19,20 38:2,24 40:17, 18 43:3 48:24 51:1 57:13 61:12,22,24 64:16,23 65:8 69:12 71:23 73:11 74:15 75:1,4,9,12 78:24 80:18 84:8 85:2 86:2 87:3 89:6,9,12 90:6 95:23 97:8,24 98:1, 2,7,8,11 99:8 101:15 110:18, 20 111:19 | <hr/> U <hr/> | verbal 12:23 14:1 | wishes 97:12,15 |
| trustee 5:7 6:3,12 29:20 31:9,19,20,22 43:5 75:4,9 78:24 111:18, 24 | ultimately 57:6 65:20 | vice 6:25 | withdraw 38:11, 15 |
| trustees 75:1 | Um-hum 33:8 51:10 | View 75:25 | withdrawing 93:11 |
| trusts 16:24 20:7 27:7 29:24 32:13,15 64:25 80:16 98:10 | unable 28:24 | virtually 31:3 | withdrawn 100:13 |
| truthfulness 95:1 | uncommon 25:8 53:3 | visit 41:1 | withdrew 91:19 |
| turn 14:14 19:9,11 24:13 34:19 35:21,22 68:4,5 70:12 82:17 | unconfused 104:17 | volition 73:1 | witnesses 36:10 70:16 84:12 |
| turning 8:1 | underline 67:2, 3 | <hr/> W <hr/> | wives 100:5 |
| typewritten 68:13 69:16 | underlying 63:3 | wait 80:5 | word 53:22 |
| typical 18:13 32:24 | underneath 50:4 51:23 | waiting 46:22, 23 | words 27:6 |
| | understand 24:21 77:11 88:9,13,18 89:21 90:1,5 | waiver 61:1 62:13,15 103:12 107:1, 7,10,18,19,23 108:21 109:14 | work 7:18 22:2 36:19 91:12 |
| | understanding 83:18,23 85:3 | waivers 46:23 47:1 60:21 62:20 105:13 107:4,12,21,25 108:2,5,7,23 109:3,5,7,17 110:7,10 | worked 66:12 |
| | understood 83:14 85:8,13 86:18,23 87:3 | Walker 40:11 86:7,10,12 | working 12:2 110:23 |
| | unduly 84:1 85:17 87:8 89:1 90:10 | wanted 10:10 13:6 17:24 21:23,25 31:21,23 32:23 37:10 55:24 56:1 57:7,22 59:20,22 60:1 | works 94:6 |
| | unequal 20:22 | waste 8:6 10:16 | world 53:3 |
| | unlike 68:10 69:12 | wasting 44:13 | worth 22:5,6, 15,23 25:15 51:18,19,21,25 52:25 53:5,11 |
| | untimely 7:25 | watches 101:10 | write 21:14 |
| | unusual 44:16 | ways 57:4 104:15 | wrong 92:22 |
| | <hr/> V <hr/> | wealth 60:10 | wrote 23:10 49:15 |
| | vague 77:9 | Weiss 5:10 | |
| | Vaguely 76:2 | well-being 101:11 | <hr/> Y <hr/> |
| | valid 8:22 9:11,15 10:1,5 35:25 37:15,21 71:19 77:2 79:23 80:1,3,5 101:2 110:18, 20 | When's 96:17 | Yates 76:11 95:24 96:10 98:13,20 |
| | validated 9:20 | wife 5:18 32:7 | year 43:17 56:6 |
| | validity 41:19 79:1,12 82:10 109:25 111:10 | wife's 59:21 | years 47:17 55:12,14,16,17 |
| | | wills 16:23,25 17:5,6 27:6,9 28:4 30:11 | |

1 IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
2 IN AND FOR PALM BEACH COUNTY, FLORIDA
3 CASE No. 502014CP003698XXXXNB

4 TED BERNSTEIN,

5 Plaintiff,

6 -vs-

7 DONALD R. TESCHER, ELIOT IVAN BERNSTEIN,
8 LISA SUE FRIEDSTEIN, JILL MARLA IANTONI, et al.,

9 Defendants.

10 TRIAL BEFORE THE HONORABLE
11 JOHN L. PHILLIPS
12 VOLUME 2 PAGES 117 - 260

13 Tuesday, December 15, 2015
14 North County Courthouse
15 Palm Beach Gardens, Florida 33410
16 9:43 a.m. - 4:48 p.m.

17 Reported By:
18 Shirley D. King, RPR, FPR
19 Notary Public, State of Florida
20 West Palm Beach Office Job #1358198- VOL 2
21
22
23
24
25

1 APPEARANCES:

2 On behalf of the Plaintiff:

3 ALAN ROSE, ESQUIRE
4 GREGORY WEISS, ESQUIRE
5 MRACHEK FITZGERALD ROSE KONOPKA
6 THOMAS & WEISS, P.A.
7 505 South Flagler Drive, Suite 600
8 West Palm Beach, Florida 33401
9 Phone: 561.655.2250
10 E-mail: Arose@mrachek-law.com

11 On behalf of the Defendant:

12 ELIOT IVAN BERNSTEIN, PRO SE, ESQUIRE
13 2753 NW 34th Street
14 Boca Raton, Florida 33434
15 Phone: 561.245.8588
16 E-mail: Iviewit@iviewit.tv

17 On behalf of Molly Simon, Alexandra, Eric & Michael
18 Bernstein:

19 JOHN P. MORRISSEY, ESQUIRE
20 LAW OFFICE OF JOHN P. MORRISSEY, P.A.
21 330 Clematis Street
22 Suite 213
23 West Palm Beach, Florida
24 Phone: 561.833.0866
25 E-mail: John@jmorrisseylaw.com

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

- - -
I N D E X
- - -

| WITNESS: | DIRECT | CROSS | REDIRECT | RECROSS |
|-------------------|--------|-------|----------|---------|
| BY MR. BERNSTEIN: | | 120 | | |
| BY MR. ROSE: | | | 188 | |
| BY MR. BERNSTEIN: | 194 | | | |
| TED BERNSTEIN | | | | |
| BY MR. BERNSTEIN: | 206 | | | |
| BY MR. ROSE: | | 213 | | |
| BY MR. BERNSTEIN: | | | 217 | |

- - -
E X H I B I T S
- - -

| NUMBER | DESCRIPTION | PAGE |
|-------------------|------------------------|------|
| DEFENDANT'S EX. 2 | LETTER | 161 |
| DEFENDANT'S EX. 3 | PETITION FOR DISCHARGE | 198 |

| NUMBER | DESCRIPTION | PAGE |
|-------------------|--|------|
| PLAINTIFF'S EX. 6 | FIRST AMENDMENT TO SHIRLEY BERNSTEIN'S TRUST | 187 |

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

P R O C E E D I N G S

- - -

(Proceedings continued from Volume 1.)

THE COURT: We're ready to resume. Our witness is still under oath.

Is there any further cross-examination?

MR. BERNSTEIN: Yes.

THE COURT: Okay.

CROSS (ROBERT SPALLINA) (Cont'd)

BY MR. BERNSTEIN:

Q. Mr. Spallina, just to clarify --

MR. ROSE: Your Honor, can he just stand at the podium?

THE COURT: Okay. Well, use the podium. Your microphone will help explain your questions. But you can walk up there. If you need to show the witness a document or something, that's fine.

MR. BERNSTEIN: Okay.

BY MR. BERNSTEIN:

Q. Did you -- are you a member of the Florida Bar?

A. Yes, I am.

Q. Currently?

A. Yes, I am.

Q. Okay. You said before you surrendered your

1 license.

2 A. I said I withdrew from my firm. It wasn't
3 that I was not practicing.

4 Q. Okay. In the chain of custody of these
5 documents, you stated that there were three copies made?

6 A. Yes.

7 Q. Do you have those three original trust copies
8 here?

9 A. I do not.

10 MR. BERNSTEIN: Does anybody?

11 THE COURT: Do you have any other questions of
12 the witness?

13 MR. BERNSTEIN: Yeah. I wanted to ask him
14 some questions on the original documents.

15 THE COURT: Okay. Keep going.

16 BY MR. BERNSTEIN:

17 Q. Okay. So the original documents aren't in the
18 court?

19 A. I don't have them.

20 Q. Your firm is not in possession of any of the
21 original documents?

22 A. I'm not sure. I'm not at the firm anymore.

23 Q. When you left the firm, were there documents
24 still at the firm?

25 A. Yes, there were.

1 Q. Were you ordered by the court to turn those
2 documents over to the curator, Benjamin Brown?

3 A. I don't recall.

4 MR. ROSE: Objection. Can he clarify the
5 question, which documents? Because I believe the
6 curator was for the estate, and the original will
7 was already in file, and the curator would have no
8 interest in the trust --

9 THE COURT: Which documents? When you say
10 "those documents," which ones are you referring to?

11 MR. BERNSTEIN: Any of the trusts and estate
12 documents.

13 THE COURT: Okay. That's been clarified.
14 You can answer, if you can.

15 THE WITNESS: I believe that he was given -- I
16 believe all the documents were copied by
17 Mr. Pollock's office, and that he was given some
18 type of zip drive with everything. I'm not sure,
19 though. I couldn't --

20 BY MR. BERNSTEIN:

21 Q. Did the zip drive contain the original
22 documents?

23 A. Did not. I believe the original documents
24 came back to our office. Having said that, we would
25 only have -- when we made and had the client execute

1 three documents, two originals of those documents would
2 remain with the client, and then we would keep one
3 original in our file, except -- including, most of the
4 time, the original will, which we put in our safe
5 deposit box. So we would have one original of every
6 document that they had executed, including the original
7 will, and they would keep two originals of everything,
8 except for the will, which we would give them conformed
9 copies of, because there was only one original will.

10 Q. Okay. I asked a specific question. Did your
11 firm, after the court order of Martin Colin, retain
12 documents, original documents?

13 MR. ROSE: Objection. Sorry. I should have
14 let him finish.

15 MR. BERNSTEIN: -- original documents?

16 THE WITNESS: I believe --

17 MR. ROSE: Relevance and misstates the --
18 there's no such order.

19 THE COURT: Well, the question is, Did your
20 firm retain the original documents?

21 Is that the question?

22 MR. BERNSTEIN: Yes, sir.

23 THE COURT: Overruled.

24 Answer, please.

25 THE WITNESS: I believe we had original

1 documents.

2 BY MR. BERNSTEIN:

3 Q. After the date you were court ordered to
4 produce them to the curator?

5 MR. ROSE: Object -- that's the part I object
6 to.

7 THE COURT: Sustained.

8 MR. BERNSTEIN: Okay.

9 BY MR. BERNSTEIN:

10 Q. To your knowledge -- so, to your knowledge,
11 the documents can't all be here since they may be at
12 your firm today?

13 A. I don't practice at the firm anymore, so I'm
14 not sure where the documents are.

15 Q. Okay. And you said you made copies of all the
16 documents that you turned over to the curator? Did you
17 turn over any original documents as ordered by the
18 court?

19 MR. ROSE: Objection. Same objection.
20 There's no court order requiring an original
21 document be turned over.

22 THE COURT: What order are you referring to?

23 MR. BERNSTEIN: Judge Colin ordered when they
24 resigned due to the fraudulent alteration of the
25 documents that they turn over --

1 THE COURT: I just said, what order are you
2 referring to?

3 MR. BERNSTEIN: It's an order Judge Colin
4 ordered.

5 THE COURT: All right. Well, produce that
6 order so I can see it, because Judge Colton's [sic]
7 been retired for six or seven years.

8 MR. BERNSTEIN: Okay. I don't have it with
9 me, but...

10 THE COURT: Well, Judge Colton's a retired
11 judge. He may have served in some other capacity,
12 but he doesn't enter orders, unless he's sitting as
13 a replacement judge. And that's why I'll need to
14 see the order you're talking about, so I'll know if
15 he's doing that. Okay. Thanks. Next question.

16 BY MR. BERNSTEIN:

17 Q. Okay. Has anyone, to the best of your
18 knowledge, seen the originals while you were in custody
19 of them?

20 A. Yes.

21 Q. Okay. Who?

22 A. I believe Ken Pollock's firm was -- Ken
23 Pollock's firm was the firm that took the documents for
24 purposes of copying them.

25 Q. Did anybody ask you, refer copies to inspect

1 the documents?

2 A. Other than Ken Pollock's office, I don't
3 recall.

4 Q. Did I ask you?

5 A. Perhaps you did.

6 MR. BERNSTEIN: Okay. I'd like to go through
7 some of the documents with him real quick. But I
8 don't have my wife to hand me the documents, so
9 it's going to take me incredibly long. These are
10 just copies I have. Can I approach him?

11 THE COURT: All approaches are okay.

12 MR. BERNSTEIN: Okay.

13 BY MR. BERNSTEIN:

14 Q. Are these the documents that you drafted,
15 Shirley's will and Shirley's trust agreement?

16 MR. ROSE: Your Honor, could I see what he's
17 handing the witness before he hands it to them?

18 THE COURT: Say again.

19 MR. ROSE: I don't know what he's handing the
20 witness.

21 THE COURT: All right. You'll need to show
22 the other side the documents that you're handing to
23 the witness so that they're looking at the same
24 thing you're talking about.

25 MR. ROSE: These are not accurate. These are

1 multiple things stapled together. I'd object to
2 the exhibit -- or the use of it.

3 THE COURT: Ma'am, if you come back up past
4 that bar one more time, you'll be in contempt of
5 court. I don't want you to be in contempt of
6 court. Do you understand my instruction?

7 MRS. BERNSTEIN: Yes.

8 THE COURT: Thank you.

9 MR. ROSE: I don't know if that's filed with
10 the court and I don't know that these are genuine.
11 And the second document has attached to it --

12 THE COURT: Well, you don't need to tell me
13 what the papers are. The thing that the person
14 who's asking the questions has to do is show you
15 the documents that he's going to show the witness.

16 MR. ROSE: Okay.

17 THE COURT: Then I intend to move forward. I
18 expect he'll show the witness the documents and
19 then he'll probably ask a question.

20 Am I right?

21 MR. BERNSTEIN: Do you want to see those?

22 THE COURT: Nope.

23 So then if there's an objection to the
24 documents coming in, if at some time they're
25 proffered as an exhibit, then I'll take the

1 objection.

2 Have you seen the documents that are in his
3 hand that are going to be shown to the witness?

4 MR. ROSE: Oh, yes, sir. I'm sorry.

5 THE COURT: Okay. That's fine.

6 Proceed.

7 BY MR. BERNSTEIN:

8 Q. Okay. Can you look at the initials on the
9 pages of that document and describe them -- describe
10 what they look like?

11 A. The initials?

12 Q. Yes.

13 A. On each page, there's an SB --

14 Q. Okay.

15 A. -- for your mother's initials.

16 Q. And it's clearly SB?

17 A. Is it clearly SB?

18 Q. Yeah. Looks like SB?

19 A. Yes, it's clearly SB.

20 Q. Okay. And on this will signed on the same
21 date by my mother in your presence, is that my mom's
22 initials? And does it look like an SB? Do they even
23 look similar?

24 A. Well, your mother was asked to sign these
25 documents.

1 Q. Okay.

2 A. When we execute a will, unlike the bottom of
3 the trust agreement where we initial the trust pages, on
4 the bottom of the will, she's supposed to sign her
5 signature. And which she has done at the bottom of each
6 page, is sign her signature consistent with the
7 signature page that she signed.

8 Q. So what you're saying is, she signed this
9 document, that she initialed this document?

10 A. Right. We only ask that for purposes of the
11 trust that they initial each page. For purposes of the
12 will, that they sign each page.

13 So this is the signature that she has -- this
14 is her signature on the bottom of this document.

15 Q. Well, there's no line saying that's her
16 signature, correct? There would be --

17 A. But that was our practice.

18 Q. Okay.

19 A. That was our practice, to have --

20 Q. Okay. You testified to my dad's state of mind
21 that he was fine.

22 Si was usual when you saw him from May through
23 his death; is that correct?

24 A. Are you speaking about 2012?

25 Q. Yes.

1 A. Correct.

2 Q. Are you aware of any medical problems my
3 father was having at that time?

4 A. No, I'm not.

5 Q. Are you aware of any stress he was under?

6 A. No, I was not.

7 Q. Mr. Rose had you read into or -- read into the
8 record a letter that I wrote with my waiver, saying,
9 anything -- I haven't seen the dispositive documents,
10 but I'll do anything, 'cause my dad is under stress, to
11 relieve him of his stress.

12 Do you know what stress I was referring to?

13 A. I don't.

14 Q. Were you in the May meeting with my father,
15 May 10, 2012?

16 A. I was -- are you talking about on the
17 telephone call?

18 Q. Correct.

19 A. I wasn't together with him.

20 Q. Okay. Were you together with anybody on that
21 call?

22 A. No. I was on -- in my -- my office phone.

23 Q. Okay. And at that meeting, did Si state that
24 he was having this meeting to end disputes among certain
25 parties and himself?

1 A. I don't recall.

2 Q. Were there any disputes you were aware of?

3 A. The only thing that he ever brought to my
4 attention was the letter that Pam had sent him.

5 Q. And what did Pam's letter state, basically?

6 A. I can't remember it. I mean, it was the
7 letter that he showed me in February of 2012. But the
8 general gist of that letter was that she was unhappy
9 about not being part of their estates.

10 Q. Just her or her and her children?

11 A. She may have spoke to her children.

12 Q. Was there anybody else who was left out of the
13 wills and trusts?

14 A. That was causing him stress?

15 Q. No. Just anybody at this point that was left
16 out, other than Pam.

17 A. Yes. Ted.

18 Q. And are you aware of anything Ted and Pam were
19 doing to force upon Si changes?

20 A. Not to my knowledge, other than the letter
21 that Pam had sent to him just expressing her
22 dissatisfaction.

23 Q. You said you talked to her attorney?

24 A. I talked to her attorney.

25 Q. And you told her attorney, while Si was

1 living, that she had been cut out of the estates and
2 trusts with her brother Ted?

3 A. I don't recall the conversation with the
4 attorney, but, ultimately, Si gave me authorization to
5 send documents to the attorney. So we may have had a
6 conversation about it.

7 Q. So you're stating that Si told you to -- he
8 authorized you to tell his daughter that she had been
9 cut out of the estates and trusts?

10 A. He authorized me to send documents to the
11 attorney.

12 Q. Did you send those documents to the attorney?

13 A. I believe we did, yes.

14 Q. Okay. Was Ted and his lineal descendants
15 disinherited?

16 A. They were, under the original documents.

17 Q. Well, under Shirley's document that's
18 currently theirs, Ted considered predeceased for all
19 purposes of disposition according to the language in the
20 document you drafted?

21 A. To the extent that assets passed to him under
22 the trust.

23 Q. Well, the document says, for all purposes of
24 disposition, Ted Bernstein is considered predeceased,
25 correct?

1 A. You'll have to state the question again.

2 Q. Does the document you drafted say that Ted
3 Bernstein is both considered predeceased under the
4 beneficiary definition with his lineal descendants and
5 considered predeceased for all purposes of dispositions
6 of the trust?

7 MR. ROSE: Objection. Best evidence. The
8 document's in evidence.

9 THE COURT: Sustained.

10 MR. BERNSTEIN: I'll have him read it.

11 THE COURT: Well, I mean, I can read it. It's
12 in evidence. So when it comes time, just point me
13 to the part that you want me to read, and I'll read
14 it. But I don't need to have the witness read it
15 to me. That's of no benefit.

16 MR. ROSE: Your Honor, and for the record,
17 those issues are part of the other counts and
18 aren't being tried today.

19 MR. BERNSTEIN: Page 7, Your Honor, of the
20 Shirley trust.

21 THE COURT: What exhibit number is that?

22 MR. BERNSTEIN: You want me to enter it as my
23 exhibit?

24 THE WITNESS: Plaintiff's Exhibit 2, Your
25 Honor.

1 THE COURT: All right. Let me go to page 7 of
2 Plaintiff's 2.

3 MR. BERNSTEIN: Can I enter this one into the
4 record?

5 THE COURT: Is it the same as the one I
6 already have?

7 MR. BERNSTEIN: According to Alan, it's not.

8 THE COURT: According to who?

9 MR. BERNSTEIN: Mr. Rose.

10 THE COURT: All right. Well, if it comes time
11 for you to put any exhibits in on your case, if
12 that's not a duplicate of an exhibit that's already
13 in, you're welcome to put it into evidence. But
14 this is not the time when you put evidence in.
15 This is the time when you're cross-examining the
16 plaintiff's witness.

17 MR. BERNSTEIN: Okay.

18 THE COURT: So on Page 7 of Plaintiff's 2, you
19 can go on with your questioning.

20 BY MR. BERNSTEIN:

21 Q. Are you there and are we on the same page?

22 Yes?

23 A. Yes, I am.

24 Q. Okay. In the definition of -- under E1, do
25 you see where it starts "notwithstanding the foregoing"?

1 A. Yes.

2 Q. Okay. Can you read that?

3 A. "Notwithstanding the foregoing, as I have
4 adequately provided for them during my lifetime, for
5 purposes of the dispositions made under this trust to my
6 children, Ted S. Bernstein and Pamela B. Simon and their
7 respective lineal descendants shall be deemed to have
8 predeceased the survivor of my spouse and me, provided,
9 however, if my children Eliot Bernstein, Jill Iantoni
10 and" --

11 Q. Okay, that's -- you can stop there.

12 Would you consider making distributions a
13 disposition under the trust?

14 A. It would it depend on other factors.

15 Q. What factors?

16 MR. ROSE: Objection. Relevancy.

17 THE COURT: Sustained.

18 BY MR. BERNSTEIN:

19 Q. Is a validity hearing a disposition of the
20 trust?

21 MR. ROSE: Objection. Calls for a legal
22 conclusion.

23 THE COURT: Sustained.

24 MR. BERNSTEIN: Well, he drafted the document,
25 so I'm trying to get what his meaning was when he

1 put it in. And it's relevant to the hearing today.

2 THE COURT: I ruled it's not relevant.

3 MR. BERNSTEIN: Oh, you did rule that?

4 THE COURT: Do you have another question of
5 the witness? Or we're moving on.

6 MR. BERNSTEIN: Okay.

7 BY MR. BERNSTEIN:

8 Q. So for purposes of disposition, Ted, Pam and
9 her lineal descendants are considered predeceased,
10 correct?

11 MR. ROSE: Objection. Relevancy, cumulative
12 and best evidence.

13 THE COURT: Sustained.

14 The document says what it says.

15 MR. BERNSTEIN: Okay.

16 THE COURT: When you ask a witness if it says
17 what it says, I don't pay any attention to his
18 answer, because I'm reading what it says.

19 MR. BERNSTEIN: Okay.

20 BY MR. BERNSTEIN:

21 Q. Did you produce a fraudulent copy of the
22 Shirley trust agreement?

23 A. No, I did not.

24 Q. So when you sent to Christine Yates this trust
25 agreement with the attached amendment that you've

1 already admitted you fraudulently altered, was that
2 producing a not valid copy of the trust that was
3 distributed to a party?

4 A. We've already talked about the amendment was
5 not a valid amendment.

6 Q. No, I'm asking, did you create a not valid
7 trust of my mother's and distribute it to Christine
8 Yates, my children's attorney?

9 MR. ROSE: Objection. Cumulative. He's
10 covered this.

11 MR. BERNSTEIN: Well, it has to go to the
12 validity, Your Honor, because --

13 THE COURT: The question I'm figuring out is,
14 have we already covered this?

15 MR. BERNSTEIN: We touched on a piece of it.
16 The more important part --

17 THE COURT: Okay. Then I'll let you reask
18 your question to cover something that we've not
19 already covered.

20 MR. BERNSTEIN: Okay. And we covered that
21 the --

22 THE COURT: You don't have to remind me.

23 MR. BERNSTEIN: Oh, okay.

24 THE COURT: Listen, see, this -- look at this.
25 I take notes. I write stuff down. Now, a lot of

1 times, if you see me not writing and I'm doodling,
2 that means you're not scoring any points.

3 MR. BERNSTEIN: You've got to show me --

4 THE COURT: The point is, I should be writing
5 notes. So that means you're not doing any good.

6 MR. BERNSTEIN: Gotcha.

7 THE COURT: So, please, the reason I write it
8 is so we don't have to repeat things.

9 BY MR. BERNSTEIN:

10 Q. Okay. You've already stated that you created
11 a fraudulent amendment.

12 Did you attach it to a Shirley trust document?

13 A. No. We included the amendment with the
14 documents that we transmitted to her.

15 Q. So it was included as part of the Shirley
16 trust document as an amendment, correct?

17 A. It was included as an amendment.

18 Q. To the Shirley trust document.

19 Thereby, you created a fraudulent copy, a not
20 valid copy of the Shirley trust, correct?

21 MR. ROSE: Objection. Argumentative.

22 Cumulative.

23 THE COURT: Overruled.

24 You can answer. Did that create a fraudulent
25 version of the trust?

1 THE WITNESS: It could have, yes, Your Honor.

2 BY MR. BERNSTEIN:

3 Q. Can you explain why it couldn't have?

4 A. Because Si ultimately exercised his power of
5 appointment, which was broader than the definitional
6 provision in the document.

7 Q. That's not my question. I'll just say it was
8 asked and not answered.

9 Okay. So there are not validly -- not valid
10 Shirley trust agreements in circulation, correct?

11 A. That's not true.

12 Q. Well, the Shirley trust agreement you said
13 sent to Christine Yates you've just stated was invalidly
14 produced.

15 A. To Christine Yates.

16 Q. Yeah, okay. So I said "in circulation."

17 Is Christine Yates out of circulation?

18 A. I don't know what Christine Yates did with the
19 documents.

20 Q. Well, I got a copy, so they're even more in
21 circulation.

22 So my point being, you sent from your law firm
23 fraudulent -- a non-valid copy of the document --

24 A. Which document?

25 Q. -- the Shirley trust and her amendment to

1 Christine Yates, right?

2 MR. ROSE: Objection. Cumulative.

3 THE COURT: Sustained.

4 MR. BERNSTEIN: Okay. We'll move on from
5 that.

6 BY MR. BERNSTEIN:

7 Q. Would you know about when you did that
8 fraudulent alteration of the document?

9 A. January 2013.

10 Q. And you were a fiduciary -- or you were
11 counsel to the alleged fiduciary, Ted Bernstein, of the
12 Shirley Bernstein trust, correct?

13 A. Yes, we were.

14 Q. And you were counsel to Ted Bernstein as the
15 alleged personal representative of Shirley's estate?

16 A. Yes, we were.

17 Q. And as Ted's counsel in the Shirley trust, can
18 you describe what the not valid trust agreement that was
19 sent to Ms. Yates did to alter the beneficiaries of the
20 document?

21 MR. ROSE: Objection. Cumulative.

22 THE COURT: Overruled.

23 What alterations did that make to the
24 beneficiaries?

25 THE WITNESS: It didn't make any alterations

1 to the beneficiaries. The document's not a valid
2 document and so it couldn't have made any changes
3 to the estate planning.

4 BY MR. BERNSTEIN:

5 Q. Okay. But what did it intend to do?

6 MR. BERNSTEIN: Sorry. Excuse me, Your Honor.
7 What did you say?

8 THE COURT: Next question.

9 BY MR. BERNSTEIN:

10 Q. Okay. What did it intend to do?

11 A. I answered that question earlier.

12 THE COURT: I can't let the witness object to
13 questions. That won't work.

14 THE WITNESS: I'm sorry, Your Honor. Earlier
15 you asked me the question, and I responded to you
16 that it was to carry out your father's intent and
17 the agreement that you all had made prior to his
18 death, on that telephone call, and to have a
19 document that would provide, perhaps, clarity to a
20 vague misinterpretation of your mother's document.

21 BY MR. BERNSTEIN:

22 Q. So instead of going to the court, you just
23 frauded a document to an attorney, who's representing
24 minor children in this case -- produce a fraudulent copy
25 of the trust document, making us have total trouble

1 understanding what's real and not, especially with your
2 firm's history of fraudulent and forged documents
3 submitted to the court in this case.

4 THE COURT: Okay. Thanks. You're just
5 ranting. Ranting is not allowed.

6 MR. BERNSTEIN: Sorry.

7 THE COURT: If you'd like to ask a question,
8 I'll let you do that. If I have to call you on
9 this too many more times, I'm going to assume that
10 you're done questioning the witness.

11 MR. BERNSTEIN: Okay.

12 BY MR. BERNSTEIN:

13 Q. When did you first meet my parents?

14 A. 2007.

15 Q. And how did you meet them?

16 A. I met them through someone that made a
17 referral to them to our office.

18 Q. You didn't know Ted Bernstein prior to meeting
19 Si?

20 A. I don't recall who we met first. I'm not
21 sure.

22 Q. What firm were you with at the time?

23 A. Tescher, Gutter, Chaves, Josepher, Rubin and
24 Ruffin and Forman.

25 Q. And how long were you with them?

1 A. Five-plus years.

2 Q. And where were you before that?

3 A. I was in school.

4 Q. Okay. Did you work at Sony Digital ever?

5 A. I did.

6 Q. You did. And when was that, before school or
7 after?

8 A. That was from 1994 to '96.

9 Q. So after school?

10 A. After college.

11 Q. Okay. So that was -- you just forgot about
12 that one in your history.

13 Is there any other parts of your biography I'm
14 missing?

15 MR. ROSE: Objection. Argumentative.

16 THE COURT: Sustained.

17 BY MR. BERNSTEIN:

18 Q. Can you repeat, since I'm -- there was a
19 little clarification error there. Your history, you
20 started --

21 THE COURT: That's not necessary to repeat the
22 history. Do you have a new question?

23 MR. BERNSTEIN: Well, I'm trying to get the
24 history.

25 THE COURT: I don't want him to repeat what

1 he's already said. That moves the case backwards.

2 I want to go forward. You're cavitating.

3 MR. BERNSTEIN: Okay.

4 BY MR. BERNSTEIN:

5 Q. Did the altered trust document sent to
6 Christine Yates attempt to convince Yates and others she
7 sent that document to that Ted and Pam's lineal
8 descendants were actually inside the document?

9 A. Say the question again.

10 Q. Well, we read the section where they're
11 considered predeceased, Ted and Pam and their lineal
12 descendants.

13 When you altered that amendment that you said
14 you were just doing Si's wishes postmortem by altering a
15 document, my question is, did you put language in there
16 that would have made Ted and Pam's lineal descendants
17 now beneficiaries of Shirley's trust?

18 MR. ROSE: Objection. I think it's
19 cumulative. We've covered this.

20 THE COURT: Sustained.

21 MR. BERNSTEIN: Okay.

22 BY MR. BERNSTEIN:

23 Q. Can the beneficiary of Shirley's trust be Ted,
24 Pam or their lineal descendants?

25 A. If the assets of her trust were to pass under

1 the trust, no --

2 Q. Okay.

3 A. -- under the trust.

4 Q. So in the trust language of the Shirley trust
5 document, Ted's lineal descendants and Pam's lineal
6 descendants can get no dispositions, distributions,
7 whatever you want to call it?

8 A. You have to ask the question in a different
9 way, because I answered the question. I said, if it
10 passes under the trust, that they would not inherent.
11 If.

12 Q. Okay. When Shirley died, was her trust
13 irrevocable at that point?

14 A. It was.

15 Q. Who were the beneficiaries?

16 A. Simon Bernstein.

17 Q. And who were the beneficiaries -- well, Simon
18 Bernstein wasn't a beneficiary. He was a trustee.

19 A. No, he became the beneficiary of her trust
20 when she died. He was the sole beneficiary of her trust
21 when she died.

22 Q. Okay. And then who would it go to when he
23 died?

24 MR. ROSE: Objection. Cumulative.

25 THE COURT: Sustained.

1 BY MR. BERNSTEIN:

2 Q. Okay. When Simon died, who would the benefits
3 of Shirley's trust go to?

4 MR. ROSE: Objection. Cumulative.

5 THE COURT: Are you asking him to tell you
6 what would happen if the mother died first, then
7 the father died second, and we have the trust
8 documents and the wills that are in place so far
9 that have been testified to at the trial?

10 MR. BERNSTEIN: Correct.

11 THE COURT: I already know all that stuff.

12 MR. BERNSTEIN: Well --

13 THE COURT: So what is the new question you
14 want to ask that's not cumulative?

15 MR. BERNSTEIN: Okay. Well, I'm trying to get
16 to a very significant point there.

17 THE COURT: Get there. Just go there and see
18 what happens.

19 MR. BERNSTEIN: I just have to learn to ask
20 these questions a little more like a lawyer.

21 THE COURT: Yes.

22 MR. BERNSTEIN: So I have to rethink how to
23 ask that.

24 BY MR. BERNSTEIN:

25 Q. Do you recall talking to Detective Ryan

1 Miller?

2 MR. ROSE: Objection. Relevance.

3 THE COURT: Sustained.

4 BY MR. BERNSTEIN:

5 Q. Can you tell me all the roles you had in these
6 estates and trusts, and your partner, Don Tescher?

7 A. We were the attorneys to your parents. Upon
8 your dad's death, we became counsel to his estate and
9 served as co-PRs and co-trustees under his documents.

10 Q. Any other roles?

11 A. Served as counsel for -- we served as counsel
12 for Ted as fiduciary under your mother's documents.

13 Q. And who served as your counsel as trustee
14 PR -- co-trustee, co-PR?

15 A. Mark Manceri.

16 Q. Mark Manceri submitted that he was your
17 attorney?

18 A. I believe so, yes.

19 Q. Did you take a retainer out with him?

20 MR. ROSE: Objection. Relevance.

21 THE WITNESS: I'm sorry.

22 THE COURT: What's the relevance of the
23 retainer question?

24 THE WITNESS: I'm sorry. I take that back.

25 Mark Manceri was not counsel to us with respect to

1 the estate, except on a very specific matter.

2 THE COURT: The question that was objected to
3 was, did you take out a retainer? What's the
4 relevance of that?

5 MR. BERNSTEIN: Well, I'm trying to figure out
6 if he was properly representing before the court
7 these documents, and to his credibility, meaning
8 his --

9 THE COURT: I'll sustain the objection.

10 MR. BERNSTEIN: Okay.

11 BY MR. BERNSTEIN:

12 Q. And a question about the court. How long
13 before you notified the court as a personal
14 representative fiduciary that you had produced a
15 fraudulent trust of Shirley's?

