

IN THE FIFTEENTH JUDICIAL CIRCUIT COURT

IN AND FOR PALM BEACH COUNTY, FLORIDA

PROBATE DIV. CASE NO:

502014CP003698XXXXNBIH

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. /

Proceedings before the Honorable
ROSEMARIE SCHER

Thursday, August 3, 2017
3188 PGA Boulevard
North Palm Beach County Courthouse
Palm Beach Gardens, Florida 33410
8:42 - 8:58 a.m.

Reported by:

Suzanne L. Anderson, Shorthand Reporter
Notary Public, State of Florida

1 APPEARANCES:

2 On behalf of William E. Stansbury:

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6 On behalf of Ted Bernstein:

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10 On behalf of the Personal Representative of the
Estate of Simon Bernstein:

11 CIKLIN LUBITZ & O'CONNELL

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14 On behalf of himself:

ELIOT I. BERNSTEIN, pro se

15 (Telephonically)

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P R O C E E D I N G S

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BE IT REMEMBERED that the following proceedings were had in the above-styled and numbered cause in the North Palm Beach County Courthouse, City of Palm Beach Gardens, County of Palm Beach, in the State of Florida, by Suzanne L. Anderson, Shorthand Reporter, before the Honorable ROSEMARIE SCHER, Judge in the above-named Court, on Thursday, August 3, 2017, to wit:

- - -

THE COURT: Mr. Eliot, are you there?

MR. ELIOT BERNSTEIN: Yes, I'm here.

THE COURT: All right. Appearances for the record, please.

MR. ROSE: Alan Rose here on behalf of Ted S. Bernstein as trustee of the Shirley Bernstein Trust Agreement, the plaintiff in this action.

MR. ROYER: Your Honor, I'm Jeff Royer here for Peter Feaman on behalf of --

THE COURT: Would you speak into the microphone so Mr. Eliot can hear you.

MR. ROYER: Oh, I'm sorry. My apologies.

THE COURT: Thank you.

1 MR. ROYER: My name is Jeff Royer. I'm
2 here for Peter Feaman on behalf of William
3 Stansbury.

4 THE COURT: All right. Mr. Rose, this is
08:43:45 5 your motion. You may proceed.

6 MR. ROSE: Thank you, Your Honor. Just
7 for the record, I have no objection
8 to Mr. Royer being here just --

9 MR. ELIOT BERNSTEIN: Your Honor, before
08:43:53 10 we start, I got a notice here that all parties
11 were noticed of this hearing. And per Local
12 Rule 4, Mr. Rose stated counsel has conferred
13 with all parties who may be affected by the
14 relief sought in the motion in a good faith
08:44:14 15 effort to resolve or narrow the issues raised.
16 I'm aware that that is a false statement to the
17 Court and may be part of a larger fraud on the
18 Court.

19 Therefore, before we start, let's address
08:44:24 20 that because the notice is defective because it
21 states that he conferred with all parties. But
22 Mr. Rose and Mr. Lewis -- or Ms. Lewis are
23 (inaudible) for my three children. She was
24 copied here for three minor children on the
08:44:42 25 notice. I just have one minor child.

1 THE COURT: All right. Mr. Eliot, a
2 couple of things. I'm going to proceed. There
3 is also an indication that if the other party
4 -- if a party is pro se that they do not have
08:44:56 5 to in family matters, and this is a probate,
6 which falls under the UFC category, so we are
7 going to proceed.

8 Go ahead, Mr. Rose.

9 MR. ROSE: Thank you, Your Honor.

08:45:04 10 Briefly, I have no objection to Mr. Royer being
11 here. His client is not technically involved
12 in this estate, this trust matter. We're here
13 on a very short motion. We're asking for leave
14 of Court to file a motion for contempt against
08:45:19 15 Eliot Bernstein. We're really here in an
16 abundance of caution because the motion, which
17 we provided a copy to Mr. Bernstein and the
18 service list and to Your Honor as well, is five
19 pages, but the exhibits -- the motion is five
08:45:34 20 pages plus the certificate of service. The
21 exhibits are longer, so the total package
22 exceeds ten pages. Your order requires to come
23 and seek permission to file a motion.

