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

Case Numbers:

The Honorable Rosemarie Scher

ELIOT BERNSTEIN, individually;
ELIOT BERNSTEIN as a beneficiary of the
2008 SIMON L. BERNSTEIN TRUST
AGREEMENT, as amended and restated in the
SIMON L. BERNSTEIN AMENDED AND
RESTATED TRUST AGREEMENT dated
July 25, 2012 and as Legal Guardian of
JOSHUA BERNSTEIN, JACOB BERNSTEIN,
and DANIEL BERNSTEIN,

Plaintiffs,

v.

THEODORE STUART BERNSTEIN, individually;
THEODORE STUART BERNSTEIN, as Successor
Trustee of the 2008 SIMON L. BERNSTEIN
TRUST AGREEMENT, as amended and restated in the
SIMON L. BERNSTEIN AMENDED AND RESTATED
TRUST AGREEMENT dated July 25, 2012;
ALEXANDRA BERNSTEIN;
ERIC BERNSTEIN;
MICHAEL BERNSTEIN;
MOLLY SIMON;
JULIA IANTONI;
MAX FRIEDSTEIN;
CARLY FRIEDSTEIN;
JOHN AND JANE DOE 1-5000,

Defendants.

/

**URGENT MOTION FOR COURT TO INSTANTLY AND PRIOR TO ANY FURTHER
HEARINGS OR CONSIDERATION OF PLEADINGS IN THESE MATTERS REMOVE**

ON ITS OWN MOTION UNDER FLORIDA STATUTE 736.0706 TED BERNSTEIN AS FIDUCIARY FROM ANY AND ALL FIDUCIARY ROLES IN THE ESTATE & TRUSTS OF SIMON AND SHIRLEY BERNSTEIN FOR INVOLVEMENT IN, FRAUD UPON THE COURT, FRAUD UPON THE BENEFICIARIES, FRAUD UPON THE CREDITOR, FELONY BREACHES OF FIDUCIARY DUTIES, ADVERSE INTERESTS, CONFLICTS OF INTEREST AND MORE

COMES NOW, Eliot Ivan Bernstein ("Eliot" or "Plaintiff"),

INTRODUCTION

PROVEN AND ADMITTED FRAUD UPON THE COURT, FORGERY, FRAUDULENT NOTARIZATIONS, FRAUD UPON BENEFICIARIES AND MORE BY COURT APPOINTED OFFICERS/ATTORNEYS/FIDUCIARIES INVOLVED IN THE SIMON AND SHIRLEY BERNSTEIN ESTATES AND TRUSTS WITH TED BERNSTEIN AS ACTING FIDUCIARY (PR & TRUSTEE) IN PROVEN CRIMES COMMITTED BY TED BERNSTEIN'S RETAINED COUNSEL, INCLUDING FRAUD UPON THIS COURT, AS CAUSE FOR REMOVAL OF TED BERNSTEIN BY THIS COURT ON ITS OWN MOTION

- 1.
2. ***ALL REFERENCES TO ANY ESTATE AND TRUST DOCUMENTS REFERENCED HEREIN THAT WERE PRODUCED BY FORMER FIDUCIARIES AND COUNSEL TESCHER AND SPALLINA ARE NOT VALIDATION OR CONFIRMATION OF THE DOCUMENTS AUTHENTICITY NOR DO THEY GIVE FORCE AND EFFECT TO THEM AS THERE ARE NO ORIGINAL DOCUMENTS PRODUCED AT THIS TIME TO VALIDATE THEM AGAINST. THIS LACK OF ORIGINAL DOCUMENTS COMES DESPITE A COURT ORDER¹ FOR THE PRIOR CO-PR's and CO-TRUSTEES,

¹ Colin Order for Production of Tescher and Spallina Records, etc.

ATTORNEYS AT LAW, ROBERT SPALLINA AND DONALD TESCHER², TO PRODUCE ALL RECORDS UPON THEIR RESIGNATIONS³ STEEPED IN ADMISSIONS OF FRAUD UPON THE COURT AND FRAUD UPON THE BENEFICIARIES and WHERE FRAUDULENT DOCUMENTS HAVE ALREADY BEEN PROVEN USED IN THESE PROCEEDINGS BY COURT APPOINTED FIDUCIARIES AND COUNSEL IT IS IMPERATIVE THAT ORIGINALS BE FOUND AND PRODUCED.***

3. That the Court should recognize that Ted Bernstein (“Ted”) is unfit to continue as a Fiduciary in any matters involving the Estates and Trusts of Simon Bernstein (“Simon”) and Shirley Bernstein (“Shirley”) on its own review of the irrefutable facts in the cases that make Ted now unfit to serve due to a series of Fraudulent Felony Criminal acts that have all occurred while Ted is acting as Fiduciary, including but not limited to, Proven and Admitted, Fraud Upon the Court, Fraud Upon Beneficiaries, Fraud Upon Creditors, Forgery, Fraudulent and FORGED Documentation submitted to the Court and more.

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20140218%20ORDER%20COLIN%20TESCHER%20SPALLINA%20TO%20TURN%20OVER%20ALL%20RECORDS%20PRODUCTION%20ON%20PETITION%20FOR%20DISCHARGE%20TESCHER%20SPALLINA%20Case%20502012CP004391XXXXSB%20SIMON.pdf>

² 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%20Teschler%20SEC%20Settlement%20Consent%20Orders%20Insider%20Trading.pdf>

³ January 14, 2014 Donald Tescher Resignation Letter for Tescher & Spallina PA after Spallina admitted to Palm Beach Sheriff Investigators to Forging and Fraudulently creating a Shirley Trust document and disseminating it to Eliot Bernstein’s Counsel as part of a Fraud on the Eliot Bernstein family in efforts to change the Beneficiaries of the Shirley Trust to include parties, the Ted Bernstein and Pamela Simon families, who were wholly disinherited and considered predeceased in the Simon and Shirley Trusts before the Court.

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20140114%20Teschler%20and%20Spallina%20Resignation%20Letter%20as%20PR%20in%20estates%20of%20Simon%20and%20Shirley.pdf>

4. These crimes were committed by and through Ted's retained counsel also acting as former Co-Fiduciaries in these matters, Donald Tescher, Esq. ("Tescher") and Robert Spallina, Esq. ("Spallina"), in crimes that directly benefit Ted Bernstein's family if successful at changing beneficiaries to include Ted's family as a 30% beneficiary versus a 0% beneficiary and his sister Pam's family as 10% beneficiary versus a 0% beneficiary.
5. This dispute of whom the beneficiaries actually are is in fact due to the frauds that were committed that set up an irrefutable Conflict of Interest and Adverse Interest for Ted with other Beneficiaries that are cause for instant removal of Ted by this Court on its own motion, since Ted refuses to voluntarily withdraw despite the obvious conflicts and adversity created.
6. Ted's new replacement counsel to Tescher and Spallina who was engaged and worked with them is now Alan Rose, Esq. ("Rose") who continues to represent Ted despite knowing of the conflicts and adverse interests, in violation of Attorney Conduct Codes and Law.
7. There are many causes for the Court to act on its own motion to remove Ted, including but not limited to,
 - a. The language in the Shirley and Simon Trusts that are alleged Valid by this Court prohibit Ted from being a fiduciary and/or severely limit his functions in a fiduciary capacity, as in Shirley's Trust⁴, Ted is considered predeceased for **ALL PURPOSES OF DISPOSITIONS** of the trust and in Simon Bernstein Trust⁵ he is considered predeceased **FOR ALL PURPOSES** of the trust as further defined herein,
 - b. Breaches upon breaches of Fiduciary Duties described herein,

⁴ December 15, 2015 Validity Hearing – Shirley Bernstein Trust - Plaintiff 1 - 2008 Will of Shirley Bernstein
<http://iviewit.tv/Simon%20and%20Shirley%20Estate/Plaintiff%201%20-%202008%20Will%20of%20Shirley%20Bernstein.pdf>

⁵ December 15, 2015 Validity Hearing – Plaintiff 5 - 2012 Simon L. Bernstein Amended and Restated Trust Agreement
<http://iviewit.tv/Simon%20and%20Shirley%20Estate/Plaintiff%205%20-%202012%20Simon%20L.%20Bernstein%20Amended%20and%20Restated%20Trust%20Agreement.pdf>

- c. Multiple conflicts of interests and adverse interests whereby Ted refuses to acknowledge such conflicts and adverse interests and recuse himself voluntarily due to them,
- d. Failure to provide accountings timely and upon request so as to make it that beneficiaries are in the dark as to what the Estate Corpuses are and the Trust Res' are and thus beneficiaries have no idea what assets were originally in the Estates and Trusts or where assets that were there have gone,
- e. Failure to provide statutorily required dispositive documents to beneficiaries upon repeated requests and failed to allow inspection of Original documents, despite the fact that documents have already been discovered to have been forged, fraudulently notarized and fraudulently altered in the Estates and Trusts of both Simon and Shirley and posited with this Court with Ted as Fiduciary by and through his retained counsel,
- f. Alleged involvement in Criminal Acts which are under ongoing State and Federal, Civil, Criminal and Ethical investigations,
- g. Ted is a Respondent in the Simon and Shirley Estate and Trust cases before the Court and has failed to file responsive pleading to petitions served upon him and his counsel in these matters,
- h. Ted is a Defendant in two related Counter Complaints to these matters, one in the Shirley Trust Lawsuit and one in the Oppenheimer Trust Lawsuit involving Eliot's children only and while the Counter Complaints have been improperly stricken from the record at this point through further fraud on the court, it is believed when the Fraud on the Court is finally dealt with by this Court (or a conflict free court) according to Attorney Conduct Codes, Judicial Canon, the Florida Statewide Court Fraud Policy and Law and the cases reheard free of lingering conflicts of interest, adverse interests, fraud and more and the