16 A. To whom? I don't know that we ever
17 represented the document to the court, and I don't know
18 that anyone ever came to the court and said that we did.

19 Q. Well, I did in a petition I filed and served
20 on you --

21 MR. ROSE: Objection.

22 BY MR. BERNSTEIN:

23 Q. -- of January -- excuse me -- petition that I
24 served on you exposing a fraud of what happened with
25 Christine Yates after you admitted that to the police.

1 MR. ROSE: Objection. Relevance.

2 THE COURT: Sustained.

3 BY MR. BERNSTEIN:

4 Q. Okay. How many times have you spoken with
5 Alan Rose in the last three months?

6 A. Twice.

7 Q. Did you prepare for this hearing in any way
8 with Alan Rose?

9 A. I did.

10 Q. Okay. Was that the two times you spoke to
11 him?

12 A. Yes.

13 Q. Do you see any other of the parties that would
14 be necessary to validate these trust documents in the
15 court today?

16 MR. ROSE: Objection. Cumulative.

17 THE COURT: Sustained.

18 BY MR. BERNSTEIN:

19 Q. And you gave testimony to the total net worth
20 of Simon today, when you were asked by Mr. Rose; is that
21 correct?

22 A. Yes.

23 Q. How long did you serve as the co-trustee and
24 co-personal representative?

25 A. Of your father's estate? Since the date of

1 his death.

2 Q. And his trust?

3 A. Same.

4 Q. Okay. Did you produce an accounting to
5 support those claims you made today?

6 MR. ROSE: Objection. Relevancy.

7 THE COURT: Sustained.

8 MR. BERNSTEIN: Well, can I argue that or --

9 THE COURT: No.

10 MR. BERNSTEIN: Not even close. Does that
11 mean I have to ask it a different way?

12 THE COURT: Well, I can't answer questions.
13 I'm not allowed to give anybody legal advice.

14 MR. BERNSTEIN: Okay. That was procedural, I
15 thought. But okay.

16 THE COURT: Well, that's legal advice.

17 Procedure is a legal issue.

18 BY MR. BERNSTEIN:

19 Q. As a fiduciary of the estate of Simon and the
20 trust of Simon, did your law firm produce a accounting?

21 MR. ROSE: Objection. Relevance.

22 MR. BERNSTEIN: Well, it's relevant to, if
23 he's a fiduciary, his conduct. I mean, there's --

24 THE COURT: Here's the way I handle
25 objections --

1 MR. BERNSTEIN: Okay.

2 THE COURT: -- somebody asks a question, and
3 somebody in the courtroom says objection, and then
4 I have them state the legal objection and stop.
5 The other side doesn't say anything, unless I say,
6 Is there any argument one side or the other?
7 Because usually I can figure this stuff out without
8 having to waste time with arguments.

9 I didn't ask for any argument, right? Okay.
10 Sustained. Next question.

11 BY MR. BERNSTEIN:

12 Q. Mr. Rose asked you about Shirley's Bentley.

13 Are you aware -- you became aware of Shirley's
14 Bentley, correct?

15 A. Yes.

16 Q. When you became aware of Shirley's Bentley,
17 did you put in an amended inventory to account for it?

18 THE COURT: What's this going to help me
19 decide on the validity of the wills or trusts?

20 MR. BERNSTEIN: I'm just responding to the
21 statements that were brought up.

22 THE COURT: I wish you would have objected to
23 the relevancy then, but you didn't.

24 MR. BERNSTEIN: I did.

25 THE COURT: I don't think so.

1 MR. BERNSTEIN: No?

2 THE COURT: I'm a car guy, so I pay attention
3 if somebody's asking questions about Bentleys just
4 because it's interesting.

5 MR. BERNSTEIN: Well, it's so important, Your
6 Honor, because --

7 THE COURT: No, it's not. Right now what is
8 tied is, are the wills and trusts bound?

9 MR. BERNSTEIN: We have to question his
10 competency.

11 THE COURT: And so what's in the estate or
12 what's in the trust is not of any interest to me
13 right now. So if that Bentley should have been in
14 the estate or should not have been in the estate,
15 it should have been accounted for, not accounted
16 for, I'm not going to figure out today. But I want
17 to get all the evidence I possibly can to see
18 whether these wills and trusts that are in front of
19 me are valid or not valid. And I'm hoping that
20 you'll ask some questions that'll help me figure
21 that out.

22 MR. BERNSTEIN: Are those originals that you
23 have?

24 THE COURT: See, I'm not the witness. I'm the
25 judge. So I'm not sworn in and I have no knowledge

1 of the facts of this case, other than what the
2 witnesses tell me.

3 MR. BERNSTEIN: I'm winding down. I'll check
4 my list.

5 THE COURT: All right.

6 BY MR. BERNSTEIN:

7 Q. Are you familiar with a document the Bernstein
8 Family Realty LLC agreement?

9 A. Yes, I am.

10 Q. Did you draft that document?

11 A. Yes, I did.

12 Q. Was it part of Simon's estate planning?

13 A. It was part of his estate planning -- well,
14 yes --

15 Q. And what was --

16 A. -- in a roundabout way.

17 Q. What was it designed to do?

18 A. It was designed to hold title to the home that
19 you and your family live in.

20 Q. Oh, okay. And so it was -- who's the owners
21 of that?

22 A. The three kids -- your three kids, Josh,
23 Daniel -- your three kids' trusts that your father
24 created -- and Jake -- that he created in -- I believe
25 he created those trusts in 2006.

1 Q. And the prior testimony was, there were no
2 special documents under Simon's estate plan for my
3 family; is that correct?

4 A. Right. None that we prepared. Those were not
5 documents that we prepared.

6 Q. Okay. I think he asked you if you knew of
7 any.

8 So you knew of these, correct?

9 A. You're making me recall them. Yes.

10 Q. Oh, okay. Because you answered pretty
11 affirmatively no before, that you weren't aware of any
12 special --

13 THE COURT: Do you have any questions for the
14 witness?

15 MR. BERNSTEIN: Okay. I get it.

16 BY MR. BERNSTEIN:

17 Q. You referenced an insurance policy.

18 MR. BERNSTEIN: Can I -- well, I can't ask him
19 anything.

20 BY MR. BERNSTEIN:

21 Q. You referenced an insurance policy earlier,
22 life insurance policy, that you said you never saw; is
23 that correct?

24 A. Yes.

25 Q. And was that part of the estate plans?

1 A. We never did any planning with that. That was
2 an insurance policy that your father had taken out
3 30 years before. He had created a trust in 1995 for
4 that. That was not a part of any of the planning that
5 we did for him.

6 Q. Did you file a death benefit claim on behalf
7 of that policy?

8 MR. ROSE: Objection. Relevancy.

9 THE COURT: Sustained.

10 BY MR. BERNSTEIN:

11 Q. Is Christine Yates, who you sent the
12 fraudulently altered Shirley trust document that's not
13 valid, a layman?

14 MR. ROSE: Objection. Argumentative.

15 MR. BERNSTEIN: Excuse me.

16 BY MR. BERNSTEIN:

17 Q. Is she an attorney at law?

18 THE COURT: Now you're asking a different
19 question.

20 MR. BERNSTEIN: Okay.

21 THE COURT: Thanks.

22 BY MR. BERNSTEIN:

23 Q. Is she a layman, as you described prior?

24 A. She's an attorney.

25 Q. Okay. So you were sending that document that

1 you said you altered to make a layman understand the
2 language in the trust better?

3 MR. ROSE: Objection. Cumulative.

4 THE COURT: Let me have you finish your
5 questioning.

6 BY MR. BERNSTEIN:

7 Q. But you sent it to Christine Yates, an
8 attorney, who's not a layman?

9 A. We did.

10 Q. Okay. So it could be that you sent that
11 document to an attorney to commit a fraud upon her
12 clients, my children, minor children, correct?

13 A. The intent was not to commit a fraud.

14 Q. Okay.

15 A. Again, the intent was to carry out your dad's
16 wishes.

17 Q. By fraudulently altering documents?

18 MR. ROSE: Objection. Argumentative.

19 THE COURT: Sustained.

20 If you ask one more argumentative question, I
21 will stop you from asking the other things, because
22 I'll figure that you're done. Is that clear?

23 MR. BERNSTEIN: Yes.

24 THE COURT: I'm done warning you. I think
25 that's just too much to have to keep saying over

1 and over again.

2 BY MR. BERNSTEIN:

3 Q. When Shirley died, were her wishes upheld?

4 A. Your dad was the sole survivor of her
5 estate -- he was the sole beneficiary of her estate and
6 her trust.

7 Q. So her wishes of her trusts when Simon died
8 were to make who the beneficiaries?

9 MR. ROSE: Objection. Cumulative.

10 THE COURT: Sustained.

11 BY MR. BERNSTEIN:

12 Q. Who did Shirley make -- are you familiar with
13 the Eliot Bernstein Family Trust?

14 A. I am.

15 Q. And is that trust under the Shirley trust?

16 A. No, it's not.

17 Q. It's a separate trust?

18 A. It is.

19 Q. Is it mentioned in the Shirley trust?

20 A. It may be.

21 Q. As what?

22 A. As a receptacle for Shirley's estate.

23 Q. Her trust?

24 A. A potential receptacle for Shirley's trust.

25 Q. So there were three, the Eliot Bernstein

1 Family Trust, Lisa Friedstein and Jill Iantoni Family
2 Trust, that are mentioned as receptacles. I would
3 assume that's the word, beneficiary --

4 MR. ROSE: Objection.

5 BY MR. BERNSTEIN:

6 Q. -- of the Shirley trust, correct?

7 MR. ROSE: Objection. Cumulative.

8 THE COURT: Sustained.

9 BY MR. BERNSTEIN:

10 Q. Okay. On Simon's medical state eight weeks
11 before he died, when these documents of the Simon trust
12 are alleged by you to have been signed, are you aware of
13 any conditions of Simon's at that time medically?

14 A. I was not.

15 Q. Were you aware of any medicines he was on?

16 A. I was not.

17 Q. Were you aware he was seeing a psychiatrist?

18 A. I was not.

19 Q. Were you aware that he was going for a brain
20 scan?

21 A. I was not.

22 Q. Were you aware that he was brought in to
23 multiple doctors during that time for brain problems;
24 that they ended up doing a brain biopsy at Delray
25 Medical right around that time that he's said to sign

1 these documents?

2 A. He did not make us aware of any medical issues
3 that he had.

4 Q. Okay. Did you ask him at the time you were
5 signing those amended documents if he was under any
6 medical stress?

7 A. No, I did not.

8 Q. Okay.

9 A. He --

10 MR. BERNSTEIN: Can I ask him to read that?

11 BY MR. BERNSTEIN:

12 Q. Can you look at that document and --

13 MR. BERNSTEIN: Judge, would you like a look
14 at this?

15 THE COURT: I don't look at anything that's
16 not an exhibit.

17 MR. BERNSTEIN: I'm exhibiting it to him.

18 THE COURT: Okay. Well, that's fine, but I
19 want you to go ahead and ask your question. I
20 don't look at things that aren't exhibits in
21 evidence --

22 MR. BERNSTEIN: Okay.

23 THE COURT: -- unless I have to mark them.

24 But no, I don't have a curiosity to look at pieces
25 of paper.

1 MR. BERNSTEIN: Should I exhibit it as
2 evidence -- can I exhibit it as --

3 THE COURT: If it comes into evidence, I'll
4 look at it.

5 MR. BERNSTEIN: Okay. Can I submit it as
6 evidence?

7 THE COURT: Well, have you asked any questions
8 to establish what it is?

9 BY MR. BERNSTEIN:

10 Q. Is this a letter from your law firm -- prior
11 law firm?

12 A. I did not prepare this letter --

13 Q. Okay.

14 A. -- but it appears to be, yes.

15 Q. Prepared by?

16 A. Donald Tescher.

17 MR. BERNSTEIN: Okay. Now can I submit it?

18 THE COURT: So you're offering it as an
19 exhibit --

20 MR. BERNSTEIN: Please.

21 THE COURT: -- as Defendant's 2.

22 Is there any objection?

23 MR. ROSE: No objection.

24 THE COURT: All right. I'll take a look at
25 it. And that'll be in evidence as Defendant's 2.

1 Thank you.

2 (Defendant's Exhibit No. 2 was received into
3 evidence.)

4 BY MR. BERNSTEIN:

5 Q. Can you just read into the record
6 paragraph 2 --

7 THE COURT: Well, I'm reading it. The
8 document is in the record.

9 MR. BERNSTEIN: Oh, okay.

10 THE COURT: I'm reading paragraph 2 even as we
11 speak, so I don't need the witness to read it for
12 me. But if you want to ask him a question, you can
13 go ahead with that.

14 BY MR. BERNSTEIN:

15 Q. Okay. That letter states that Si's power of
16 appointment for Simon could not be used in favor of Pam,
17 Ted and their respective children; is that correct?

18 A. Yes. Don appears to have written that.

19 Q. Did you get a copy of this letter?

20 A. I don't recall getting a copy of it, but
21 doesn't mean that I didn't.

22 Q. But you are partners in that firm?

23 A. Yes, we were partners in that firm.

24 Q. Now, that -- this document --

25 MR. ROSE: Your Honor, can I just -- I don't

1 want to go out of order, but this is only relevant
2 if the documents are valid. And if he's -- the
3 whole point is the documents are valid. And he
4 wants to argue the second part, of what they mean,
5 then we should not have wasted a whole day arguing
6 over the validity of these five documents.

7 THE COURT: Well, waste of time is what I do
8 for a living sometimes. Saying we shouldn't be
9 here doesn't help me decide anything.

10 I thought I was supposed to decide the
11 validity of the five documents that have been
12 pointed out; some of them might be valid and some
13 of them might be invalid. And I'm struggling to
14 decide what's relevant or not relevant based upon
15 the possibility that one of them might be invalid
16 or one of them might not. And so I'm letting in a
17 little bit more stuff than I normally think I
18 would.

19 MR. ROSE: I'm concerned we're arguing the
20 second -- the second part of this trial is going to
21 be to determine what the documents mean and what
22 Simon's power of attorney could or couldn't do.
23 And this document goes to trial two and not trial
24 one, although I didn't object to its admissibility.

25 THE COURT: Well, since it's in evidence,

1 we'll leave it there and see what happens next.

2 Do you have any other questions of the
3 witness?

4 MR. BERNSTEIN: Yeah.

5 BY MR. BERNSTEIN:

6 Q. It says that the document that you
7 fraudulently altered creating the invalid copy of the
8 Shirley trust had some kind of paragraph 2 that was
9 missing from the original document --

10 MR. ROSE: Objection. Argumentative.

11 BY MR. BERNSTEIN:

12 Q. -- from my understanding.

13 THE COURT: You may finish your question. And
14 make sure it's a question and not an argument.
15 Because you know what happens if this is an
16 argument.

17 MR. BERNSTEIN: I'm not arguing. I'm just
18 asking --

19 THE COURT: I want you to ask your question.

20 BY MR. BERNSTEIN:

21 Q. It says here that there was a blank spot that
22 you -- a Paragraph No. 2 which modified the definitional
23 language by deleting words.

24 According to this document, the power of
25 appointment by Simon could not alter the Shirley trust

1 agreement, correct?

2 A. Don seems to be suggesting that in the second
3 paragraph. I don't necessarily believe that that's the
4 case.

5 Q. Did you review this document with Don?

6 MR. ROSE: Objection. Cumulative.

7 THE COURT: The question is, Did you go over
8 this document with Don?

9 MR. BERNSTEIN: Correct.

10 THE COURT: Overruled.

11 You can answer.

12 THE WITNESS: No.

13 BY MR. BERNSTEIN:

14 Q. So he's -- Don, in this letter, is describing
15 your actions, correct?

16 A. Yes.

17 Q. Okay. Did you write a letter to anybody
18 describing your actions?

19 A. I did not.

20 Q. You did not.

21 And what have you done to correct the damages
22 caused by that to my family?

23 MR. ROSE: Objection. Relevance.

24 THE COURT: Sustained.

25 MR. BERNSTEIN: Okay.

1 BY MR. BERNSTEIN:

2 Q. And are you aware of an autopsy that was done
3 on my father the day -- or ordered the day he died?

4 MR. ROSE: Objection. Relevance.

5 THE COURT: Sustained.

6 BY MR. BERNSTEIN:

7 Q. Are you aware -- well, are you aware of a
8 heavy metal poison test that was done by the Palm Beach
9 County coroner?

10 MR. ROSE: Objection. Relevance.

11 THE COURT: Sustained.

12 MR. BERNSTEIN: Well, it's --

13 THE COURT: Next question.

14 MR. BERNSTEIN: I'm trying to figure that out.

15 Your Honor, is -- I can't ask you that question.

16 BY MR. BERNSTEIN:

17 Q. Competency. Based on everything you know
18 about Simon, when he signed those documents, he was
19 competent?

20 A. To my knowledge, he was of sound mind and
21 body.

22 Q. Now, are you a medical expert?

23 A. I'm not.

24 Q. Are you aware of any other fraudulent activity
25 that took place in anything in the estate and trusts of

1 Simon Bernstein by yourself or your employees?

2 A. Are you referring back to the closing of your
3 mother's estate?

4 Q. I'm referring to any other --

5 A. -- we've talked about.

6 Q. So can you list those and then just say that's
7 all that you're aware of?

8 MR. ROSE: Objection. Cumulative.

9 THE COURT: Sustained.

10 BY MR. BERNSTEIN:

11 Q. Other than the fraud that you've admitted to
12 in the documents of Shirley, the Moran forged and
13 fraudulent waivers, the April 9th waiver that you and Si
14 signed stating he had all the waivers when he couldn't
15 have, are there any other frauds that you're aware of
16 that took place with these estate and trust documents?

17 A. Not to my knowledge.

18 Q. When you were first interviewed by the Palm
19 Beach County Sheriff with Kimberly Moran, did you notify
20 them at that first interview that you had fraudulently
21 altered a document?

22 MR. ROSE: Objection. Relevance.

23 THE COURT: Sustained.

24 BY MR. BERNSTEIN:

25 Q. When did you notify the sheriff that you

1 fraudulently altered a document?

2 MR. ROSE: Objection. Relevance.

3 THE COURT: Sustained.

4 BY MR. BERNSTEIN:

5 Q. You have these exhibits. This will says
6 "conformed copy" on Exhibit 1 of their exhibits; is that
7 correct?

8 A. Yes, it does.

9 Q. Does a conformed copy have to have the clerk
10 of the court's signature on it?

11 A. Conformed copy would not be sent to the clerk
12 of the courts.

13 Q. Conformed copy -- okay.

14 Is that your signature on the document? This
15 is Exhibit 2, Shirley trust agreement, of the
16 plaintiff's exhibit book, 2, page 27.

17 A. Yes, it appears to be.

18 Q. It appears to be?

19 A. Yes.

20 Q. All right. And is that Traci Kratish's
21 signature?

22 A. She was there. I can't speak to her
23 signature.

24 Q. Did you witness her sign it?

25 A. I did.

1 Q. Okay. Is that my mom's signature on page 28?

2 A. Yes, it is.

3 Q. On this first amendment to Shirley's trust --

4 MR. BERNSTEIN: Exhibit 3, Your Honor, page 1
5 of 3, I guess. It's the first page in that
6 exhibit.

7 BY MR. BERNSTEIN:

8 Q. Is that document -- do you recall that
9 document?

10 A. Yes.

11 Q. Okay. And you recall the day it's signed and
12 notarized, allegedly?

13 A. November 18th, 2008.

14 Q. On the front page of that document, what day
15 is the document dated?

16 A. It's not dated.

17 Q. Is that typical and customary in your office?

18 A. Sometimes clients forget to put the date at
19 the top.

20 Q. You forget?

21 A. I said, sometimes clients forget to put the
22 date at the top.

23 Q. Well, did you check the document before making
24 it a part of a will and trust?

25 A. It was notarized as a self-proving document.

1 Q. Are you aware that Kimberly Moran's
2 notarization of the Simon trust has been found by the
3 Governor Rick Scott's notary public division to be
4 deficient?

5 MR. ROSE: Objection. Hearsay.

6 THE COURT: Sustained.

7 BY MR. BERNSTEIN:

8 Q. Are you aware of Kimberly Moran of your office
9 being contacted by the governor's office in relation to
10 these wills and trusts?

11 MR. ROSE: Objection. Hearsay.

12 THE COURT: Sustained.

13 What do I care if he's aware of that or not?
14 How does that help me decide the validity of these
15 documents?

16 MR. BERNSTEIN: Well, the governor's already
17 made a claim that --

18 THE COURT: But you're asking the witness if
19 he's aware of. Are you aware the sky is blue right
20 now? It doesn't matter to me if he's aware of it
21 or not. Are you aware Rick Scott has started an
22 investigation of a moon landing? It doesn't matter
23 to me if he knows that or not. You asked him are
24 you aware of somebody from Rick Scott's office
25 doing something. It doesn't matter to me if he's

1 aware of that or not. I've got to figure out the
2 validity of these documents, so I need to know
3 facts about that, please. Any other questions of
4 the witness on that?

5 MR. BERNSTEIN: Yes.

6 BY MR. BERNSTEIN:

7 Q. Is that my father's signature?

8 A. I'm not an expert on your father's signature.
9 But if it's on his will, at the bottom of his will, that
10 must have been a copy that was obtained from the clerk
11 of the courts, because that will was filed, and we would
12 have conformed copies in our file, which would not have
13 his signature at the bottom. Apparently, it is.

14 Q. But it does say on the document that the
15 original will's in your safe, correct?

16 A. For your mother's document, it showed that.

17 Q. Oh, for my father's -- where are the originals
18 of my father's?

19 A. Your father's original will was deposited in
20 the court. As was your mother's.

21 Q. How many copies of it were there that were
22 original?

23 A. Only one original. I think Mr. Rose had
24 stated on the record that he requested a copy from the
25 clerk of the court of your father's original will, to

1 make a copy of it.

2 Q. Certified?

3 A. I'm not sure if he said it was certified or
4 not.

5 Q. Is that your signature on my father's will?

6 MR. BERNSTEIN: This is Exhibit 4, Your Honor,
7 Page 7.

8 THE WITNESS: Yes, it is.

9 BY MR. BERNSTEIN:

10 Q. Okay. Is that my father's signature?

11 A. Appears to be.

12 Q. Whose signature is that?

13 A. That's my signature.

14 Q. Oh, okay. So the only two witnesses you see
15 on this document are you and Kimberly Moran; is that
16 correct?

17 A. On that page.

18 Q. And both you and Kimberly Moran have had
19 misconduct in these cases?

20 MR. ROSE: Objection. Relevance.

21 THE COURT: Overruled. But it's cumulative.

22 MR. ROSE: It's cumulative.

23 THE COURT: How many times do I need to know
24 this?

25 MR. BERNSTEIN: What does that mean exactly,

1 cumulative? I don't get that. I'm sorry.

2 THE COURT: Let's say you hit me over the head
3 with a two-by-four. That's one time. If you do it
4 twice, that's cumulative. Cumulative's not
5 allowed.

6 MR. BERNSTEIN: That's an objection, is that
7 I've asked it --

8 THE COURT: Yes.

9 MR. BERNSTEIN: -- and it was answered? Is
10 that what it's kind of saying?

11 THE COURT: Yes, asked and answered. That's
12 another way of saying it.

13 MR. BERNSTEIN: Now I got it.

14 THE COURT: Asked and answered is a similar
15 way to say it.

16 MR. BERNSTEIN: Okay. Sorry.

17 BY MR. BERNSTEIN:

18 Q. Is that my father's signature, to the best of
19 your knowledge?

20 A. Appears to be, yes.

21 Q. And is that your signature?

22 A. Yes, it is.

23 Q. And here, did Kimberly Moran properly notarize
24 this document?

25 A. Kimberly did not notarize the document.

1 Q. Or Lindsay Baxley, did she check one -- either
2 the person was personally known or produced
3 identification?

4 A. No. This is what Mr. Rose had gone over
5 earlier.

6 Q. No, those, I believe, are in other documents
7 we'll get to.

8 So this notarization, as far as you can tell,
9 is incomplete?

10 MR. ROSE: Objection. Are we on Exhibit 2?

11 MR. BERNSTEIN: No.

12 THE COURT: We're on Exhibit 4, as far as I
13 recall.

14 MR. BERNSTEIN: He does not miss a thing.
15 Your Honor, page 8.

16 THE WITNESS: This is Si's documents.

17 MR. ROSE: Got it.

18 BY MR. BERNSTEIN:

19 Q. Okay. So on Simon's trust, weeks before he
20 dies, the notarization's improper?

21 A. This was the same document we spoke about
22 before. Yes, she did not circle "known to me,"
23 although...

24 Q. So she didn't know you or Simon?

25 A. No, she knew all of us. She just neglected to

1 circle "known to me."

2 Q. And that's one of the three functions of a
3 notary, to the best of your knowledge, to determine the
4 person is in the presence that day by some form of I
5 either know you or you gave me a license; is that
6 correct?

7 A. Yes.

8 Q. So your firm -- have you done anything since
9 knowing this document's improperly notarized to correct
10 it with the courts?

11 MR. ROSE: Objection. It misstates facts. He
12 didn't say it was improperly notarized.

13 THE COURT: Just state the objection, please.

14 MR. ROSE: Well, calls for a legal conclusion.

15 THE COURT: Sustained.

16 MR. MORRISSEY: Another objection. It
17 misstates the law.

18 THE COURT: Sustained.

19 BY MR. BERNSTEIN:

20 Q. Is that Lindsay -- oh, you can't answer that.

21 So, to the best of your ability, regarding
22 your signature, Kimberly or Lindsay Baxley has failed to
23 state that you either were known to her or produced
24 identification?

25 MR. ROSE: Objection. Cumulative.

1 THE COURT: Sustained.

2 MR. BERNSTEIN: Okay. We'll go on to
3 document 5.

4 BY MR. BERNSTEIN:

5 Q. Is that my father's initials, to the best of
6 your knowledge?

7 A. Appears to be, yes.

8 Q. Do these initials look similar to you, this
9 one on page 2, next to this one on page 3, next to that
10 thing on page 4?

11 A. Initials typically don't look perfect page to
12 page, and they don't necessarily look similar page to
13 page. I have seen clients execute a lot of documents,
14 and by the time they get to, you know, the second and
15 third document, their signatures and their initials do
16 not necessarily look --

17 Q. Look at page 13, for example. I mean, this is
18 almost -- if we go through page by page, tell me if you
19 see any that are even similar. On page -- let's start
20 back at the beginning, if that'll help you.

21 That? Do those look similar to you as you're
22 flipping through those?

23 A. Yeah, they have a lot of the same -- similar
24 ending marks. Your father's ending mark was that line.
25 I mean, it's on every single solitary page.

1 Q. Okay. So your testimony today is those are my
2 father's initials?

3 A. That they were.

4 Q. Okay.

5 A. I was there when he was...

6 Q. And you've looked at all of these, page 19,
7 page 20? Those look similar to what you're saying -- or
8 why don't you just look at them. If you go through them
9 all, they all look different. But okay.

10 A. They all look different, and they all look
11 consistent at the same time.

12 Q. Okay. Is that -- on page 24, is that my
13 father's signature?

14 A. Appears to be.

15 Q. Is that your signature?

16 A. Yes, it is.

17 Q. Okay. Now, this is another trust document
18 that Lindsay Baxley did that's supposed to be notarized,
19 a will and trust, I believe, and the amended and
20 restated.

21 Can you tell that Simon Bernstein was present
22 or produced -- or present that day by the notarization?

23 A. She again failed to mark that he was
24 personally known, but she worked for him.

25 Q. So these dispositive documents are improperly

1 notarized?

2 MR. ROSE: Objection. Cumulative. Legal
3 conclusion.

4 THE COURT: Sustained.

5 BY MR. BERNSTEIN:

6 Q. Okay. And then let's go to the first
7 amendment to Shirley Bernstein's trust. Is this a
8 document prepared --

9 MR. BERNSTEIN: Your Honor, that would be 6.

10 THE COURT: All right.

11 BY MR. BERNSTEIN:

12 Q. Is that a document prepared by your law firm?

13 A. Yes, it is.

14 Q. And do you see where it's, "Now therefore by
15 executing this instrument I hereby amend the trust
16 agreement as following"? And what is it -- what are the
17 numbering sequences there?

18 A. It says, I hereby delete a paragraph of
19 article --

20 Q. What number is that?

21 A. Paragraph B -- it's number 1.

22 Q. Okay. And what's Number 2?

23 MR. ROSE: Objection. Best evidence. It's in
24 evidence. And it's cumulative.

25 THE COURT: Two is in evidence, as is

1 paragraph one and paragraph three. And I've
2 read --

3 MR. BERNSTEIN: Oh, no. But Number 1, Your
4 Honor, take a look real quick. Number 1; there's
5 no Number 2.

6 THE COURT: The objection came on your next
7 question, and that was dealing with paragraph 2,
8 which says it's already in evidence. And it is.

9 MR. BERNSTEIN: No, no, not paragraph 2. Look
10 at down below. Under the "now therefore," there's
11 a Number 1, and I was asking him what Number 2
12 reads.

13 THE COURT: I know you were.

14 MR. BERNSTEIN: And there is no Number 2.

15 THE COURT: You've asked me to look at
16 Exhibit No. 6, right? Plaintiff's Exhibit 6 has,
17 under the therefore clause, a one, a two and a
18 three. Are you asking me to look at a different
19 document?

20 MR. BERNSTEIN: Can I approach?

21 THE COURT: Sure. All right. So that's a
22 different Number 6 than I have. So let's see your
23 Number 6.

24 MR. BERNSTEIN: What do I do on that?

25 THE COURT: That's not my decision.

1 MR. BERNSTEIN: That's his book, not my book,
2 just so you know.

3 THE COURT: Well, that Tab 6 is different than
4 my Tab 6. So there you go.

5 MR. BERNSTEIN: Okay. Well, which -- what do
6 I go off there?

7 THE COURT: I have no --

8 MR. BERNSTEIN: Can I submit that into
9 evidence?

10 THE COURT: I have no preference.

11 MR. BERNSTEIN: Okay. I'd like to submit
12 this, because I'm not sure if the other one is in
13 evidence wrong.

14 THE COURT: All right. Any objection?

15 MR. ROSE: Could I just see the book? Would
16 you mind?

17 THE COURT: Here, I'll show you my book. You
18 can look at that book and see what's going on.

19 And this will be a good time for us to take a
20 short break, and let you all straighten it out. So
21 we'll be back in session in 15 minutes. And then
22 we'll go to the bitter end. Each of you has about
23 60 minutes remaining.

24 MR. BERNSTEIN: Your Honor, when you say
25 "60 minutes remaining," we haven't got through all

1 the witnesses yet.

2 THE COURT: Well, we will have by the end of
3 60 minutes on each side.

4 This trial is over at five o'clock. I told
5 you when we started each of you has half of the
6 time; please use it wisely; use it as you wish.
7 I've tried to encourage both sides to be efficient.
8 When your time is gone, that's the end of the trial
9 for you.

10 MR. BERNSTEIN: Well, the case manager --

11 THE COURT: When their trial is gone --

12 MR. BERNSTEIN: At the case management, they
13 said it would take a day. I argued and said to you
14 it would take days. I mean, they've got
15 10 witnesses. I need to have all the people who
16 witnessed these documents here.

17 THE COURT: Remember when I said a moment ago
18 we're in recess? I was serious. Thanks. We'll go
19 back in session 15 minutes from now.

20 (A break was taken.)

21 THE COURT: We're ready to resume. Are there
22 any further questions for the witness on cross?

23 MR. BERNSTEIN: Okay. We were just working
24 out that 1, 2, 3, Exhibit No. 6, so that we get the
25 record straight.

1 THE COURT: Okay.

2 MR. BERNSTEIN: Shall I get a copy of yours,
3 you get a copy of mine? Or how do you want to do
4 that?

5 MR. ROSE: Your Honor, I tried to work it out.

6 THE COURT: Listen, I don't have any
7 preference as to how we do anything. You all tell
8 me how you've worked it out, and if I agree with
9 it, I'll accept it.

10 MR. ROSE: The copy that's been marked for the
11 witness, the copy in my book and the copy in your
12 book are all identical. I don't know what's in his
13 book, and he wouldn't show me his book on the
14 break.

15 THE COURT: Okay.

16 MR. ROSE: But I'm fine. It's a three-page
17 document. And if he wants to put it in evidence,
18 even though it's not operative, I have no
19 objection.

20 THE COURT: Okay. So are you putting
21 something into evidence?

22 MR. BERNSTEIN: Yeah. The one that I --

23 THE COURT: Have you showed it to the other
24 side yet? You can't put secret documents into
25 evidence, only after they've been seen by everyone.

1 Let's at least show it to the other side so they
2 know the document that's being proffered as an
3 exhibit. If they still have no objection, I'll
4 receive it as Defendant's 3.

5 MR. ROSE: This is in evidence already as
6 Exhibit No. -- as Plaintiff's No. 3.

7 MR. BERNSTEIN: So what's 6? So now I don't
8 even have the right 6 document.

9 MR. ROSE: The 6 that the witness has is three
10 pages. It's the same 6 that's in your book and
11 it's in my book. It's three consecutive pages of
12 the production from Tescher & Spallina law firm.
13 It has the inoperative first amendment as page 1,
14 then it has the operative first amendment as
15 page 2, and the signature page as page 3. It's the
16 same document in everybody's book. That's all I
17 can tell you.

18 THE COURT: Okay.

19 MR. BERNSTEIN: Your Honor, in my book, 3 and
20 6 are the identical documents --

21 THE COURT: Okay.

22 MR. BERNSTEIN: -- so I would need --

23 THE COURT: Are there any other questions of
24 the witness?

25 MR. BERNSTEIN: Well, I was going to ask him

1 questions on this document.