24 Briefly, the motion for contempt deals
08:45:48 25 with the guardian appointed in this case. And

1 there's an order by this Court that Eliot
2 Bernstein was not to contact the guardian.
3 Eliot Bernstein emailed the guardian multiple
4 times directly. It's a letter purportedly
08:46:03 5 written by his minor children. We have
6 actually communicated with the minor children
7 by letter, we have not heard from them, that
8 they are children who I think are now over the
9 age of 18, which is one of Mr. Bernstein's
08:46:14 10 points. His children have written a letter,
11 but Eliot contacted the guardian multiple times
12 with the letter which violates the order.

13 At the same time we have delivered a
14 letter to the children asking them if they
08:46:29 15 would like to be involved and asking them to
16 reach out to either the guardian or the
17 trustee, delivered it to the children. None of
18 them have called us or wanted to be involved in
19 the case. To be frank with you, it doesn't
08:46:42 20 look like the children wrote the letter. And I
21 don't believe anybody wants to drag the
22 children, although they may be 18, into this
23 mess because the trust is specifically set up
24 to have a trustee.

08:46:54 25 That's the other -- so the first motion we

1 want is leave to file a motion for contempt and
2 then to get some direction from the Court if
3 you want to consider the motion on its face,
4 and either deny it or issue an order to show
08:47:04 5 cause and set it for an evidentiary hearing or
6 you want to actually have a hearing on the
7 motion. Typically a contempt motion would be
8 submitted to the Court and you would determine
9 on your own whether to deny it on its face or
08:47:16 10 to issue an order to show cause and schedule an
11 evidentiary hearing.

12 The other two matters that we're here on
13 are status conferences. One of them directly
14 relates to this issue about a trustee. Your
08:47:24 15 order approving the settlement in this lawsuit
16 required us to notify you within 30 days of a
17 selection of a trustee. We've received no
18 feedback from anybody. We've reached out to
19 the children, who are over the age of 18.
08:47:39 20 They've not given any feedback or contacted
21 either the guardian or the trustee.

22 There was an appeal of the order you
23 entered. That appeal has actually been
24 dismissed --

08:47:50 25 THE COURT: I read it.

1 MR. ROSE: -- with an order from the
2 Fourth for Eliot Bernstein to show cause why
3 they should no longer accept his pro se
4 filings. We need some direction from you on
08:48:00 5 how we're going to get a trustee appointed.
6 That trustee would then replace the guardian
7 because the beneficiary of this trust is a
8 trust.

9 THE COURT: Okay.

08:48:06 10 MR. ROSE: And that's what we're here for.

11 THE COURT: Thank you.

12 MR. ROSE: And there's a third issue,
13 which is we have a settlement pending with the
14 law firm of Tescher & Spallina, and we
08:48:16 15 eventually need to get Court approval for the
16 settlement.

17 THE COURT: And I have it set.

18 MR. ROSE: I think you -- that one is not
19 yet set unless -- because there are three
08:48:22 20 pending settlements. That one has not been set
21 yet. It should be uncontested or relatively
22 uncontested, and we can do it in a short period
23 of time because Mr. Eliot Bernstein doesn't
24 have standing to address that specific issue.
08:48:38 25 The only thing he would have standing is to

1 deal with the contempt issue which clearly
2 directly affects him.

3 THE COURT: I'm just looking to see. I
4 believe your representation about what's been
08:48:52 5 set. I'm wondering if there is -- I'm trying
6 to see what we set so far. She put the docket
7 entries -- give me one second for me to see
8 what's set on 10/27.

9 MR. ELIOT BERNSTEIN: Do I get a chance to
08:49:23 10 speak?

11 THE COURT: Sure. Go ahead, Mr. Eliot.

12 MR. ELIOT BERNSTEIN: Okay. Your Honor,
13 first, Mr. Rose will have to prove there's a
14 valid order for contempt. That's one of the
08:49:32 15 many (inaudible).

16 THE REPORTER: I'm sorry, Judge, I can't
17 understand him.

18 THE COURT: Mr. Eliot, the court reporter
19 can't understand, so you're going to have to
08:49:40 20 start over and be a little clearer and slower.