Counter Complaints reinstated and heard, they will prove that Ted Bernstein was never and is not now a validly serving trustee,

- i. Ted's former removed counsel in these matters, Tescher and Spallina who also were acting as co-fiduciaries and co-counsel for the Estate and Trusts of Simon and representing Ted as fiduciary in Shirley's Estate and Trust, have now admitted to Palm Beach Sheriff Investigators and this Court, in a December 15, 2015 Validity Hearing⁶ before Judge Phillips that their law firm fraudulently altered and disseminated Trust documents to Eliot Bernstein's family counsel, including counsel for his minor children at that time, Christine C. Yates, Esq. ("Yates") of Tripp Scott law firm. From the Hearing Transcript, Page 96;

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.

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.

- j. Ted as a fiduciary with conflicts and adversity has done nothing to protect Beneficiaries from the crimes committed by his retained counsel and close personal friends and in fact

⁶ December 15, 2015 Validity Hearing – TRANSCRIPT

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20151215%20Hearing%20Transcript%20Phillips%20Validity%20Hearing%20ELIOT%20COMMENTS.pdf>

instead has aided and abetted the criminals who are all his friends, business associates and former counsel, suppressed information from authorities and beneficiaries.

- k. Ted and his counsel have misled this Court through continuous streams of false and fraudulent pleadings to this Court in an attempt to continue the fraud and cover up for the frauds of his former counsel through Obstruction of Justice, Fraud on the Court, Simulated Legal Process, Fraud on the Beneficiaries and Interested Parties and more,
- l. Assets of the Estate are alleged missing and stolen and Ted is a central suspect, these claims not only come from Eliot Bernstein but also from the Creditor William Stansbury's counsel, Peter Feaman, Esq. ("Feaman"). From a transcript excerpt from a recent hearing before this Court on September 01, 2016⁷ in the Simon Bernstein Estate Case,

Page 4

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

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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

⁷ September 01, 2016 Hearing Transcript, Judge John Phillips

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20160901%20Phillips%20Hearing%20Transcript%20re%20TP.P.pdf>

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

Page 6

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.

- m. Since Ted has pronounced himself as a fiduciary since the moment his father died, in Shirley Bernstein's Estate and Shirley Bernstein Trust, under Ted's watch there have been PROVEN AND ADMITTED Egregious Acts of Bad Faith with Unclean Hands by several parties. These crimes include Felony Fraudulent Notarizations of six parties (including one Post Mortem for his father the Decedent Simon and one for himself), admitted Felony Forgery of six parties signatures, (including one Post Mortem for his father the Decedent Simon and one for Ted himself) and Fraudulently Altered Trust documents for Ted's mother Trust, which attempted to insert Ted's family into the Permissible Class of Beneficiaries when they are considered predeceased since the Trust became IRREVOCABLE upon Shirley's passing away,
- n. Fraud on the Court has occurred and the Estate of Ted's mother was closed illegally by Ted and his counsel misusing his deceased father's identity to sign and file closing documents POST MORTEM and therefore Shirley's Estate had to be reopened because of the fraudulent closing that occurred while Ted was acting as PR in his mother's estate,
- o. All of these crimes in the Shirley Bernstein Estate and Trust were committed with Ted as the acting fiduciary and by and through his former counsel and others directly tied to Ted. It will be shown herein that all of these crimes MAY directly benefit Ted Bernstein's family, where Ted has been disgruntled over the fact that he has been personally cut out of the inheritances of Shirley and Simon Bernstein's Estates and Trusts, with his sister Pamela, since 2008,
- p. It will be shown herein that fraudulent and forged documents done by multiple parties acting in Conspiracy were used to ILLEGALLY seize Dominion and Control of the Estates and Trusts and then begin a looting of the Estates and Trusts by

losing/suppressing/denying/destroying ALL ORIGINAL RECORDS, key trust and estate documents and denial and suppression of other business records, bank account records, securities documents and more,

- q. That in both the Shirley Estate and Trust under Ted there have been unaccounted for and/or fraudulent accountings of assets of the Estates and Trusts. The beneficiaries have been in a black hole without access to original documents, denied others, all the while this pillaging of assets has continued to occur in and out of the Court, as the initial fraudulent acts have still not been remedied by this Court. Parties who were part of the original frauds as fiduciaries and counsel remain in fiducial and legal capacities despite factual conflicts of interest and adverse interests in these matters created due to the fraudulent criminal misconduct already Proven and Admitted.

- 8. Ted's involvement as the acting Fiduciary under which CRIMINAL FELONY ACTS TOOK PLACE IN THE ESTATE AND TRUST OF SHIRLEY BERNSTEIN by his retained Counsel via multiple Felony Criminal Acts, include but are not limited to,

- a. six Forged and Fraudulently Notarized documents deposited with the Court with Ted submitting them as Fiduciary in Shirley's Estate (including a Post Mortem Forgery of his father's name and his own),
- b. his mother's Estate closed Fraudulently by his DECEASED father depositing fraudulent documents with the Court at a time after his death, while Ted was acting as the Fiduciary and once the estate closing crimes were proven it led to the Estate of Shirley being reopened, and,

c. the creation of a Fraudulent Trust of his mother created and disseminated to Eliot Bernstein's minor children's counsel that attempted to fraudulently change the Beneficiaries of the Shirley Trust to include Ted's family.

9. All of these Felony Criminal Acts were committed on Ted's watch while Ted was the acting Fiduciary in Shirley's Estate and Trust and this fact makes Ted now unfit to serve, despite whether he was named as a Successor Trustee/PR or not, due to the resulting Conflicts of Interest and Adverse Interests created from the fraudulent acts that now pit Ted against other Beneficiaries and Interested Parties with his family's interest dependent on the outcome of proceedings.
10. Whether Ted was directly involved in the Fraudulent Criminal Felony Acts is yet to be determined and under ongoing State and Federal, Civil, Criminal and Ethical investigations. No hearings have yet to be held civilly before this Court in regards to Ted's involvement in the frauds through an evidentiary hearing. In either event, if Ted is guilty or innocent of direct involvement in the frauds, the fact that Ted's retained counsel committed the Felony Criminal Acts and the frauds may or may not benefit Ted's family depending on the outcome of these proceedings makes Ted at minimum as the Fiduciary under which the Frauds occurred in Shirley's Estate and Trust, a Material and Fact Witness to the crimes of his Counsel, at worst an integral part of the criminal conspiratorial acts of his counsel and these facts make him have irrefutable prejudice, bias, conflicts of interest and adversity with other Beneficiaries and the Creditor, some who are pursuing civil, criminal and ethical charges against Ted and his former counsel. Since Ted refuses to voluntarily withdraw as Fiduciary despite the obvious breaches of fiduciary duties these inherent Conflicts and Adverse Interests represent this Court must remove Ted on its own motion for cause.

11. For example, Ted is Adverse to his brother Eliot Bernstein's family who has exposed the Felony Criminal Acts and Frauds on this Court and Frauds on the Beneficiaries of his business associates, bedfellows and former counsel, Tescher and Spallina, and it is also Eliot who has filed State and Federal, Civil, Criminal and Ethical Complaints against Ted and his past and current counsel for these very serious Felony Criminal Acts.
12. The obvious adversity created here also make Ted unfit as a Fiduciary, as Ted has an adverse Self Preservation conflict of interest to defend himself and his counsel and friends over the beneficiaries interests who are pursuing them to put them in jail and this is cause for this Court to remove Ted as a Fiduciary on the Court's own motion since Ted refuses to withdraw voluntarily due to the obvious and overwhelming Conflicts of Interest and Adverse Interests he now has in these matters.
13. The Court must remove Ted on its Own Motion as part of curing and remedying the prior PROVEN AND ADMITTED FRAUDS COMMITTED ON THIS COURT, the Beneficiaries and the Creditor by removing ALL Court Appointed Officers/Lawyers/Fiduciaries/Guardians involved in any way with the past Frauds on the Court, Fraud on the Beneficiaries and Fraud on the Creditor or related in any way to those parties via referral etc.
14. Removal of Ted and all parties engaged by Ted would also cease the current and ongoing Frauds on the Court, Fraud on the Beneficiaries and Fraud on the Creditor being committed by these Court Appointed Officers/Lawyers/Fiduciaries, retained and contracted by Ted as acting Fiduciary, who should have all been removed by this Court when the first instance of Fraud on this Court was discovered by this Court and were committed by this Court's Court Appointed Officers/Fiduciaries/Attorneys.