2 THE COURT: All right. Well, then, let's go.

3 MR. BERNSTEIN: Okay. I need a -- I don't
4 have the 6 that everybody else is referring to. My
5 sinks is the same as --

6 THE COURT: There you go. Take whatever you
7 need.

8 MR. BERNSTEIN: Okay. Thank you. I think we
9 missed 6. It's just short on 6.

10 THE COURT: All right. Then here's my Tab 6.

11 MR. BERNSTEIN: Thank you, sir.

12 THE COURT: The idea is to keep moving.

13 MR. BERNSTEIN: Okay. I'll move on. I'm
14 almost done here.

15 BY MR. BERNSTEIN:

16 Q. Okay. So on Exhibit 3, can you list the
17 numbers there?

18 MR. ROSE: Objection. Best evidence.
19 Cumulative.

20 THE COURT: Sustained.

21 You need to refer to which page. That's a
22 multi-page document, and both pages have numbered
23 paragraphs on them.

24 MR. BERNSTEIN: Page 1 of 2.

25

1 BY MR. BERNSTEIN:

2 Q. The Roman Numeral -- or the numerals, can you
3 give the sequence of those numbers?

4 A. One and three. It's skipping two.

5 Q. And this is a document you allege to be part
6 of the Shirley trust that you're claiming is valid?

7 A. That's the amendment that Shirley executed in
8 November of 2008.

9 Q. And would there be a reason why your law firm
10 numbers one, three?

11 MR. ROSE: Objection. Cumulative.

12 THE COURT: Overruled.

13 You can answer.

14 THE WITNESS: Human error.

15 BY MR. BERNSTEIN:

16 Q. Okay. But it is an error in the document that
17 you're claiming is valid Shirley trust?

18 A. It's a numbering error.

19 Q. In the document, you're claiming this is a
20 valid amendment, correct?

21 A. Correct.

22 Q. Okay. And then in number 6 from the judge,
23 what's the numbering sequence?

24 A. One, two, three.

25 Q. Okay. So you added in a number two?

1 A. Yes.

2 Q. Okay. How did you go about doing that?

3 A. There was a paragraph two inserted between one
4 and three.

5 Q. Well, the paragraph that's inserted between
6 one and three wouldn't fit there.

7 So what did you do?

8 A. The document was opened up and a paragraph was
9 inserted.

10 Q. Okay. So you increased the spacing on the
11 document, correct, by adding a number three, correct?

12 A. Adding number two, yes.

13 Q. By adding number two, correct.

14 Okay. So you actually had to alter the
15 chronology as it was placed on the document? You didn't
16 just put a number two there in between one and three?
17 You actually went and expanded the document with words
18 that were inserted by you fraudulently, right?

19 MR. ROSE: Objection. Argumentative.

20 Cumulative.

21 THE COURT: Sustained.

22 MR. BERNSTEIN: Okay.

23 MR. ROSE: Your Honor, the witness does have
24 the exhibits in front of him. If Mr. Bernstein
25 could be at the podium.

1 MR. BERNSTEIN: I don't know if he has all the
2 exhibits.

3 THE COURT: Well, do you have the exhibit that
4 I gave you from the Court's?

5 MR. BERNSTEIN: Oh, jeez.

6 THE COURT: Because I'd like to have it back
7 so that that doesn't get lost.

8 MR. BERNSTEIN: Okay. You gave me the one
9 with one, two, three.

10 Can I get a copy of this from the clerk?

11 THE BAILIFF: There is no clerk.

12 THE COURT: Can I have the document back,
13 please? He's not a clerk.

14 MR. BERNSTEIN: Marshall, sheriff, officer,
15 sir. Sorry about that.

16 THE COURT: He does not make copies.

17 MR. BERNSTEIN: Okay.

18 THE COURT: Thanks. Any other questions of
19 the witness? Your time is rapidly disappearing.

20 MR. BERNSTEIN: Just going through that.

21 THE COURT: And I think you said earlier you
22 have no objection to Plaintiff's 6 being received
23 as an exhibit?

24 MR. ROSE: Correct.

25 THE COURT: Okay.

1 MR. ROSE: Thank you.

2 THE COURT: Then it's in evidence as
3 Plaintiff's 6. I'm making it Plaintiff's 6, rather
4 than Defendant's 3, because it's already marked and
5 it's been referred to by that number.

6 (Plaintiff's Exhibit No. 6 was received into
7 evidence.)

8 BY MR. BERNSTEIN:

9 Q. Are these your notes?

10 A. No, they're not. Those are Don's.

11 Q. Do you know the date on that note?

12 A. 3/12/08.

13 Q. Did you take any notes in the meeting?

14 A. Those are my notes there.

15 Q. These are? Oh, so this is a compilation of
16 Don's and your notes?

17 A. Those are my notes, yes.

18 Q. And those were taken on that day?

19 A. Correct.

20 Q. Whose notes are those?

21 A. I just saw those for the first time today. I
22 believe they're your father's notes.

23 Q. How would you know those are my father's
24 notes?

25 A. Mr. Rose introduced that document earlier.

1 Q. Document 12, did it come from your offices?

2 A. I don't know where it came from.

3 Q. Did you Bates stamp this document as part of
4 your documents?

5 A. I don't recall ever seeing that document.

6 Q. And it doesn't have your Bates stamp from your
7 production, right?

8 A. Correct.

9 Q. You were supposed to turn over all your
10 records, correct?

11 MR. ROSE: Objection. He's testified it
12 wasn't in his --

13 THE COURT: What's the objection to the
14 question?

15 MR. ROSE: Cumulative.

16 THE COURT: Sustained.

17 MR. BERNSTEIN: All right. Your Honor, I'm
18 done.

19 THE COURT: All right. Thank you.

20 Is there any redirect?

21 MR. ROSE: Brief, Your Honor.

22 REDIRECT (ROBERT SPALLINA)

23 BY MR. ROSE:

24 Q. Assuming the documents are valid, they'll have
25 to be a later trial to determine the effect of Simon's

1 exercise of his power of appointment?

2 A. Yes.

3 Q. It doesn't have any direct bearing on whether
4 these five documents are valid?

5 A. No.

6 Q. And I take it you don't necessarily agree with
7 Mr. Tescher's view as expressed in his letter of
8 January 14th, 2014?

9 A. Again, I'm seeing that here. Surprised to see
10 that.

11 Q. The original documents, the wills, you
12 retained at all times of Shirley and Simon in your firm?

13 A. Prior to their death, yes.

14 Q. And that's consistent practice for a trust and
15 estate lawyer, to keep it in your will vault or in your
16 safe deposit box?

17 A. Yes. I would say most attorneys do that just
18 because there's only one original of the will, and very
19 often documents can get lost if clients take documents
20 home. So, typically, they're kept in a safe deposit box
21 or a safe or something like that, and left with the
22 attorney.

23 Q. I want to make sure I understand and the Court
24 understands what happened with the waiver forms.

25 While Simon was alive, he signed a petition

1 for discharge; is that correct?

2 A. Correct. April of '08.

3 Q. And --

4 MR. BERNSTEIN: What exhibit? Excuse me.

5 What number are we looking at?

6 MR. ROSE: None -- well, actually, it's in my
7 book. If you want to follow along, it's Tab 28.

8 But it's not in evidence.

9 BY MR. ROSE:

10 Q. And Simon also then filed a waiver of
11 accounting himself?

12 A. Correct.

13 Q. And is it necessary for Simon, even though
14 he's the personal representative, to sign a waiver of
15 accounting because he's a beneficiary?

16 A. I mean, we do it as a matter of course.

17 Q. And the signature of Simon Bernstein on
18 April 9th, that's genuinely his signature?

19 A. Can I see?

20 Q. Exhibit 28 is a petition that was filed with
21 the court. I'm going to just show you the exhibits.

22 Exhibit A says "Petition for discharge full waiver."

23 Is this a document you would have prepared for
24 Simon Bernstein to sign?

25 A. Yeah, our firm would prepare that.

1 Q. Okay. And it's a three-page document.

2 Is that Simon Bernstein's signature --

3 A. Yes, it is.

4 Q. -- April 9th, 2012?

5 A. Yes, he signed the document.

6 Q. And he was alive when he signed the document?

7 A. Yes, he was.

8 Q. Okay. Then he had to sign a waiver of
9 accounting, which he signed on the same day?

10 A. Correct.

11 Q. And you have a document waiver of accounting
12 on the next page signed by Eliot Bernstein on May 15th?

13 A. Correct.

14 Q. And there's no doubt that's Eliot's signature
15 because he's the one who emailed you the document,
16 correct?

17 A. And sent us the original by mail.

18 Q. Right. And we already have an exhibit which
19 is his email that sent you his waiver form?

20 A. Correct.

21 Q. And the waiver forms of Ted, Pam, Lisa and
22 Jill are all valid, signed by them on the date that they
23 indicated they signed it?

24 A. To the best of my knowledge, yes.

25 Q. So then these got submitted to the court.

1 Is there anything wrong with submitting waiver
2 forms to the court signed by Simon while he's alive
3 after he had passed away?

4 A. Maybe we should have made a motion to, you
5 know, have a successor PR appointed and file the
6 documents through the successor PR.

7 Q. Were you trying to just save expenses because
8 there was nothing in the estate?

9 A. Correct.

10 Q. And if Judge Colin had not rejected -- or his
11 assistant had not rejected the documents, and the estate
12 was closed, it would have been closed based on
13 legitimate, properly signed documents of Simon and his
14 five children?

15 A. Correct.

16 Q. So then they get kicked back to your law firm,
17 and you could file a motion and undertake some expense,
18 instead --

19 MR. BERNSTEIN: Object. This has been asked
20 and answered.

21 THE COURT: Sustained.

22 BY MR. ROSE:

23 Q. Now, does the fact that -- well, strike that.

24 At the time that Simon signed his 2012 will
25 and 2012 trust, had there been ever anyone question a

1 signature or a notarization of any document that had
2 been prepared by your law firm?

3 A. No, there was not.

4 Q. You didn't see anything or observe anything or
5 any behavior of Simon Bernstein during the course of any
6 meeting you had with him that would call into question
7 his competence or his ability to properly execute a
8 testamentary document?

9 A. We did not.

10 MR. ROSE: Nothing further, Your Honor.

11 THE COURT: All right. Thanks.

12 Thank you, sir. You can step down.

13 MR. ROSE: At this time, we would rest our
14 case.

15 THE COURT: Okay. Thank you.

16 Any evidence from the defendant's side?

17 MR. BERNSTEIN: Well, I'd like -- can I call
18 back Spallina?

19 THE COURT: If you want to call him as a
20 witness on your behalf, sure.

21 MR. BERNSTEIN: Yeah, sure.

22 THE COURT: All right. Mr. Spallina, you're
23 still under oath, and you're being called as a
24 defense witness now.

25 DIRECT EXAMINATION

1 BY MR. BERNSTEIN:

2 Q. Mr. Spallina, when Simon died on
3 September 12th -- or September 13th -- sorry -- 2012,
4 and you were responsible as his attorney to appoint Ted
5 as the successor, correct, you were in charge of his
6 wills and trusts?

7 THE COURT: You just asked three questions in
8 a row.

9 MR. BERNSTEIN: Oh, sorry.

10 THE COURT: Which question would you like the
11 witness to answer?

12 BY MR. BERNSTEIN:

13 Q. Okay. When Simon died, was Shirley's estate
14 closed?

15 A. No, it was not.

16 Q. Okay. Did you appoint a successor to Simon
17 who was the personal representative of Shirley on the
18 day he died?

19 A. I don't understand the question.

20 Q. Well, on the day Simon died, there was a
21 successor to him in the will, correct?

22 A. That's correct. Ted.

23 Q. Okay. Did you appoint Ted?

24 A. I did not appoint Ted. Si did.

25 Q. Si appointed Ted?

1 A. Si appointed Ted as a successor trustee under
2 the document -- I mean, Shirley appointed Ted as the
3 successor trustee to Si under the document.

4 Q. So Simon didn't appoint Ted?

5 A. Simon did not appoint Ted.

6 Q. Okay.

7 A. He was the named successor under your mother's
8 document.

9 Q. Okay. So when Simon died -- just so I get all
10 this clear, when Simon died, your law firm knew Ted was
11 the successor, correct?

12 A. That's correct.

13 Q. According to your story. Okay.

14 A. Under Shirley's documents, you're talking
15 about.

16 Q. Under the alleged Shirley document.

17 Okay. But yet did Simon then -- after he
18 died, did he not close the estate of Shirley while he
19 was dead?

20 MR. ROSE: Objection. Argumentative. It's
21 cumulative.

22 THE COURT: Sustained.

23 MR. ROSE: And I believe this whole line of
24 questioning's been covered ad nauseam in the first
25 cross-examination.

1 THE COURT: Well, it's important not to ask
2 the same thing over and over again. You have
3 finite time to work with.

4 MR. BERNSTEIN: Okay.

5 BY MR. BERNSTEIN:

6 Q. The estate of Shirley was closed in January,
7 correct, of 2013?

8 A. I don't recall, but it sounds -- it has to be
9 sometime after November.

10 Q. Okay. So it was closed by Simon, who was dead
11 at that time, correct?

12 MR. ROSE: Objection. Relevance.

13 THE COURT: Sustained.

14 BY MR. BERNSTEIN:

15 Q. Did Ted Bernstein close the Estate of Shirley
16 Bernstein as the successor personal representative?

17 A. No.

18 Q. Who closed the Estate of Shirley Bernstein?

19 A. The documents were filed with the court based
20 on the original petition that your father signed.

21 Q. Did you close the estate?

22 MR. ROSE: Objection. Relevance.

23 THE COURT: What's the relevance?

24 MR. BERNSTEIN: Well, I'm trying to figure out
25 who closed my mom's estate.

1 THE COURT: What's the relevance I've got to
2 figure out?

3 MR. BERNSTEIN: Okay. The documents, they
4 were bringing up these waivers. There's relevance
5 to this.

6 THE COURT: Well, I'll sustain the objection.

7 MR. BERNSTEIN: Okay.

8 BY MR. BERNSTEIN:

9 Q. On this petition for discharge that Mr. Rose
10 brought up on his cross -- and I can't remember where I
11 just pulled that -- I'm going to take a look. That
12 would be 28.

13 MR. BERNSTEIN: Can I admit this into
14 evidence, Your Honor, since I believe Mr. Rose
15 stated it wasn't?

16 THE COURT: You're just picking up a piece of
17 paper and walking up to me and saying, can I admit
18 this into evidence?

19 MR. BERNSTEIN: Well, they didn't admit it.

20 THE COURT: Is there a foundation laid for its
21 admissibility?

22 MR. BERNSTEIN: Yes.

23 THE COURT: Do I know what it is so that I can
24 make a ruling?

25 MR. BERNSTEIN: Oh. It's a petition for

1 discharge.

2 THE COURT: Did anybody testify to that, or
3 are you just --

4 MR. BERNSTEIN: Yeah, he just did.

5 THE COURT: If you have a piece of paper you
6 want to have me consider as an exhibit, the other
7 side has to have seen it and the witness has to
8 have seen it so I'll know what it is.

9 MR. BERNSTEIN: Okay. They were just talking
10 about it.

11 MR. ROSE: Your Honor, just to speed things
12 along, we have no objection to this document coming
13 into evidence. It is part of our Exhibit 28. The
14 whole 28 could come in evidence. That's fine with
15 me. Then it would all be in evidence. Or however
16 you wish to do it.

17 THE COURT: I'm letting this party take charge
18 of his own case.

19 Are you asking that to be received as an
20 exhibit? There's no objection. So that'll be
21 Defendant's 3. Hand that up, and I'll mark it.

22 MR. BERNSTEIN: Thank you.

23 (Defendant's Exhibit No. 3 was received into
24 evidence.)

25

1 THE COURT: So are you done with it?

2 MR. BERNSTEIN: No. Can I use it still?

3 THE COURT: Anything that's supposed to be an
4 exhibit in evidence has to come back to me.

5 MR. BERNSTEIN: Gotcha.

6 BY MR. BERNSTEIN:

7 Q. Okay. On this document, it's a petition for a
8 discharge, a "full waiver," it says.

9 Was this document sent back to your firm as
10 not notarized by Judge Colin's office?

11 A. I'm not sure. I didn't get the documents
12 back.

13 Q. Is it notarized?

14 A. No, it's not.

15 Q. Did you sign as the notary?

16 MR. ROSE: Objection. Cumulative.

17 THE COURT: Overruled.

18 The question was, is it notarized? The answer
19 was no. Then you asked if -- somebody else, if
20 they'd sign, and then the witness if he signed as a
21 notary.

22 THE WITNESS: I signed it as the attorney for
23 the estate.

24 BY MR. BERNSTEIN:

25 Q. Okay. On April 9th with Simon Bernstein?

1 A. Yeah, it appears that way.

2 Q. Could it be another way?

3 A. It didn't -- this document did not require
4 that I witness Si's signature. So I believe that that
5 document was sent to Si, and he signed it, sent it back,
6 we signed it and filed it.

7 Q. So you sent it to Si, he signed it, then sent
8 it back, and you signed it all on April 9th?

9 A. It doesn't -- it's what day he signed it
10 that's relevant. He signed it on April 9th.

11 Q. And what day did you sign it?

12 A. I could have signed it April 11th.

13 Q. Well, where does it say April 11th?

14 A. My signature doesn't require a date. His
15 does.

16 Q. Why?

17 A. Just doesn't.

18 Q. Well, the date that the document says this
19 document's being signed on April 9th.

20 A. I did not sign that exhibit.

21 Q. Next question. On September 13, 2013, the
22 year after my father died, in Judge Martin Colin's
23 court, when he discovered this document, did he threaten
24 to read you your Miranda Rights, stating he had enough
25 evidence to read you Mirandas?

1 MR. ROSE: Objection. Relevance.

2 THE COURT: Sustained.

3 BY MR. BERNSTEIN:

4 Q. Did you deposit this document, this April 9th
5 full discharge, with the court?

6 A. Did I personally do it?

7 Q. Did your law firm?

8 A. No, the law firm did, yes.

9 Q. Okay. And on whose behalf?

10 MR. ROSE: Objection. Cumulative.

11 THE COURT: Sustained.

12 MR. ROSE: And relevance.

13 THE COURT: Sustained.

14 BY MR. BERNSTEIN:

15 Q. Simon was dead when this document was
16 deposited with the court, correct?

17 MR. ROSE: Objection. Cumulative. Relevance.

18 THE COURT: I've got that he is dead written
19 down here several times. It's clear in my mind.

20 You're not moving in a positive direction.

21 MR. BERNSTEIN: I understand that part.

22 THE COURT: All right. New question, please.

23 MR. BERNSTEIN: Okay.

24 BY MR. BERNSTEIN:

25 Q. Is this document sworn to and attested by my

1 father? Is it a sworn statement? Does it say "under
2 penalties of perjury"?

3 A. It does.

4 Q. Okay. So under penalties of perjury, on
5 April 9th, my father and you signed a document, it
6 appears, that states that Simon has fully administered
7 the estate.

8 Was that done?

9 A. Yes, it was.

10 Q. He had settled the estate, made dispositions
11 of all claims of Shirley's estate?

12 A. He was the only beneficiary of the estate.
13 The creditor period had passed.

14 Q. He was the only beneficiary of the will?

15 A. He was the only beneficiary of the will if
16 he -- that's if he survived your mother.

17 Q. Did you say earlier that the five children
18 were tangible personal property devisees or
19 beneficiaries under the will?

20 A. I did not. I said your father was the sole
21 beneficiary of your mother's estate by virtue of
22 surviving her.

23 Q. I thought you mentioned -- can I take a look
24 at the will?

25 Okay. On Simon's will, which is Exhibit 4

1 here --

2 A. This is your mother's will we're talking
3 about.

4 Q. Well, hold on. Well, you did state there were
5 mirror documents, correct, at one point? That's okay.
6 I'll proceed. That part seems to be in error.

7 Does the document say, "I, Shirley Bernstein,
8 of Palm Beach County, Florida hereby revoke all of my
9 prior wills and codicils and make this will my spouse's
10 assignment. My children are Ted, Pam -- Pamela Simon,
11 Eliot Bernstein, Jill Iantoni and Lisa Friedstein"?

12 MR. ROSE: Objection. Best evidence and
13 cumulative.

14 THE COURT: Sustained.

15 MR. BERNSTEIN: Okay.

16 BY MR. BERNSTEIN:

17 Q. Was there a separate written memorandum
18 prepared for this will?

19 A. No, there was not.

20 Q. And if Simon didn't survive, the property
21 would be going to the children, correct?

22 MR. ROSE: Objection.

23 THE WITNESS: Correct.

24 MR. ROSE: Best evidence and cumulative.

25 THE COURT: Sustained.

1 MR. BERNSTEIN: What was -- I missed that.

2 Can I not ask him that question I just asked?

3 THE COURT: I sustained the objection. You
4 can ask a new question of him.

5 MR. BERNSTEIN: Okay.

6 BY MR. BERNSTEIN:

7 Q. Is there any chance that the children could be
8 beneficiaries of anything under this will?

9 A. Not at the time of your mother's death. Your
10 father survived.

11 Q. So at the time of her death, you're saying
12 that -- if they both died together, would the
13 children --

14 MR. ROSE: Objection. Relevancy.

15 BY MR. BERNSTEIN:

16 Q. -- be beneficiaries?

17 THE COURT: Sustained.

18 MR. BERNSTEIN: Okay. I'm done with him.

19 MR. ROSE: No questions.

20 THE COURT: Okay. Thank you. You can step
21 down now.

22 Next witness, please.

23 MR. BERNSTEIN: My next witness, are you
24 saying?

25 THE COURT: If you have another witness, now's

1 the time to call him or her.

2 MR. BERNSTEIN: Okay. Ted Bernstein -- well,
3 one second.

4 Is Kimberly Moran, your witness, here? Is
5 Kimberly Moran, an exhibited witness, here,
6 Mr. Rose?

7 THE COURT: Listen, it's your case. I've
8 asked if you have any other witnesses. Do you have
9 any other witnesses?

10 MR. BERNSTEIN: No, I don't. I was going to
11 call some of their witnesses, but they're not here.

12 THE COURT: Okay. So you aren't going to call
13 anybody?

14 MR. BERNSTEIN: Yes, I'm going to call Ted
15 Bernstein.

16 THE COURT: Well, that's a witness, right?

17 MR. BERNSTEIN: Yeah, yeah. I just was
18 looking for the other ones on the witness list. I
19 didn't know if they were sitting outside.

20 Thereupon,

21 (TED BERNSTEIN)

22 having been first duly sworn or affirmed, was examined
23 and testified as follows:

24 THE WITNESS: I do.

25 DIRECT EXAMINATION

1 BY MR. BERNSTEIN:

2 Q. Ted --

3 THE COURT: You've got to ask the witness his
4 name. The record needs to reflect who's
5 testifying.

6 MR. ROSE: And could I just ask that he stay
7 at the podium?

8 THE COURT: Okay. You need to stay near the
9 microphone so that I can hear and the court
10 reporter can accurately hear you. And then if you
11 need to go up to the witness stand for some reason,
12 you're allowed to do that.

13 BY MR. BERNSTEIN:

14 Q. State your name for the record.

15 A. Ted Bernstein.

16 Q. Is that your full formal name?

17 A. That is.

18 Q. Do you go by Theodore Stuart Bernstein ever?

19 A. I do not.

20 Q. Okay. Is that your name on your birth
21 certificate?

22 A. Which one?

23 Q. Theodore Stuart Bernstein?

24 A. It is not.

25 Q. Okay. Ted, you were made aware of Robert

1 Spallina's fraudulent alteration of a trust document of
2 your mother's when?

3 A. I believe that was in the early 2013 or '14.

4 Q. Okay. And when you found out, you were the
5 fiduciary of Shirley's trust, allegedly?

6 A. I'm not sure I understand the question.

7 Q. When you found out that there was a fraudulent
8 altercation [sic] of a trust document, were you the
9 fiduciary in charge of Shirley's trust?

10 A. I was trustee, yes. I am trustee, yes.

11 Q. And your attorneys, Tescher and Spallina, and
12 their law firm are the one who committed that fraud,
13 correct, who altered that document?

14 A. That's what's been admitted to by them,
15 correct.

16 Q. Okay. So you became aware that your counsel
17 that you retained as trustee had committed a fraud,
18 correct?

19 A. Correct.

20 Q. What did you do immediately after that?

21 A. The same day that I found out, I contacted
22 counsel. I met with counsel on that very day. I met
23 with counsel the next day. I met with counsel the day
24 after that.

25 Q. Which counsel?

1 A. Alan Rose.

2 Q. Oh. Okay. So he was -- so Tescher and
3 Spallina were your counsel as trustee, but Alan Rose
4 became that day?

5 A. I'm not sure when, but I consulted him
6 immediately. You asked me when.

7 MR. ROSE: Can I caution the witness that it's
8 fine to say who he consulted with. I think the
9 advice was the attorney-client privilege I would
10 instruct him on.

11 THE COURT: All right. The attorney-client
12 privilege is available, and your client is on the
13 stand. Counsel's reminding him that it exists.

14 Are there any other questions? What is the
15 time period that you're asking about here?

16 MR. BERNSTEIN: Right after he discovered that
17 there had been a fraudulent, invalid will created.

18 THE COURT: Right. And you're asking him what
19 he did afterwards?

20 MR. BERNSTEIN: Right afterwards.

21 THE COURT: Okay. Have your mother and father
22 both passed away at the time you're asking him
23 that?

24 MR. BERNSTEIN: Correct.

25 THE COURT: So the validity of the documents

1 that I've got to figure out won't have anything to
2 do with the questions you're asking him now about
3 his actions at trustee, will they?

4 MR. BERNSTEIN: Yes.

5 THE COURT: Tell me how.

6 MR. BERNSTEIN: Okay. Because, Your Honor,
7 when he found out that there was fraud by his
8 attorneys that he retained, the question is, what
9 did they do with those documents? Did he come to
10 the court to correct --

11 THE COURT: The question you're asking him is
12 what did he do.

13 MR. BERNSTEIN: Yeah.

14 THE COURT: Well, that doesn't tell me
15 anything about what the attorneys did. So I'll
16 sustain my own objection. I want to keep you on
17 track here. You're running out of time, and I want
18 you to stay focused on what I've got to figure out.
19 You've got a lot more on your mind than I do. I
20 explained that to you earlier. Do you have any
21 other questions on the issues that I've got to
22 resolve at this point?

23 MR. BERNSTEIN: Yeah.

24 BY MR. BERNSTEIN:

25 Q. Have you seen the original will and trust of

1 your mother's?

2 A. Can you define original for me?

3 Q. The original.

4 A. The one that's filed in the court?

5 Q. Original will or the trust.

6 A. I've seen copies of the trusts.

7 Q. Have you done anything to have any of the
8 documents authenticated since learning that your
9 attorneys had committed fraud in altering dispositive
10 documents that you were in custody of?

11 MR. ROSE: Objection. Relevance.

12 THE COURT: Overruled.

13 THE WITNESS: I have not.

14 BY MR. BERNSTEIN:

15 Q. So you as the trustee have taken no steps to
16 validate these documents; is that correct?

17 A. Correct.

18 Q. Why is that?

19 A. I'm not an expert on the validity of
20 documents.

21 Q. Did you contract a forensic analyst?

22 A. I'm retained by counsel, and I've got counsel
23 retained for all of this. So I'm not an expert on the
24 validity of the documents.

25 Q. You're the fiduciary. You're the trustee.

1 You're the guy in charge. You're the guy who hires your
2 counsel. You tell them what to do.

3 So you found out that your former attorneys
4 committed fraud. And my question is simple. Did you do
5 anything, Ted Bernstein, to validate these documents,
6 the originals?

7 THE COURT: That's already been answered in
8 the negative. I wrote it down. Let's keep going.

9 MR. BERNSTEIN: Okay.

10 BY MR. BERNSTEIN:

11 Q. As you sit here today, if the documents in
12 your mother's -- in the estates aren't validated and
13 certain documents are thrown out if the judge rules them
14 not valid, will you or your family gain or lose any
15 benefit in any scenario?

16 A. Can you repeat that for me, please? I'm not
17 sure I'm understanding.

18 Q. If the judge invalidates some of the documents
19 here today, will you personally lose money, interest in
20 the estates and trusts as the trustee, your family, you?

21 A. I will not.

22 Q. Your family?

23 A. My -- my children will.

24 Q. So that's your family?

25 A. Yes.

1 Q. Okay. So do you find that as a fiduciary to
2 be a conflict?

3 MR. ROSE: Objection.

4 THE WITNESS: No.

5 MR. ROSE: I think it calls for a legal
6 conclusion.

7 THE COURT: Sustained.

8 BY MR. BERNSTEIN:

9 Q. Well, would it matter to you one way or the
10 other how these documents are validated?

11 A. What would matter to me would be to follow the
12 documents that are deemed to be valid and follow the
13 court orders that suggest and deem that they are valid.
14 That would be what I would be charged to do.

15 Q. So you can sit here today and tell me that the
16 validity of these documents, even though your family
17 will lose 40 percent, has no effect on you?

18 A. It has no effect on me.

19 Q. Okay. And you don't find that to be adverse
20 to certain beneficiaries as the trustee?

21 MR. ROSE: Objection. Calls for a legal
22 conclusion.

23 THE COURT: Well, what difference does it make
24 to me? I mean, what he thinks about his role is
25 just not relevant to me.

1 MR. BERNSTEIN: Well, Your Honor --

2 THE COURT: So the next question, please.

3 That's not relevant.

4 BY MR. BERNSTEIN:

5 Q. So in no way have you tried to authenticate
6 these documents as the trustee?

7 THE COURT: He has already said that. That's
8 the third time you've asked it, at least. And I've
9 written it down. It's on my papers.

10 MR. BERNSTEIN: Okay. I'll let it go. I'll
11 let him go today.

12 THE COURT: Okay. You have no further
13 questions of the witness.

14 Is there any cross?

15 MR. ROSE: Briefly.

16 CROSS (TED BERNSTEIN)

17 BY MR. ROSE:

18 Q. You did a few things to authenticate the
19 documents, didn't you? You filed a lawsuit?

20 A. Yes.

21 Q. In fact, we're here today because you filed a
22 lawsuit to ask this judge to determine if these five
23 documents are valid, correct?

24 A. That's correct.

25 Q. And you fired Mr. Tescher and Spallina on the

1 spot?

2 A. Correct.

3 Q. Called the bar association?

4 A. The next business day.

5 Q. You consulted with counsel, and we retained
6 additional probate counsel over the weekend?

7 A. We did.

8 Q. So as far as authenticating the documents, you
9 personally believe these are genuine and valid
10 documents, right?

11 A. I do.

12 Q. And you, in fact, were in your office the day
13 your father signed them?

14 A. That's correct.

15 Q. And witnessed Mr. Spallina and the notary
16 coming to the office to sign the documents?

17 A. Yes, that's right.

18 Q. And you had been on a conference call with
19 your father, your brother and your three sisters where
20 your father told you exactly what he was going to do?

21 A. That is also correct.

22 Q. And the documents that we're looking at today
23 do exactly what your father told everybody, including
24 your brother, Eliot, he was going to do on the
25 conference call in May of 2012?

1 A. Yes, that is correct also.

2 Q. Now, I think you were asked a good question.

3 Do you care one way or the other how these
4 documents are decided by the Court?

5 A. Absolutely not.

6 Q. Did you care when your father or mother made a
7 document that did not specifically leave any money to
8 you?

9 A. I did not.

10 Q. Now, did you care for anybody other than
11 yourself?

12 A. I cared for the -- for the sake of my
13 children.

14 Q. And why did you care for the sake of your
15 children?

16 A. My parents had a very good relationship with
17 my children, and I did not want my children to
18 misinterpret what the intentions of their grandparents
19 were and would have been. And for that reason, I felt
20 that it would have been difficult for my children.

21 Q. Did you ever have access to the original will
22 of your father or mother that were in the Tescher &
23 Spallina vaults?

24 A. I have no access, no.

25 Q. Did you ever have access to the original

1 copies of the trusts that Mr. Spallina testified were
2 sitting in their firm's file cabinets or vaults?

3 A. I did not.

4 Q. Now, did you find in your father's possessions
5 the duplicate originals of the trusts of him and your
6 mother that we've talked about?

7 A. I did.

8 Q. And do you have any reason to believe that
9 they aren't valid, genuine and signed by your father on
10 the day that he -- your father and your mother on the
11 days that it says they signed them?

12 A. None whatsoever.

13 Q. You need to get a ruling on whether these five
14 documents are valid in order for you to do your job as
15 the trustee, correct?

16 A. Yes, that is correct.

17 Q. Whichever way the Court rules, will you follow
18 the final judgment of the Court and exactly consistent
19 with what the documents say, and follow the advice of
20 your counsel in living up to the documents as the Court
21 construes them?

22 A. Always. A hundred percent.

23 MR. ROSE: Nothing further, sir.

24 THE COURT: All right. Thank you.

25 Is there any redirect?

1 REDIRECT (TED BERNSTEIN)

2 BY MR. BERNSTEIN:

3 Q. You just stated that you came to the court and
4 validated the documents in this hearing today; is that
5 correct?

6 MR. ROSE: Objection. It mis --

7 BY MR. BERNSTEIN:

8 Q. You filed a motion to validate the documents
9 today?

10 THE COURT: Wait. You've got to let me rule
11 on the objection.

12 MR. BERNSTEIN: Oh, sorry. I don't hear any
13 objection.

14 THE COURT: I'll sustain the objection.

15 BY MR. BERNSTEIN:

16 Q. Okay. Since -- did you file a motion that
17 we're here for today for validity?

18 A. Explain motion.

19 Q. A motion with the court for a validity hearing
20 that we're here at right now.

21 A. Do you mean the lawsuit?

22 Q. Well, yeah.

23 A. Yes, we did file a lawsuit, yes.

24 Q. Okay. Do you know when you filed that?

25 A. No. I don't know, Eliot. I don't know when I

1 filed it. I don't have it committed to memory.

2 Q. Do you have an idea?

3 MR. ROSE: Objection. I think the court file
4 will reflect when the case was filed.

5 THE COURT: Overruled.

6 The question was answered, I don't know. Next
7 question.

8 MR. BERNSTEIN: Okay.

9 BY MR. BERNSTEIN:

10 Q. Prior to filing this lawsuit, Mr. Rose said
11 you couldn't do anything because you didn't know if the
12 documents were valid.

13 My question is, did you do anything from the
14 time you found out the documents might not be valid and
15 needed a validity hearing to today at this validity
16 hearing?

