

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:

PETER M. FEAMAN, P.A.  
3695 West Boynton Beach Boulevard  
Suite 9  
Boynton Beach, Florida 33436  
BY: JEFFREY T. ROYER, ESQUIRE  
(Jroyer@feamanlaw.com)

6 On behalf of Ted Bernstein:

MRACHEK FITZGERALD ROSE KONOPKA  
THOMAS & WEISS, P.A.  
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West Palm Beach, Florida 33401  
BY: ALAN B. ROSE, ESQUIRE  
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10 On behalf of the Personal Representative of the  
Estate of Simon Bernstein:

CIKLIN LUBITZ & O'CONNELL  
515 North Flagler Drive, 19th Floor  
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BY: CLARA CRABTREE CIADELLA, ESQUIRE  
(Cciadella@ciklinlubitz.com)

14 On behalf of himself:

ELIOT I. BERNSTEIN, pro se  
(Telephonically)  
(Iviewit@iviewit.tv)

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

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

11                  - - -

12                  THE COURT: Mr. Eliot, are you there?

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

14                  THE COURT: All right. Appearances for  
08:43:15 15                  the record, please.

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

08:43:28 20                  MR. ROYER: Your Honor, I'm Jeff Royer  
21                  here for Peter Feaman on behalf of --

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

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

08:43:35 25                  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  
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.

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  
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  
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  
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.

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

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## 1                   C E R T I F I C A T E

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3  
4   The State of Florida        )

5   County of Palm Beach      )

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

11

12                  Dated this 9th day of August, 2017.

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22                  Suzanne L. Anderson, Shorthand Reporter  
23                  Mudrick Court Reporting, Inc.  
24                  1615 Forum Place, Suite 500  
25                  West Palm Beach, Florida, 33401  
                     561-615-8181