15. Where the Court is LIABLE and responsible for the Damages to Victims by the FELONY CRIMINAL ACTIONS committed Outside the Color of Law by THIS COURT'S Appointed Officers/Lawyers/Fiduciaries/Guardians, including but not limited to, mandated reporting of their misconduct to all of the proper State and Federal, Civil, Criminal and Ethical authorities, as required by Attorney Conduct Code, Judicial Canon, the Florida Statewide Court Fraud Policy and Law.
16. The Court is also responsible for Custody of the Estates and Trusts assets and protecting the beneficial interests of the Beneficiaries under its jurisdiction and has a duty to report Attorney and Fiduciary misconduct that it becomes aware of under Attorney Conduct Codes, Judicial Canons, the Florida Statewide Court Fraud Policy and Law to the proper State, Federal and Ethical authorities.
17. The Felony Criminal Acts Proven and Admitted to this Court in this case have warranted immediate reporting of the crimes that have interfered with the proper administration of Justice in these cases, through fraud, waste and abuse of the Court Resources, since the first hearing on September 13, 2013 where Judge Martin Colin learned of Admitted Felony Criminal Fraud on the Court committed by his Court Appointed Officers/Lawyers/Fiduciaries and Colin wholly failed to report any of the misconduct of Court Officers, including but not limited to, Forged and Fraudulent Court documents, Fraud on Beneficiaries and other Frauds in his Court to any State and Federal, Civil, Criminal and Ethical authorities, not even the Florida Bar. From the September 13, 2013 Hearing Transcript⁸ comes the following statements;

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12 THE COURT: So you agree that in Shirley's

⁸ September 13, 2013 Hearing in the Estate of Shirley Bernstein, Judge Martin Colin

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20130913%20TRANSCRIPT%20Emergency%20Hearing%20Colin%20Spallina%20Tescher%20Ted%20Manceri.pdf>

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.

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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

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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
Page 17
22 the estate.

18. The Court is also mandated to report Fraud, Waste and Abuse of Court resources by any Court Officers or Court Appointed Officers/Lawyers/Fiduciaries/Guardians to the Inspector General of the Florida Courts and this case has, and continues to have, a preponderance of Fraud, Waste and

Abuses of this Court's resources and resources of the litigants already victimized by the frauds that continue to this day.

19. The frauds have failed to be remedied according to Judicial Canon, Attorney Conduct Codes, the Florida Statewide Fraud Policy and Law and therefore the Frauds on the Court continue to this day with every action by this Court and its Court Appointed Officers/Lawyers/Fiduciaries/Guardians. Where this failure of the Court to follow legal mandates now raises charges of Fraud BY Court Officers, in conjunction and aiding and abetting the Frauds on the Court and Frauds on the Beneficiaries committed by its Court Appointed Officers/Lawyers/Fiduciaries/Guardians.
20. The Court allowing Ted Bernstein to continue as a Fiduciary in these cases where his Counsel perpetrated multiple Felony Criminal Acts and direct proven Fraud on the Court, Fraud on the Beneficiaries, Fraud on the Creditor and others while under Ted's fiducial control constitutes now Fraud BY Court Officers in Conspire and Aiding and Abetting the cover up for its Court Appointed Officers/Lawyers/Fiduciaries who have committed PROVEN AND ADMITTED Felony Criminal Acts and continue to commit frauds with the Court blessing.
21. The continued actions of the Court without remedying and reporting the prior Frauds and removing the parties involved in any way with the prior frauds constitute a series of new Frauds on the Court and Frauds by the Court Officers, which continue to damage the true and proper Beneficiaries, Interested Parties and Creditors to this day.
22. In addition to the Court Appointed Officers/Lawyers/Fiduciaries this Court may also be conflicted in these matters and should consider turning the cases over to a non-conflicted court of law or bringing in a Federal Monitor to oversee the Court and insure fair and impartial due process forward and compliance with court policies and procedures. This oversight necessary as

the crimes occurred in THIS COURT and were committed by this Court's Court Appointed Officers and the Appearance of Impropriety is overwhelming in the Court's attempt to investigate and regulate itself and its officers and appointments, instead of wholly recusing, disqualifying and voiding all prior orders in these matters gained through false and fraudulent sham process, especially where this Court's Officers (Judges, Martin Colin, David French, Howard Coates and John Phillips) and Court Appointed Officers (Attorneys/Fiduciaries/Guardians, including but not limited to, Robert Spallina, Donald Tescher, Ted Bernstein, Alan Rose, John Pankauski, Jon Swergold, John Morrissey, Mark Manceri, Brian O'Connell, Joielle Foglietta and Diana Lewis) are all implicated in very serious Felony Criminal Acts were many crimes are already PROVEN and ADMITTED by the Officers of the Court who committed them.

23. This Court itself may also have Adverse Interest with Eliot Bernstein and his family who have exposed multiple Felony Criminal Acts of its Court Appointed Officers and Fiduciaries and is alleging very serious Felony Criminal Acts against not only Court Appointed Officers/Lawyers/Fiduciaries/Guardians but now also Court Officers.
24. Eliot Bernstein also has alleged a prior Fraud By this Court's Officers and Fraud on the Court by Court Appointed Officers in a prior case involving current Chief Judge Jorge Labarga and Eliot identified this Conflict and Adverse Interest with the Court and Eliot in the very first pleading filed in this Court in the Estates and Trusts of Simon and Shirley Bernstein, see "EMERGENCY PETITION TO: FREEZE ESTATE ASSETS, APPOINT NEW PERSONAL REPRESENTATIVES, INVESTIGATE FORGED AND FRAUDULENT DOCUMENTS SUBMITTED TO THIS COURT AND OTHER INTERESTED PARTIES, RESCIND SIGNATURE OF ELIOT BERNSTEIN IN ESTATE OF SHIRLEY BERNSTEIN AND

MORE” Filed May 06, 2013, Pages 57-82, Section “XV. THE ELEPHANT IN THE ROOM THE IVIEWIT COMPANIES STOCK AND PATENT INTEREST HOLDINGS OWNED BY SIMON AND SHIRLEY, AS WELL AS, INTERESTS IN A FEDERAL RICO ACTION REGARDING THE THEFT OF INTELLECTUAL PROPERTIES AND ONGOING STATE, FEDERAL AND INTERNATIONAL INVESTIGATIONS.”

25. This former lawsuit involved in the Intellectual Property Theft Case is # CA 01-04671 AB Proskauer Rose v Iviewit - – Judge Jorge Labarga (the entire case hereby incorporated by reference herein) combined with the current Fraud on and by the Court in the Probate Court regarding the Eliot Bernstein Family Inheritance directly relates to the stolen intellectual property case through several common parties and due to the fact that Simon Bernstein was a seed investor in the technologies and owned 30% of the IP rights and companies formed to hold them in, which should be, but are not, part of his Estate and/or Trust.
26. It has been learned that several of the same players in the prior Intellectual Property lawsuit are also involved in the Probate Court crimes. Again, the appearance of impropriety is overwhelming with this Court or perhaps any Florida court being the trier of facts in these matters, where Court Officers and Court Appointed Officers are the main protagonists alleged to have committed the crimes against Eliot’s family. Therefore, the Court should consider its own conflicts and act on its own motion to resolve such conflicts that are interfering with Eliot and his family’s Due Process rights wholly and either seek a neutral monitor or recuse from the case and turn it over to a non-conflicted court of law.

LEGAL STANDARD FOR REMOVAL OF A TRUSTEE

27. When removal of a trustee is at issue, §736.0706, Fla. Stat. (2014) governs:

736.0706. Removal of trustee

(1) The settlor, a cotrustee, or a beneficiary may request the court to remove a trustee, **or a trustee may be removed by the court on the court's own initiative.**

(2) **The court may remove a trustee if:**

(a) **The trustee has committed a serious breach of trust;**

(b) The lack of cooperation among cotrustees substantially impairs the administration of the trust;

(c) **Due to unfitness, unwillingness, or persistent failure of the trustee to administer the trust effectively, the court determines that removal of the trustee best serves the interests of the beneficiaries;** or

(d) **There has been a substantial change of circumstances** or removal is requested by all of the qualified beneficiaries, the court finds that removal of the trustee best serves the interests of all of the beneficiaries and is not inconsistent with a material purpose of the trust, and a suitable cotrustee or successor trustee is available.

(3) Pending a final decision on a request to remove a trustee, or in lieu of or in addition to removing a trustee, the court may order such appropriate relief under s. 736.1001(2) as may be necessary to protect the trust property or the interests of the beneficiaries.

28. Ted's removal is warranted by Subsections (2) (a), (c) and/or (d) of §736.0706, Fla. Stat. (2014) in the Simon Bernstein Trust, the Shirley Bernstein Estate and Shirley Bernstein Trust for his involvement as the acting Fiduciary whose counsel committed PROVEN AND ADMITTED Frauds on the Court, Frauds on the Beneficiaries and their counsel and Frauds on the Creditor, William Stansbury. These crimes were committed by and through Ted's close personal friends, business associates and his counsel in these matters, Tescher and Spallina et al.