17 MR. ROSE: Objection. Relevance.

18 THE COURT: What's the relevance?

19 MR. BERNSTEIN: Well, he knew about these
20 documents being fraudulent for X months.

21 THE COURT: What will that help me decide on
22 the validity of the five documents?

23 MR. BERNSTEIN: Why, Your Honor, they didn't
24 come to the court knowing that they needed a
25 validity hearing, and instead disposed and

1 disbursed of assets while they've known all this
2 time --

3 THE COURT: I'll sustain the objection.

4 I'm not called to rule upon that stuff. I'm
5 called to rule upon the validity of these five
6 paper documents. That's what I'm going to figure
7 out at the end of the day.

8 BY MR. BERNSTEIN:

9 Q. Mr. Rose asked you if you found documents and
10 they all looked valid to you, and you responded yes.

11 Are you an expert?

12 A. I am not.

13 Q. Can you describe what you did to make that
14 analysis?

15 A. They looked like they were their signatures on
16 the documents. I had no reason whatsoever to think
17 those weren't the documents that were their planning
18 documents. I had no reason at all to think that.

19 Q. Even after your hired attorneys that were
20 representing you admitted fraud, you didn't think there
21 was any reason to validate the documents?

22 MR. ROSE: Objection. Argumentative.

23 THE COURT: Sustained.

24 BY MR. BERNSTEIN:

25 Q. Did you find any reason to validate these

1 documents forensically?

2 A. I think I answered that by saying that we
3 filed a lawsuit.

4 Q. No, I'm asking you to have a
5 forensic -- you're the trustee. And as a beneficiary --
6 to protect the beneficiaries, do you think you should
7 validate these documents with a handwriting expert due
8 to the fact that we have multiple instances of fraud by
9 your counsel who were acting on your behalf?

10 MR. ROSE: Objection. Cumulative and
11 argument.

12 THE COURT: The question is, does he think
13 something. I've already told you when you ask a
14 question do you think, I stop listening. It's not
15 relevant what the witness thinks.

16 So I'll sustain the objection.

17 BY MR. BERNSTEIN:

18 Q. As a trustee, would you find it to be your
19 fiduciary duty upon learning of document forgeries and
20 frauds by your counsel to have the dispositive documents
21 you're operating under validated by a professional
22 handwriting expert, forensic expert, et cetera?

23 MR. ROSE: Objection. Cumulative.

24 THE COURT: Sustained.

25

1 BY MR. BERNSTEIN:

2 Q. Do you think these documents should be
3 validated -- you're the trustee.

4 Do you think these documents should be
5 validated by a professional firm forensically?

6 MR. ROSE: Objection. Cumulative.

7 THE COURT: It's not relevant. You just asked
8 him if he thinks he should have had them validated.
9 I don't care what he thinks. In making my
10 decisions today, what he thinks he should have done
11 or not done isn't relevant. I'm looking for facts.
12 So I really wish you would address your questions
13 to facts.

14 BY MR. BERNSTEIN:

15 Q. So, to the best of your knowledge, have these
16 documents been forensically analyzed by any expert?

17 MR. ROSE: Objection. Cumulative.

18 THE COURT: No, they are not. I already know
19 that. I wrote it down. He's already said they've
20 not been.

21 MR. BERNSTEIN: Okay.

22 BY MR. BERNSTEIN:

23 Q. Ted, when your father signed, allegedly, his
24 2012 documents in July, were you aware of any medical
25 problems with your father?

1 A. I don't think so.

2 Q. Were you aware that I took him for a biopsy of
3 his brain?

4 A. I'm not aware of that, no.

5 Q. Were you aware of the headaches he was
6 suffering that caused him to go for a biopsy of his
7 brain?

8 A. I don't believe he had a biopsy of his brain.
9 But if he did, then I'm not aware of it.

10 Q. Oh, okay. Were you aware of headaches your
11 father was suffering?

12 A. I recall he was having some headaches.

13 Q. Were you aware that he was seeing a
14 psychiatrist?

15 A. Yes.

16 Q. Were you aware of the reasons he was seeing a
17 psychiatrist?

18 A. Absolutely not.

19 Q. Were you ever in the psychiatrist's office
20 with him?

21 A. Yes.

22 Q. For what reason?

23 A. I wanted to have a conversation with him.

24 Q. About?

25 A. About some personal issues that I wanted to

1 discuss with him.

2 Q. Personal issues such as?

3 MR. ROSE: Can I get clarification? Are you
4 talking about you wanted to -- he may have a
5 privilege.

6 You were discussing Simon's issues or your own
7 personal issues?

8 THE WITNESS: They were both intertwined
9 together.

10 MR. ROSE: I think it's subject to a
11 privilege.

12 THE COURT: All right. Well, you've been
13 warned by your attorney you've got a
14 psychologist-client privilege, so use it as you
15 will.

16 MR. BERNSTEIN: He's not a client of the
17 psychiatrist, I don't think.

18 THE COURT: I beg to differ with you.

19 MR. BERNSTEIN: Oh, he is?

20 THE COURT: Because the answer just clarified
21 that he was in part seeking to be a client. Did
22 you listen to his clarification of his answer?

23 MR. BERNSTEIN: No.

24 THE COURT: Well, I did very closely.

25 MR. BERNSTEIN: What was it?

1 THE COURT: Next question, please.

2 MR. BERNSTEIN: Okay. I'll just see it on the
3 transcript.

4 BY MR. BERNSTEIN:

5 Q. Were you aware of any medical conditions,
6 depression, anything like that your father was
7 experiencing prior to his death?

8 A. I never found our father to suffer from any
9 kind of depression or anything like that during his
10 lifetime.

11 Q. So after your mother died, he wasn't
12 depressed?

13 A. No.

14 MR. ROSE: Could I again ask Mr. Bernstein to
15 step to the podium and not be so close to my
16 client?

17 THE COURT: If you speak into the microphone,
18 it'll be even more easy to hear your questions.

19 Thank you.

20 BY MR. BERNSTEIN:

21 Q. So, according to you, your father's state of
22 mind was perfectly fine after his wife died of -- a
23 number of years --

24 A. I didn't say that.

25 Q. Okay. He wasn't depressed?

1 A. That's what I said.

2 Q. Were you aware of any medications he was on?

3 A. I was, yes.

4 Q. Such as?

5 A. From time to time, he would take something for
6 your heart when you would have angina pains. But that
7 he was doing for 30 years, for a good 30 years, that I
8 knew dad was taking, whatever that medicine is when you
9 have some chest pain.

10 Q. Did you have any problems with your father
11 prior to his death?

12 MR. ROSE: Objection. Relevance.

13 THE COURT: The question is, did you have any
14 problems with your dad before he died?

15 I'll sustain the objection.

16 BY MR. BERNSTEIN:

17 Q. Are you aware of any problems between you and
18 your father that were causing him stress?

19 MR. ROSE: Objection. Relevance.

20 THE COURT: Sustained.

21 BY MR. BERNSTEIN:

22 Q. Were you aware that your father was changing
23 his documents allegedly due to stress caused by certain
24 of his children?

25 A. No.

1 Q. Were you on a May 10th phone call?

2 A. Yes.

3 Q. In that phone call, did your father --

4 MR. ROSE: Objection. It's beyond the
5 scope -- well --

6 MR. BERNSTEIN: It has to do with the changes
7 of the documents and the state of mind.

8 THE COURT: Do you have a question you want to
9 ask? He's withdrawn whatever he was saying, so you
10 can finish your question.

11 BY MR. BERNSTEIN:

12 Q. Okay. So on May 10th, at that meeting, your
13 father stated that he was having trouble with certain of
14 his children, and this would solve those problems.

15 Are you aware of that?

16 A. No, I don't -- not from the way you're
17 characterizing that phone call.

18 Q. Well, how do you characterize that?

19 A. He wanted to have a conversation with his five
20 children about some changes he was making to his
21 documents.

22 Q. And you had never talked to him about the
23 changes, that your family was disinherited?

24 A. No.

25 Q. Prior to that call?

1 A. No.

2 Q. When did you learn that you were disinherited?

3 A. I think when I first saw documents with --
4 maybe after dad -- once dad passed away.

5 Q. Were you aware of the contact with your sister
6 Pam regarding her anger at your father for cutting both
7 of you out of the will?

8 A. I'm aware of that.

9 Q. So that was before your father passed?

10 A. Excuse me. Can you ask -- say the end of that
11 sentence again.

12 MR. BERNSTEIN: Can you read that back?

13 (A portion of the record was read by the
14 reporter.)

15 THE WITNESS: I'm sorry. You asked me a
16 question, and I had answered too quickly. What was
17 the end of the question prior to that?

18 (A portion of the record was read by the
19 reporter.)

20 THE WITNESS: I'm aware that she was angry
21 with him about how -- that he -- she was not in his
22 documents.

23 BY MR. BERNSTEIN:

24 Q. You didn't learn right there that you weren't
25 in the documents?

1 A. I can't remember if it was then or if it was
2 when dad died.

3 Q. Well, this is very important so can you think
4 back to that time.

5 While your father was alive, did I invite you
6 to a Passover holiday at my home?

7 MR. ROSE: Objection. Relevance.

8 THE WITNESS: I don't recall.

9 MR. BERNSTEIN: Okay.

10 THE COURT: What's the relevance?

11 MR. BERNSTEIN: Well, it's relevance to the
12 state of mind my dad was in while --

13 THE COURT: Well, you're asking did this guy
14 get invited to your home. You didn't ask about
15 your dad, so I'll sustain the objection.

16 BY MR. BERNSTEIN:

17 Q. Okay. Did you get invited to a Passover
18 dinner at my home that your father was attending?

19 A. I don't recall the circumstances of
20 what -- whatever it is you're referring to.

21 Q. Do you recall saying you wouldn't come to the
22 Passover dinner?

23 MR. ROSE: Objection. Relevance.

24 THE COURT: Sustained.

25

1 BY MR. BERNSTEIN:

2 Q. Do you recall writing me a email that stated
3 that your family was dead for all intensive [sic]
4 purposes?

5 MR. ROSE: Objection. Relevance.

6 THE COURT: What's the relevance to the
7 validity of these documents?

8 MR. BERNSTEIN: If Si was in the right state
9 of mind or if he was being, you know, forced at a
10 gun to make these changes by children who had --

11 THE COURT: Your question asked this witness
12 if he wrote you a letter that said his family was
13 dead for all intents and purposes. What's that got
14 to do with the validity of these documents?

15 MR. BERNSTEIN: Well, it establishes Simon's
16 state of mind.

17 THE COURT: Okay. I'll sustain the objection.

18 MR. BERNSTEIN: Okay. All right. Well, then,
19 I'm all done then.

20 THE COURT: All right.

21 Is there any cross?

22 MR. ROSE: I already crossed.

23 THE COURT: Oh, that's true. So you're all
24 set. You're done. Thank you.

25 Next witness, please.

1 MR. BERNSTEIN: Alan Rose.

2 MR. ROSE: I object. Improper.

3 THE COURT: You've got 11 minutes yet.

4 MR. BERNSTEIN: Well, he's a witness to the
5 chain of custody in these documents.

6 THE COURT: Well, you can call anybody you
7 want. I just wanted you to know how much time you
8 had left.

9 MR. BERNSTEIN: Oh, okay.

10 MR. ROSE: He wants to call me, and I object
11 to being called as a witness.

12 THE COURT: Okay.

13 MR. ROSE: I don't think that's proper.

14 THE COURT: I don't think that's proper to
15 call an attorney from the other side as your
16 witness. So I accept the objection. Anybody else?

17 MR. BERNSTEIN: Your Honor, I would agree with
18 that normally --

19 THE COURT: Well, thanks.

20 MR. BERNSTEIN: -- but there's a small
21 problem. The chain of custody we're trying to
22 follow in these documents for other reasons, other
23 criminal reasons, is Mr. Rose has pertinent
24 information to; meaning, he claims to have
25 discovered some of these documents and taken them

1 off the property.

2 THE COURT: I thought you said you wanted a
3 chain of custody?

4 MR. BERNSTEIN: Right. Meaning --

5 THE COURT: Well, the chain of custody to me
6 means the chain of custody after the time they were
7 executed.

8 MR. BERNSTEIN: Right.

9 THE COURT: All right. He wasn't around when
10 they were executed.

11 MR. BERNSTEIN: No, but he found documents
12 that are being inserted into this court case as
13 originals, second originals that he found
14 personally, and wrote a letter stating, I just
15 happened to find these documents in Simon's home --

16 THE COURT: Well, I'm going to sustain the
17 objection to you calling him as a surprise witness.
18 He's a representative of your own. Do you have any
19 other witnesses?

20 MR. BERNSTEIN: No. I'm good.

21 THE COURT: Okay. So you rest?

22 MR. BERNSTEIN: I rest.

23 THE COURT: Okay. Is there any rebuttal
24 evidence from the plaintiff's side?

25 MR. ROSE: No, sir.

1 THE COURT: Okay. So the evidence is closed.
2 We'll have time for brief closing arguments. And
3 I'll take those now. Let me hear first from the
4 plaintiff's side.

5 MR. ROSE: I'm sorry. Did you say it was time
6 for me to speak?

7 THE COURT: Yes. I'm taking closing arguments
8 now.

9 MR. ROSE: Okay. Thank you. May it please
10 the Court.

11 We're here on a very narrow issue. And
12 we -- you know, I apologize to the extent I put on
13 a little bit of background. We've had an extensive
14 litigation before Judge Colin. This is our first
15 time here. And if any of my background bored you,
16 I apologize.

17 There are five documents that are at issue,
18 which we talked about before we started; the 2008
19 will and trust of Shirley Bernstein, as well as the
20 amendment that she signed, and then the 2012 will
21 and trust of Simon Bernstein.

22 So the uncontroverted evidence that you've
23 heard was from Robert Spallina, who is an attesting
24 witness to the documents and he was a draftsman of
25 the documents.

1 I don't believe it's directly relevant to your
2 inquiry, but you certainly heard evidence that what
3 Simon Bernstein intended and what he communicated
4 were his wishes; the exercise of a power of
5 appointment through a will, the changing of the
6 beneficiaries of his trust document by way of an
7 amended and restated 2012 document, to give his
8 money -- leave his wealth to his ten grandchildren.
9 The final documents as drafted and signed are
10 consistent with what.

11 But what we're here to decide is, are these
12 documents valid and enforceable? And there are
13 self-proving affidavits attached to the documents.
14 And by themselves, if you find the self-proving
15 affidavits to be valid, then the wills themselves
16 are valid and enforceable.

17 Now, the only question that's been raised as
18 to the self-proving affidavit is an issue with
19 notarization. And we have two cases to cite to the
20 Court on the notarization issue. One is from the
21 Florida Supreme Court called The House of Lyons,
22 and one is from a sister court in the State of
23 North Carolina.

24 THE COURT: Just a second.

25 Sir, would you just have a seat. You're

1 making me nervous.

2 MR. BERNSTEIN: Sure.

3 THE COURT: Thanks.

4 MR. BERNSTEIN: Just aching.

5 THE COURT: Well, I understand. But just have
6 a seat. That'll be better. Thanks.

7 And I'm sorry for the interruption.

8 MR. ROSE: No, that's all right.

9 If I may I approach with the two cases we
10 would rely on.

11 THE COURT: All right.

12 MR. ROSE: The House of Lyons. The second is
13 a case from Georgia. The House of Lyons case is
14 from the Florida Supreme Court. It deals in a
15 slightly different context, but it deals with
16 notarization. And so what you have here is, we've
17 put on evidence. The documents that are in
18 evidence, that these documents were signed
19 properly. The witnesses were in the presence of
20 each other, and the testator and the notary
21 notarized them.

22 Shirley's documents from 2008, there's no
23 question that all the boxes were checked. There is
24 a question that's been raised with regard to
25 Simon's 2012 will and his 2012 trust; that the

1 notary -- rather than the law firm employee
2 notarizing them, these were notarized by Simon's --
3 the testimony is by an employee of Simon's company,
4 not a legal expert. And if on the face of the two
5 documents -- and for the record, these would be
6 Exhibits 4, which is Simon's will, and Exhibit 5,
7 which is Simon's trust.

8 On Exhibit 4, there's no box to check. The
9 whole information is written out. And I don't
10 believe there's any requirement that someone
11 circled the word -- if you just read it as an
12 English sentence, the notary confirmed that it was
13 sworn to and ascribed before me the witness is
14 Robert L. Spallina, who is personally known to me
15 or who has produced no identification.

16 So I think the natural inference from that
17 sentence is that person was known to him, Kimberly
18 Moran, who was personally known to me, and Simon
19 Bernstein, who was personally known to me. So on
20 its face, I think it -- the only inference you
21 could draw from this is that the person knew them.

22 Now, we've established from testimony that she
23 in fact knew the three of them, and we've
24 established by way of Exhibit 16, which was signed
25 on the same day and notarized by the same person.

1 And Exhibit 16, unlike Exhibit 4, which doesn't
2 have a little check mark, Exhibit 16 has a check
3 mark, and the notary properly checks personally
4 known to the people that she was notarizing.

5 So I believe -- and the In Re Lyon case stands
6 for substantial compliance with a notary is
7 sufficient. And the North Carolina case is
8 actually more directly on point. The Florida
9 Supreme Court case, Lyons -- and we've highlighted
10 it for the Court, but it says, clerical errors will
11 not be permitted to defeat acknowledges --
12 acknowledgments when they, considered either alone
13 or in connection with the instrument acknowledged
14 and viewed in light of the statute controlling
15 them, fairly show a substantial compliance with the
16 statute.

17 The North Carolina case is a will case, In Re
18 Will of Durham. And there it's exactly our case.
19 The notary affidavit was silent as to whether the
20 person was personally known or not. And the Court
21 held the caveat was self-proving. The fact that
22 the notary's affidavit is silent as to whether
23 decedent was personally known to the notary or
24 produced satisfactory evidence of his identity does
25 not show a lack of compliance with the notary

1 statute, given the issues of personal knowledge or
2 satisfactory evidence are simply not addressed in
3 that affidavit.

4 So we have a Florida case and we have the
5 North Carolina case, which I think is -- it's
6 obviously not binding, but it is sort of
7 persuasive. If they're self-proved, we would win
8 without any further inquiry. The reason we had a
9 trial and the reason we had to file a complaint was
10 everything in this case -- you've slogged through
11 the mud with us for a day, but we've been slogging
12 through the mud for -- basically, I got directly
13 involved in January of 2014, after the Tescher
14 Spallina firm -- after the issues with the firm
15 came to light. So we've been slogging through
16 this.

17 But we did file a complaint. We went the next
18 step. So the next step says to you, assume the
19 notaries are invalid, which they aren't invalid;
20 but if they were, all we need to establish these
21 documents is the testimony of any attesting
22 witness. So we put on the testimony of an
23 attesting witness, Mr. Spallina. He testified to
24 the preparation of the documents. And I do think
25 it's relevant and it will give the Court comfort in

1 making findings of fact that there was an extensive
2 set of meetings between Mr. Spallina and his
3 clients when they did the documents.

4 I mean, we documented for the first set of
5 documents, you know, four meetings, a letter with
6 some drafts, then a meeting to sign the documents,
7 some phone calls and some amending the documents.
8 And in 2012, we've documented at least one meeting
9 with notes involving Simon; telephone conferences
10 between Simon and his client; eventually, when a
11 decision was made, a conference call of all the
12 children; drafts of the documents sent; the
13 document being executed.

14 And so I think if you look at the evidence,
15 the totality of the evidence, there's nothing to
16 suggest that these five documents do not reflect
17 the true intent of Simon and Shirley Bernstein.
18 There's nothing to suggest that they weren't
19 prepared by the law firm; that they weren't signed
20 by the people that purport to sign them; that
21 undisputed testimony from an attesting witness was
22 that all three people were present, and it was
23 signed by the testator and the two witnesses in the
24 presence of each other.

25 So under either scenario, you get the document

1 admitted. In fact, the documents are in evidence.
2 They've been admitted to probate. But the
3 testimony under 732.502, 503, the testimony of the
4 drafting attorney, who attested -- who was an
5 attesting witness, is sufficient for these
6 documents.

7 There's absolutely no evidence put on the
8 Court that Simon Bernstein lacked mental capacity.
9 In fact, the evidence is directly to the contrary.
10 Every witness testified that he was mentally sharp;
11 making intelligent decisions; having a conference
12 call with his children to explain his wishes. And
13 there's simply no evidence in the record to
14 determine that he lacked testamentary capacity.

15 So if I have Mr. Bernstein, Simon Bernstein,
16 with testamentary capacity signing documents in the
17 presence of two subscribing witnesses, the 2012
18 documents should be upheld. I don't know if
19 there's a question at all even about Shirley
20 Bernstein's 2008 document, but the testimony is
21 undisputed that the documents were consistent with
22 her wishes. You saw a draft letter that explained
23 to her exactly what was happening. She signed the
24 documents. The self-proving affidavits for the
25 Shirley documents are all checked perfectly. And

1 even if they weren't, we have an attesting witness
2 here.

3 And, frankly, I think Eliot Bernstein likes
4 these documents. And all he wants to do is argue
5 what they mean and how much money you get from
6 them. And we didn't really need to spend a day
7 arguing this, but we have and we're here. And we
8 believe that the evidence conclusively demonstrates
9 that these documents are valid.

10 Now, you've heard some nonsense and some
11 shenanigans. There were a couple of problems in
12 the case; one with the notarization of documents.
13 And it's sort of a sad and tortured story, but
14 it's -- it was clearly wrong for someone to send
15 documents into Judge Colin's courtroom that had
16 been altered. The correct documents were submitted
17 and the estate should have been closed.

18 And when the documents were returned, someone
19 should have gone and filed a motion with Judge
20 Colin to accept the un-notarized documents, since
21 there was no dispute they were signed. And we
22 wouldn't be here. But for whatever reason, that
23 happened. And it's unfortunate that happened, but
24 there's no evidence that Ted Bernstein, either of
25 his sisters, or Eliot Bernstein, or any of the

1 grandchildren played any role in the fabrication of
2 that document -- the false notarization.

3 The fabricated amendment to Shirley's trust
4 document is a very disturbing fact, and we took
5 immediate action to correct it. No one's purported
6 to validate that document. We filed an action to
7 have the Court construe the documents, tell us
8 which are valid, tell us what they mean. And
9 that's where we should be focusing our time on.
10 And this is, in my view, step one toward that.

11 But if you look at the evidence we've
12 presented, if you -- I understand you've got to
13 deal with the witnesses that you're handed. And I
14 think Mr. Spallina's testimony, notwithstanding the
15 two issues that we addressed, was persuasive, it
16 was un rebutted.

17 And we would ask that you uphold the five
18 documents and determine, as we have pled, that the
19 five testamentary documents that are in evidence, I
20 believe, as 1, 2, 3, 4, and 5 be upheld and
21 determined to be the valid and final testamentary
22 documents of Simon and Shirley Bernstein. To the
23 extent there's any question the document that has
24 been admitted to be not genuine be determined to be
25 an inoperative and un genuine document, we would ask

1 that you enter judgment for us on Count II and
2 reserve jurisdiction to deal with the rest of the
3 issues as swiftly as we can.

4 THE COURT: All right. Thank you.

5 Any closing argument from the other side?

6 Okay.

7 I keep forgetting that you've got a right to
8 be heard, so please forgive me.

9 MR. MORRISSEY: Judge, if I may approach, I
10 have some case law and statutes that I may refer
11 to. And I'll try to be brief and not cumulative.

12 MR. BERNSTEIN: Could I get the other case law
13 that was submitted? Do you have a copy of that?

14 MR. ROSE: Sure.

15 MR. MORRISSEY: Judge, the relevant statute
16 with respect to the execution of wills is 732.502.
17 It says that every will must be in writing and
18 executed as follows. And I'll just recite from the
19 relevant parts, that is to say relevant with
20 respect to our case.

21 The testator must sign at the end of the will
22 and it must be in the presence of at least two
23 attesting witnesses. And if we drop down to
24 Subsection C, the attesting witnesses must sign the
25 will in the presence of the testator and in the

1 presence of each other.

2 Judge, that was established and uncontroverted
3 in connection with Mr. Spallina's testimony. So
4 732.502 was complied with.

5 Now, I think that we -- there was kind of a
6 distraction with respect to the self-proving
7 affidavits at the end. As Your Honor's aware, a
8 self-proving affidavit is of no consequence in
9 connection with the execution of a will. Execution
10 of a will as dealt with in 732.502 merely requires
11 execution at the end by the testator or the
12 testatrix, and then two witnesses who go ahead and
13 attest as to the testator's signature.

14 Now, the self-proving affidavit at the end is
15 in addition to. So the fact that there may or may
16 not have been a proper notarization is of no
17 consequence in connection with a determination of
18 the validity of any of these documents. So that's
19 number one.

20 Number two, I've also provided Your Honor with
21 another -- a statutory section, 733.107, and it's
22 titled "The Burden of Proof in Contest." And it
23 says there, in Subsection 1, "In all proceedings
24 contesting the validity of a will, the burden shall
25 be upon the proponent of the will to establish,

1 prima facie, its formal execution and attestation."

2 I would submit to the Court that that was done
3 today. We had Mr. Spallina's testimony, which was
4 uncontroverted, that indicated that 732.502 was
5 complied with. The statute goes on to state, "A
6 self-proving affidavit executed in accordance with
7 733.502 or an oath of an attesting witness executed
8 as required under the statutes is admissible and
9 establishes, prima facie, the formal execution and
10 attestation of the will."

11 So, once again, I would submit to the Court
12 that there were self-proving affidavits with
13 respect to all of these testamentary documents.
14 They were proper in form, and therefore comply or
15 comport with the second sentence of the statute.
16 But even if not, we had Mr. Spallina testify today
17 so as to comply with this second sentence of
18 Subsection 1.

19 So if we drop down to the third sentence of
20 this Subsection 1, it says that, "Thereafter, the
21 contestant shall have the burden of establishing
22 the grounds on which probate of the will is opposed
23 or revocation is sought."

24 That was not done today by Mr. Eliot
25 Bernstein. He did not present any evidence or meet

1 any burden to overturn these valid wills.

2 Judge, there is the competency argument. The
3 testamentary competency, I'm now going to quote
4 from In Re Wilmott's Estate, 66 So.2d 465. "A
5 testamentary competency means the ability to
6 understand generally the nature and extent of one's
7 property, the relationship of those who would be
8 the natural objects of the testator's bounty, and
9 the practical effect of the will."

10 The only testimony, I elicited that from
11 Mr. Spallina. His is the only testimony that we
12 have in this regard. And it's uncontroverted that
13 both of these decedents met those very specific
14 criteria which -- with respect to each and every
15 one of the five documents that are submitted for
16 your Court's validation today.

17 There's also case law, In Re Estate of Weihe,
18 W-E-I-H-E. That's 268 So.2d 446. That's a Fourth
19 DCA case that says, "Competency is generally
20 presumed and the burden of proving incompetency is
21 on the contestant." So even if we didn't have
22 Mr. Spallina's testimony today, which I elicited,
23 competency on the part of both Shirley and Si
24 Bernstein would be presumed. And it would be the
25 contestant, Mr. Eliot Bernstein, who would have to

1 come up with the -- or would have the burden of
2 showing that they were incompetent. He presented
3 no evidence today in that regard or in that
4 respect.

5 Lastly, there's the In Re Carnegie's estate,
6 153 Florida 7. It's a 1943 case. That says that
7 testamentary capacity refers to competency at the
8 time that the will was executed, so on that date.

9 The only testimony we have with respect to any
10 issues of competency on the date -- on the specific
11 dates that these testamentary documents were signed
12 was from Mr. Spallina. And on all such dates and
13 times, Mr. Spallina testified that these requisites
14 with respect to competency -- or testamentary
15 competency were met.

16 Finally, Judge, undue influence, that would be
17 a reason for invalidating a will. Mr. Bernstein,
18 once again, did not present any evidence to go
19 ahead and suggest that these wills or trusts
20 documents should be overturned on the grounds of
21 undue influence. And in that regard, I provided
22 Your Honor with the Estate of Carpenter, 253 So.2d
23 697. To prove undue influence, one must
24 demonstrate that a beneficiary had a confidential
25 relationship with the decedent and actively

1 procured the will or trust.

2 Mr. Eliot Bernstein did not even suggest today
3 that any of the beneficiaries actively procured the
4 document. Why? Beneficiaries are essentially --
5 are ultimately the ten grandchildren.

6 Mr. Bernstein, Eliot Bernstein, did not suggest
7 today that any one of the ten grandchildren, who
8 are ultimately beneficiaries, were active in
9 procuring any of the five documents, nor did
10 Mr. Bernstein submit to the Court any evidence of
11 confidential relationship by anyone in connection
12 with the various criteria to raise the presumption
13 of undue influence, nor did Eliot Bernstein raise
14 the presumption by satisfying any or enough of the
15 criteria under the Carpenter case to go ahead and
16 raise the presumption that anyone, any substantial
17 beneficiary, had committed undue influence with
18 respect to any of these documents.

19 For those various, multifarious reasons,
20 Judge, I would submit to the Court that these
21 documents are valid and should be held as such.

22 THE COURT: All right. Thank you.

23 Any closing from the defendant's side?

24 MR. BERNSTEIN: Oh, yeah.

25 THE COURT: You've got eight minutes

1 remaining.

2 MR. BERNSTEIN: Okay. Your Honor, we're
3 really here today because of a complex fraud on the
4 court and on beneficiaries like myself and my
5 children. The only witness they procured to
6 validate these documents has consented to the SEC
7 and felony charges recently with his partner for
8 insider trading. He came up on the stand and
9 admitted that he committed fraud, and that his law
10 firm forged documents and frauded documents, and
11 then submitted them not only to the court, but
12 beneficiaries' attorneys as part of a very complex
13 fraud to not only change beneficiaries, but to
14 seize dominion and control of the estates through
15 these very contestable documents.

16 They've been shown by the governor's office to
17 not be properly notarized. The two people who are
18 going -- well, one is --

19 MR. ROSE: I don't want to object to --

20 MR. BERNSTEIN: -- has no --

21 MR. ROSE: Can I object? He's so far talking
22 about things that aren't in evidence.

23 THE COURT: Sustained.

24 You can only argue those things that were
25 received in evidence.

1 MR. ROSE: And I realize Your Honor has a good
2 memory of the evidence --

3 MR. BERNSTEIN: I put in evidence that
4 Mr. Spallina was SEC --

5 THE COURT: No, I sustained objections to
6 those questions.

7 MR. BERNSTEIN: Oh, okay.

8 THE COURT: You can only argue those things
9 that came into evidence.

10 MR. BERNSTEIN: Okay. They didn't bring in
11 any of the necessary parties to validate these
12 documents, other than Mr. Spallina, who admitted to
13 the Court today that he fraudulently altered the
14 trust document. Can I now say that?

15 THE COURT: It's not good for you to ask me
16 questions. I've got to rule on objections, and I'm
17 trying to give you some guidance so that you don't
18 screw up. But I can't answer your legal questions.

19 MR. BERNSTEIN: Okay. So the only witness has
20 admitted in this very case that his law firm
21 submitted forged and fraudulent documents to the
22 Court already in this case; that he himself did
23 those frauds. And we're relying on his sole
24 testimony.

25 None of the other people who signed these

1 documents are here today to validate or even
2 confirm his statements. So it's a highly
3 uncredible [sic] witness to the documents,
4 especially when Mr. Spallina drafted, signed as a
5 witness, gained interest in the documents himself
6 personally as a trustee, and seems to clearly have
7 then taken it upon himself to mislead beneficiaries
8 as to the actual documents.

9 I have asked for production of these
10 documents. Today there were no originals produced
11 to this Court for you to examine.

12 And more importantly, there's a few last
13 things I wanted to state to the Court. My children
14 are not represented here today as beneficiaries.
15 They were supposed to be represented by a trustee
16 of a trust that does not exist in our possession.
17 So they were -- I was sued as a trustee of a trust
18 I've never been given to represent my children, who
19 are alleged beneficiaries by these guys. And the
20 estate's done nothing to provide counsel to three
21 minor children, and left them here today without
22 counsel, and me as a trustee of a trust that
23 doesn't exist, as far as we know. I've never
24 signed it. They haven't submitted it to the Court,
25 to anybody.

1 I want to bring up Rule 1.20, pretrial
2 procedure, case management conference process
3 provides, "The matter to be considered shall be
4 specified in the order of notice setting the
5 conference."

6 So I just want to say that we had a status
7 conference in Simon Bernstein's estate, and only
8 Simon Bernstein's estate, and that this trial was
9 scheduled in Simon's status conference, which
10 violates that very rule. So this trial, in my
11 view, was conducted improperly.

12 Like I said, if you look at the hearing
13 transcript of that day, you'll see that Mr. Rose
14 misleads the Court to think that all these cases
15 were noticed up that day. But Mr. O'Connell, the
16 PR, had only noticed it up for Simon's estate. So
17 what I'm doing here at a trial in Shirley's trust
18 violates Rule 1.20.

19 There are some other things that are violated
20 and not -- I believe we didn't get to discuss
21 the -- at the case management, the fact that, you
22 know -- and I did try to get this out -- that we
23 would need a lot more time for a competency
24 hearing, for a removal of Ted process, which should
25 have come first before doing this and letting them

1 argue, where it's been alleged that there's some
2 serious problems with Ted Bernstein's
3 representation, including the fact that the PR of
4 the estate of Simon has filed with this Court
5 notice that he's not a valid trustee.

6 MR. ROSE: Objection. Outside -- not in
7 evidence.

8 THE COURT: Okay. If you're not going to
9 argue the facts that are in evidence in this trial,
10 then I'm going to ask you to stop.

11 MR. BERNSTEIN: Okay. Well, I'll keep going
12 on my -- see, that's what's confusing. What trial?
13 We had a case management. I was prepared for a
14 Simon, where I have Simon trust construction, all
15 those things ready, and I didn't come with any
16 notes about Shirley. And I've tried to notice the
17 Court that under 1.200, this trial was scheduled
18 improperly in the estate of Simon, and should have
19 been reheard or rescheduled or something.

20 But that seems not to matter. It doesn't
21 matter that we follow the rules. I follow the
22 rules, but it seems that the other side doesn't
23 follow any of the rules; doesn't submit documents
24 properly to courts; commits frauds on courts; and
25 then wants you to believe the validity of these

1 documents based on a felony statement to the Court,
2 who's under a consent with the SEC.