21 MR. ELIOT BERNSTEIN: Okay. Sure. Yes.
22 Your Honor, first, Mr. Rose will have to prove
23 there's a valid order for contempt for that
24 motion. However, that's one of the many orders
08:49:52 25 that we are alleging issues of fraud. Mr. Rose

1 has direct and actual knowledge that my adult
2 son Joshua is over the age --

3 THE COURT: I'm not hearing argument on
4 the motion today. His motion is just simply
08:50:07 5 can he exceed my ten-page limit.

6 MR. ELIOT BERNSTEIN: Well, here's the
7 real problem. The motion hasn't been served to
8 the parties. The parties haven't even been
9 served.

08:50:17 10 THE COURT: He hasn't been allowed to file
11 it yet. He is asking this Court --

12 MR. ELIOT BERNSTEIN: No. Through the
13 whole case -- here he's noticing you that Diane
14 Lewis is giving consent for this hearing today
08:50:34 15 where she doesn't have consent from my children
16 who notified her to cease and desist illegal
17 guardianship over them since they've turned 18.
18 And she was supposed to file a notice of final
19 order for the guardianship and turn over any
08:50:47 20 assets according to the law. She hasn't done
21 that. We told her multiple times. And
22 Mr. Rose, my brother, knows my son's age. They
23 share the same birthday.

24 But what we're doing here is continuing
08:51:00 25 the fraud. My adult children have never been

1 served, have never been noticed of any of this.
2 They're not giving consent to any of these
3 deals she's putting down. We've notified
4 Mr. Rose and Ms. Lewis and other courts,
08:51:15 5 including the federal court before Judge
6 Blakey, where they just tried to frame me
7 saying I threatened the judge. I've only seen
8 one judge the day before and that was you, and
9 I don't recall making any threat on you.

08:51:28 10 What's going on here is crazy because that
11 guardianship on my son was issued illegally
12 because he was 18 at the time a GAL was placed
13 on him. It invalidates everything in this
14 hearing. Everything is a fraud. Mr. Rose
08:51:44 15 wants to skip through that real fast and try to
16 close this up, but it isn't happening. We've
17 notified state and federal authorities, and
18 we're going continue for this continuous --
19 whatever you want to call them, sham hearings,
08:51:55 20 where people are being represented illegally.

21 Now, Mr. Rose and Ms. Lewis should have
22 already contacted you and corrected this fraud.
23 It's part of their duties legally, Bar ethics
24 and law, to report this and correct this and
08:52:13 25 they're refusing. They're also refusing to

1 correct that they told this Court through
2 numerous pleadings and hearings that I wasn't a
3 beneficiary with standing of my dad's estate
4 and my mom's estate, this trust, which is all
08:52:26 5 bogus.

6 So if you want to continue having hearings
7 without my adult children present, getting
8 consents in settlements that were illegally
9 obtained, God bless you. Let's move forward.
08:52:38 10 But I will be reporting all of this to all of
11 the proper authorities. Mr. Rose is aware.

12 I've already taken it to the civil rights
13 division of the Department of Justice, to Joon
14 Kim, the U.S. Attorney for the Southern
08:52:49 15 District of New York, and Michelle Pickles, an
16 FBI agent who's investigating parties relevant
17 with the former PR and co-trustees of my dad's
18 estate, Robert Spallina and Donald Tescher, who
19 were my brother's, Ted Bernstein's, counsel at
08:53:07 20 the time they committed fraud on this Court
21 that already people have been prosecuted for.
22 They've admitted the forgeries and frauds.

23 It's time the Court do what it's supposed
24 to do with people like this. I also just
08:53:21 25 learned that --

1 THE COURT: All right. Mr. Eliot, that
2 exceeds your five-minute time.

3 MR. ELIOT BERNSTEIN: (Inaudible.)

4 THE COURT: No. No. You're done. Thank
08:53:29 5 you.

6 I'm going to ask -- I'm looking something
7 up. I will grant your motion to exceed my page
8 limit because you have established a reasonable
9 cause to. And I'm looking up in 12CP4391 what
08:53:45 10 hearings I have set. I had to find a case
11 number. Just bear with me one second so that
12 if we can tack on the other -- you said there's
13 a different motion to approve settlement.