29. The frauds committed with Ted acting as a fiduciary in Shirley Bernstein's Estate and Trust by and through his retained Counsel, Bedfellows and Business Partners, Tescher and Spallina, who were also acting as Co-Trustees and Co-PR's for Simon Bernstein's Estate and Trust, directly attempt to benefit the Ted Bernstein family by inserting them into Shirley's Trust through Fraud, Forgery and more.
30. Whether Ted is guilty of direct involvement in the Frauds is not pertinent at this time to Ted's removal, the fact that Ted was the acting PR and Trustee in the Shirley Bernstein Trust and Estate cases when Frauds on the Court, Frauds on the Beneficiaries and Frauds on the Creditor occurred and were committed under Ted's name, committed by Ted's retained counsel, in Frauds that attempt to benefit Ted Bernstein's family directly make Ted now unfit to serve as a fiduciary as he is conflicted and adverse now to beneficiaries and unable to perform his duties without prejudice and Ted has conflicting and adverse interests now with those beneficiaries he is obligated to act as a fiduciary for. Ted stands to lose 30% of the value of the Shirley and Simon Trusts if his family is not included as Ted and his lineal descendants are considered predeceased for ALL PURPOSES OF DISPOSITIONS of the Shirley Trust at the time Shirley passed away and the Shirley Trust became IRREVOCABLE on December 08, 2010.
31. The following Fraudulent Felony Criminal Acts that are Proven and Admitted at this time, all occurring with Ted as the acting fiduciary, include but are not limited to;
 - a. Six Fraudulently Notarized and Forged Documents for six separate parties which were fraudulently deposited into This Court and disseminated by Ted's Retained Counsel, bedfellows and business associates, Tescher and Spallina. That one of the Forged and Fraudulently Notarized documents was for Simon Bernstein Post Mortem, one was for Eliot Bernstein and one of them was even for Ted Bernstein.

- b. Shirley's Estate was Fraudulently closed through a bizarre crime using Simon Bernstein as a Fiduciary to close the Estate of his wife at a time after he was dead and Ted was supposed to have been the alleged successor and the depositing of Fraudulent Documents in the Court by Simon while he was dead took place over several months, in order to accomplish the crime of making it appear that Simon had closed Shirley's Estate while alive and then changed beneficiaries to include Ted's family, which he never did. This crime occurred while Ted was acting as the PR in Shirley's Estate.
- c. This crime is alleged to be part of a larger Fraud to change beneficiaries to benefit Ted's family and to more importantly Seize Dominion and Control of the fiduciary roles of the Estates and Trusts through Fraudulent documents and acts, enabling them to then be unaccountable with no checks or balances and allowing them to rob the Estates and Trusts of Shirley and Simon Bernstein.
- d. A Fraudulent and Forged Shirley Trust was created and disseminated by Ted as alleged Trustee of the Shirley Trust by and through his counsel Robert Spallina, Esq. who has admitted to such crime to this Court in a December 15, 2015 Validity Hearing⁹ and to Palm Beach County Sheriff Deputies. The Forged and Fraudulent Shirley Trust document was sent to Eliot Bernstein's minor children's counsel, Christine Yates of Tripp Scott law firm. The fraudulent Shirley Trust altered the beneficiaries of the Shirley Trust by removing language that had Ted Bernstein, Pam Bernstein and their lineal descendants were considered PREDECEASED FOR ALL PURPOSES OF DISPOSITION OF THE TRUST.
- e. The language inserted by Robert Spallina into the Shirley Trust through a forged amendment fraudulently removed and replaced the Predeceased Language for Ted and

⁹ December 15, 2015 Validity Hearing Pages 91-97 Eliot Cross Examination of Robert Spallina
<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20151215%20Hearing%20Transcript%20Phillips%20Validity%20Hearing%20ELIOT%20COMMENTS.pdf>

Pam's lineal descendants, thereby inserting them as possible beneficiaries in a Trust that was IRREVOCABLE on the day Shirley Bernstein passed away in 2010 and henceforth beneficiaries could not be added or subtracted making Ted and Pam and their lineal descendants forever barred from being a part of the class of beneficiaries allowable under Shirley's Trust.

f. Fraud on the Eliot Bernstein Family. A Fraudulent Trust was sent to Eliot and his children's counsel to make them believe the beneficiaries of Shirley's Trust included Ted Bernstein and Pam Bernstein's families through a fraudulent amendment that Robert Spallina, acting as Ted's counsel as Fiduciary for Shirley's Trust admitted he forged and altered the document. This fraud would give Ted and Pam's family 40% of the value of the Shirley Trust.

g. Multiple Acts of Mail and Wire Fraud in the transmission of the forged and fraudulent documents.

h. Fraud on the Court by depositing knowingly forged and fraudulent Receipts of Beneficiaries and Waivers to this Court.

32. These document Frauds were part of a larger and continuing and ongoing Fraud that attempts to seize Dominion and Control of the Estates and Trusts and to then change beneficiaries of Simon and Shirley's Estates and Trusts and causing there to be an issue of who the true and proper beneficiaries are and thereby creating Conflicts of Interest and Adverse Interests for Ted, as the beneficiaries are now either 10 grandchildren trusts which have never been produced (**3 children for Ted**, 1 child for Pamela, 3 children for Eliot and 1 child for Jill and 2 for Lisa) or three children's trusts (Eliot Bernstein Family Trust, Lisa Bernstein Family Trust and Jill Bernstein Family Trust with Eliot, Lisa and Jill as sole beneficiaries) or six of ten grandchildren who are

beneficiaries of the trusts of their parents' Family trusts (Eliot Bernstein Family Trust, Lisa Bernstein Family Trust and Jill Bernstein Family Trust with Eliot Lisa and Jill's six children as beneficiaries, 1 child from Jill and 2 from Lisa and 3 children of Eliot.) Ted now is conflicted with other beneficiaries as his family stands to inherit nothing in certain beneficial outcomes or approximately 30% of the trusts of Simon and Shirley depending on the outcome of the proceedings, these interests make Ted have irrefutable conflicting and adverse interests with other beneficiaries. Ted's refusal to recognize his conflicts of interest and adverse interests that make him not now eligible to continue as a fiduciary warrants his removal as a fiduciary on this Court's own motion.

**NEWLY DISCOVERED FRAUD ON THE COURT AND FRAUD ON THE
BENEFICIARIES THROUGH ABUSE OF PROCESS AND OBSTRUCTION**

33. That in recent hearings before this Court Ted Bernstein and his counsel Alan Rose, Esq. have now "conceded" that Eliot Bernstein is in fact a beneficiary of Simon Bernstein's Estate and has standing, this has been confirmed in hearings held before Honorable Judge Rosemarie Scher by Judge Scher, by Ted Bernstein, by Alan B. Rose, Esq., by the PR of Simon's Estate Brian O'Connell, Esq. and the Creditor William Stansbury's counsel, Peter Feaman, Esq.
34. For almost two years however the claim by Ted Bernstein and his counsel Rose to this Court and several other courts has been that Eliot Bernstein is not a beneficiary of anything and has no standing to assert his rights as stated by Ted and Rose in Filing # 32030300 E-Filed 09/14/2015 05:18:25 PM "TRUSTEE'S OMNIBUS STATUS REPORT AND REQUEST FOR CASE MANAGEMENT CONFERENCE"

"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.”

35. Eliot is a Beneficiary in ALL documents that Judge Phillips ruled “valid” in a sham validity only hearing in both Simon and Shirley’s Estates and Trusts and NO Construction hearing has been held for any of the Wills and Trusts of Simon and Shirley to determine anything different regarding the named beneficiaries in the documents, despite Alan Rose’s claims to the Court as a Court Appointed Officer that the beneficiaries have been construed and Eliot is not a Beneficiary and has no standing.
36. Despite Orders issued by Judge Phillips that Rose alleges claim that Eliot Bernstein is not a beneficiary and has no standing in the Estates and Trusts, these Orders were predicated on knowingly false and misleading information tendered to the Court and Judge Phillips by Rose and Ted, that in the very first appearance before the Court of Judge Scher it was determined that Eliot Bernstein was in fact a beneficiary and did in fact have standing and so the onion peels through this contradiction.
37. That in written closing statements to these initial hearings before Judge Scher, Attorney at Law, Peter Feaman, Esq. informs the Court as his duty under Attorney Conduct Requires his reporting of known misconduct of other Court Appointed Officers in pleading Filing #53539832 E-Filed 03/09/2017 05:07:58 PM “WRITTEN FINAL ARGUMENT IN SUPPORT OF WILLIAM STANSBURY’S MOTION TO DISQUALIFY ALAN ROSE AND THE LAW FIRM OF MRACHEK FITZGERALD ROSE KONOPKA THOMAS WEISS FROM REPRESENTING THE ESTATE OF SIMON BERNSTEIN (THE "ESTATE") AND MOTION TO VACATE IN PART THE COURT’S RULING ON SEPTEMBER 1, 2016” of the following:

“In opening statement by Mr. Rose, the Court heard numerous misstatements of fact and unsubstantiated assertions which are contradicted by the evidence and not supported by the record.”

and,

“Then, Mr. Rose stated "everybody that's a beneficiary of this Estate coming together and signing a written agreement ... " [Trans. P. 25, ln. 20-22] Mr. Rose also stated to this Court, "Every single person who is a beneficiary of this Estate wants my firm to handle this for the reasons I'm about to tell you. And I don't think there's any dispute about it." [Trans. p. 27, ln. 19-23] Both of these statements to the Court are false. As testified by Mr. Rose when he was on the stand, he knew that Eliot Bernstein (Mr. Eliot) was a beneficiary of the Estate of Simon Bernstein, yet he continues his false narrative that all beneficiaries are in agreement with his retention by the Estate of Simon Bernstein. They are not.”

and,

“At page 29, line 8, Mr. Rose also misrepresented to the Court, "So they said the beneficiaries with Mr. O'Connell's consent, want Mr. Rose to become the lawyer and we want Mr. Ted Bernstein to become the administrator ad litem." [Trans. p. 29, ln. 8-11] There is no unanimous consent among the beneficiaries for the retention of Mr. Rose and the appointment of Ted Bernstein as AAL.