3 THE COURT: You've got two minutes remaining.

4 MR. BERNSTEIN: There were outstanding
5 discovery requests. I was denied all these
6 documents. I was denied the trust that I'm sued
7 under representing my children. So I can't get any
8 of those documents. We would have brought all that
9 up at a real status conference had it been a real
10 status conference and not a corralling or, as you
11 called it, a wrangling of octopuses.

12 THE COURT: That's vivid imagery. Isn't it?
13 I pride myself on that one.

14 MR. BERNSTEIN: Oh, yeah. Well, I was
15 wrangled, technically, into the wrong case here
16 today, in a status conference that you should have
17 corrected upon learning about this. And Mr. Rose
18 has been aware of his mistake in misleading the
19 Court that all these cases were noticed up, when
20 they weren't. And he didn't come to the Court to
21 correct it. Kind of like they didn't come to the
22 Court to correct the validity of these documents
23 before acting under them, knowing they needed to be
24 not only challenged on validity, but on
25 construction of terms, which will come next, which

1 is going to just go right back into the same circle
2 of fraud.

3 So their star witness is a felon. Their star
4 witness has committed fraud upon this Court in this
5 case. That's who they're relying on, and hoping
6 you bank on his words to validate documents.

7 I, Your Honor, am asking that you don't
8 validate the documents; that we move forward to
9 have the documents properly forensically analyzed.
10 They were the subject of ongoing criminal
11 investigations, which are just getting kicked off.
12 In fact, I got 7200 documents from Mr. Spallina,
13 where almost, I think, 7200 are fraud.

14 THE COURT: Your time is more than elapsed. I
15 was letting you finish up as a courtesy, but you're
16 getting off into things that aren't in evidence --

17 MR. BERNSTEIN: Okay. Well, I don't think the
18 trial was conducted fairly. I think that my due
19 process rights have been denied under the law.

20 THE COURT: Your time is more than up. Thank
21 you.

22 MR. BERNSTEIN: Okay.

23 THE COURT: Is there any rebuttal?

24 MR. BERNSTEIN: And I still would like to move
25 for your disqualification, on the record.

1 THE COURT: On the record doesn't count.

2 You've got to put it in writing.

3 MR. BERNSTEIN: Are you sure? I thought I saw
4 in the rules --

5 THE COURT: I'll tell you what. You proceed
6 under your understanding of the law and the rules.
7 That's fine.

8 MR. BERNSTEIN: Okay.

9 THE COURT: Before I take this --

10 MR. BERNSTEIN: I rest.

11 THE COURT: -- before I take this rebuttal
12 argument, I'll let you put your request for recusal
13 in writing. We'll be out of session five minutes.

14 Is that something you want me to read?

15 MR. ROSE: I just want to make my final --

16 THE COURT: I just want to make sure that
17 there's been no possibility that this gentleman
18 won't have his moment to shine.

19 So go ahead and go put that in writing, sir.
20 Be back in five minutes.

21 (A break was taken.)

22 THE COURT: Did you get that written down?

23 MR. BERNSTEIN: Can I approach?

24 THE COURT: Sure. All approaches are okay.

25 MR. BERNSTEIN: Do you want to wait for

1 everybody?

2 THE COURT: Do you have something that you
3 wanted to file, a written motion to recuse?

4 MR. BERNSTEIN: Yeah. In freestyle.

5 THE COURT: All right. I'll take a look at
6 it. Thank you.

7 MR. BERNSTEIN: Can I ask a question?

8 THE COURT: I'll be in recess. I'll take a
9 look at this written motion. Thank you. It'll
10 take me just a minute. Don't anybody go away.

11 (A break was taken.)

12 THE COURT: The stack of documents handed up
13 to me by the defendant are duplicates of documents
14 that he filed, it looks like, twice with the clerk
15 on December 4th, and they've already been ruled
16 upon by me. But I am also ruling today by
17 handwritten order on the face of one of the
18 documents that the disqualification motion is
19 denied as legally insufficient; already ruled upon
20 in the order of 12/8/15, at Docket Entry No. 98;
21 identical to motions filed by defendant on
22 12/4/2015 at Docket Entries Nos. 94 and 98; done in
23 order of John Phillips, 12/15/15. And since I have
24 skills, I made copies of my handwritten order for
25 everybody.

1 Gary, if you could, just hand these out.

2 That'll take care of all that.

3 Now we can go back to talking about the case.

4 I was going to take the rebuttal argument from
5 Plaintiff's side. I'd take that now.

6 MR. ROSE: I have just the exhibits that we
7 put in evidence on the plaintiff's side, if that's
8 easier for the Court.

9 THE COURT: That would be much easier. Thank
10 you.

11 MR. ROSE: And I have a proposed final
12 judgment. And I wanted to talk about one paragraph
13 of the final judgment in particular.

14 MR. BERNSTEIN: I haven't had time to review
15 any final judgment or anything.

16 THE COURT: You're interrupting the argument.
17 Thank you.

18 MR. ROSE: So the complaint alleges -- and I
19 realize we didn't cover every issue in the entire
20 case, but we do it within the four corners of Count
21 II of the complaint. Count II of the complaint was
22 stated in paragraph 79 through 88 of the complaint.

23 And the answer that's filed in this case on
24 Count II at paragraph 80 alleges that there's been
25 a fraud on the court by Ted Bernstein, including,

1 but not limited to, proven forgery, fraudulent
2 notarizations, fraud on the court, altercation
3 [sic] of trust documents, et cetera, et cetera.

4 And in paragraph 82, the answer says that Ted
5 should be removed for his ongoing involvement in
6 fraud which is dealing with these documents.

7 Ted Bernstein is serving as a fiduciary.
8 You've heard -- that was the defense to this case.
9 That's stated in the complaint. You heard no
10 evidence that Ted Bernstein was involved in the
11 preparation or creation of any fraudulent
12 documents. In fact, the evidence from Mr. Spallina
13 was to the contrary.

14 So our final judgment in paragraph 5 asks the
15 Court to make a ruling on the issues that are pled
16 in the answer, specifically that there was no
17 evidence that Ted was involved and that the
18 evidence was to the contrary.

19 So we have no rebuttal. We believe we've
20 established our case, and we proposed a final
21 judgment for Your Honor's consideration that
22 discusses that this is an action to adjudicate five
23 documents to be the testamentary documents. Based
24 on the evidence presented, they're genuine,
25 authentic, valid and enforceable; has the requisite

1 findings. Paragraph 5, which I've explained, the
2 reason we believe it's appropriate in the final
3 judgment, given the pleadings that were made and
4 the lack of evidence on those pleadings. And we
5 didn't get into it today, but --

6 THE COURT: Well, if we didn't get into it
7 today, then it's not proper for argument.

8 MR. ROSE: Well, it's alleged in the complaint
9 and not proven, so I think it's appropriate to make
10 a finding on it. You didn't actually hear
11 testimony that was relevant to those issues about
12 Ted Bernstein. And I would ask you to consider
13 that 5 is supported by the evidence and the
14 pleadings.

15 And 6, we would like you to declare the
16 unauthorized one invalid, because it does change
17 potentially something, and we want to know what
18 we're doing going forward. And I don't think
19 anyone disputes that Exhibit 6 that's in evidence
20 was not valid. And then it just states this is
21 intended to be a final order under the rules of
22 probate code.

23 So that's our order. We would ask you to
24 enter our judgment or a judgment similar to it;
25 find in favor of the plaintiff; reserve

1 jurisdiction for numerous other matters that we
2 need to deal with as quickly as we can. But,
3 hopefully, with the guidance we get today, we'll be
4 able to do it more quickly and more efficiently.
5 So thank you.

6 THE COURT: All right. Thanks.

7 We'll be in recess. It was fun spending time
8 with you all.

9 Sir, do you have any proposed final judgment
10 you want me to consider? I've received one from
11 the plaintiff's side. Is there some from the
12 defendant's side?

13 MR. BERNSTEIN: No. I haven't received one
14 from them. And seeing theirs --

15 THE COURT: Okay. Thank you.

16 Then we'll be in recess. Thank you all very
17 much. I'll get this order out as quickly as I can.

18 (At 4:48 p.m. the trial was concluded.)
19
20
21
22
23
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

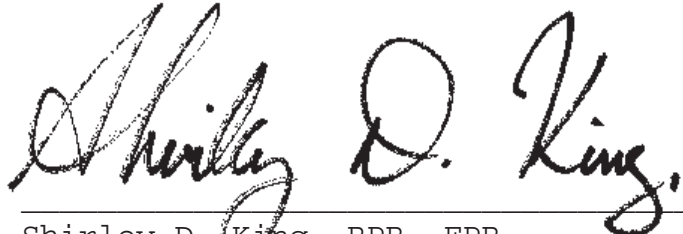
C E R T I F I C A T E

STATE OF FLORIDA

COUNTY OF PALM BEACH

I, Shirley D. King, Registered Professional Reporter, State of Florida at large, certify that I was authorized to and did stenographically report the foregoing proceedings and that the transcript is a true and complete record of my stenographic notes.

Dated this 4th day of January, 2016.



Shirley D. King, RPR, FPR

Job #1358198-VOL 2

| | | | |
|--|--|--|---|
| <hr/> <p style="text-align: center;">0</p> <hr/> <p>08 190:2</p> <hr/> <p style="text-align: center;">1</p> <hr/> <p>1 120:3 167:6 168:4 177:21 178:3,4,11 180:24 182:13 183:24 241:20 243:23 244:18, 20 1.20 251:1,18 1.200 252:17 10 130:15 180:15 10th 226:1,12 11 230:3 11th 200:12,13 12 188:1 12/15/15 256:23 12/4/2015 256:22 12/8/15 256:20 12th 194:3 13 175:17 200:21 13th 194:3 14 207:3 14th 189:8 15 179:21 180:19 153 246:6 15th 191:12 16 235:24 236:1,2 18th 168:13 19 176:6 1943 246:6 1994 143:8 1995 155:3</p> <hr/> <p style="text-align: center;">2</p> <hr/> <p>2 133:24 134:2, 18 160:21,25 161:2,6,10 163:8,22</p> | <p>167:15,16 173:10 175:9 177:22 178:5, 7,9,11,14 180:24 182:15 183:24 241:20 20 176:7 2006 153:25 2007 142:14 2008 168:13 184:8 232:18 234:22 239:20 2012 129:24 130:15 131:7 191:4 192:24, 25 194:3 214:25 221:24 232:20 233:7 234:25 238:8 239:17 2013 140:9 196:7 200:21 207:3 2014 189:8 237:13 24 176:12 253 246:22 268 245:18 27 167:16 28 168:1 190:7, 20 197:12 198:13,14</p> <hr/> <p style="text-align: center;">3</p> <hr/> <p>3 168:4,5 175:9 180:24 182:4, 6,15,19 183:16 187:4 198:21, 23 241:20 3/12/08 187:12 30 155:3 225:7</p> <hr/> <p style="text-align: center;">4</p> <hr/> <p>4 171:6 173:12 175:10 202:25 235:6,8 236:1 241:20 40 212:17</p> | <p>446 245:18 465 245:4 4th 256:15</p> <hr/> <p style="text-align: center;">5</p> <hr/> <p>5 175:3 235:6 241:20 503 239:3</p> <hr/> <p style="text-align: center;">6</p> <hr/> <p>6 177:9 178:16, 22,23 179:3,4 180:24 182:7, 8,9,10,20 183:4,9,10 184:22 186:22 187:3,6 60 179:23,25 180:3 66 245:4 697 246:23</p> <hr/> <p style="text-align: center;">7</p> <hr/> <p>7 133:19 134:1, 18 171:7 246:6 7200 254:12,13 732.502 239:3 242:16 243:4, 10 244:4 733.107 243:21 733.502 244:7</p> <hr/> <p style="text-align: center;">8</p> <hr/> <p>8 173:15</p> <hr/> <p style="text-align: center;">9</p> <hr/> <p>94 256:22 96 143:8 98 256:20,22 9th 166:13 190:18 191:4 199:25 200:8, 10,19 201:4 202:5</p> | <hr/> <p style="text-align: center;">A</p> <hr/> <p>ability 174:21 193:7 245:5 absolutely 215:5 222:18 239:7 accept 181:9 230:16 240:20 access 215:21, 24,25 accordance 244:6 account 151:17 accounted 152:15 accounting 150:4,20 190:11,15 191:9,11 accurate 126:25 accurately 206:10 aching 234:4 acknowledged 236:13 acknowledges 236:11 acknowledgments 236:12 acting 220:9 253:23 action 241:5,6 actions 164:15, 18 209:3 active 247:8 actively 246:25 247:3 activity 165:24 actual 250:8 ad 195:24 added 184:25 adding 185:11, 12,13 addition 243:15 additional 214:6 address 221:12 addressed 237:2</p> |
|--|--|--|---|

| | | | |
|------------------------|------------------------|------------------------|------------------------|
| 241:15 | 228:5 | apologize | asks 151:2 |
| adequately | allege 184:5 | 232:12,16 | assets 132:21 |
| 135:4 | alleged 140:11, | Apparently | 144:25 219:1 |
| administered | 15 158:12 | 170:13 | assignment |
| 202:6 | 195:16 250:19 | appears 160:14 | 203:10 |
| admissibility | 252:1 | 161:18 167:17, | assistant |
| 162:24 197:21 | allegedly | 18 171:11 | 192:11 |
| admissible | 168:12 207:5 | 172:20 175:7 | association |
| 244:8 | 221:23 225:23 | 176:14 200:1 | 214:3 |
| admit 197:13, | allowed 142:5 | 202:6 | assume 142:9 |
| 17,19 | 150:13 172:5 | appoint 194:4, | 158:3 237:18 |
| admitted 137:1 | 206:12 | 16,23,24 | Assuming 188:24 |
| 148:25 166:11 | alter 140:19 | 195:4,5 | attach 138:12 |
| 207:14 219:20 | 163:25 185:14 | appointed 192:5 | attached 127:11 |
| 239:1,2 241:24 | alteration | 194:25 195:1,2 | 136:25 233:13 |
| 248:9 249:12, | 124:24 140:8 | appointment | attempt 144:6 |
| 20 | 207:1 | 139:5 161:16 | attending |
| adverse 212:19 | alterations | 163:25 189:1 | 228:18 |
| advice 150:13, | 140:23,25 | 233:5 | attention 131:4 |
| 16 208:9 | altercation | approach 126:10 | 136:17 152:2 |
| 216:19 | 207:8 | 178:20 234:9 | attest 243:13 |
| affidavit | altered 137:1 | 242:9 255:23 | attestation |
| 233:18 236:19, | 144:5,13 | approaches | 244:1,10 |
| 22 237:3 | 155:12 156:1 | 126:11 255:24 | attested 201:25 |
| 243:8,14 244:6 | 163:7 166:21 | April 166:13 | 239:4 |
| affidavits | 167:1 207:13 | 190:2,18 191:4 | attesting |
| 233:13,15 | 240:16 249:13 | 199:25 200:8, | 232:23 237:21, |
| 239:24 243:7 | altering 144:14 | 10,12,13,19 | 23 238:21 |
| 244:12 | 156:17 210:9 | 201:4 202:5 | 239:5 240:1 |
| affirmatively | amend 177:15 | argue 150:8 | 242:23,24 |
| 154:11 | amended 151:17 | 162:4 240:4 | 244:7 |
| affirmed 205:22 | 159:5 176:19 | 248:24 249:8 | attorney |
| agree 181:8 | 233:7 | 252:1,9 | 131:23,24,25 |
| 189:6 230:17 | amending 238:7 | argued 180:13 | 132:4,5,11,12 |
| agreement | amendment | arguing 162:5, | 137:8 141:23 |
| 126:15 129:3 | 136:25 137:4,5 | 19 163:17 | 147:17 155:17, |
| 136:22,25 | 138:11,13,16, | 240:7 | 24 156:8,11 |
| 139:12 140:18 | 17 139:25 | argument 151:6, | 162:22 189:22 |
| 141:17 153:8 | 144:13 168:3 | 9 163:14,16 | 194:4 199:22 |
| 164:1 167:15 | 177:7 182:13, | 220:11 242:5 | 223:13 230:15 |
| 177:16 | 14 184:7,20 | 245:2 255:12 | 239:4 |
| agreements | 232:20 241:3 | argumentative | attorney-client |
| 139:10 | analysis 219:14 | 138:21 143:15 | 208:9,11 |
| ahead 159:19 | analyst 210:21 | 155:14 156:18, | attorneys 147:7 |
| 161:13 243:12 | analyzed 221:16 | 20 163:10 | 189:17 207:11 |
| 246:19 247:15 | 254:9 | 185:19 195:20 | 209:8,15 210:9 |
| 255:19 | anger 227:6 | 219:22 | 211:3 219:19 |
| Alan 134:7 | angina 225:6 | arguments 151:8 | 248:12 |
| 149:5,8 208:1, | angry 227:20 | 232:2,7 | authenticate |
| 3 230:1 | anymore 121:22 | article 177:19 | 213:5,18 |
| alive 189:25 | 124:13 | ascribed 235:13 | authenticated |
| 191:6 192:2 | | | 210:8 |

| | | | |
|---|---|---|--|
| authenticating 214:8 | Beach 165:8 166:19 203:8 | 23 138:3,6,9 139:2 140:4,6, 11,12,14 | 17,21 194:1,9, 12 196:4,5,14, 15,16,18,24 |
| authorization 132:4 | bearing 189:3 | 141:4,6,9,21 142:6,11,12,18 | 197:3,7,8,13, 19,22,25 |
| authorized 132:8,10 | beg 223:18 | 143:17,23 144:3,4,21,22 | 198:4,9,22 199:2,5,6,24, 25 201:3,14, 21,23,24 |
| autopsy 165:2 | beginning 175:20 | 145:16,18 146:1,10,12, 15,19,22,24 | 203:7,11,15,16 204:1,5,6,15, 18,23 205:2, 10,14,15,17,21 |
| aware 130:2,5 131:2,18 151:13,16 154:11 158:12, 15,17,19,22 159:2 165:2,7, 24 166:7,15 169:1,8,13,19, 20,21,24 170:1 206:25 207:16 221:24 222:2, 4,5,9,10,13,16 224:5 225:2, 17,22 226:15 227:5,8,20 243:7 253:18 | behalf 155:6 193:20 201:9 220:9 | 147:4 148:5, 10,11,22 149:3,18 150:8,10,14, 18,22 151:1, 11,20,24 152:1,5,9,22 153:3,6,7 154:15,16,18, 20 155:10,15, 16,20,22 156:6,23 157:2,11,13,25 158:5,9 159:10,11,13, 17,22 160:1,5, 9,17,20 161:4, 9,14 163:4,5, 11,17,20 164:9,13,25 165:1,6,12,14, 16 166:1,10,24 167:4 168:4,7 169:7,16 170:5,6 171:6, 9,25 172:6,9, 13,16,17 173:11,14,18 174:19 175:2,4 176:21 177:5, 9,11 178:3,9, 14,20,24 179:1,5,8,11, 24 180:10,12, 23 181:2,22 182:7,19,22,25 183:3,8,11,13, 15,24 184:1,15 185:22,24 186:1,5,8,14, 17,20 187:8 188:17 190:4, 17,24 191:12 192:19 193:5, | 206:1,13,15, 18,23 208:16, 20,24 209:4,6, 13,23,24 210:14 211:5, 9,10 212:8 213:1,4,10,16 217:1,2,7,12, 15 218:8,9,19, 23 219:8,24 220:17 221:1, 14,21,22 223:16,19,23, 25 224:2,4,14, 20 225:16,21 226:6,11 227:12,23 228:9,11,16 229:1,8,15,18 230:1,4,9,17, 20 231:4,8,11, 20,22 232:19, 21 233:3 234:2,4 235:19 238:17 239:8, 15 240:3,24,25 241:22 242:12 244:25 245:24, 25 246:17 247:2,6,10,13, 24 248:2,20 249:3,7,10,19 252:11 253:4, 14 254:17,22, 24 255:3,8,10, 23,25 256:4,7 |
| B | | | |
| back 122:24 127:3 147:24 166:2 175:20 179:21 180:19 186:6,12 192:16 193:18 199:4,9,12 200:5,8 227:12 228:4 254:1 255:20 | behavior 193:5 | 190:15 202:12, 14,15,21 220:5 246:24 247:17 | 220:17 221:1, 14,21,22 223:16,19,23, 25 224:2,4,14, 20 225:16,21 226:6,11 227:12,23 228:9,11,16 229:1,8,15,18 230:1,4,9,17, 20 231:4,8,11, 20,22 232:19, 21 233:3 234:2,4 235:19 238:17 239:8, 15 240:3,24,25 241:22 242:12 244:25 245:24, 25 246:17 247:2,6,10,13, 24 248:2,20 249:3,7,10,19 252:11 253:4, 14 254:17,22, 24 255:3,8,10, 23,25 256:4,7 |
| background 232:13,15 | beneficiaries 140:19,24 141:1 144:17 145:15,17 157:8 202:19 204:8,16 212:20 220:6 233:6 247:3,4, 8 248:4,13 250:7,14,19 | 185:22,24 186:1,5,8,14, 17,20 187:8 188:17 190:4, 17,24 191:12 192:19 193:5, | Bernstein's 177:7 191:2 239:20 251:7,8 252:2 |
| backwards 144:1 | beneficiaries' 248:12 | 192:19 193:5, | |
| BAILIFF 186:11 | beneficiary 133:4 144:23 145:18,19,20 157:5 158:3 190:15 202:12, 14,15,21 220:5 246:24 247:17 | | |
| bank 254:6 | benefit 133:15 155:6 211:15 | | |
| bar 120:21 127:4 214:3 | benefits 146:2 | | |
| based 162:14 165:17 192:12 196:19 253:1 | Benjamin 122:2 | | |
| basically 131:5 237:12 | Bentley 151:12, 14,16 152:13 | | |
| Bates 188:3,6 | Bentleys 152:3 | | |
| Baxley 173:1 174:22 176:18 | Bernstein 120:7,10,18,19 121:10,13,16 122:11,20 123:15,22 124:2,8,9,23 125:3,8,16 126:6,12,13 127:7,21 128:7 132:24 133:3, 10,19,22 134:3,7,9,17, 20 135:6,9,18, 24 136:3,6,7, 15,19,20 137:11,15,20, | | |

| | | | |
|----------------------------|--|------------------------|------------------------|
| binding 237:6 | | 252:13 253:15 | 211:23 215:13, |
| biography 143:13 | | 254:5 | 15,17,20 |
| biopsy 158:24 | | cases 171:19 | 225:24 226:14, |
| 222:2,6,8 | | 233:19 234:9 | 20 229:10 |
| birth 206:20 | | 251:14 253:19 | 238:12 239:12 |
| bit 162:17 | | caused 164:22 | 248:5 250:13, |
| 232:13 | | 222:6 225:23 | 18,21 253:7 |
| bitter 179:22 | | causing 131:14 | children's |
| blank 163:21 | | 225:18 | 137:8 |
| blue 169:19 | | caution 208:7 | Christine |
| body 165:21 | | caveat 236:21 | 136:24 137:7 |
| book 167:16 | | cavitating | 139:13,15,17, |
| 179:1,15,17,18 | | 144:2 | 18 140:1 144:6 |
| 181:11,12,13 | | certificate | 148:25 155:11 |
| 182:10,11,16, | | 206:21 | 156:7 |
| 19 190:7 | | certified | chronology |
| bored 232:15 | | 171:2,3 | 185:15 |
| bottom 129:2,4, | | cetera 220:22 | circle 173:22 |
| 5,14 170:9,13 | | chain 121:4 | 174:1 254:1 |
| bound 152:8 | | 230:5,21 | circled 235:11 |
| bounty 245:8 | | 231:3,5,6 | circulation |
| box 123:5 | | challenged | 139:10,16,17, |
| 189:16,20 | | 253:24 | 21 |
| 235:8 | | chance 204:7 | circumstances |
| boxes 234:23 | | change 248:13 | 228:19 |
| brain 158:19, | | changing 225:22 | cite 233:19 |
| 23,24 222:3,7, | | 233:5 | claim 155:6 |
| 8 | | characterize | 169:17 |
| break 179:20 | | 226:18 | claiming 184:6, |
| 180:20 181:14 | | characterizing | 17,19 |
| 255:21 256:11 | | 226:17 | claims 150:5 |
| Briefly 213:15 | | charge 194:5 | 202:11 230:24 |
| bring 249:10 | | 198:17 207:9 | clarification |
| 251:1 | | 211:1 | 143:19 223:3, |
| bringing 197:4 | | charged 212:14 | 22 |
| broader 139:5 | | charges 248:7 | clarified |
| brother 132:2 | | Chaves 142:23 | 122:13 223:20 |
| 214:19,24 | | check 153:3 | clarify 120:11 |
| brought 131:3 | | 168:23 173:1 | 122:4 |
| 151:21 158:22 | | 235:8 236:2 | clarity 141:19 |
| 197:10 253:8 | | checked 234:23 | clause 178:17 |
| Brown 122:2 | | 239:25 | clear 156:22 |
| burden 243:22, | | checks 236:3 | 195:10 201:19 |
| 24 244:21 | | chest 225:9 | clerical 236:10 |
| 245:1,20 246:1 | | children | clerk 167:9,11 |
| business 214:4 | | 131:10,11 | 170:10,25 |
| | | 135:6,9 141:24 | 186:10,11,13 |
| | | 156:12 161:17 | 256:14 |
| | | 192:14 202:17 | client 122:25 |
| | | 203:10,21 | 123:2 208:12 |
| | | 204:7,13 | 223:16,21 |
| | | | 224:16 238:10 |

| | | | |
|---|---|---|---|
| clients 156:12 168:18,21 175:13 189:19 238:3 | 14,15 251:23 | consent 253:2 | 216:1 256:24 |
| close 150:10 195:18 196:15, 21 224:15 | competent 165:19 | consented 248:6 | copy 136:21 137:2 138:19, 20 139:20,23 141:24 161:19, 20 163:7 167:6,9,11,13 170:10,24 171:1 181:2,3, 10,11 186:10 242:13 |
| closed 192:12 194:14 196:6, 10,18,25 232:1 240:17 | compilation 187:15 | consequence 243:8,17 | copying 125:24 |
| closely 223:24 | complaint 237:9,17 | considered 132:18,24 133:3,5 136:9 144:11 236:12 251:3 | coroner 165:9 |
| closing 166:2 232:2,7 242:5 247:23 | complex 248:3, 12 | consistent 129:6 176:11 189:14 216:18 233:10 239:21 | corralling 253:10 |
| co-personal 149:24 | compliance 236:6,15,25 | construction 252:14 253:25 | correct 129:16, 23 130:1,18 132:25 136:10 138:16,20 139:10 140:12 146:10 149:21 151:14 154:3, 8,23 156:12 158:6 161:17 164:1,9,15,21 167:7 170:15 171:16 174:6,9 184:20,21 185:11,13 186:24 187:19 188:8,10 190:1,2,12 191:10,13,16, 20 192:9,15 194:5,21,22 195:11,12 196:7,11 201:16 203:5, 21,23 207:13, 15,18,19 208:24 209:10 210:16,17 213:23,24 214:2,14,21 215:1 216:15, 16 217:5 240:16 241:5 253:21,22 |
| co-pr 147:14 | complied 243:4 244:5 | construe 241:7 | corrected 253:17 |
| co-prs 147:9 | comply 244:14, 17 | construes 216:21 | counsel 140:11, 14,17 147:8, 11,13,25 |
| co-trustee 147:14 149:23 | comport 244:15 | consulted 208:5,8 214:5 | |
| co-trustees 147:9 | concerned 162:19 | Cont'd 120:9 | |
| codicils 203:9 | conclusion 135:22 174:14 177:3 212:6,22 | contact 227:5 | |
| Colin 123:11 124:23 125:3 192:10 232:14 240:20 | conclusively 240:8 | contacted 169:9 207:21 | |
| Colin's 199:10 200:22 240:15 | conditions 158:13 224:5 | contempt 127:4, 5 | |
| college 143:10 | conduct 150:23 | Contest 243:22 | |
| Colton's 125:6, 10 | conducted 251:11 254:18 | contestable 248:15 | |
| comfort 237:25 | conference 214:18,25 238:11 239:11 251:2,5,7,9 253:9,10,16 | contestant 244:21 245:21, 25 | |
| commit 156:11, 13 | conferences 238:9 | contesting 243:24 | |
| commits 252:24 | confidential 246:24 247:11 | context 234:15 | |
| committed 207:12,17 210:9 211:4 218:1 247:17 248:9 254:4 | confirm 250:2 | continued 120:3 | |
| communicated 233:3 | confirmed 235:12 | contract 210:21 | |
| company 235:3 | conflict 212:2 | contrary 239:9 | |
| competence 193:7 | conformed 123:8 167:6,9,11,13 170:12 | control 248:14 | |
| competency 152:10 165:17 245:2,3,5,19, 23 246:7,10, | confusing 252:12 | controlling 236:14 | |
| | connection 236:13 243:3, 9,17 247:11 | conversation 132:3,6 222:23 226:19 | |
| | consecutive 182:11 | convince 144:6 | |
| | | copied 122:16 | |
| | | copies 121:5,7 123:9 124:15 125:25 126:10 170:12,21 186:16 210:6 | |

| | | | |
|---|---|---|---|
| 207:16,22,23, 25 208:3 210:22 211:2 214:5,6 216:20 220:9,20 250:20,22 Counsel's 208:13 count 242:1 255:1 counts 133:17 County 165:9 166:19 203:8 couple 240:11 court 120:4,8, 14 121:11,15, 18 122:1,9,13 123:11,19,23 124:3,7,18,20, 22 125:1,5,10 126:11,18,21 127:3,5,6,8, 10,12,17,22 128:5 133:9, 11,21 134:1,5, 8,10,18 135:17,23 136:2,4,13,16 137:13,17,22, 24 138:4,7,23 140:3,22 141:8,12,22 142:3,4,7 143:16,21,25 144:20 145:25 146:5,11,13, 17,21 147:3,22 148:2,6,9,12, 13,17,18 149:2,15,17 150:7,9,12,16, 24 151:2,18, 22,25 152:2,7, 11,24 153:5 154:13 155:9, 18,21 156:4, 19,24 157:10 158:8 159:15, 18,23 160:3,7, 18,21,24 161:7,10 162:7,25 163:13,19 | 164:7,10,24 165:5,11,13 166:9,23 167:3 169:6,12,18 170:20,25 171:21,23 172:2,8,11,14 173:12 174:13, 15,18 175:1 177:4,10,25 178:6,13,15, 21,25 179:3,7, 10,14,17 180:2,11,17,21 181:1,6,15,20, 23 182:18,21, 23 183:2,6,10, 12,20 184:12 185:21 186:3, 6,12,16,18,21, 25 187:2 188:13,16,19 189:23 190:21 191:25 192:2, 21 193:11,15, 19,22 194:7,10 195:22 196:1, 13,19,23 197:1,6,16,20, 23 198:2,5,17 199:1,3,17 200:23 201:2, 5,11,13,16,18, 22 203:14,25 204:3,17,20,25 205:7,12,16 206:3,8,9 208:11,18,21, 25 209:5,10, 11,14 210:4,12 211:7 212:7, 13,23 213:2,7, 12 215:4 216:17,18,20, 24 217:3,10, 14,19 218:3,5, 18,21,24 219:3,23 220:12,24 221:7,18 223:12,18,20, 24 224:1,17 225:13,20 226:8 228:10, | 13,24 229:6, 11,17,20,23 230:3,6,12,14, 19 231:2,5,9, 12,16,21,23 232:1,7,10 233:20,21,22, 24 234:3,5,11, 14 236:9,10,20 237:25 239:8 241:7 242:4 244:2,11 247:10,20,22, 25 248:4,11,23 249:5,8,13,15, 22 250:11,13, 24 251:14 252:4,8,17 253:1,3,12,19, 20,22 254:4, 14,20,23 255:1,5,9,11, 16,22,24 256:2,5,8,12 court's 167:10 186:4 245:16 courtesy 254:15 courtroom 151:3 240:15 courts 167:12 170:11 174:10 252:24 cover 137:18 covered 137:10, 14,19,20 144:19 195:24 create 137:6 138:24 created 138:10, 19 153:24,25 155:3 208:17 creating 163:7 credibility 148:7 creditor 202:13 criminal 230:23 254:10 criteria 245:14 247:12,15 cross 120:9 180:22 197:10 213:14,16 | 229:21 cross- examination 120:6 195:25 cross-examining 134:15 crossed 229:22 cumulative 136:11 137:9 138:22 140:2, 21 144:19 145:24 146:4, 14 149:16 156:3 157:9 158:7 164:6 166:8 171:21, 22 172:1,4 174:25 177:2, 24 183:19 184:11 185:20 188:15 195:21 199:16 201:10, 17 203:13,24 220:10,23 221:6,17 242:11 Cumulative's 172:4 curator 122:2, 6,7 124:4,16 curiosity 159:24 custody 121:4 125:18 210:10 230:5,21 231:3,5,6 customary 168:17 cut 132:1,9 cutting 227:6 <hr/> D <hr/> dad 130:10 157:4 225:8,14 227:4 228:2, 12,15 dad's 129:20 147:8 156:15 damages 164:21 Daniel 153:23 |
|---|---|---|---|