14 Number two, you said motions -- I want to see
08:54:04 15 which ones I have set, so bear with me one
16 second. 12CP4391. Give me a second. We have
17 the motion to approve compromise and
18 settlement, appoint a trustee for the trusts.

19 MR. ROSE: That's been ruled upon.

08:55:01 20 That's -- you've granted that motion except
21 you've ordered us to try to work out selection
22 of the trustee. What I'm saying is we --

23 THE COURT: Then I have it set. That's
24 the one that's set according to -- let me see
08:55:20 25 what the order setting says.

1 MR. ROSE: I would be glad to provide,
2 rather than take your whole time today, the
3 docket entry of the motion and a proposed
4 order so you can --

08:55:34 5 THE COURT: That works perfect.

6 MR. ROSE: The other option is because
7 Eliot Bernstein is not permitted to participate
8 in the case by orders of this Court, other than
9 the contempt which is directed to him, that's a
08:55:49 10 motion we might be able to do at an 8:45.

11 THE COURT: So file it. Send it to me and
12 I'll decide. I can't rule on it now or make a
13 ruling on it. I'm going to give you your
14 notebook back because you gave me such a nice
08:56:03 15 notebook. This way when it's all filed, you
16 can submit it again. Is that all right?

17 MR. ROSE: Now, on the order to show -- on
18 the contempt, should we set it for hearing or
19 just submit it to Your Honor for review?

08:56:14 20 THE COURT: Submit it to me for review
21 because what will happen is I won't read it
22 until the night before if you submit it for an
23 8:45, but I will read it. When you send me
24 things, I will read it, and I'll tell her if
08:56:29 25 you should come in on 8:45. Okay? What I

1 would like though is -- I'm confused what she
2 has set.

3 MR. ROSE: I think part of the -- the
4 things that are set are set in the other case
08:56:42 5 and not in this case.

6 THE COURT: Yes, yes. That was what I was
7 quoting, what was set. I thought I set -- send
8 me an order what needs to be set in this case.
9 Let's do it that way because --

08:56:50 10 MR. ELIOT BERNSTEIN: Your Honor --

11 THE COURT: -- then I'll decide what to
12 tack it on or not.

13 Yes, Mr. Eliot?

14 MR. ELIOT BERNSTEIN: Yes. Before all of
08:57:00 15 those hearings are scheduled and we waste a lot
16 more time and money for these hearings
17 (inaudible.)

18 THE REPORTER: I'm sorry, Judge, I can't
19 hear him.

20 THE COURT: Mr. Eliot, the court reporter
21 can't hear you.

22 MR. ELIOT BERNSTEIN: The Court already
23 has to schedule hearings on two motions I filed
24 for rehearings relating to the case management
08:57:23 25 schedule. It only makes logical sense and

1 judicial economy to hold the hearings first to
2 remove Ted and Alan, now Brian O'Connell. And
3 we're dealing with fraud on the Court that the
4 Court -- you know, you heard the information
08:57:36 5 like we all did that contradicted over a year
6 of court hearings and everything of what
7 they've told the courts.

8 You know, those should be held first. And
9 if I have to file them as an emergency or
08:57:50 10 whatnot, before we waste all of this time, are
11 these people committing fraud and we're just
12 keep moving, or am I going to get -- you know,
13 we've had our rehearing for quite some time on
14 the issue of the fraud that was before your
08:58:02 15 Court. And we're putting that aside somehow
16 and moving forward in the direction of --

17 THE COURT: The Court has noted your
18 objection and this hearing is over. Thank you.

19 Thanks everyone.

20
21 (Thereupon, the Proceedings were concluded
22 at 8:58 a.m.)

C E R T I F I C A T E

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The State of Florida)

County of Palm Beach)

I, Suzanne L. Anderson, Shorthand
Reporter, certify that I was authorized to and did
stenographically report the foregoing proceedings
and that the transcript is a true record.

Dated this 9th day of August, 2017.



Suzanne L. Anderson, Shorthand Reporter
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