38. These statements to the Court by a licensed Florida attorney, fulfilling his duty to report the misconduct of Fiduciaries Ted Bernstein and Brian O’Connell, Esq. and Attorney at Law, Alan B. Rose, Esq, to the Tribunal requires this Court to now fulfil its duty to Report the Misconduct of Court Appointed Officers and Fiduciaries under Judicial Canon, Attorney Conduct Code and Law to the proper State and Federal, Civil, Criminal and Ethical Authorities for investigation.

39. All of the State and Federal, Civil and Criminal authorities have been moved by Ted Bernstein and Mr. Rose fraudulently through false and misleading statements and pleadings that have led to Orders being issued by this Court and OTHERS predicated on these knowingly false and fraudulent statements, pleadings, sham hearings, etc., including at the US District Court – Northern District of Illinois before Honorable Judge John Robert Blakey, the 4th DCA, the Florida Supreme Court and this Court, who all issued Orders and Decisions based upon these knowingly false and fraudulent and factually incorrect statements made by Court Appointed Officers (Attorneys at Law, Fiduciaries and Guardians.)

40. Rose stated in the February 16, 2017 hearing before Judge Scher,

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20170216%20HEARING%20TRANSCRIPT%20JUDGE%20SCHER%20CLEAN%20COPY.pdf>

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“2 MR. ROSE: I would just state for the
3 record that he has been determined to have no
4 standing [Emphasis Added] in the estate proceeding as a
5 beneficiary.”

“6 THE COURT: I thought that was in the
7 Estate of Shirley Bernstein.

8 MR. ROSE: It's the same ruling --

9 (Overspeaking.)”

41. In the same hearing, Rose’s own Witness, Brian O’Connell, Esq. the acting Personal Representative of Simon’s Estate stated in regard to Eliot Bernstein’s standing,

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“3 THE WITNESS: You have standing in certain
4 actions by virtue of your being a beneficiary
5 of the tangible personal property.

6 BY MR. ELIOT BERNSTEIN:

7 Q. Okay, so beneficiary?

8 A. Right.”

42. In the continuation of the February 16, 2017 hearing held on March 02, 2017 however Rose again misleads the Court knowing that he has been proven wrong in his repeated claim that Eliot is not a beneficiary and has no standing in the Estate of Simon Bernstein, then attempts to deny his prior claim when he states,

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13:51:55 10 THE COURT: You don't have to. You have

11 standing. You are sitting there. I have

12 allowed it. I have allowed it. You are a

13 tangible beneficiary whatever assets remain

14 outside of the Simon trust. I think everyone

13:52:08 15 is on the same page. If it's a dollar or if

16 it's ten dollars, that's where you have -- now,

17 I have no idea the dollar figures in any of

18 this.

19 MR. ELIOT BERNSTEIN: None of us do.

13:52:20 20 THE COURT: Go ahead, Mr. Rose.

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3 MR. ROSE: Just for the record, I conceded

4 at the last hearing that he had limited

13:52:35 5 standing. I did not say that he did not have

6 standing.

7 THE COURT: I agree.

43. While Mr. Rose attempts to rectify his claim in the continuation hearing in Simon's Estate, the bigger picture problem is that Ted and Rose have made that claim repeatedly throughout pleadings and in hearings before various courts regarding Eliot Bernstein not being a beneficiary

and not having standing for almost two years changing their prior story to the Court and Criminal Investigators when Judge Phillips took over the proceedings. These false claims by Court Appointed Officers misleading the Court with intent led to a series of Orders that were all based upon these factually incorrect statements. It should be noted that in regard to Shirley Bernstein's Estate and Trust and Rose's claims to this Court in that matter that similarly Eliot is not a beneficiary and has no standing, this contradicts statements he made to the Palm Beach County Sheriff Investigators while attending an investigation of Ted Bernstein whereby he claimed,

PALM BEACH COUNTY SHERIFF REPORTS
<http://iviewit.tv/Simon%20and%20Shirley%20Estate/PBSO%20FILES/Copies/Set%20Two.pdf> (SET TWO)

Page 14 of 59 of PBSO report, Page 26 of linked document, "ATTORNEY ALAN ROSE PROVIDED A STATEMENT, STATING HE WISHED TO CLARIFY SOME THINGS IN REGARDS TO HOW THE ESTATE DOCUMENTS READ IN HIS OPINION. HE STATED THAT SHIRLEY'S ASSETS WENT TO LISA, JILL, AND ELIOT OR THEIR LINEAL DECEDENTS."

44. Several examples follow for this Court that show not only how pervasive these false claims are within pleadings, hearings, depositions and statements under oath but also show the snowball effect they had through the courts and the resulting damage they have had on the Eliot Bernstein family by shutting down entirely their due process rights to be heard before the courts for almost two years. Through these false statements made by Officers of this Court they have repeatedly pled to the Court that not only was Eliot not a beneficiary with no standing but that they have unanimous consent of all the beneficiaries to get various Orders approved, when in fact it has

now been admitted by Rose and O'Connell that they do not have Eliot's consent or the consent of Eliot's two adult children and Eliot is a beneficiary with standing.

**PLEADINGS AND ORDERS AFFECTED BY THE FALSE AND MISLEADING
CLAIMS BY TED BERNSTEIN AND ALAN ROSE THAT MUST ALL NOW BE
VACATED**

**20150914 Filing # 32030300 E-Filed 09/14/2015 05:18:25 PM "TRUSTEE'S OMNIBUS
STATUS REPORT AND REQUEST FOR CASE MANAGEMENT CONFERENCE"**

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/EXHIBIT%2021%20-%2020150914%20Trustees%20Omnibus%20Status%20Report%20and%20Request%20for%20Case%20Management%20Conference.pdf>

45. "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." Eliot is a beneficiary in ALL documents that Judge Phillips ruled "valid." No Construction hearing has been held for the Wills and Trusts to determine anything different and at the time Rose made this claim to the Court not validity hearing had been held.
46. "The sole reason for the lack of progress is their disinherited son, Eliot Bernstein." Eliot is a beneficiary in Simon Estate and Shirley Estate and all other Trust documents of Simon and Shirley. Eliot was never disinherited by Shirley and was a 1/3 beneficiary of her trust on the day she passed and the trust became IRREVOCABLE with the permissible class of beneficiaries set in stone.
47. "When Shirley died, Simon was PR, successor Trustee, and sole beneficiary of her estate and trust." Simon was not a beneficiary of Shirley's Trust, he was the Trustee with limited rights under a Family and Marital Trust that were never created and were never produced at the sham validity hearing as part of the Simon Trust or Shirley Trust.

48. “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.” This is materially false and misleading as Ted is a beneficiary of the Shirley Estate and Simon Estate, along with the other five children of Simon and Shirley as so stated in the Wills. No Grandchildren have ever received a notice of administration for the Estates and Trusts of Simon and Shirley Bernstein notifying them they are beneficiaries of anything as is required by Florida Probate and Trust Rules and Statutes.

**20151215 TRIAL BEFORE THE HONORABLE JOHN L. PHILLIPS Tuesday,
December 15, 2015 9:43 a.m. - 4:48 p.m.**

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/EXHIBIT%2025%20-%2020151215%20Hearing%20Transcript%20Phillips%20Validity%20Hearing.pdf>

49. Rose Questioning Witness Spallina

Page 33

“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. ”

- a. Oh, then Eliot is a beneficiary under Shirley's Trust and Simon's power of appointment was only for the Marital Trust and Family Trust that were never created and never produced as part of the Shirley Trust at the sham Validity hearing. There is no legal term, “default beneficiary” just beneficiary. There has been no Shirley Trust Construction hearing to ever determine any force or effect of Simon's POA and to determine that the Beneficiaries are anything other than the “default beneficiaries.”

50. Rose Questioning Witness Spallina

Page 46-47

“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

Page 47

·1· ·die· We had to get waivers and releases from them.”

- a. Here Spallina admits that the children of Shirley's Estate are the beneficiaries and this is supported by the Notice of Administration sent out initially to the five children as beneficiaries. No grandchildren have ever been noticed they are beneficiaries of Shirley's Estate.

51. Rose Questioning Witness Spallina

Page 62

·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.”