| | | | |
|---|---|--|---|
| date 124:3 128:21 149:25 168:18,22 187:11 191:22 200:14,18 246:8,10 | deem 212:13 deemed 135:7 212:12 defeat 236:11 defendant 256:13,21 defendant's 160:21,25 161:2 182:4 187:4 193:16 198:21,23 247:23 defense 193:24 deficient 169:4 define 210:2 definition 133:4 134:24 definitional 139:5 163:22 delete 177:18 deleting 163:23 Delray 158:24 demonstrate 246:24 demonstrates 240:8 denied 253:5,6 254:19 256:19 depend 135:14 deposit 123:5 189:16,20 201:4 deposited 170:19 201:16 depressed 224:12,25 depression 224:6,9 descendants 132:14 133:4 135:7 136:9 144:8,12,16,24 145:5,6 describe 128:9 140:18 219:13 describing 164:14,18 designed 153:17,18 Detective 146:25 | determination 243:17 determine 162:21 174:3 188:25 213:22 239:14 241:18 determined 241:21,24 devises 202:18 died 145:12,20, 21,23 146:2,6, 7 157:3,7 158:11 165:3 194:2,13,18,20 195:9,10,18 200:22 204:12 224:11,22 225:14 228:2 dies 173:20 differ 223:18 difference 212:23 difficult 215:20 Digital 143:4 dinner 228:18, 22 direct 189:3 193:25 205:25 direction 201:20 directly 233:1 236:8 237:12 239:9 disappearing 186:19 disbursed 219:1 discharge 190:1,22 197:9 198:1 199:8 201:5 discovered 200:23 208:16 230:25 discovery 253:5 discuss 223:1 251:20 discussing 223:6 disinherited 132:15 226:23 | 227:2 disposed 218:25 disposition 132:19,24 135:13,19 136:8 dispositions 133:5 135:5 145:6 202:10 dispositive 130:9 176:25 210:9 220:20 dispute 240:21 disputes 130:24 131:2 disqualification 254:25 256:18 dissatisfaction 131:22 distraction 243:6 distribute 137:7 distributed 137:3 distributions 135:12 145:6 disturbing 241:4 division 169:3 Docket 256:20, 22 doctors 158:23 document 120:17 123:6 124:21 127:11 128:9 129:9,14 132:17,20,23 133:2 135:24 136:14 138:12, 16,18 139:6, 23,24 140:8,20 141:2,19,20, 23,25 144:5,7, 8,15 145:5 148:17 153:7, 10 155:12,25 156:11 159:12 161:8,24 162:23 163:6, 9,24 164:5,8 166:21 167:1, |
| dated 168:15,16 dates 246:11,12 daughter 132:8 day 162:5 165:3 168:11,14 174:4 176:22 180:13 187:18 191:9 194:18, 20 200:9,11 207:21,22,23 208:4 214:4,12 216:10 219:7 235:25 237:11 240:6 251:13, 15 days 180:14 216:11 DCA 245:19 dead 195:19 196:10 201:15, 18 229:3,13 deal 241:13 242:2 dealing 178:7 deals 234:14,15 dealt 243:10 death 129:23 141:18 147:8 150:1 155:6 189:13 204:9, 11 224:7 225:11 decedent 236:23 246:25 decedents 245:13 December 256:15 decide 151:19 162:9,10,14 169:14 218:21 233:11 decided 215:4 decision 178:25 238:11 decisions 221:10 239:11 | | | |

| | | | |
|--|--|---|--|
| <p>14 168:8,9,14, 15,23,25 170:14,16 171:15 172:24, 25 173:21 175:3,15 176:17 177:8, 12 178:19 181:17 182:2, 8,16 183:1,22 184:5,16,19 185:8,11,15,17 186:12 187:25 188:1,3,5 190:23 191:1, 5,6,11,15 193:1,8 195:2, 3,8,16 198:12 199:7,9 200:3, 5,18,23 201:4, 15,25 202:5 203:7 207:1,8, 13 215:7 220:19 233:6,7 238:13,25 239:20 241:2, 4,6,23,25 247:4 249:14</p> <p>document's 133:8 141:1 174:9 200:19</p> <p>documented 238:4,8</p> <p>documents 121:5,14,17, 21,23 122:2,5, 9,10,12,16,22, 23 123:1,12, 15,20 124:1, 11,14,16,17,25 125:23 126:1, 7,8,14,22 127:15,18,24 128:2,25 130:9 132:5,10,12,16 138:14 139:19 142:2 146:8 147:9,12 148:7 149:14 154:2,5 156:17 158:11 159:1,5 162:2, 3,6,11,21 165:18 166:12, 16 169:15</p> | <p>170:2 173:6,16 175:13 176:25 180:16 181:24 182:20 188:4, 24 189:4,11,19 192:6,11,13 195:14 196:19 197:3 199:11 203:5 208:25 209:9 210:8, 10,16,20,24 211:5,11,13,18 212:10,12,16 213:6,19,23 214:8,10,16,22 215:4 216:14, 19,20 217:4,8 218:12,14,20, 22 219:6,9,16, 17,18,21 220:1,7,20 221:2,4,16,24 225:23 226:7, 21 227:3,22,25 229:7,14 230:5,22,25 231:11,15 232:17,24,25 233:9,12,13 234:17,18,22 235:5 237:21, 24 238:3,5,6, 7,12,16 239:1, 6,16,18,21,24, 25 240:4,9,12, 15,16,18,20 241:7,18,19,22 243:18 244:13 245:15 246:11, 20 247:9,18,21 248:6,10,15 249:12,21 250:1,3,5,8,10 252:23 253:1, 6,8,22 254:6, 8,9,12 256:12, 13,18</p> <p>dominion 248:14</p> <p>Don 147:6 161:18 164:2, 5,8,14</p> <p>Don's 187:10,16</p> <p>Donald 160:16</p> | <p>doodling 138:1</p> <p>doubt 191:14</p> <p>draft 153:10 239:22</p> <p>drafted 126:14 132:20 133:2 135:24 233:9 250:4</p> <p>drafting 239:4</p> <p>drafts 238:6,12</p> <p>draftsman 232:24</p> <p>draw 235:21</p> <p>drive 122:18,21</p> <p>drop 242:23 244:19</p> <p>due 124:24 220:7 225:23 254:18</p> <p>duly 205:22</p> <p>duplicate 134:12 216:5</p> <p>duplicates 256:13</p> <p>Durham 236:18</p> <p>duty 220:19</p> <hr/> <p style="text-align: center;">E</p> <hr/> <p>E1 134:24</p> <p>earlier 141:11, 14 154:21 173:5 186:21 187:25 202:17 209:20</p> <p>early 207:3</p> <p>easy 224:18</p> <p>effect 188:25 212:17,18 245:9</p> <p>efficient 180:7</p> <p>elapsed 254:14</p> <p>elicited 245:10,22</p> <p>Eliot 135:9 157:13,25 191:12 203:11 214:24 217:25 240:3,25 244:24 245:25 247:2,6,13</p> | <p>Eliot's 191:14</p> <p>email 191:19 229:2</p> <p>emailed 191:15</p> <p>employee 235:1, 3</p> <p>employees 166:1</p> <p>encourage 180:7</p> <p>end 130:24 179:22 180:2,8 219:7 227:10, 17 242:21 243:7,11,14</p> <p>ended 158:24</p> <p>ending 175:24</p> <p>enforceable 233:12,16</p> <p>English 235:12</p> <p>enter 125:12 133:22 134:3 242:1</p> <p>Entries 256:22</p> <p>Entry 256:20</p> <p>error 143:19 184:14,16,18 203:6</p> <p>errors 236:10</p> <p>essentially 247:4</p> <p>establish 160:8 237:20 243:25</p> <p>established 235:22,24 243:2</p> <p>establishes 229:15 244:9</p> <p>establishing 244:21</p> <p>estate 122:6,11 140:15 141:3 147:8 148:1 149:25 150:19 152:11,14 153:12,13 154:2,25 157:5,22 165:25 166:3, 16 189:15 192:8,11 194:13 195:18 196:6,15,18,</p> |
|--|--|---|--|

| | | | |
|---|---|---|---|
| <p>21,25 199:23 202:7,10,11, 12,21 240:17 245:4,17 246:5,22 251:7,8,16 252:4,18 estate's 250:20 estates 131:9 132:1,9 147:6 211:12,20 248:14 eventually 238:10 everybody's 182:16 evidence 133:7, 8,12 134:13,14 136:12 152:17 159:21 160:2, 3,6,25 161:3 162:25 177:23, 24,25 178:8 179:9,13 181:17,21,25 182:5 183:18 187:2,7 190:8 193:16 197:14, 18 198:13,14, 15,24 199:4 200:25 203:12, 24 231:24 232:1,22 233:2 234:17,18 236:24 237:2 238:14,15 239:1,7,9,13 240:8,24 241:11,19 244:25 246:3, 18 247:10 248:22,25 249:2,3,9 252:7,9 254:16 EXAMINATION 193:25 205:25 examine 250:11 examined 205:22 excuse 141:6 148:23 155:15 190:4 227:10 execute 122:25 129:2 175:13</p> | <p>193:7 executed 123:6 184:7 231:7,10 238:13 242:18 244:6,7 246:8 executing 177:15 execution 242:16 243:9, 11 244:1,9 exercise 189:1 233:4 exercised 139:4 exhibit 127:2, 25 133:21,23, 24 134:12 159:16 160:1, 2,19 161:2 167:6,15,16 168:4,6 171:6 173:10,12 178:16 180:24 182:3,6 183:16 186:3,23 187:6 190:4,20,22 191:18 198:6, 13,20,23 199:4 200:20 202:25 235:6,8,24 236:1,2 exhibited 205:5 exhibiting 159:17 exhibits 134:11 159:20 167:5,6 185:24 186:2 190:21 235:6 exist 250:16,23 exists 208:13 expanded 185:17 expect 127:18 expense 192:17 expenses 192:7 experiencing 224:7 expert 165:22 170:8 210:19, 23 219:11 220:7,22 221:16 235:4 explain 120:15 139:3 217:18</p> | <p>239:12 explained 209:20 239:22 exposing 148:24 expressed 189:7 expressing 131:21 extensive 232:13 238:1 extent 132:21 232:12 241:23 245:6</p> <hr/> <p style="text-align: center;">F</p> <hr/> <p>fabricated 241:3 fabrication 241:1 face 235:4,20 256:17 facie 244:1,9 fact 192:23 213:21 214:12 220:8 235:23 236:21 238:1 239:1,9 241:4 243:15 251:21 252:3 254:12 factors 135:14, 15 facts 153:1 170:3 174:11 221:11,13 252:9 failed 174:22 176:23 fairly 236:15 254:18 false 241:2 familiar 153:7 157:12 family 153:8,19 154:3 157:13 158:1 164:22 211:14,20,22, 24 212:16 226:23 229:3, 12 father 130:3,14 146:7 153:23</p> | <p>155:2 165:3 196:20 200:22 202:1,5,20 204:10 208:21 214:13,19,20, 23 215:6,22 216:9,10 221:23,25 222:11 224:6,8 225:10,18,22 226:3,13 227:6,9 228:5, 18 father's 141:16 149:25 170:7, 8,17,18,19,25 171:5,10 172:18 175:5, 24 176:2,13 187:22,23 216:4 224:21 favor 161:16 February 131:7 felon 254:3 felony 248:7 253:1 felt 215:19 fiduciary 140:10,11 147:12 148:14 150:19,23 207:5,9 210:25 212:1 220:19 figure 148:5 151:7 152:16, 20 156:22 165:14 170:1 196:24 197:2 209:1,18 219:6 figuring 137:13 file 122:7 123:3 155:6 170:12 192:5, 17 216:2 217:16,23 218:3 237:9,17 256:3 filed 127:9 148:19 170:11 190:10,20 196:19 200:6 210:4 213:19, 21 217:8,24</p> |
|---|---|---|---|

| | | | |
|--|--|---|--|
| 218:1,4 220:3 240:19 241:6 252:4 256:14, 21 filing 218:10 final 216:18 233:9 241:21 255:15 Finally 246:16 find 212:1,19 216:4 219:25 220:18 231:15 233:14 findings 238:1 fine 120:17 128:5 129:21 159:18 181:16 198:14 208:8 224:22 255:7 finish 123:14 156:4 163:13 226:10 254:15 finite 196:3 fired 213:25 firm 121:2,20, 22,23,24 123:11,20 124:12,13 125:22,23 139:22 142:22 150:20 160:10, 11 161:22,23 174:8 177:12 182:12 184:9 189:12 190:25 192:16 193:2 195:10 199:9 201:7,8 207:12 221:5 235:1 237:14 238:19 248:10 249:20 firm's 142:2 216:2 fit 185:6 Five-plus 143:1 flipping 175:22 Florida 120:20 203:8 233:21 234:14 236:8 237:4 246:6 focused 209:18 | focusing 241:9 follow 190:7 212:11,12 216:17,19 230:22 252:21, 23 force 131:19 forced 229:9 foregoing 134:25 135:3 forensic 210:21 220:5,22 forensically 220:1 221:5,16 254:9 forged 142:2 166:12 248:10 249:21 forges 220:19 forget 168:18, 20,21 forgetting 242:7 forgive 242:8 forgot 143:11 form 174:4 191:19 244:14 formal 206:16 244:1,9 Forman 142:24 forms 189:24 191:21 192:2 forward 127:17 144:2 254:8 found 169:2 207:4,7,21 209:7 211:3 218:14 219:9 224:8 231:11, 13 foundation 197:20 Fourth 245:18 frankly 240:3 fraud 148:24 156:11,13 166:11 207:12, 17 209:7 210:9 211:4 219:20 220:8 248:3,9, | 13 254:2,4,13 frauded 141:23 248:10 frauds 166:15 220:20 249:23 252:24 fraudulent 124:24 136:21 138:11,19,24 139:23 140:8 141:24 142:2 148:15 165:24 166:13 207:1,7 208:17 218:20 249:21 fraudulently 137:1 155:12 156:17 163:7 166:20 167:1 185:18 249:13 freestyle 256:4 Friedstein 158:1 203:11 front 152:18 168:14 185:24 full 190:22 199:8 201:5 206:16 fully 202:6 functions 174:2 | gist 131:8 give 123:8 150:13 184:3 233:7 237:25 249:17 good 138:5 179:19 215:2, 16 225:7 231:20 249:1, 15 Gotcha 138:6 199:5 Governor 169:3 governor's 169:9,16 248:16 grandchildren 233:8 241:1 247:5,7 grandparents 215:18 grounds 244:22 246:20 guess 168:5 guidance 249:17 gun 229:10 Gutter 142:23 guy 152:2 211:1 228:13 guys 250:19 |
| | | G | H |
| | | gain 211:14 gained 250:5 gave 132:4 149:19 174:5 186:4,8 general 131:8 generally 245:6,19 gentleman 255:17 genuine 127:10 214:9 216:9 241:24 genuinely 190:18 Georgia 234:13 get all 152:17 195:9 | half 180:5 hand 126:8 128:3 198:21 handed 241:13 256:12 handing 126:17, 19,22 handle 150:24 hands 126:17 handwriting 220:7,22 handwritten 256:17,24 happen 146:6 happened 148:24 189:24 231:15 240:23 |

| | | | |
|---|--|--|---|
| happening 239:23 | 230:17 243:20 246:22 248:2 249:1 254:7 | increased 185:10 | intents 229:13 |
| he'll 127:18,19 | Honor's 243:7 | incredibly 126:9 | interest 122:8 152:12 211:19 250:5 |
| head 172:2 | hoping 152:19 254:5 | inference 235:16,20 | interesting 152:4 |
| headaches 222:5,10,12 | House 233:21 234:12,13 | influence 246:16,21,23 247:13,17 | interruption 234:7 |
| hear 206:9,10 217:12 224:18 232:3 | Human 184:14 | information 230:24 235:9 | intertwined 223:8 |
| heard 232:23 233:2 240:10 242:8 | hundred 216:22 | inherent 145:10 | interview 166:20 |
| hearing 135:19 136:1 149:7 217:4,19 218:15,16,25 251:12,24 | I | initial 129:3, 11 | interviewed 166:18 |
| Hearsay 169:5, 11 | Iantoni 135:9 158:1 203:11 | initialed 129:9 | introduced 187:25 |
| heart 225:6 | idea 183:12 218:2 | initials 128:8, 11,15,22 175:5,8,11,15 176:2 | invalid 162:13, 15 163:7 208:17 237:19 |
| heavy 165:8 | identical 181:12 182:20 256:21 | inoperative 182:13 241:25 | invalidates 211:18 |
| held 236:21 247:21 | identification 173:3 174:24 235:15 | inquiry 233:2 237:8 | invalidating 246:17 |
| highlighted 236:9 | identity 236:24 | inserted 185:3, 5,9,18 231:12 | invalidly 139:13 |
| highly 250:2 | II 242:1 | inside 144:8 | inventory 151:17 |
| hired 219:19 | imagery 253:12 | insider 248:8 | investigation 169:22 |
| hires 211:1 | immediately 207:20 208:6 | inspect 125:25 | investigations 254:11 |
| history 142:2 143:12,19,22, 24 | important 137:16 152:5 196:1 228:3 | instances 220:8 | invite 228:5 |
| hit 172:2 | importantly 250:12 | instruct 208:10 | invited 228:14, 17 |
| hold 153:18 203:4 | improper 173:20 230:2 | instruction 127:6 | involved 237:13 |
| holiday 228:6 | improperly 174:9,12 176:25 251:11 252:18 | instrument 177:15 236:13 | involving 238:9 |
| home 153:18 189:20 228:6, 14,18 231:15 | included 138:13,15,17 | insufficient 256:19 | irrevocable 145:13 |
| Honor 120:12 126:16 133:16, 19,25 137:12 139:1 141:6,14 152:6 161:25 165:15 168:4 171:6 173:15 177:9 178:4 179:24 181:5 182:19 185:23 188:17,21 193:10 197:14 198:11 209:6 213:1 218:23 | including 123:3,6 214:23 252:3 | insurance 154:17,21,22 155:2 | issue 150:17 232:11,17 233:18,20 |
| | incompetency 245:20 | intelligent 239:11 | issues 133:17 159:2 209:21 222:25 223:2, 6,7 237:1,14 241:15 242:3 246:10 |
| | incompetent 246:2 | intend 127:17 141:5,10 | |
| | incomplete 173:9 | intended 233:3 | |
| | | intensive 229:3 | |
| | | intent 141:16 156:13,15 238:17 | |
| | | intentions 215:18 | |

| | | | |
|--|---|--|---|
| J | 218:19 225:8 235:21,23 knowing 174:9 218:24 253:23 knowledge 124:10 125:18 131:20 152:25 165:20 166:17 172:19 174:3 175:6 191:24 221:15 237:1 Kratish's 167:20 | 250:21 legal 135:21 150:13,16,17 151:4 174:14 177:2 212:5,21 235:4 249:18 legally 256:19 legitimate 192:13 letter 130:8 131:4,5,7,8,20 160:10,12 161:15,19 164:14,17 189:7 229:12 231:14 238:5 239:22 letting 162:16 198:17 251:25 254:15 license 121:1 174:5 life 154:22 lifetime 135:4 224:10 light 236:14 237:15 likes 240:3 Lindsay 173:1 174:20,22 176:18 lineal 132:14 133:4 135:7 136:9 144:7, 11,16,24 145:5 Lisa 158:1 191:21 203:11 list 153:4 166:6 183:16 205:18 listen 137:24 181:6 205:7 223:22 listening 220:14 litigation 232:14 live 153:19 living 132:1 162:8 216:20 LLC 153:8 | long 126:9 142:25 148:12 149:23 looked 176:6 219:10,15 lose 211:14,19 212:17 lost 186:7 189:19 lot 137:25 175:13,23 209:19 251:23 Lyon 236:5 Lyons 233:21 234:12,13 236:9 |
| K | L | M | |
| Jake 153:24 January 140:9 148:23 189:8 196:6 237:13 jeez 186:5 Jill 135:9 158:1 191:22 203:11 job 216:14 John 256:23 Josepher 142:23 Josh 153:22 judge 124:23 125:3,6,10,11, 13 152:25 159:13 184:22 192:10 199:10 200:22 211:13, 18 213:22 232:14 240:15, 19 242:9,15 243:2 245:2 246:16 247:20 judgment 216:18 242:1 July 221:24 jurisdiction 242:2 | lack 236:25 lacked 239:8,14 laid 197:20 landing 169:22 language 132:19 144:15 145:4 156:2 163:23 Lastly 246:5 law 139:22 150:20 155:17 160:10,11 174:17 177:12 182:12 184:9 192:16 193:2 195:10 201:7,8 207:12 235:1 238:19 242:10, 12 245:17 248:9 249:20 254:19 255:6 lawsuit 213:19, 22 217:21,23 218:10 220:3 lawyer 146:20 189:15 layman 155:13, 23 156:1,8 learn 146:19 227:2,24 learning 210:8 220:19 253:17 leave 163:1 215:7 233:8 left 121:23 131:12,15 189:21 230:8 | made 121:5 122:25 124:15 135:5 141:2,17 142:16 144:16 150:5 169:17 192:4 202:10 206:25 215:6 238:11 256:24 mail 191:17 make 140:23,25 156:1 157:8,12 159:2 163:14 171:1 186:16 189:23 197:24 203:9 212:23 219:13 229:10 255:15,16 making 135:12 141:25 154:9 168:23 187:3 221:9 226:20 234:1 238:1 239:11 management 180:12 251:2, 21 252:13 manager 180:10 Manceri 147:15, 16,25 mark 147:15,16, 25 159:23 175:24 176:23 198:21 236:2,3 | |
| Ken 125:22 126:2 kicked 192:16 254:11 kids 153:22 kids' 153:23 Kimberly 166:19 169:1,8 171:15,18 172:23,25 174:22 205:4,5 235:17 kind 163:8 172:10 224:9 243:5 253:21 knew 154:6,8 173:25 195:10 | | | |

| | | | |
|---|---|---|---|
| marked 181:10 187:4 | 224:17 | Moran 166:12,19 169:8 171:15, 18 172:23 205:4,5 235:18 | 16 189:6 |
| marks 175:24 | Miller 147:1 | Moran's 169:1 | needed 218:15, 24 253:23 |
| Marshall 186:14 | mind 129:20 165:20 179:16 | MORRISSEY | negative 211:8 |
| Martin 123:11 200:22 | 201:19 209:19 | 174:16 242:9, 15 | neglected 173:25 |
| matter 148:1 169:20,22,25 190:16 212:9, 11 251:3 252:20,21 | 224:22 226:7 228:12 229:9, 16 | mother 128:21, 24 146:6 202:16 208:21 215:6,22 216:6,10 224:11 | nervous 234:1 |
| meaning 135:25 148:7 230:24 231:4 | mine 181:3 | mother's 128:15 137:7 141:20 147:12 166:3 170:16,20 195:7 202:21 203:2 204:9 207:2 210:1 211:12 | net 149:19 |
| means 138:2,5 231:6 245:5 | minor 141:24 156:12 250:21 | motion 192:4,17 217:8,16,18,19 240:19 256:3, 9,18 | non-valid 139:23 |
| medical 130:2 158:10,25 159:2,6 165:22 221:24 224:5 | minute 256:10 | motions 256:21 | nonsense 240:10 |
| medically 158:13 | minutes 179:21, 23,25 180:3,19 230:3 247:25 253:3 255:13, 20 | move 127:17 140:4 183:13 254:8,24 | North 233:23 236:7,17 237:5 |
| medications 225:2 | Miranda 200:24 | moves 144:1 | Nos 256:22 |
| medicine 225:8 | Mirandas 200:25 | moving 136:5 183:12 201:20 | notaries 237:19 |
| medicines 158:15 | mirror 203:5 | mud 237:11,12 | notarization 169:2 173:8 176:22 193:1 233:19,20 234:16 240:12 241:2 243:16 |
| meet 142:13,15 244:25 | mis 217:6 | multi-page 183:22 | notarization's 173:20 |
| meeting 130:14, 23,24 142:18 187:13 193:6 226:12 238:6,8 | misconduct 171:19 | multifarious 247:19 | notarize 172:23,25 |
| meetings 238:2, 5 | misinterpret 215:18 | multiple 127:1 158:23 220:8 | notarized 168:12,25 174:9,12 176:18 177:1 199:10,13,18 234:21 235:2, 25 248:17 |
| member 120:20 | misinterpretatio n 141:20 | | notarizing 235:2 236:4 |
| memorandum 203:17 | mislead 250:7 | N | notary 169:3 174:3 199:15, 21 214:15 234:20 235:1, 12 236:3,6,19, 23,25 |
| memory 218:1 249:2 | misleading 253:18 | | notary's 236:22 |
| mental 239:8 | misleads 251:14 | | note 187:11 |
| mentally 239:10 | missed 183:9 204:1 | | notes 137:25 138:5 187:9, 13,14,16,17, 20,22,24 238:9 252:16 |
| mentioned 157:19 158:2 202:23 | missing 143:14 163:9 | | notice 251:4 252:5,16 |
| met 142:16,20 207:22,23 245:13 246:15 | misstates 123:17 174:11, 17 | | noticed 251:15, 16 253:19 |
| metal 165:8 | mistake 253:18 | | |
| microphone 120:15 206:9 | modified 163:22 | | |
| | mom's 128:21 168:1 196:25 | | |
| | moment 180:17 255:18 | | |
| | money 211:19 215:7 233:8 240:5 | | |
| | months 149:5 218:20 | | |
| | moon 169:22 | | |

| | | | |
|---|--|---|--|
| <p>notified 148:13 notify 166:19, 25 notwithstanding 134:25 135:3 241:14 November 168:13 184:8 196:9 now's 204:25 number 133:21 177:20,21,22 178:3,4,5,11, 14,22,23 184:22,25 185:11,12,13, 16 187:5 190:5 224:23 243:19, 20 numbered 183:22 numbering 177:17 184:18, 23 numbers 183:17 184:3,10 Numeral 184:2 numerals 184:2</p> <hr/> <p style="text-align: center;">O</p> <hr/> <p>O'connell 251:15 oath 120:5 193:23 244:7 object 124:5 127:1 141:12 162:24 192:19 230:2,10 248:19,21 objected 148:2 151:22 objection 122:4 123:13 124:19 127:23 128:1 133:7 135:16, 21 136:11 137:9 138:21 140:2,21 143:15 144:18 145:24 146:4 147:2,20 148:9,21 149:1,16</p> | <p>150:6,21 151:3,4 155:8, 14 156:3,18 157:9 158:4,7 160:22,23 163:10 164:6, 23 165:4,10 166:8,22 167:2 169:5,11 171:20 172:6 173:10 174:11, 13,16,25 177:2,23 178:6 179:14 181:19 182:3 183:18 184:11 185:19 186:22 188:11, 13 195:20 196:12,22 197:6 198:12, 20 199:16 201:1,10,17 203:12,22 204:3,14 209:16 210:11 212:3,21 217:6,11,13,14 218:3,17 219:3,22 220:10,16,23 221:6,17 225:12,15,19 226:4 228:7, 15,23 229:5,17 230:16 231:17 252:6 objections 150:25 249:5, 16 objects 245:8 observe 193:4 obtained 170:10 octopuses 253:11 offering 160:18 office 122:17, 24 126:2 130:22 142:17 168:17 169:8, 9,24 199:10 214:12,16 222:19 248:16</p> | <p>officer 186:14 offices 188:1 one's 241:5 245:6 ongoing 254:10 opened 185:8 operating 220:21 operative 181:18 182:14 opposed 244:22 order 123:11,18 124:20,22 125:1,3,6,14 162:1 216:14 251:4 256:17, 20,23,24 ordered 122:1 124:3,17,23 125:4 165:3 orders 125:12 212:13 original 121:7, 14,17,21 122:6,21,23 123:3,4,5,6,9, 12,15,20,25 124:17,20 132:16 163:9 170:15,19,22, 23,25 189:11, 18 191:17 196:20 209:25 210:2,3,5 215:21,25 originals 123:1,7 125:18 152:22 170:17 211:6 216:5 231:13 250:10 outstanding 253:4 Overruled 123:23 138:23 140:22 164:10 171:21 184:12 199:17 210:12 218:5 overturn 245:1 overturned 246:20</p> | <p>owners 153:20</p> <hr/> <p style="text-align: center;">P</p> <hr/> <p>pages 128:9 129:3 182:10, 11 183:22 pain 225:9 pains 225:6 Palm 165:8 166:18 203:8 Pam 131:4,16, 18,21 136:8 144:11,24 161:16 191:21 203:10 227:6 Pam's 131:5 144:7,16 145:5 Pamela 135:6 203:10 paper 159:25 197:17 198:5 219:6 papers 127:13 213:9 paragraph 161:6,10 163:8,22 164:3 177:18,21 178:1,7,9 185:3,5,8 paragraphs 183:23 parents 142:13 147:7 215:16 part 124:5 131:9 133:13, 17 137:16 138:15 153:12, 13 154:25 155:4 162:4,20 168:24 184:5 188:3 198:13 201:21 203:6 223:21 245:23 248:12 parties 130:25 149:13 249:11 partner 147:6 248:7 partners 161:22,23</p> |
|---|--|---|--|

| | | | |
|---|---|---|---|
| parts 143:13 242:19 | 148:19,23 189:25 190:20, 22 196:20 197:9,25 199:7 | possessions 216:4 | pretrial 251:1 |
| party 137:3 198:17 | Phillips 256:23 | possibility 162:15 255:17 | pretty 154:10 |
| pass 144:25 | phone 130:22 226:1,3,17 238:7 | possibly 152:17 | pride 253:13 |
| passed 132:21 192:3 202:13 208:22 227:4,9 | picking 197:16 | postmortem 144:14 | prima 244:1,9 |
| passes 145:10 | piece 137:15 197:16 198:5 | potential 157:24 | prior 141:17 142:18 154:1 155:23 160:10 189:13 203:9 218:10 224:7 225:11 226:25 227:17 |
| Passover 228:6, 17,22 | pieces 159:24 | power 139:4 161:15 162:22 163:24 189:1 233:4 | privilege 208:9,12 223:5,11,14 |
| past 127:3 | place 146:8 165:25 166:16 | PR 147:14 192:5,6 251:16 252:3 | probate 214:6 239:2 244:22 |
| pay 136:17 152:2 | plaintiff's 133:24 134:2, 16,18 167:16 178:16 182:6 186:22 187:3,6 231:24 232:4 | practical 245:9 | problem 230:21 |
| penalties 202:2,4 | plan 154:2 | practice 124:13 129:17,19 189:14 | problems 130:2 158:23 221:25 225:10,14,17 226:14 240:11 252:2 |
| people 180:15 236:4 238:20, 22 248:17 249:25 | planning 141:3 153:12,13 155:1,4 219:17 | practicing 121:3 | procedural 150:14 |
| percent 212:17 216:22 | plans 154:25 | predeceased 132:18,24 133:3,5 135:8 136:9 144:11 | procedure 150:17 251:2 |
| perfect 175:11 | played 241:1 | preference 179:10 181:7 | proceed 128:6 203:6 255:5 |
| perfectly 224:22 239:25 | pled 241:18 | preparation 237:24 | proceedings 120:3 243:23 |
| period 202:13 208:15 | podium 120:13, 14 185:25 206:7 224:15 | prepare 149:7 160:12 190:25 | process 251:2, 24 254:19 |
| perjury 202:2,4 | point 131:15 133:12 138:4 139:22 145:13 146:16 162:3 203:5 209:22 236:8 | prepared 154:4, 5 160:15 177:8,12 190:23 193:2 203:18 238:19 252:13 | procured 247:1, 3 248:5 |
| permitted 236:11 | pointed 162:12 | presence 128:21 174:4 234:19 238:24 239:17 242:22,25 243:1 | procuring 247:9 |
| person 127:13 173:2 174:4 235:17,21,25 236:20 | points 138:2 | present 176:21, 22 238:22 244:25 246:18 | produce 124:4 125:5 136:21 141:24 150:4, 20 |
| personal 140:15 148:13 190:14 194:17 196:16 202:18 222:25 223:2,7 237:1 | poison 165:8 | presented 241:12 246:2 | produced 139:14 148:14 173:2 174:23 176:22 235:15 236:24 250:10 |
| personally 173:2 176:24 201:6 211:19 214:9 231:14 235:14,18,19 236:3,20,23 250:6 | police 148:25 | presumed 245:20,24 | producing 137:2 |
| persuasive 237:7 241:15 | policy 154:17, 21,22 155:2,7 | presumption 247:12,14,16 | production 182:12 188:7 250:9 |
| pertinent 230:23 | Pollock's 122:17 125:22, 23 126:2 | | professional 220:21 221:5 |
| petition | portion 227:13, 18 | | proffered |

| | | | |
|--|--|---|--|
| <p>127:25 182:2 Proof 243:22 proper 230:13, 14 243:16 244:14 properly 148:6 172:23 192:13 193:7 234:19 236:3 248:17 252:24 254:9 property 202:18 203:20 231:1 245:7 proponent 243:25 protect 220:6 prove 246:23 provide 141:19 250:20 provided 135:4, 8 243:20 246:21 proving 245:20 provision 139:6 psychiatrist 158:17 222:14, 17 223:17 psychiatrist's 222:19 psychologist- client 223:14 public 169:3 pulled 197:11 purport 238:20 purported 241:5 purposes 125:24 129:10,11 132:19,23 133:5 135:5 136:8 229:4,13 put 123:4 134:11,13,14 136:1 144:15 151:17 168:18, 21 181:17,24 185:16 232:12 234:17 237:22 239:7 249:3 255:2,12,19 putting 181:20</p> | <hr/> <p>Q</p> <hr/> <p>question 122:5 123:10,19,21 125:15 127:19 133:1 136:4 137:13,18 139:7 141:8, 11,15 142:7 143:22 144:9, 15 145:8,9 146:13 147:23 148:2,12 151:2,10 152:9 155:19 156:20 159:19 161:12 163:13,14,19 164:7 165:13, 15 178:7 188:14 192:25 193:6 194:10, 19 199:18 200:21 201:22 204:2,4 207:6 209:8,11 211:4 213:2 215:2 218:6,7,13 220:12,14 224:1 225:13 226:8,10 227:16,17 229:11 233:17 234:23,24 239:19 241:23 256:7 questioning 134:19 142:10 156:5 questioning's 195:24 questions 120:15 121:11, 14 127:14 141:13 146:20 150:12 152:3, 20 154:13 160:7 163:2 170:3 180:22 182:23 183:1 186:18 194:7 204:19 208:14 209:2,21</p> | <p>213:13 221:12 224:18 249:6, 16,18 quick 126:7 178:4 quickly 227:16 quote 245:3</p> <hr/> <p style="text-align: center;">R</p> <hr/> <p>raise 247:12, 13,16 raised 233:17 234:24 ranting 142:5 rapidly 186:19 read 130:7 133:10,11,13, 14 135:2 144:10 159:10 161:5,11 178:2 200:24,25 227:12,13,18 235:11 255:14 reading 136:18 161:7,10 reads 178:12 ready 120:4 180:21 252:15 real 126:7 142:1 178:4 253:9 realize 249:1 Realty 153:8 reask 137:17 reason 138:7 184:9 206:11 215:19 216:8 219:16,18,21, 25 222:22 237:8,9 240:22 246:17 reasons 222:16 230:22,23 247:19 rebuttal 231:23 254:23 255:11 recall 122:3 126:3 131:1 132:3 142:20 146:25 154:9</p> | <p>161:20 168:8, 11 173:13 188:5 196:8 222:12 228:8, 19,21 229:2 receive 182:4 received 161:2 186:22 187:6 198:19,23 248:25 recently 248:7 receptacle 157:22,24 receptacles 158:2 recess 180:18 256:8 recite 242:18 record 130:8 133:16 134:4 161:5,8 170:24 180:25 206:4, 14 227:13,18 235:5 239:13 254:25 255:1 records 188:10 recusal 255:12 recuse 256:3 redirect 188:20,22 216:25 217:1 refer 125:25 183:21 242:10 referenced 154:17,21 referral 142:17 referred 187:5 referring 122:10 124:22 125:2 130:12 166:2,4 183:4 228:20 refers 246:7 reflect 206:4 218:4 238:16 regard 234:24 245:12 246:3, 21 reheard 252:19 rejected 192:10,11</p> |
|--|--|---|--|

| | | | |
|--|--|--|---|
| <p>relation 169:9 relationship 215:16 245:7 246:25 247:11 relevance 123:17 147:2, 20,22 148:4 149:1 150:21 164:23 165:4, 10 166:22 167:2 171:20 196:12,22,23 197:1,4 201:1, 12,17 210:11 218:17,18 225:12,19 228:7,10,11,23 229:5,6 relevancy 135:16 136:11 150:6 151:23 155:8 204:14 relevant 136:1, 2 150:22 162:1,14 200:10 212:25 213:3 220:15 221:7,11 233:1 237:25 242:15, 19 relieve 130:11 rely 234:10 relying 249:23 254:5 remain 123:2 remaining 179:23,25 248:1 253:3 remember 131:6 180:17 197:10 228:1 remind 137:22 reminding 208:13 removal 251:24 repeat 138:8 143:18,21,25 211:16 replacement 125:13 reporter 206:10 227:14,19</p> | <p>represent 250:18 representation 252:3 representative 140:15 148:14 149:24 190:14 194:17 196:16 231:18 represented 148:17 250:14, 15 representing 141:23 148:6 219:20 253:7 request 255:12 requested 170:24 requests 253:5 require 200:3, 14 required 244:8 requirement 235:10 requires 243:10 requiring 124:20 requisites 246:13 rescheduled 252:19 reserve 242:2 resigned 124:24 resolve 209:22 respect 147:25 242:16,20 243:6 244:13 245:14 246:4, 9,14 247:18 respective 135:7 161:17 responded 141:15 219:10 responding 151:20 responsible 194:4 rest 193:13 231:21,22 242:2 255:10</p> | <p>restated 176:20 233:7 resume 120:4 180:21 retain 123:11, 20 retained 189:12 207:17 209:8 210:22,23 214:5 retainer 147:19,23 148:3 rethink 146:22 retired 125:7, 10 returned 240:18 review 164:5 revocation 244:23 revoke 203:8 Rick 169:3,21, 24 rights 200:24 254:19 robert 120:9 188:22 206:25 232:23 235:14 role 212:24 241:1 roles 147:5,10 Roman 184:2 Rose 120:12 122:4 123:13, 17 124:5,19 126:16,19,25 127:9,16 128:4 130:7 133:7,16 134:9 135:16, 21 136:11 137:9 138:21 140:2,21 143:15 144:18 145:24 146:4 147:2,20 148:21 149:1, 5,8,16,20 150:6,21 151:12 155:8, 14 156:3,18 157:9 158:4,7 160:23 161:25</p> | <p>162:19 163:10 164:6,23 165:4,10 166:8,22 167:2 169:5,11 170:23 171:20, 22 173:4,10,17 174:11,14,25 177:2,23 179:15 181:5, 10,16 182:5,9 183:18 184:11 185:19,23 186:24 187:1, 25 188:11,15, 21,23 190:6,9 192:22 193:10, 13 195:20,23 196:12,22 197:9,14 198:11 199:16 201:1,10,12,17 203:12,22,24 204:14,19 205:6 206:6 208:1,3,7 210:11 212:3, 5,21 213:15,17 216:23 217:6 218:3,10,17 219:9,22 220:10,23 221:6,17 223:3,10 224:14 225:12, 19 226:4 228:7,23 229:5,22 230:1,2,10,13, 23 231:25 232:5,9 234:8, 12 242:14 248:19,21 249:1 251:13 252:6 253:17 255:15 roundabout 153:16 row 194:8 Rubin 142:23 Ruffin 142:24 rule 136:3 217:10 219:4,5</p> |
|--|--|--|---|

| | | | |
|--|---|--|--|
| 249:16 251:1, 10,18 ruled 136:2 256:15,19 rules 211:13 216:17 252:21, 22,23 255:4,6 ruling 197:24 216:13 256:16 running 209:17 Ryan 146:25 | self-proving 168:25 233:13, 14,18 236:21 239:24 243:6, 8,14 244:6,12 send 132:5,10, 12 240:14 sending 155:25 sentence 227:11 235:12,17 244:15,17,19 separate 157:17 203:17 September 194:3 200:21 sequence 184:3, 23 sequences 177:17 serve 149:23 served 125:11 147:9,11,13 148:19,24 session 179:21 180:19 255:13 set 229:24 238:2,4 setting 251:4 settled 202:10 sharp 239:10 shenanigans 240:11 sheriff 166:19, 25 186:14 shine 255:18 Shirley 133:20 136:22 138:12, 15,18,20 139:10,12,25 140:12,17 145:4,12 155:12 157:3, 12,15,19 158:6 163:8,25 166:12 167:15 177:7 184:6,7, 17 189:12 194:17 195:2, 16,18 196:6, 15,18 203:7 232:19 238:17 239:19,25 | 241:22 245:23 252:16 Shirley's 126:15 132:17 140:15 144:17, 23 146:3 148:15 151:12, 13,16 157:22, 24 168:3 194:13 195:14 202:11 207:5,9 234:22 241:3 251:17 short 179:20 183:9 show 120:16 126:21 127:14, 15,18 138:3 179:17 181:13 182:1 190:21 236:15,25 showed 131:7 170:16 181:23 showing 246:2 shown 128:3 248:16 Si 129:22 130:23 131:19, 25 132:4,7 139:4 142:19 166:13 194:24, 25 195:1,3 200:5,7 229:8 245:23 Si's 144:14 161:15 173:16 200:4 sic 125:6 207:8 229:3 250:3 side 126:22 151:5,6 180:3 181:24 182:1 193:16 198:7 230:15 231:24 232:4 242:5 247:23 252:22 sides 180:7 sign 128:24 129:4,6,12 158:25 167:24 190:14,24 191:8 199:15, | 20 200:11,20 214:16 238:6, 20 242:21,24 signature 129:5,6,7,13, 14,16 167:10, 14,21,23 168:1 170:7,8,13 171:5,10,12,13 172:18,21 174:22 176:13, 15 182:15 190:17,18 191:2,14 193:1 200:4,14 243:13 signatures 175:15 219:15 signed 128:20 129:7,8 158:12 165:18 166:14 168:11 189:25 191:5,6,9,12, 22,23 192:2, 13,24 196:20 199:20,22 200:5,6,7,8,9, 10,12,19 202:5 214:13 216:9, 11 221:23 232:20 233:9 234:18 235:24 238:19,23 239:23 240:21 246:11 249:25 250:4,24 significant 146:16 signing 159:5 239:16 silent 236:19, 22 similar 128:23 172:14 175:8, 12,19,21,23 176:7 Simon 135:6 145:16,17 146:2 149:20 150:19,20 157:7 158:11 161:16 163:25 165:18 166:1 |
| <hr/> <p style="text-align: center;">S</p> <hr/> sad 240:13 safe 123:4 170:15 189:16, 20,21 sake 215:12,14 satisfactory 236:24 237:2 satisfying 247:14 save 192:7 SB 128:13,16, 17,18,19,22 scan 158:20 scenario 211:15 238:25 scheduled 251:9 252:17 school 143:3,6, 9 scope 226:5 scoring 138:2 Scott 169:21 Scott's 169:3, 24 screw 249:18 seat 233:25 234:6 SEC 248:6 249:4 253:2 secret 181:24 section 144:10 243:21 seeking 223:21 seize 248:14 self-proved 237:7 | | | |

| | | | |
|--|--|--|---|
| 169:2 173:24 176:21 189:12, 25 190:10,13, 17,24 191:2 192:2,13,24 193:5 194:2, 13,16,20 195:4,5,9,10, 17 196:10 199:25 201:15 202:6 203:10, 20 232:21 233:3 235:18 238:9,10,17 239:8,15 241:22 251:7,8 252:4,14,18 | So.2d 245:4,18 246:22 sole 145:20 157:4,5 202:20 249:23 solitary 175:25 solve 226:14 somebody's 152:3 Sony 143:4 sort 237:6 240:13 sought 244:23 sound 165:20 sounds 196:8 spacing 185:10 Spallina 120:9, 11 182:12 188:22 193:18, 22 194:2 207:11 208:3 213:25 214:15 215:23 216:1 232:23 235:14 237:14,23 238:2 244:16 245:11 246:12, 13 249:4,12 250:4 254:12 | spouse 135:8 spouse's 203:9 stack 256:12 stamp 188:3,6 stand 120:12 206:11 208:13 248:8 stands 236:5 stapled 127:1 star 254:3 start 175:19 started 143:20 169:21 180:5 232:18 starts 134:25 state 129:20 130:23 131:5 133:1 151:4 158:10 174:13, 23 203:4 206:14 224:21 226:7 228:12 229:8,16 233:22 244:5 250:13 stated 121:5 138:10 139:13 170:24 197:15 217:3 226:13 229:2 statement 202:1 253:1 statements 151:21 250:2 states 161:15 202:6 stating 132:7 166:14 200:24 231:14 status 251:6,9 253:9,10,16 statute 236:14, 16 237:1 242:15 244:5, 15 statutes 242:10 244:8 statutory 243:21 stay 206:6,8 209:18 | step 193:12 204:20 224:15 237:18 241:10 steps 210:15 stop 135:11 151:4 156:21 220:14 252:10 story 195:13 240:13 straight 180:25 straighten 179:20 stress 130:5, 10,11,12 131:14 159:6 225:18,23 strike 192:23 struggling 162:13 Stuart 206:18, 23 stuff 137:25 146:11 151:7 162:17 219:4 subject 223:10 254:10 submit 160:5,17 179:8,11 244:2,11 247:10,20 252:23 submitted 142:3 147:16 191:25 240:16 242:13 245:15 248:11 249:21 250:24 submitting 192:1 subscribing 239:17 Subsection 242:24 243:23 244:18,20 substantial 236:6,15 247:16 successor 192:5,6 194:5, 16,21 195:1,3, 7,11 196:16 sued 250:17 253:6 |
| Simon's 153:12 154:2 158:10, 13 162:22 173:19 188:25 202:25 223:6 229:15 231:15 234:25 235:2, 3,6,7 251:9,16 simple 211:4 simply 237:2 239:13 single 175:25 sinks 183:5 sir 123:22 128:4 183:11 186:15 193:12 216:23 231:25 233:25 255:19 sister 227:5 233:22 sisters 214:19 240:25 sit 211:11 212:15 sitting 125:12 205:19 216:2 skills 256:24 skipping 184:4 sky 169:19 slightly 234:15 slogged 237:10 slogging 237:11,15 small 230:20 | Spallina's 207:1 241:14 243:3 244:3 245:22 speak 161:11 167:22 224:17 232:6 speaking 129:24 special 154:2, 12 specific 123:10 148:1 245:13 246:10 specifically 215:7 speed 198:11 spend 240:6 spoke 131:11 149:10 173:21 spoken 149:4 spot 163:21 214:1 | | |

| | | | |
|----------------------------------|-----------------------------------|--------------------------------------|-----------------------------------|
| suffer 224:8 | 203:14,25 | terms 253:25 | 250:13 251:19 |
| suffering 222:6,11 | 204:3,17 212:7 | Tescher 142:23 | 252:15 254:16 |
| sufficient 236:7 239:5 | 219:23 220:24 | 147:6 160:16 | thinks 212:24 |
| suggest 212:13 | 225:20 228:24 | 182:12 207:11 | 220:15 221:8, |
| 238:16,18 | 248:23 249:5 | 208:2 213:25 | 9,10 |
| 246:19 247:2,6 | swiftly 242:3 | 215:22 237:13 | thought 150:15 |
| suggesting 164:2 | sworn 152:25 | Tescher's 189:7 | 162:10 202:23 |
| support 150:5 | 201:25 202:1 | test 165:8 | 231:2 255:3 |
| supposed 129:4 | 205:22 235:13 | testamentary 193:8 239:14, | threaten 200:23 |
| 162:10 176:18 | T | 16 241:19,21 | three-page 181:16 191:1 |
| 188:9 199:3 | Tab 179:3,4 | 244:13 245:3,5 | thrown 211:13 |
| 250:15 | 183:10 190:7 | 246:7,11,14 | tied 152:8 |
| Supreme 233:21 | taking 225:8 | testator 234:20 | time 123:4 |
| 234:14 236:9 | 232:7 | 238:23 242:21, | 127:4,24 130:3 |
| surprise 231:17 | talked 131:23, | 25 243:11 | 133:12 134:10, |
| Surprised 189:9 | 24 137:4 166:5 | testator's 243:13 245:8 | 14,15 142:22 |
| surrendered 120:25 | 216:6 226:22 | testatrix 243:12 | 151:8 158:13, |
| survive 203:20 | 232:18 | testified 129:20 146:9 | 23,25 159:4 |
| survived 202:16 | talking 125:14 | 188:11 205:23 | 162:7 172:3 |
| 204:10 | 126:24 130:16 | 216:1 237:23 | 175:14 176:11 |
| surviving 202:22 | 146:25 195:14 | 239:10 246:13 | 179:19 180:6,8 |
| survivor 135:8 | 198:9 203:2 | testify 198:2 | 186:19 187:21 |
| 157:4 | 223:4 248:21 | 244:16 | 192:24 193:13 |
| sustain 148:9 | tangible 202:18 | testifying 206:5 | 196:3,11 |
| 197:6 209:16 | technically 253:15 | testimony 149:19 154:1 | 204:9,11 205:1 |
| 217:14 219:3 | ted 131:17,18 | 176:1 235:3,22 | 208:15,22 |
| 220:16 225:15 | 132:2,14,18,24 | 237:21,22 | 209:17 213:8 |
| 228:15 229:17 | 133:2 135:6 | 238:21 239:3, | 218:14 219:2 |
| 231:16 | 136:8 140:11, | 20 241:14 | 225:5 228:4 |
| sustained 124:7 | 14 142:18 | 243:3 244:3 | 230:7 231:6 |
| 133:9 135:17, | 144:7,11,16,23 | 245:10,11,22 | 232:2,5,15 |
| 23 136:13 | 147:12 161:17 | 246:9 249:24 | 241:9 246:8 |
| 140:3 143:16 | 191:21 194:4, | that'll 152:20 | 251:23 254:14, |
| 144:20 145:25 | 22,23,24,25 | 160:25 175:20 | 20 |
| 147:3 149:2,17 | 195:1,2,4,5,10 | 198:20 234:6 | times 138:1 |
| 150:7 151:10 | 196:15 203:10 | Theodore 206:18,23 | 142:9 149:4,10 |
| 155:9 156:19 | 205:2,14,21 | thing 126:24 | 171:23 189:12 |
| 157:10 158:8 | 206:2,15,25 | 127:13 131:3 | 201:19 246:13 |
| 164:24 165:5, | 211:5 213:16 | 173:14 175:10 | title 153:18 |
| 11 166:9,23 | 217:1 221:23 | 196:2 | titled 243:22 |
| 167:3 169:6,12 | 240:24 251:24 | things 127:1 | today 124:12 |
| 174:15,18 | 252:2 | 138:8 156:21 | 133:18 136:1 |
| 175:1 177:4 | Ted's 140:17 | 159:20 198:11 | 149:15,20 |
| 183:20 185:21 | 145:5 | 213:18 248:22, | 150:5 152:16 |
| 188:16 192:21 | telephone 130:17 141:18 | 24 249:8 | 176:1 187:21 |
| 195:22 196:13 | 238:9 | things 127:1 | 211:11,19 |
| 201:2,11,13 | ten 233:8 | 138:8 156:21 | 212:15 213:11, |
| | 247:5,7 | 159:20 198:11 | 21 214:22 |
| | | 213:18 248:22, | 217:4,9,17 |
| | | 24 249:8 | 218:15 221:10 |
| | | | 244:3,16,24 |
| | | | 245:16,22 |

| | | | |
|--|--|--|---|
| 246:3 247:2,7 248:3 249:13 250:1,10,14,21 253:16 256:16 told 131:25 132:7 180:4 214:20,23 220:13 top 168:19,22 tortured 240:13 total 141:25 149:19 totality 238:15 touched 137:15 Traci 167:20 track 209:17 trading 248:8 transcript 224:3 251:13 transmitted 138:14 trial 146:9 162:20,23 180:4,8,11 188:25 237:9 251:8,10,17 252:9,12,17 254:18 trouble 141:25 226:13 true 139:11 229:23 238:17 trust 121:7 122:8 126:15 129:3,11 132:22 133:6, 20 135:5,13,20 136:22,24 137:2,7 138:12,16,18, 20,25 139:10, 12,25 140:12, 17,18 141:25 144:5,17,23,25 145:1,3,4,10, 12,19,20 146:3,7 148:15 149:14 150:2, 20 152:12 155:3,12 156:2 157:6,13,15, 17,19,23,24 | 158:1,2,6,11 163:8,25 166:16 167:15 168:3,24 169:2 173:19 176:17, 19 177:7,15 184:6,17 189:14 192:25 207:1,5,8,9 209:25 210:5 232:19,21 233:6 234:25 235:7 241:3 247:1 249:14 250:16,17,22 251:17 252:14 253:6 trustee 145:18 147:13 195:1,3 207:10,17 208:3 209:3 210:15,25 211:20 212:20 213:6 216:15 220:5,18 221:3 250:6,15,17,22 252:5 trusts 122:11 131:13 132:2,9 147:6 151:19 152:8,18 153:23,25 157:7 165:25 169:10 194:6 210:6 211:20 216:1,5 246:19 turn 122:1 124:17,25 188:9 turned 124:16, 21 two-by-four 172:3 type 122:18 typical 168:17 typically 175:11 189:20 | 247:5,8 un-notarized 240:20 uncontroverted 232:22 243:2 244:4 245:12 uncredible 250:3 understand 127:6 156:1 189:23 194:19 201:21 207:6 234:5 241:12 245:6 understanding 142:1 163:12 211:17 255:6 understands 189:24 undertake 192:17 undisputed 238:21 239:21 undue 246:16, 21,23 247:13, 17 unfortunate 240:23 ungenuine 241:25 unhappy 131:8 unlike 129:2 236:1 unrebutted 241:16 upheld 157:3 239:18 241:20 uphold 241:17 usual 129:22 | 212:12,13 213:23 214:9 216:9,14 218:12,14 219:10 233:12, 15,16 240:9 241:8,21 245:1 247:21 252:5 validate 149:14 210:16 211:5 217:8 219:21, 25 220:7 241:6 248:6 249:11 250:1 254:6,8 validated 211:12 212:10 217:4 220:21 221:3,5,8 validation 245:16 validity 135:19 137:12 151:19 162:6,11 169:14 170:2 208:25 210:19, 24 212:16 217:17,19 218:15,22,25 219:5 229:7,14 243:18,24 252:25 253:22, 24 validly 139:9 vault 189:15 vaults 215:23 216:2 version 138:25 view 189:7 241:10 251:11 viewed 236:14 violated 251:19 violates 251:10,18 virtue 202:21 vivid 253:12 Volume 120:3 |
| <hr/> ultimately 132:4 139:4 | <hr/> U <hr/> | <hr/> v <hr/> | <hr/> W <hr/> |
| | | vague 141:20 valid 137:2,5,6 138:20 139:9 140:18 141:1 152:19 155:13 162:2,3,12 184:6,17,20 188:24 189:4 191:22 211:14 | W-e-i-h-e 245:18 |

| | | |
|---|--|---|
| <p>wait 217:10 255:25</p> <p>waiver 130:8 166:13 189:24 190:10,14,22 191:8,11,19,21 192:1 199:8</p> <p>waivers 166:13, 14 197:4</p> <p>walk 120:16</p> <p>walking 197:17</p> <p>wanted 121:13 222:23,25 223:4 226:19 230:7 231:2 250:13 256:3</p> <p>warned 223:13</p> <p>warning 156:24</p> <p>waste 151:8 162:7</p> <p>wasted 162:5</p> <p>wealth 233:8</p> <p>weekend 214:6</p> <p>weeks 158:10 173:19</p> <p>Weihe 245:17</p> <p>whatsoever 216:12 219:16</p> <p>Whichever 216:17</p> <p>wife 126:8 224:22</p> <p>will's 170:15</p> <p>wills 131:13 146:8 151:19 152:8,18 169:10 189:11 194:6 203:9 233:15 242:16 245:1 246:19</p> <p>Wilmott's 245:4</p> <p>win 237:7</p> <p>winding 153:3</p> <p>wisely 180:6</p> <p>wishes 144:14 156:16 157:3,7 233:4 239:12, 22</p> <p>withdrawn 226:9</p> <p>withdrew 121:2</p> | <p>witnessed 180:16 214:15</p> <p>witnesses 153:2 171:14 180:1, 15 205:8,9,11 231:19 234:19 238:23 239:17 241:13 242:23, 24 243:12</p> <p>word 158:3 235:11</p> <p>words 163:23 185:17 254:6</p> <p>work 141:13 143:4 181:5 196:3</p> <p>worked 176:24 181:8</p> <p>working 180:23</p> <p>worth 149:19</p> <p>wrangled 253:15</p> <p>wrangling 253:11</p> <p>write 137:25 138:7 164:17</p> <p>writing 138:1,4 229:2 242:17 255:2,13,19</p> <p>written 161:18 201:18 203:17 213:9 235:9 255:22 256:3,9</p> <p>wrong 179:13 192:1 240:14 253:15</p> <p>wrote 130:8 211:8 221:19 229:12 231:14</p> <hr/> <p>Y</p> <hr/> <p>Yates 136:24 137:8 139:13, 15,17,18 140:1,19 144:6 148:25 155:11 156:7</p> <p>year 200:22</p> <p>years 125:7 143:1 155:3 224:23 225:7</p> | <hr/> <p>Z</p> <hr/> <p>zip 122:18,21</p> |
|---|--|---|

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

CASE NO.: 502012CP004391XXXXNB IH

CERTIFIED COPY

IN RE:

ESTATE OF SIMON L. BERNSTEIN,
Deceased.

TRANSCRIPT OF PROCEEDINGS BEFORE
HONORABLE JOHN L. PHILLIPS

DATE: September 1, 2016

TIME: 8:44 a.m. - 8:50 a.m.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

APPEARING ON BEHALF OF WILLIAM E. STANSBURY:

PETER M. FEAMAN, P.A.
3695 BOYNTON BEACH BOULEVARD, SUITE 9
BOYNTON BEACH, FL 33436
By: PETER M. FEAMAN, ESQ.

APPEARING ON BEHALF OF TED BERNSTEIN:

PAGE, MRACHEK, FITZGERALD ROSE
KONOPKA & DOW, P.A.
505 SOUTH FLAGLER DRIVE, SUITE 600
WEST PALM BEACH, FL 33401
By: ALAN B. ROSE, ESQ.

BE IT REMEMBERED, that the following
proceedings were taken in the above-styled cause before
the Honorable JOHN L. PHILLIPS, at the Palm Beach County
Courthouse, 3188 PGA Boulevard, Courtroom 3, in the City
of Palm Beach Gardens, County of Palm Beach, State of
Florida, on September 1, 2016, to wit:

1 P-R-O-C-E-E-D-I-N-G-S

2 - - - -

3 THE COURT: Good morning.

4 MR. ROSE: Mr. O'Connell is not here, but
5 he's in agreement on the two motions that I filed.

6 THE COURT: All right. So these are agreed
7 orders?

8 MR. ROSE: No, Mr. Feaman has objections, I
9 think.

10 THE COURT: All right. Well, let me take a
11 look at what the motions are and I'll figure out
12 what to do.

13 MR. ROSE: Okay. The easier one first.

14 THE COURT: Easy is good.

15 MR. ROSE: There's two trusts and two
16 estates. We sold some real estate. And there was
17 some personal property in the house -- in the
18 condo when it was sold. Technically, it was owned
19 by the Estate of Simon Bernstein, even though it
20 was in the house that was in the trust -- just
21 because of the way it was set up. So the deal was
22 we could sell it and we would even up later. So
23 we had everything appraised. And we have a motion
24 that Mr. O'Connell, the PR, and Mr. Bernstein, as
25 the trustee, have agreed to on the amount of the

1 even up. So we have a motion in both cases to
2 even up and pay \$12,704 from the Shirley Bernstein
3 trust to the Simon Bernstein estate.

4 THE COURT: Okay. Let me take a look at what
5 you've got, and then I'll hear from the other
6 side.

7 MR. ROSE: Okay. This is the motion and the
8 order in the trust. And Mr. O'Connell suggested
9 we file the same motion with the same order in
10 estate so we have covered both sides.

11 THE COURT: Okay. And what objection is
12 there to the proposed order that would even up the
13 distribution from the sale?

14 MR. FEAMAN: Good morning, Your Honor. Peter
15 Feaman on behalf of William Stansbury.
16 Mr. Stansbury is a claimant against the estate.
17 You may recall he has a separate action pending in
18 division AA against the estate for a significant
19 claim.

20 We are glad, Your Honor, that this
21 additional money is coming into the estate.

22 THE COURT: There you go.

23 MR. FEAMAN: Because that helps our position.
24 And we're sorry, however, that the personal
25 representative's representative is not here

1 because there are continuing issues about missing
2 property in this estate, not just jewelry, that I
3 mentioned last week. But the property that was in
4 the condo was insured at the time of Shirley
5 Bernstein's death for a hundred thousand dollars.

6 THE COURT: So you think that the personal
7 representative may have ripped the place off?

8 MR. FEAMAN: Well, it was a previous
9 representative. You heard Mr. Spalina testify in
10 your court in a previous case in December, and
11 Mr. Tescher, they had to resign as personal
12 representatives. And Mr. O'Connell, who is the
13 successor personal representative. So he wasn't
14 around when all of this --

15 THE COURT: Can I ask you this?

16 MR. FEAMAN: Yes, sir.

17 THE COURT: Sounds like you think that
18 somebody has been playing with the assets of the
19 estates.

20 MR. FEAMAN: Yes, sir.

21 THE COURT: And diminishing the value of the
22 estate that's available for your claim?

23 MR. FEAMAN: Yes, sir.

24 THE COURT: What does that have to do with
25 the even-up order that I'm being asked to do today

1 which deals with whatever there was in the estate
2 when the property was sold and the distribution to
3 even things up was made? What does that have to
4 do with this?

5 MR. FEAMAN: Yeah, that's why we're gratified
6 that this money is coming. At least this part is
7 coming into the estate.

8 THE COURT: Sounds like you've got something
9 else you want to do to pursue your thoughts that
10 there might have been fraud earlier. But does
11 that have anything to do with this? Or are you
12 okay with me signing this?

13 MR. FEAMAN: Not directly.

14 THE COURT: So you're okay with me signing
15 this?

16 MR. FEAMAN: Yes, sir.

17 THE COURT: Okay. So we're good.

18 MR. ROSE: We're good. Ms. Lewis, we're
19 good?

20 Well, this is easier than I thought.

21 Okay. Well, thanks.

22 It will be interesting to see how that
23 other issue works out. I mean, I understand
24 your concerns about other things. But as far
25 as the even up goes, we'll -- everybody will be

1 happily approving that.

2 MR. FEAMAN: I have not -- don't think I've
3 seen the order that you're signing, but...

4 THE COURT: Here's what it says: The motion
5 is granted. The Shirley trust will pay the
6 personal representative of Simon's estate \$12,457
7 for the sold personal property. And there will be
8 no further or outstanding obligations between
9 these parties.

10 Then the other -- kind of a mirror image
11 of what I just read. The motion is granted;
12 the Shirley trust will pay the personal
13 representative of Simon's estate \$12,457 for
14 the sold personal property. And there will be
15 no further or outstanding obligations between
16 those parties.

17 MR. FEAMAN: Yes, sir.

18 THE COURT: So that leaves open the issues
19 that you're concerned about.

20 MR. FEAMAN: Okay. Very good. Thank you.

21 THE COURT: Okay. Great. Good luck,
22 everybody.

23 MR. ROSE: We had one other motion that -- I
24 don't know -- again, limited opposition. Here's
25 the motion and the order. But I can tell you in

1 30 seconds the motion.

2 Mr. Feaman's client has a lawsuit against
3 the estate. The personal representative,
4 Mr. O'Connell, has decided he wanted to retain
5 my law firm because I've handled this
6 litigation for a year and a half before his
7 appointment. And he also wanted to appoint my
8 client, Ted Bernstein, who's the trustee in the
9 beneficiary of his estate as the administrator
10 ad litem to oversee the defense of the case to
11 save money. Because Ted will do it for free.
12 He was an officer of the company. He's been
13 defending the case when he was a party,
14 although he's been released. And we're very
15 concerned with the cost and expense. So having
16 Mr. Bernstein serve as the administrator, he's
17 the logical person to do it since he was a
18 party. He was a partner in the business. He
19 is the trustee of the --

20 THE COURT: Well, what's the problem?

21 MR. ROSE: Mr. Feaman's objecting to it. He
22 wants to choose who defends the company against
23 the claim -- who defends the estate in the claim
24 that his client has brought against the estate.
25 Mr. O'Connell and all the beneficiaries want it to

1 be as we've put it in the motion.

2 THE COURT: Okay. So what's the objection?

3 MR. FEAMAN: My position is being
4 misrepresented, respectfully, by opposing counsel.

5 THE COURT: Okay.

6 MR. FEAMAN: My client does not want to
7 choose who comes in as administrator ad litem. My
8 client objects to the particular individual of Ted
9 Bernstein coming in as administrator ad litem.

10 THE COURT: This is an evidentiary matter.
11 So just set it for an evidentiary hearing and
12 we'll figure it out. Or somebody else will figure
13 it out.

14 MR. FEAMAN: Yes, sir.

15 MR. ROSE: Can we agree that the part that's
16 unopposed would be that our firm can be retained
17 by the estate? Because we want to get the
18 litigation moving. And then we would defer the
19 other part for an evidentiary hearing.

20 THE COURT: Is that okay?

21 MR. FEAMAN: I don't think, honestly, Your
22 Honor, in candor with the court, that
23 Mr. Stansbury could be in a position to take a
24 position on that one way or the other as to who
25 the estate wants to pick as counsel to defend them

1 in that lawsuit.

2 THE COURT: I agree with you. I agree with
3 you.

4 MR. ROSE: The only other thing, unless
5 Mr. O'Connell, who is not here, has any objection
6 to that, I'll submit -- I'll revise the order and
7 submit it to you.

8 THE COURT: Let me give this back to you so I
9 don't get it mixed up and accidentally sign it. If
10 you would send it in with just a short
11 recollection letter so I won't forget.

12 MR. ROSE: And I'll circulate the proposed
13 order that covers that to everybody before I
14 submit it to Your Honor.

15 THE COURT: Okay. All right. Well, good
16 luck.

17 MR. FEAMAN: Thank you, Your Honor.

18

19

20

21 (Thereupon, the proceedings were
22 concluded at 8:50 a.m.)

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

C E R T I F I C A T E

THE STATE OF FLORIDA
COUNTY OF PALM BEACH.

I, DAVID L. MARSAA, Professional Reporter,
State of Florida at large, certify that I was
authorized to and did stenographically report the
foregoing proceedings and that the transcript is a
true and complete record of my stenographic notes.

Dated this 7th day of September, 2016.