52. If Eliot is not a beneficiary in Shirley’s estate why is he signing a “Receipt of Beneficiary” and why not the grandchildren who Rose now claims are the beneficiaries and why are the grandchildren never served notice of admin that they are beneficiaries.

20160104 Filing # 36122958 E-Filed 01/04/2016 04:32:05 PM “SUCCESSOR TRUSTEE'S MOTION FOR APPOINTMENT OF A GUARDIAN AD LITEM TO REPRESENT THE INTERESTS OF ELIOT BERNSTEIN'S CHILDREN; FOR A GAG ORDER TO PROTECT GUARDIAN AND OTHERS; AND TO STRIKE ELIOT'S FILINGS”

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/EXHIBIT%2005%20-%2020160104%20Successor%20Trustees%20Motion%20For%20Appointment%20of%20Guardian%20Ad%20Litem%20and%20Gag%20Order%20-%20Pages%201%20to%2052.pdf>

53. “1. Plaintiff, Ted S. Bernstein, as Successor Trustee of the Shirley Bernstein Trust Agreement dated May 20, 2008, seeks the appointment of a guardian ad litem to protect the interests of Eliot Bernstein's three children. By its ruling at the trial held on December 15th, the Court upheld the 2012 Will and Trust of Simon L. Bernstein and the 2008 Will and Trust of Shirley Bernstein. As a result of upholding these documents, the Court has determined that Eliot Bernstein, individually, is not a beneficiary of either Simon's or Shirley's Trusts or Estates. Instead, his three sons are among the beneficiaries of both Simon's and Shirley's Trusts, in amounts to be determined by further proceedings. Eliot lacks standing to continue his individual involvement in

this case.” The ruling did not determine any of the beneficiaries or Eliot’s standing and now with Rose’s and O’Connell admission of Eliot as Beneficiary in Simon Estate and Judge Scher Confirming on record Eliot is beneficiary and has standing Rose statement is false. No Construction hearing has ever been held and this is just plain BS.

54. “In light of the Final Judgment dated December 16, 2015, upholding Simon's 2012 documents, Eliot is not a beneficiary of the Shirley Trust or the Simon Trust. As such, he lacks standing to participate as an individual. Eliot has standing as both a beneficiary and interested party in the Shirley and Simon Trusts as he is named in both Trusts as a beneficiary. Despite an amended Simon Trust that claims he was disinherited he is still a beneficiary under the Original Trust with standing and since no Construction hearings have ever been held in any of the Estate and Trusts of Simon and Shirley he remains both a beneficiary and has standing. The Dec 15 2015 hearing says NOTHING about Eliot’s standing. The Dec. 15 2015 hearing does not state who beneficiaries are either.
55. “(iii) strike and/or dismiss all of Eliot's filings in this case as described above for lack of standing;

20160805 Filing # 44877594 E-Filed 08/05/2016 11:59:56 AM “TRUSTEE'S MOTION TO APPROVE RETENTION OF COUNSEL AND, TO APPOINT TED S. BERNSTEIN AS ADMINISTRATOR AD LITEM TO DEFEND CLAIM AGAINST ESTATE BY WILLIAM STANSBURY”

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20160805%20TRUSTEE'S%20MOTION%20TO%20APPROVE%20RETENTION%20OF%20COUNSEL%20AND,%20TO%20APPOINT%20TED%20AS%20ADMIN%20AD%20LITEM%20TO%20DEFEND%20CLAIM%20AGAINST%20ESTATE.pdf>

56. “He has conferred with the beneficiaries of The Simon Bernstein Trust, including the Guardian Ad Litem, and all are in favor of Ted Bernstein directing the defense of the claim through the

Mrachek-Law firm.” Guardian does not represent 2 adult children of Eliot and no consent has ever been gained of them nor has it been requested.

57. “9. Accordingly, and having conferred with the Trustee and the beneficiaries of the Trust, Mr. O'Connell has agreed to have Mrachek-Law retained to represent the Estate in the Stansbury litigation so long as the Court appoints Ted Bernstein as Administrator Ad Litem to stand as the Estate's representative in defending and protecting the estate's interests in the Stansbury litigation.”

58. “As indicated above, the Trustee has conferred with not only Mr. O'Connell, but each of the beneficiaries of the Trust, which is the sole beneficiary of the estate, and all are in agreement.”

20160810 Filing # 45062985 E-Filed 08/10/2016 03:22:14 PM - Motion to Ratify and Confirm Appt of Ted as Successor Trustee of Trust which is sole Beneficiary of Estate.
<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20160810%20Motion%20to%20Ratify%20and%20Confirm%20Appt%20of%20Ted%20as%20Successor%20Trustee%20of%20Trust%20which%20is%20sole%20Beneficiary%20of%20Estate.pdf>

59. In the very title of this motion, “MOTION TO RATIFY AND CONFIRM APPOINTMENT OF TED S. BERNSTEIN AS SUCCESSOR TRUSTEE OF TRUST WHICH IS SOLE BENEFICIARY OF THIS ESTATE” the misleading statements begin, as the Trust is NOT THE SOLE BENEFICIARY of the Estate, in fact, all of Simon’s five children are also beneficiaries.

60. “Finally, to remove any possible doubt, the Successor Trustee and all qualified beneficiaries ask the Court to confirm the appointment and/or formally appoint Ted S. Bernstein” Again there is no true consent of all the beneficiaries and the beneficiaries having consented is falsely portrayed to the Court with scienier.

61. “Regardless, to avoid any issue, reduce expenses and put to rest for all time any concerns raised as to Ted S. Bernstein's service as Successor Trustee, the beneficiaries of the Trust unanimously

have agreed to ratify and confirm the appointment of Ted S. Bernstein.” They do not have consent of Eliot and his adult kids and no signed consent forms from anyone.

62. “WHEREFORE, Ted requests that this Court: (a) accept and approve the qualified beneficiaries' ratification and confirm the appointment of Ted S. Bernstein; (b) accept and approve the qualified unanimous agreement that Ted S. Bernstein be appointed as successor trustee” Due to the recent admissions before Judge Scher by both Alan Rose and Brian O’Connell that Eliot is a beneficiary and has not consented, this statement again is false and misleading made with malice, intent and scienter to gain an Order premised on consent of the parties, when factually they have no consent of the parties.

20160810 Filing # 45064518 E-Filed 08/10/2016 03:33:22 PM “RENEWED PETITION TO RE-CLOSE ESTATE AND FOR DISCHARGE OF SUCCESSOR PERSONAL REPRESENTATIVE”

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20160810%20Renewed%20Petition%20For%20Discharge%20to%20ReClose%20Estate%20and%20Discharge%20of%20PR.pdf>

63. “1. After trial held on December 15, 2015, this Court upheld Shirley's Will and determined that Eliot Bernstein is not a beneficiary of the Will and Trust of Shirley Bernstein, but Eliot's three sons were beneficiaries, among others.”
- a. No such determinations were made at the Dec 15 2015 Sham Validity Hearing
 - b. Eliot is a beneficiary of both the Will and Trust of Shirley Bernstein.
 - c. Eliot’s children are not the direct beneficiaries of either the Will or IRREVOCABLE Trust of Shirley.
64. “3. On September 2, 2014, Successor Personal Representative petitioned to Re-Close Shirley's estate based on signed waivers, which was denied solely because Eliot rescinded his waiver and challenged Shirley's inventory.

- a. Big Fat Lie, there is no proper accounting and accountings and inventories are challenged on solid ground. Eliot never resigned a waiver etc. and Simon never did either.
65. “4. Eliot now lacks standing to challenge Shirley's inventory or challenge any aspect of Shirley's estate because he is not a beneficiary and is not a guardian for a beneficiary's interests.”
- a. Eliot is a named beneficiary with standing as we learned in Simon the same holds true here.
 - b. The grandchildren are not beneficiaries of Shirley’s Will.
 - c. Eliot was served Notice of Admin as a Beneficiary – see our response to this filed.
66. “5. The initial Personal Representative, Simon L. Bernstein, fully administered this estate and Petitioned for a discharge, with signed (but un-notarized) waivers by all interested persons. §731.301, Fla. Stat. (See Exhibit "A")
- a. Simon petitioned for discharge AFTER he was dead. Simon did not have all the Waivers before he died as Jill Iantoni for example did not send one in until after he deceased.
 - b. Simon was dead when Estate of Shirley was closed, see Dec 15 2015 admission by Spallina that the Estate was closed through fraud with a dead PR, at a time Ted and his attorneys Spallina Tescher claimed Ted was PR and Ted allowed this to occur as a fiduciary and even after he learned of the fraud did nothing to correct it as it benefited his family with a 30% interest that they did not have since they were considered predeceased.
 - c. The Waivers submitted by Ted’s counsel as Fiduciary, Spallina and Tescher, were FORGED and FRAUDULENTLY NOTARIZED for six separate parties, including POST MORTEM FORGERY and NOTARIZATION for Simon.
67. “Simon was the sole beneficiary of the Shirley Trust while he was alive.”