DAVID L. MARSAA, COURT REPORTER

| | | | |
|----------------------------|---|---|---|
| | Bernstein 3:19,24 4:2,3 8:8,16 9:9 | defend 9:25 | |
| \$ | | defending 8:13 | G |
| \$12,457 7:6,13 | Bernstein's 5:5 | defends 8:22,23 | give 10:8 |
| \$12,704 4:2 | brought 8:24 | defense 8:10 | glad 4:20 |
| 3 | business 8:18 | defer 9:18 | good 3:3,14 4:14 6:17,18, 19 7:20,21 10:15 |
| | C | diminishing 5:21 | granted 7:5,11 |
| 30 8:1 | candor 9:22 | directly 6:13 | gratified 6:5 |
| 8 | case 5:10 8:10,13 | distribution 4:13 6:2 | Great 7:21 |
| 8:50 10:22 | cases 4:1 | division 4:18 | |
| | choose 8:22 9:7 | dollars 5:5 | H |
| A | circulate 10:12 | E | half 8:6 |
| a.m. 10:22 | claim 4:19 5:22 8:23 | earlier 6:10 | handled 8:5 |
| AA 4:18 | claimant 4:16 | easier 3:13 6:20 | happily 7:1 |
| accidentally 10:9 | client 8:2,8,24 9:6,8 | Easy 3:14 | hear 4:5 |
| action 4:17 | company 8:12,22 | estate 3:16,19 4:3,10,16, 18,21 5:2,22 6:1,7 7:6,13 8:3,9,23,24 9:17,25 | heard 5:9 |
| ad 8:10 9:7,9 | concerned 7:19 8:15 | estates 3:16 5:19 | hearing 9:11,19 |
| additional 4:21 | concerns 6:24 | even-up 5:25 | helps 4:23 |
| administrator 8:9,16 9:7,9 | concluded 10:22 | evidentiary 9:10,11,19 | honestly 9:21 |
| agree 9:15 10:2 | condo 3:18 5:4 | expense 8:15 | Honor 4:14,20 9:22 10:14, 17 |
| agreed 3:6,25 | continuing 5:1 | | house 3:17,20 |
| agreement 3:5 | cost 8:15 | F | hundred 5:5 |
| amount 3:25 | counsel 9:4,25 | Feaman 3:8 4:14,15,23 5:8,16,20,23 6:5,13,16 7:2, 17,20 9:3,6,14,21 10:17 | I |
| appoint 8:7 | court 3:3,6,10,14 4:4,11,22 5:6,10,15,17,21,24 6:8,14, 17 7:4,18,21 8:20 9:2,5,10, 20,22 10:2,8,15 | Feaman's 8:2,21 | image 7:10 |
| appointment 8:7 | covered 4:10 | figure 3:11 9:12 | individual 9:8 |
| appraised 3:23 | covers 10:13 | file 4:9 | insured 5:4 |
| approving 7:1 | | filed 3:5 | interesting 6:22 |
| assets 5:18 | D | firm 8:5 9:16 | issue 6:23 |
| B | deal 3:21 | forget 10:11 | issues 5:1 7:18 |
| back 10:8 | deals 6:1 | fraud 6:10 | J |
| behalf 4:15 | death 5:5 | free 8:11 | jewelry 5:2 |
| beneficiaries 8:25 | December 5:10 | | |
| beneficiary 8:9 | decided 8:4 | | |

| | | | |
|--|--|---|----------------------------------|
| | objection 4:11 9:2 10:5 | property 3:17 5:2,3 6:2 7:7,14 | short 10:10 |
| K | objections 3:8 | proposed 4:12 10:12 | side 4:6 |
| kind 7:10 | objects 9:8 | pursue 6:9 | sides 4:10 |
| | obligations 7:8,15 | put 9:1 | sign 10:9 |
| L | officer 8:12 | | significant 4:18 |
| law 8:5 | open 7:18 | R | signing 6:12,14 7:3 |
| lawsuit 8:2 10:1 | opposing 9:4 | read 7:11 | Simon 3:19 4:3 |
| leaves 7:18 | opposition 7:24 | real 3:16 | Simon's 7:6,13 |
| letter 10:11 | order 4:8,9,12 5:25 7:3,25 10:6,13 | recall 4:17 | sir 5:16,20,23 6:16 7:17 9:14 |
| Lewis 6:18 | orders 3:7 | recollection 10:11 | sold 3:16,18 6:2 7:7,14 |
| limited 7:24 | outstanding 7:8,15 | released 8:14 | Sounds 5:17 6:8 |
| litem 8:10 9:7,9 | oversee 8:10 | representative 4:25 5:7,9, 13 7:6,13 8:3 | Spalina 5:9 |
| litigation 8:6 9:18 | owned 3:18 | representative's 4:25 | Stansbury 4:15,16 9:23 |
| logical 8:17 | | representatives 5:12 | submit 10:6,7,14 |
| luck 7:21 10:16 | P | resign 5:11 | successor 5:13 |
| M | P-r-o-c-e-e-d-i-n-g-s 3:1 | respectfully 9:4 | suggested 4:8 |
| made 6:3 | part 6:6 9:15,19 | retain 8:4 | T |
| matter 9:10 | parties 7:9,16 | retained 9:16 | Technically 3:18 |
| mentioned 5:3 | partner 8:18 | revise 10:6 | Ted 8:8,11 9:8 |
| mirror 7:10 | party 8:13,18 | ripped 5:7 | Tescher 5:11 |
| misrepresented 9:4 | pay 4:2 7:5,12 | ROSE 3:4,8,13,15 4:7 6:18 7:23 8:21 9:15 10:4,12 | testify 5:9 |
| missing 5:1 | pending 4:17 | | thing 10:4 |
| mixed 10:9 | person 8:17 | S | things 6:3,24 |
| money 4:21 6:6 8:11 | personal 3:17 4:24 5:6,11, 13 7:6,7,12,14 8:3 | sale 4:13 | thought 6:20 |
| morning 3:3 4:14 | Peter 4:14 | save 8:11 | thoughts 6:9 |
| motion 3:23 4:1,7,9 7:4,11, 23,25 8:1 9:1 | pick 9:25 | seconds 8:1 | thousand 5:5 |
| motions 3:5,11 | place 5:7 | sell 3:22 | time 5:4 |
| moving 9:18 | playing 5:18 | send 10:10 | today 5:25 |
| O | position 4:23 9:3,23,24 | separate 4:17 | trust 3:20 4:3,8 7:5,12 |
| O'connell 3:4,24 4:8 5:12 8:4,25 10:5 | PR 3:24 | serve 8:16 | trustee 3:25 8:8,19 |
| objecting 8:21 | previous 5:8,10 | set 3:21 9:11 | trusts 3:15 |
| | problem 8:20 | Shirley 4:2 5:4 7:5,12 | |
| | proceedings 10:21 | | |

| |
|--|
| |
| U |
| understand 6:23 unopposed 9:16 |
| W |
| wanted 8:4,7 week 5:3 William 4:15 works 6:23 |
| Y |
| year 8:6 |

00001

1 IN THE CIRCUIT COURT OF THE 15TH JUDICIAL CIRCUIT,
IN AND FOR PALM BEACH COUNTY, FLORIDA
2 PROBATE/GUARDIANSHIP DIVISION IY
3 CASE NO.: 502011CP000653XXXXSB

4 IN RE: THE ESTATE OF:
SHIRLEY BERNSTEIN,
Deceased

5 _____/
ELIOT IVAN BERNSTEIN, PRO SE,
6 Petitioner,

vs.

7
8 TESCHER & SPALLINA, P.A., (AND ALL PARTNERS,
ASSOCIATES AND OF COUNSEL); ROBERT L. SPALLINA
(BOTH PERSONALLY & PROFESSIONALLY); DONALD
9 R. TESCHER (BOTH PERSONALLY & PROFESSIONALLY);
THEODORE STUART BERNSTEIN (AS ALLEGED PERSONAL
10 REPRESENTATIVE, TRUSTEE, SUCCESSOR TRUSTEE) (BOTH
PERSONALLY & PROFESSIONALLY); AND JOHN AND JANE
11 DOE'S (1-5000),
Respondents.

12 _____/
13 TRANSCRIPT OF PROCEEDINGS
14 BEFORE
15 THE HONORABLE MARTIN H. COLIN

16 South County Courthouse
17 200 West Atlantic Avenue, Courtroom 8
18 Delray Beach, Florida 33344

19
20 Friday, September 13, 2013
1:30 p.m. - 2:15 p.m.

21
22
23
24 Stenographically Reported By:
JESSICA THIBAUT

25

♀

00002

1 APPEARANCES

2
3 On Behalf of the Petitioner:
4 ELIOT IVAN BERNSTEIN, PRO SE
2753 NW 34th Street
5 Boca Raton, Florida 33434
6

13 MR. MANCERI: But before I make my
14 presentation, I would just like to apologize
15 for Mr. Tescher's absence. He's out of town
16 for the holiday.

17 THE COURT: Okay. Who are the PR's that
18 you represent?

19 MR. MANCERI: Well, Shirley Bernstein
20 there is no technically any PR because we had
21 the estate closed.

22 THE COURT: Okay.

23 MR. MANCERI: And what emanated from
24 Mr. Bernstein's 57-page filing, which falls
25 lawfully short of any emergency, was a petition

♀

00024

1 to reopen the estate, so technically nobody has
2 letters right now.

3 Simon Bernstein, your Honor, who died a
4 year ago today as you heard, survived his wife,
5 Shirley Bernstein, who died December 10, 2010.
6 Simon Bernstein was the PR of his wife's
7 estate.

8 As a result of his passing, and in attempt
9 to reopen the estate we're looking to have the
10 estate reopened. So nobody has letters right
11 now, Judge. The estate was closed.

12 THE COURT: So you agree that in Shirley's
13 estate it was closed January of this year,
14 there was an order of discharge, I see that.
15 Is that true?

16 MR. ELIOT BERNSTEIN: I don't know.

17 THE COURT: Do you know that that's true?

18 MR. ELIOT BERNSTEIN: Yes, I believe.

19 THE COURT: So final disposition and the
20 order got entered that Simon, your father --

21 MR. ELIOT BERNSTEIN: Yes, sir.

22 THE COURT: -- he came to court and said I
23 want to be discharged, my wife's estate is
24 closed and fully administered.

25 MR. ELIOT BERNSTEIN: No. I think it

♀

00025

1 happened after --

2 THE COURT: No, I'm looking at it.

3 MR. ELIOT BERNSTEIN: What date did that
4 happen?

5 THE COURT: January 3, 2013.

6 MR. ELIOT BERNSTEIN: He was dead.

7 MR. MANCERI: That's when the order was
8 signed, yes, your Honor.

9 THE COURT: He filed it, physically came
10 to court.

11 MR. ELIOT BERNSTEIN: Oh.

12 THE COURT: So let me see when he actually
13 filed it and signed the paperwork. November.
14 What date did your dad die?

15 MR. ELIOT BERNSTEIN: September. It's
16 hard to get through. He does a lot of things
17 when he's dead.

18 THE COURT: I have all of these waivers by
19 Simon in November. He tells me Simon was dead
20 at the time.

21 MR. MANCERI: Simon was dead at the time,
22 your Honor. The waivers that you're talking
23 about are waivers from the beneficiaries, I
24 believe.

25 THE COURT: No, it's waivers of

♀

00026

1 accountings.

2 MR. MANCERI: Right, by the beneficiaries.

3 THE COURT: Discharge waiver of service of
4 discharge by Simon, Simon asked that he not
5 have to serve the petition for discharge.

6 MR. MANCERI: Right, that was in his
7 petition. When was the petition served?

8 THE COURT: November 21st.

9 MR. SPALLINA: Yeah, it was after his date
10 of death.

11 THE COURT: Well, how could that happen
12 legally? How could Simon --

13 MR. MANCERI: Who signed that?

14 THE COURT: -- ask to close and not serve
15 a petition after he's dead?

16 MR. MANCERI: Your Honor, what happened
17 was is the documents were submitted with the
18 waivers originally, and this goes to
19 Mr. Bernstein's fraud allegation. As you know,
20 your Honor, you have a rule that you have to
21 have your waivers notarized. And the original
22 waivers that were submitted were not notarized,
23 so they were kicked back by the clerk. They
24 were then notarized by a staff person from
25 Tescher and Spallina admittedly in error. They

♀

00027

In Re_ The Estate of Shirley Bernstein.txt
1 should not have been notarized in the absentia
2 of the people who purportedly signed them. And
3 I'll give you the names of the other siblings,
4 that would be Pamela, Lisa, Jill, and Ted
5 Bernstein.

6 THE COURT: So let me tell you because I'm
7 going to stop all of you folks because I think
8 you need to be read your Miranda warnings.

9 MR. MANCERI: I need to be read my Miranda
10 warnings?

11 THE COURT: Everyone of you might have to
12 be.

13 MR. MANCERI: Okay.

14 THE COURT: Because I'm looking at a
15 formal document filed here April 9, 2012,
16 signed by Simon Bernstein, a signature for him.

17 MR. MANCERI: April 9th, right.

18 THE COURT: April 9th, signed by him, and
19 notarized on that same date by Kimberly. It's
20 a waiver and it's not filed with The Court
21 until November 19th, so the filing of it, and
22 it says to The Court on November 19th, the
23 undersigned, Simon Bernstein, does this, this,
24 and this. Signed and notarized on April 9,
25 2012. The notary said that she witnessed Simon

♀

00028

1 sign it then, and then for some reason it's not
2 filed with The Court until after his date of
3 death with no notice that he was dead at the
4 time that this was filed.

5 MR. MANCERI: Okay.

6 THE COURT: All right, so stop, that's
7 enough to give you Miranda warnings. Not you
8 personally --

9 MR. MANCERI: Okay.

10 THE COURT: Are you involved? Just tell
11 me yes or no.

12 MR. SPALLINA: I'm sorry?

13 THE COURT: Are you involved in the
14 transaction?

15 MR. SPALLINA: I was involved as the
16 lawyer for the estate, yes. It did not come to
17 my attention until Kimberly Moran came to me
18 after she received a letter from the Governor's
19 Office stating that they were investigating
20 some fraudulent signatures on some waivers that
21 were signed in connection with the closing of

In Re_ The Estate of Shirley Bernstein.txt
22 the estate.

23 THE COURT: What about the fact, counsel,
24 let me see who signed this. Okay, they're all
25 the same as to -- so let me ask this, I have a

♀

00029

1 document where Eliot, you're Eliot, right?

2 MR. ELIOT BERNSTEIN: Yes, sir.

3 THE COURT: Where you purportedly waived
4 accounting, agreed to a petition to discharge
5 on May 15th, and you signed that. Do you
6 remember doing that? Do you remember that or
7 not? I'm looking at it.

8 MR. ELIOT BERNSTEIN: I remember signing
9 it and sending it with a disclaimer that I was
10 signing it because my father was under duress
11 and only to relieve this stress that he was
12 being --

13 THE COURT: Well, I don't care -- I'm not
14 asking you why you signed it.

15 MR. ELIOT BERNSTEIN: I also signed it
16 with the expressed -- when I signed it I was
17 coned by Mr. Spallina that he was going to send
18 me all the documents of the estate to review.
19 I would have never lied on this form when I
20 signed it. It's saying that I saw and I never
21 saw --

22 THE COURT: Let me ask you --

23 MR. ELIOT BERNSTEIN: I lied.

24 THE COURT: Did you have your signature
25 notarized?

♀

00030

1 MR. ELIOT BERNSTEIN: No.

2 THE COURT: Kimberly Moran never signed or
3 notarized his signature?

4 MR. MANCERI: Yes, your Honor, and that's
5 been addressed with the Governor's office.

6 THE COURT: You need to address this with
7 me.

8 MR. MANCERI: I am going to address it
9 with you.

10 THE COURT: Here's what I don't understand
11 because this is part of the problem here, is
12 that Shirley has an estate that's being
13 administered by Simon.

14 MR. MANCERI: Correct.

15 THE COURT: There comes a time where they

In Re_ The Estate of Shirley Bernstein.txt
16 think it's time to close out the estate.

17 MR. MANCERI: Correct.

18 THE COURT: Waivers are sent out, that's
19 kind of SOP, and people sign off on that.

20 MR. MANCERI: Right.

21 THE COURT: And why are they held up for
22 six months, and when they're filed it's after
23 Simon is already deceased?

24 MR. MANCERI: They were originally filed
25 away, your Honor, under the signature of the

♀

00031

1 people.

2 THE COURT: No, they weren't filed, that's
3 the whole thing. I'm looking at the file date,
4 filed with The Court.

5 MR. MANCERI: No, they were returned by
6 the clerk because they didn't have
7 notarization. We have affidavits from all
8 those people, Judge.

9 THE COURT: Well you may have that they
10 got sent up here.

11 MR. MANCERI: We have affidavits from all
12 of those people.

13 MR. ELIOT BERNSTEIN: Including Simon?

14 THE COURT: Slow down. You know how we
15 know something is filed? We see a stamp.

16 MR. MANCERI: It's on the docket sheet, I
17 understand.

18 THE COURT: So it's stamped in as filed in
19 November. The clerk doesn't have -- now, they
20 may have rejected it because it wasn't
21 notarized, and that's perhaps what happened,
22 but if in the meantime waiting cured the
23 deficiency of the document, two things happen
24 you're telling me, one, Simon dies.

25 MR. MANCERI: Correct.

♀

00032

1 THE COURT: And when those documents are
2 filed with the clerk eventually in November
3 they're filed and one of the documents says, I,
4 Simon, in the present.

5 MR. MANCERI: Of Ms. Moran.

6 THE COURT: No, not physically present, I
7 Simon, I would read this in November Simon
8 saying I waive -- I ask that I not have to have
9 an accounting and I want to discharge, that

In Re_ The Estate of Shirley Bernstein.txt
request is being made in November.

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. MANCERI: Okay.
THE COURT: He's dead.
MR. MANCERI: I agree, your Honor.
THE COURT: Who filed that document?
MR. MANCERI: Robert, do you know who
filed that document in your office?
MR. SPALLINA: I would assume Kimberly
did.
MR. MANCERI: Ms. Moran.
THE COURT: Who is she?
MR. MANCERI: She's a staff person at
Teschler and Spallina.
THE COURT: When she filed these, and one
would think when she filed these the person who
purports to be the requesting party is at least

♀

00033

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

alive.
MR. MANCERI: Understood, Judge.
THE COURT: Not alive. So, well -- we're
going to come back to the notary problem in a
second.
MR. MANCERI: Okay.
THE COURT: In the meantime, based upon
all that I discharge the estate, it's closed.
Here's what I don't understand on your
side, you're representing yourself, but the
rules still apply. You then file, Eliot
Bernstein, emergency petitions in this closed
estate, it's closed.
MR. ELIOT BERNSTEIN: You reopened it.
THE COURT: When did I reopen it?
MR. MANCERI: No, it hasn't been reopened,
your Honor.
THE COURT: There's an order that I
entered in May of 2013 denying an emergency
petition to freeze assets. You filed this one
in May. Do you remember doing that?
MR. ELIOT BERNSTEIN: I believe so.
THE COURT: And what you said was there's
an emergency in May, you want to freeze the
estate assets appointing you PR, investigate

♀

00034

1
2
3

the fraud documents, and do a whole host of
other things, and the estate had been closed.
The reason why it was denied among other

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


ADMINISTRATIVE ORDER NO. 3.203-9/08*

IN RE: UNIFORM PRETRIAL PROCEDURES
IN CIVIL ACTIONS

Pursuant to the authority conferred by Florida Rule of Judicial Administration 2.215, it is **ORDERED** as follows:

Pursuant to Rule 1.200, Florida Rules of Civil Procedure and Rule 2.545, Rules of Judicial Administration, the attached orders (except for the time deadlines) shall constitute the uniform pretrial orders for circuit court civil actions. Time deadlines may vary in the orders.

29 **DONE** and **ORDERED** in Chambers at West Palm Beach, Palm Beach County, Florida, this day of September, 2008.


Kathleen J. Kroll
Chief Judge

*supersedes admin. order no. 3.001-6/05

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

CASE NO.

Plaintiff,
vs.

Defendant.
_____ /

**ORDER SETTING JURY TRIAL AND
DIRECTING PRETRIAL AND MEDIATION PROCEDURES**

I. SCHEDULING

This action is set for jury trial on the calendar beginning _____ at 9:45 o'clock a.m. **YOU MUST APPEAR AT 9:00 O'CLOCK A.M. ON FRIDAY, _____, IN COURTROOM _____, PALM BEACH COUNTY COURTHOUSE, 205 NORTH DIXIE HIGHWAY, WEST PALM BEACH, FLORIDA FOR THE JURY CALENDAR CALL.** (_____ days reserved).

The trial will be scheduled sometime during the calendar beginning _____, at a date and time to be provided at the calendar call, subject to the court's ordering a later case setting.

II. UNIFORM PRETRIAL PROCEDURE

A. On the last business day no later than **120 DAYS PRIOR TO CALENDAR CALL**, the parties shall exchange lists of all trial exhibits, names and addresses of all trial witnesses, and names and addresses of all expert witnesses.

B. On the last business day no later than **60 DAYS PRIOR TO CALENDAR CALL**, the parties shall exchange lists of names and addresses of all rebuttal witnesses.

C. In addition to names and addresses of each expert retained to formulate an expert opinion with regard to this cause, both on the initial listing and on rebuttal, the parties shall provide:

1. the subject matter about which the expert is expected to testify;
2. the substance of the facts and opinions to which the expert is expected to testify;
3. a summary of the grounds for each opinion;
4. a copy of any written reports issued by the expert regarding this case; and
5. a copy of the expert's curriculum vitae.

D. On the last business day no later than **30 DAYS PRIOR TO CALENDAR CALL**, the parties shall confer and:

1. discuss settlement;
2. simplify the issues and stipulate, in writing, as to as many facts and issues as possible;
3. prepare a Pre-Trial Stipulation in accordance with paragraph E; and
4. list all objections to trial exhibits.

E. **PRETRIAL STIPULATIONS MUST BE FILED.** It shall be the duty of counsel for the Plaintiff to see that the Pre-Trial Stipulation is drawn, executed by counsel for all parties, and filed with the Clerk no later than **20 DAYS PRIOR TO CALENDAR CALL**. **UNILATERAL PRETRIAL STATEMENTS ARE DISALLOWED, UNLESS APPROVED BY THE COURT, AFTER NOTICE AND HEARING SHOWING GOOD CAUSE.** Counsel for all parties are charged with good faith cooperation in this regard. The Pre-Trial Stipulation shall contain in separately numbered paragraphs:

1. a list of all pending motions including MOTIONS IN LIMINE and FRYE MOTIONS requiring action by the Court and the dates those motions are set for hearing (MOTIONS IN LIMINE and FRYE HEARINGS shall not be heard the day of trial or thereafter.)
2. stipulated facts which require no proof at trial which may be read to the trier of fact;
3. a statement of all issues of fact for determination at trial;
4. each party's numbered list of trial exhibits with specific objections, if any, to schedules attached to the Stipulation;
5. each party's numbered list of trial witnesses with addresses (including all known rebuttal witnesses); the list of witnesses shall be on separate schedules attached to the Stipulation;
6. a statement of estimated trial time;
7. names of attorneys to try case; and
8. number of peremptory challenges per party.

F. **FILING OF PRE-TRIAL STIPULATION.** Failure to file the Pre-Trial Stipulation or a Court Approved Unilateral Stipulation as above provided may result in the case being stricken from the Court's calendar at its sounding or other sanctions.

G. **ADDITIONAL EXHIBITS, WITNESSES OR OBJECTIONS.** At trial, the parties shall be strictly limited to exhibits and witnesses disclosed and objections reserved on the schedules attached to the Pre-Trial Stipulation prepared in accordance with paragraphs D and E, absent agreement specifically stated in the Pre-Trial Stipulation or order of the Court upon good cause shown. Failure to reserve objections constitutes a waiver. A party desiring to use an exhibit or witness discovered after counsel have conferred pursuant to paragraph D shall immediately furnish the Court and other counsel with a description of the exhibit or with the witness' name and address and the expected subject matter of the witness' testimony, together with the reason for the late discovery of the exhibit or witness. Use

of the exhibit or witness may be allowed by the Court for good cause shown or to prevent manifest injustice.

H. DISCOVERY. Unless otherwise agreed in the Pre-Trial Stipulation, all discovery must be completed no later than **10 DAYS BEFORE THE DATE SET FOR CALENDAR CALL**, absent agreement for later discovery specifically stated in the Pre-Trial Stipulation or for other good cause shown.

I. PRE-TRIAL CONFERENCE. No pre-trial conference pursuant to Fla. R. Civ. P. 1.200 is set by the Court on its own motion. If a pre-trial conference is set upon motion of a party, counsel shall meet and prepare a stipulation pursuant to paragraphs D and E and file the stipulation no later than **5 DAYS BEFORE THE CONFERENCE**. Failure to request a pre-trial conference in a timely fashion constitutes a waiver of the notice of requirement of Rule 1.200. Motions for Summary Judgment will not be heard at any pre-trial conference.

J. UNIQUE QUESTIONS OF LAW. Prior to calendar call, counsel for the parties are directed to exchange and simultaneously submit to the Court appropriate memoranda with citations to legal authority in support of any unique legal questions which may reasonably be anticipated to arise during the trial.

K. MODIFICATION TO UNIFORM PRE-TRIAL PROCEDURE. Upon written stipulation of the parties filed with the court, the Pre-Trial Procedure, except for items II D-F, inclusive, may be modified in accordance with the parties' stipulation, except to the extent that the stipulation may interfere with the Court's scheduling of the matter for trial or hinder the orderly progress of the trial.

L. PREMARKING EXHIBITS. Prior to trial, each party shall meet with and assist the clerk in marking for identification all exhibits, as directed by the clerk.

M. DEPOSITION DESIGNATIONS. No later than **20 DAYS PRIOR TO CALENDAR CALL**, each party shall serve his, her, or its designation of depositions, or portions of depositions, each intends to offer as testimony in his, her or its case in chief. No later than **10 DAYS PRIOR TO CALENDAR CALL**, each opposing party shall serve his, her, or its counter (or "fairness") designations to portions of depositions designated, together with objections to the depositions, or portions thereof, originally designated. No later than calendar call, each party shall serve his, her or its objections to counter designations served by an opposing party.

III. MEDIATION

A. All parties are required to participate in mediation.

1. The appearance of counsel who will try the case and representatives of each party with full authority to enter into a complete compromise and settlement is mandatory. If insurance is involved, an adjuster with authority up to the policy limits or the most recent demand, whichever is lower, shall attend.

2. At least **ONE WEEK BEFORE THE CONFERENCE**, all parties shall file with the mediator a brief, written summary of the case containing a list of issues as to each party. If an

4. The mediator has no power to compel or enforce a settlement agreement. If a settlement is reached, it shall be the responsibility of the attorneys or parties to reduce the agreement to writing and to comply with Florida Rule of Civil Procedure 1.730(b), unless waived.

B. The Plaintiff's attorney shall be responsible for scheduling mediation. The parties should agree on a mediator. If they are unable to agree, any party may apply to the Court for appointment of a mediator in conformity with Rule 1.720 (f), Fla. R. Civ. P. The lead attorney or party shall file and serve on all parties and the mediator a Notice of Mediation giving the time, place, and date of the mediation and the mediator's name. The mediator shall be paid \$175.00 per hour, unless otherwise agreed by the parties.

C. Completion of mediation is a prerequisite to trial. If mediation is not conducted, or if a party fails to participate in mediation, the case may be stricken from the trial calendar, pleadings may be stricken, and other sanctions may be imposed.

D. Any party opposing mediation may proceed under Florida Rule of Civil Procedure 1,700(b).

IV. NONCOMPLIANCE

NONCOMPLIANCE WITH ANY PORTION OF THIS ORDER MAY RESULT IN THE STRIKING OF THE CASE, WITNESSES, OR EXHIBITS, OR IMPOSITION OF SUCH OTHER SANCTIONS AS ARE JUST.

DONE AND ORDERED in West Palm Beach, Palm Beach County, Florida this _____ day of _____, 2005.

Circuit Court Judge

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

SE NO.

Plaintiff,
vs.

Defendant.
_____ /

**ORDER SETTING NON-JURY TRIAL AND
DIRECTING PRETRIAL AND MEDIATION PROCEDURES**

I. SCHEDULING

This action is set for non-jury trial on the calendar beginning _____ at 9:45 o'clock a.m.
**YOU MUST APPEAR AT 10:00 O'CLOCK A.M. ON FRIDAY, _____, IN
COURTROOM____, PALM BEACH COUNTY COURTHOUSE, 205 NORTH DIXIE
HIGHWAY, WEST PALM BEACH, FLORIDA FOR THE NON-JURY CALENDAR CALL.**
(_____ days reserved).

The trial will be scheduled sometime during the calendar beginning _____, at a date
and time to be provided at the calendar call, subject to the court's ordering a later case setting.

II. UNIFORM PRETRIAL PROCEDURE

A. On the last business day no later than **60 DAYS PRIOR TO CALENDAR CALL**, the
parties shall exchange lists of all trial exhibits, names and addresses of all trial witnesses, and names
and addresses of all expert witnesses.

B. On the last business day no later than **30 DAYS PRIOR TO CALENDAR CALL**, the
parties shall exchange lists of names and addresses of all rebuttal witnesses.

C. In addition to names and addresses of each expert retained to formulate an expert opinion
with regard to this cause, both on the initial listing and on rebuttal, the parties shall provide:

1. the subject matter about which the expert is expected to testify;
2. the substance of the facts and opinions to which the expert is expected
to testify;
3. a summary of the grounds for each opinion;
4. a copy of any written reports issued by the expert regarding this case; and

5. a copy of the expert's curriculum vitae.

D. On the last business day no later than **20 DAYS PRIOR TO CALENDAR CALL**, the parties shall confer and:

1. discuss settlement;
2. simplify the issues and stipulate, in writing, as to as many facts and issues as possible;
3. prepare a Pre-Trial Stipulation in accordance with paragraph E; and
4. list all objections to trial exhibits.

E. **PRETRIAL STIPULATIONS MUST BE FILED.** It shall be the duty of counsel for the Plaintiff to see that the Pre-Trial Stipulation is drawn, executed by counsel for all parties, and filed with the Clerk no later than **20 DAYS PRIOR TO CALENDAR CALL**. **UNILATERAL PRETRIAL STATEMENTS ARE DISALLOWED, UNLESS APPROVED BY THE COURT, AFTER NOTICE AND HEARING SHOWING GOOD CAUSE.** Counsel for all parties are charged with good faith cooperation in this regard. The Pre-Trial Stipulation shall contain in separately numbered paragraphs:

1. a list of all pending motions requiring action by the Court and the dates those motions are set for hearing;
2. stipulated facts which require no proof at trial which may be read to the trier of fact;
3. a statement of all issues of fact for determination at trial;
4. each party's numbered list of trial exhibits with specific objections, if any, to schedules attached to the Stipulation;
5. each party's numbered list of trial witnesses with addresses (including all known rebuttal witnesses); the list of witnesses shall be on separate schedules attached to the Stipulation;
6. a statement of estimated trial time;
7. names of attorneys to try case.

F. **FILING OF PRE-TRIAL STIPULATION.** Failure to file the Pre-Trial Stipulation or a Court Approved Unilateral Stipulation as above provided may result in the case being stricken from the Court's calendar at its sounding or other sanctions.

G. **ADDITIONAL EXHIBITS, WITNESSES OR OBJECTIONS.** At trial, the parties shall be strictly limited to exhibits and witnesses disclosed and objections reserved on the schedules attached to the Pre-Trial Stipulation prepared in accordance with paragraphs D and E, absent agreement specifically stated in the Pre-Trial Stipulation or order of the Court upon good cause shown. Failure to reserve objections constitutes a waiver. A party desiring to use an exhibit or witness discovered after counsel have conferred pursuant to paragraph D shall immediately furnish the Court and other counsel with a description of the exhibit or with the witness' name and address and the expected subject matter of the witness' testimony, together with the reason for the late discovery of the exhibit or witness. Use of the exhibit or witness may be allowed by the Court for good cause shown or to prevent manifest injustice.

H. DISCOVERY. Unless otherwise agreed in the Pre-Trial Stipulation, all discovery must be completed no later than **10 DAYS BEFORE THE DATE SET FOR CALENDAR CALL**, absent agreement for later discovery specifically stated in the Pre-Trial Stipulation or for other good cause shown.

I. PRE-TRIAL CONFERENCE. No pre-trial conference pursuant to Fla. R. Civ. P. 1.200 is set by the Court on its own motion. If a pre-trial conference is set upon motion of a party, counsel shall meet and prepare a stipulation pursuant to paragraphs D and E and file the stipulation no later than **5 DAYS BEFORE THE CONFERENCE**. Failure to request a pre-trial conference in a timely fashion constitutes a waiver of the notice of requirement of Rule 1.200. Motions for Summary Judgment will not be heard at any pre-trial conference.

J. UNIQUE QUESTIONS OF LAW. On the date of trial, counsel for the parties are directed to submit to the Court appropriate memoranda with citations to legal authority in support of any unique legal questions which may reasonably be anticipated to arise during the trial.

K. MODIFICATION TO UNIFORM PRE-TRIAL PROCEDURE. Upon written stipulation of the parties filed with the Court, the Pre-Trial Procedure, except for items II D-F, inclusive, may be modified in accordance with the parties' stipulation, except to the extent that the stipulation may interfere with the Court's scheduling of the matter for trial or hinder the orderly progress of the trial.

L. PREMARKING EXHIBITS. Parties shall pre-mark all exhibits in the manner customarily used by the Clerk of Court.

M. DEPOSITION DESIGNATIONS. No later than **20 DAYS PRIOR TO CALENDAR CALL**, each party shall serve his, her, or its designation of depositions, or portions of depositions, each intends to offer as testimony in his, her or its case in chief. No later than **10 DAYS PRIOR TO CALENDAR CALL**, each opposing party shall serve his, her, or its counter (or "fairness") designations to portions of depositions designated, together with objections to the depositions, or portions thereof, originally designated. No later than calendar call, each party shall serve his, her or its objections to counter designations served by an opposing party.

III. MEDIATION

A. All parties are required to participate in mediation.

1. The appearance of counsel who will try the case and representatives of each party with full authority to enter into a complete compromise and settlement is mandatory. If insurance is involved, an adjuster with authority up to the policy limits or the most recent demand, whichever is lower, shall attend.

2. At least **ONE WEEK BEFORE THE CONFERENCE**, all parties shall file with the mediator a brief, written summary of the case containing a list of issues as to each party. If an attorney or party filing the summary wishes its content to remain confidential, he/she must advise the mediator in writing when the report is filed.

3. All discussions, representations, and statements made at the mediation conference shall be privileged consistent with Florida Statutes sections 44.102 and 90.408.

4. The mediator has no power to compel or enforce a settlement agreement. If a settlement is reached, it shall be the responsibility of the attorneys or parties to reduce the agreement to writing and to comply with Florida Rule of Civil Procedure 1.730(b), unless waived.

B. The Plaintiff's attorney shall be responsible for scheduling mediation. The parties should agree on a mediator. If they are unable to agree, any party may apply to the Court for appointment of a mediator in conformity with Rule 1.720 (f), Fla. R. Civ. P. The lead attorney or party shall file and serve on all parties and the mediator a Notice of Mediation giving the time, place, and date of the mediation and the mediator's name. The mediator shall be paid \$175.00 per hour, unless otherwise agreed by the parties.

C. Completion of mediation is a prerequisite to trial. If mediation is not conducted, or if a party fails to participate in mediation, the case may be stricken from the trial calendar, pleadings may be stricken, and other sanctions may be imposed.

D. Any party opposing mediation may proceed under Florida Rule of Civil Procedure 1,700(b).

IV. NONCOMPLIANCE

NONCOMPLIANCE WITH ANY PORTION OF THIS ORDER MAY RESULT IN THE STRIKING OF THE CASE, WITNESSES, OR EXHIBITS, OR IMPOSITION OF SUCH OTHER SANCTIONS AS ARE JUST.

DONE AND ORDERED in West Palm Beach, Palm Beach County, Florida this _____ day
of _____, 2005.

Circuit Court Judge