- a. Simon was not a beneficiary of her Trust he was the Trustee and he could take payments from Marital and Family Trusts but they were never created according to their story.
68. “7. Shirley died on December 8, 2010. Sometime thereafter, Simon directly took possession and control of all assets of her estate, and indirectly took control of the Shirley Bernstein Trust's assets as the initial Successor Trustee and sole beneficiary during his lifetime.”
- a. Again Simon was not a beneficiary of Shirley’s Trust. Same lie they told at Validity hearing.
69. “8. On April 9, 2012, Simon signed a Petition for Discharge and his own Waiver form. By that time, Simon had completed the administration of Shirley's Estate and he wanted the Estate to be closed.
- a. On April 09, 2012 form Simon claimed he had all waivers and consent of beneficiaries, which was a false statement signed under oath as Simon did not have Jill Iantoni’s Waiver and Consent of Beneficiary until after he was dead. There are other multiple false statements on this document at that time.
70. “10. The Successor Personal Representative has completed the necessary inventory and accounting of the re-opened Estate. While Simon was alive, he disposed of all assets (believed to be tangible personal property only) and resolved all claims (if any) which were presented. No assets were discovered by the Successor Personal Representative in the re-opened Estate.”
- a. Big Fat Lie as Ted and Spallina and Tescher both became aware of many assets after the inventory was done and not distributed to any beneficiaries.
 - b. See Dec 15, 2015 hearing where Spallina is asked by Rose about Shirley’s Bentley and he says he knows about it and there Ted at minimum learned of it and neither of them amended her inventory.

- c. Jewelry was discovered that was not on the inventory for close to a million.
- d. Home furnishings were discovered that were Shirley's that were not on her inventory.

71. "12. Although this Court reopened the Estate, the Successor Personal Representative has possession of no assets and never has, and is aware of no liabilities. This was confirmed when the Successor Personal Representative conducted the final accounting and inventory of the estate."

- a. Ted was in possession of her jewelry and her home furnishings that he allegedly sold without even consent from the beneficiaries regarding their properties.

72. "The Successor Personal Representative will never have any assets to distribute because there are no assets and anything which conceivably could have existed on the date of Shirley's death would have been transferred to Simon as her surviving spouse under the terms of her Will. Any such assets Simon retained as of his death would now be in Simon's estate."

- a. Not true. Any assets Shirley had like her jewelry and home furnishings could not have "transferred" to Simon without first being listed on Shirley's inventory and then transferred. So how did Shirley's assets NOT LISTED ON HER INVENTORY transfer to Simon if Shirley's assets were listed on her inventory to be only 25k with no accounting of what that was composed of by Tescher and Spallina and on Ted's inventory he claimed Shirley's assets were \$0.00. So only 25k of assets could have transferred and the fully paid for in cash Bentley and her million or more of jewelry and her furnishings of two properties, including a beach front condo with its own floor and elevator and a mansion home in Saint Andrews Country Club with 10 bathrooms and an elevator, are nowhere found on her inventory and thus could not have been properly accounted for on her inventory and THEN TRANSFERRED.

73. “At that time, this Court had not yet determined the validity of the Will or the Trust, which is the sole beneficiary of the Estate under the Will. Therefore, at that time, Eliot, as a surviving child of the Decedent, arguably had standing to object. Eliot did object, and this Court (at a time when Judge Colin was presiding) denied the Petition to Re-Close without prejudice.”
- a. No the five children are beneficiaries of the Estate under the Will that was validated improperly through a sham hearing.
74. “The Court later confirmed that ruling on February 1, 2016, in an Order determining that Eliot lacked standing to participate in this matter.”
- a. FACT CHECK THE ORDER
- b. Even if Order claims something like that it is wrong and NO CONSTRUCTION HEARING HAS EVER BEEN HELD in the Estate or Trust.
75. “Simon Bernstein alone was entitled to possession and ownership of the tangible personal property, and he alone was entitled to control the Trust assets and was the sole beneficiary of the Trust, all during his lifetime.”
- a. He was not a beneficiary of the Shirley Trust, just a trustee.
76. “17. Although none of them are individually beneficiaries, each of his children likewise signed waivers, although Eliot has since withdrawn his.”
- a. The Waivers also have a Beneficiary Consent in them and Eliot is a named Beneficiary on the Notice of Administration.
77. “Notwithstanding the "belts and suspenders" approach in seeking waivers from Shirley's adult children, now that the Will and Trust have been construed, it is obvious that none of the children are beneficiaries, directly or indirectly, of the Estate of Shirley Bernstein or her Trust.”

- a. Big Fat Lie as there has been NO CONSTRUCTION HEARING HELD to construe anything in the Simon and Shirley Estates and Trusts.

78. “Moreover, the persons who are the ultimate beneficiaries of The Shirley Bernstein Trust, a Trust created for the benefit of each of her ten grandchildren, are controlled by four of her children and the Guardian Ad Litem appointed to represent Eliot's children. All of those parties support and have agreed to the immediate re-closure of this Estate.”

- a. Totally untrue. The Shirley beneficiaries are Eliot, Jill and Lisa and their lineal. No trusts were ever created for her 10 grandchildren in fact four of them are considered PREDECEASED for ALL PURPOSES OF DISPOSITIONS of the Trust with two of her children, Ted and Pam all completely disinherited.
- b. There are no 10 Grandchildren Trusts produced in the record or elsewhere.
- c. There are three trusts created under Shirley’s Trust that were created simultaneously with creation of the trust, the Eliot Bernstein Family Trust, the Jill Iantoni Family Trust and the Lisa Friedstein Family Trust. These family trusts were created to receive the benefits of the trust for the 3 living children and six living children as Ted, Pam and their lineals were considered predeceased.
- d. Diana Lewis has NO TRUSTS for Eliot’s children created under Shirley’s Trust and thus this is a predatory guardianship gained on trusts that do not exist.
- e. Diana Lewis has no right to consent to the Estate reclosing as she represents no parties in the Shirley Estate case and in the Shirley Trust it is fraudulent representation since the trusts she is alleged to be guardian for the kids under DOES NOT LEGALLY EXIST.

79. “18. The Estate now seeks an order of this Court closing this Estate based upon the accounting and inventory completed by the Successor Personal Representative and the genuineness of the Waivers signed while Simon was alive, coupled with Eliot's lack of standing.”

- a. Eliot does not lack standing legally as standing was removed at a UMC hearing and only because Eliot did not know the exact statutes that gave him standing as a named beneficiary in the document.

80. “In addition, the Successor Personal Representative now has the full knowledge, consent, and approval of the direct beneficiary of the Estate (Ted S. Bernstein, as Successor Trustee of The Shirley Bernstein Trust), and all of the indirect beneficiaries (representatives of Shirley's ten grandchildren), the Personal Representative requests the Court immediately re-close the Estate, discharge the Personal Representative, and grant such other relief as is just.”

- a. Ted does not have Eliot consent and Eliot is a beneficiary.
- b. Diana Lewis should be charged with FRAUD for consenting fraudulently for parties she represents through NON EXISTENT trusts.
- c. There are objections to inventories still not heard.
- d. Two of Eliot’s kids are adults and Lewis knows this and knows she does not have their consent. She is not a Trustee of the NON EXISTENT TRUST that Rose states was “CREATED.”

20160901 TRANSCRIPT OF PROCEEDINGS BEFORE HONORABLE JOHN L. PHILLIPS DATE: September 1, 2016 TIME: 8:44 a.m. - 8:50 a.m.

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20160901%20Phillips%20Hearing%20Transcript%20re%20TPP%20COPY%20CLEANED.pdf>

81. Alan Rose statement to the Court regarding consent of all Beneficiaries,

“25. Mr. O'Connell and all the beneficiaries want it to
1. be as we've put it in the motion”

- a. All beneficiaries have not consented as Eliot and his adult children have given no consent to any of Rose and O'Connell's pleadings stating they have.

**20161006 Case: 1:13-cv-03643 Document #: 265 Filed: 10/06/16 Page 1 of 8 PageID #:13213
UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
ILLINOIS EASTERN DIVISION "COUNTER-DEFENDANTS, CROSS-DEFENDANTS,
AND THIRD-PARTY DEFENDANTS' REPLY TO ELIOT BERNSTEIN'S RESPONSE
TO MOTION FOR SUMMARY JUDGMENT**

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20161006%20Counter%20Defendants%20Reply%20to%20Eliot%20Response%20for%20Summary%20Judgment%20Blakey%20II%20In%20Doc265%20Case%2013cv3643%2016642279-0--26835.pdf>

82. "II. THE FLORIDA PROBATE COURT HAS RULED, AFTER TRIAL AND HEARINGS, THAT ELIOT HAS NO INTEREST OR STANDING AS A BENEFICIARY OF THE ESTATE EITHER ON HIS OWN BEHALF OR AS PARENT/GUARDIAN FOR HIS MINOR CHILDREN. THESE PROBATE ORDERS RESOLVE ISSUES THAT ARE GERMANE TO THE ISSUE OF ELIOT'S STANDING IN THE INSTANT LITIGATION." Now that Scher confirmed Eliot is a beneficiary in Simon's Estate and Rose admitted that Eliot has standing this pleading to the Federal Court is filled with untrue statements carried over from the Florida Court that then affected the outcome in the Federal Action due to the claim that Eliot was not a beneficiary and had no standing in the Simon Estate leading to his dismissal from the case, yet another due process violation through these fraudulent pleadings that Obstructed Justice and Due Process. All Orders affected by these knowingly false and fraudulent statements to the Courts will have to be vacated, etc.
83. "(iv) Eliot Bernstein is not a beneficiary of the Estate,"
 - a.

84. “Also, this court can and should apply the doctrine of collateral estoppel to preclude any re-litigation of one very pertinent issue that was previously determined in the Probate Actions -- that Eliot has no interest in the Estate.”

a.

85. “Since the Florida Probate Court already determined that Eliot is not a beneficiary in the Estate, and no longer has any authority to represents the interests of his own children, the Probate Orders are preclusive as to any relief Eliot seeks here based on an interest in the Estate.”

a.

**20161122 “HEARING BEFORE THE HONORABLE JUDGE ROSEMARIE SCHER
Volume 1 of 1 Pages 1 through 19 Tuesday, November 22, 2016” Shirley Trust
Construction Case.**

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20161208%20TRANSCRIPT%20Bernstein%20vs.%20Bernstein%20Hearing%20Shirley%20Trust%20Case%20112216%20FULL%20Volume%201.pdf>

86. Rose statement to Court Page 4, the settlement referred to is in Simon’s Estate case and not Shirley’s Trust Construction.

“10· ·approaching with.

11· · · · MR. ROSE:· This is Alan Rose. I

12· ·represent -- we're here really in the --

13· ·there's two or three related matters that

14· ·involve Simon and Shirley Bernstein, but we are

15· ·here on the Simon Bernstein estate and Shirley

16· ·Bernstein matter to approve a settlement.· It's

17· ·essentially uncontested.”

87. Rose statement to Court Page 7-8 again regarding a settlement in Simon’s Estate case, yet he tries to convince Court here that he has all Simon’s Estate Beneficiaries consent and that Eliot is not a beneficiary and has no standing and thus no right to object.

“6 So this is the first time we've been
7 before Your Honor. This case has been in front
8 of four judges previously. French, Colin,
9 Coates, Judge Phillips. We finally started
10 making progress with Judge Phillips. He
11 conducted a trial last December and determined
12 who the beneficiaries are of the estate. He
13 then entered two further orders, which I
14 provided to you, that state that Eliot
15 Bernstein, the gentleman on the phone, lacks
16 standing and is no longer able to participate
17 in these proceedings, is not allowed to file
18 any papers.
19 So I expected this motion -- we're trying
20 to approve a settlement. It was entered into
21 at mediation. There's a guardian that
22 represents three of the children. And we're --
23 it's uncontested, the settlement, with anyone
24 that has standing to contest it.
25 So we expected this to be an unopposed

Page 8

1 motion to approve the settlement and then to
2 address the status conference. If Your Honor
3 had any concerns over the settlement, we can
4 set it for a hearing. But, again, there's --
5 nobody with standing has opposed the
6 settlement. It's signed off by all of the
7 parties and by the guardian who represents the
8 interests of three children.
9 And, again, when I set these for motion
10 calendar I did not anticipate there being any

11 objection to it.
12 Obviously, Mr. Bernstein, the gentleman on
13 the phone, has appeals pending and he can
14 pursue his appellate rights.
15 THE COURT: There's an order issued that
16 he lacks standing on February 1st.
17 MR. ROSE: Correct.”

88. No Construction hearing was held determining beneficiaries in the December 15, 2015 hearing, in fact the Construction Count of the Complaint was severed prior to the hearing and at the hearing by Judge Phillips and Rose as the transcript of that hearing reflects.
89. Eliot has standing and contests it. Lewis at time has guardianship for 1 minor only and her guardianship is under Grandchildren Trusts that DO NOT EXIST.
90. Guardianship was pled for on MINOR CHILDREN only and no adult guardianship hearings were held despite one child being an adult at the time of the GAL hearing, yet the pleadings were knowingly factually incorrect as the Trustee and his counsel knew that one of the children was already an adult.
91. Scher statement regarding standing that at the time she believes applies to Eliot not having standing in Simon or Shirley’s Estates and Trusts.

9 THE COURT: Okay. So we'll see you
10 November 29th at 9:30.
11 Mr. Bernstein, keep in mind I have an
12 order that says you have no standing. So
13 you've got two minutes.

92. Contradicts her statement here in the March 2, 2017 hearing and the February 16, 2017 hearing and now states I have standing in Simon’s Estate that contradicts Order that was gained through Rose false statements to Phillips.

i. Scher statement

16 THE COURT: I'm only having a scheduling
17 conference on November 29th. You appeared
18 today. You can appear -- I am unsure at this
19 exact moment what your status is. So I'm going
20 forward with the November 29th hearing at 9:30.

93. Scher here denies Eliot due process based on the claim that Eliot had no standing made by Rose and then later in February 2017 she changes her statement that Eliot does have standing.

20161128 - November 28, 2016 Alan Rose Letter to Scher “Bernstein Status Report for 11-29 Status Conference

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20161128%20Judge%20Scher%20%20Bernstein%20Status%20Report%20for%2011-29%20Status%20Conference.pdf>

94. “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...” Not true as both Eliot and Stansbury have standing in the Simon Estate and Simon Trust.
95. “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.” It will be shown to this Court that no Construction hearings were ever held for the Wills and Trusts deemed “valid” by this Court despite Rose’s continued claims that the Court has construed them and determined who the beneficiaries are. Since no Construction hearings have been held, a simple review of the language of the alleged “valid” documents proves that Eliot is factually a beneficiary of both the Wills and Trusts of Simon and Shirley Bernstein in every single “valid” document. **SEE EXHIBIT, Eliot is a Beneficiary**

20161128 November 28, 2016 Alan Rose Letter to Scher “Bernstein Status Report for 11-29 Status Conference

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20161128%20Judge%20Scher%20%20Bernstein%20Status%20Report%20for%2011-29%20Status%20Conference.pdf>

96. “Judge Phillips brought order to chaos; determined after a trial who are the rightful beneficiaries of these estates and trusts;” No determination was made after trial and the Order does not determine who the rightful beneficiaries are as it was not a Construction hearing it was a validity hearing and no Construction has been done to date. The Power of Appt has never been construed to be valid or binding and it is a moot point since it only relates to a Limited Power over a Family Trust and the Marital Trust which at this time do not exist and were never made part of the Shirley Trust at the Validity Hearing, thus even if executed it would be over trusts that were never created.
97. “Judge Phillips first set a trial to determine the validity of the Wills and Trusts, which determined the proper beneficiaries.” Not true, there was no construction to determine beneficiaries just hearing to validate. The Estate of Simon was abandoned at validity hearing by O’Connell and O’Connell under oath admits that he is unaware of any construction hearing being held, **SEE O’CONNELL STATEMENTS**. The sham “Validity Hearing” was limited by Judge Phillips and Alan Rose to be confined only to the Validity of the documents and the construction Count of the Amended Complaint was stayed prior to the hearing and during the hearing. **SEE ROSE AND PHILLIPS STATEMENTS REGARDING SEVERING THE CONSTRUCTION COUNT FROM VALIDITY HEARING**. The Order does not determine who the beneficiaries are and NO CONSTRUCTION HEARING has been held for any Will or Trust of Simon and Shirley Bernstein.

98. “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...” Not true both have standing in the Simon Estate and Simon Trust.
99. “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.” Not true as it will be shown that Eliot is to inherit 1/3 of Shirley’s Trust with two of his sisters as named beneficiaries with their lineal descendants through three funded trusts in their families names that were established with the creation of Simon and Shirley’s trusts in 2008 and factually Ted and his sister Pam and their lineal descendants will inherit NOTHING in Shirley’s Trust as they and their lineal descendants are both considered PREDECEASED and at the time of Shirley’s death the trust became IRREVOCABLE and the Permissible Class of Beneficiaries was set in stone. Eliot is a beneficiary of Shirley’s Estate and will inherit through this Will monies in the Estate, once proper accounting and inventories are determined valid by the Court and if monies are found to exist that should be in the Estate.
100. “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..” Mr. Rose again attempts very cleverly to mislead the Court as NOT ONLY WERE Simon’s Prior Counsel, Robert Spallina, Esq. and Donald Tescher, Esq. acting as Simon’s counsel, the crimes they committed were done in fact while they were acting as Ted

Bernstein's counsel in his capacity as Fiduciary of Shirley's Estate and Trust. The crimes were all designed to benefit Ted Bernstein's family by removing the Predeceased language in the Shirley Trust to include Ted's family for 30% of the Shirley Trust and this fraudulent trust that was created and disseminated to parties that fraudulently inserted Ted and his sister Pam's families into the Shirley Trust for 40% of the total value if the crime were successful. This crime has been PROVEN through admission by Robert Spallina, Esq. at a December 15, 2015 hearing before this Court, to the Palm Beach County Sheriff and by his partner Donald Tescher; Esq. in his resignation letter caused by the Fraud on Beneficiaries and their counsel that they forged a fraudulent Shirley Trust document. Tescher and Spallina were doing insurance business with Ted and consulting business for him and were his close personal friends who Ted then brought into the Bernstein Family Affairs. The crimes were committed in Shirley's Estate and Shirley's Trust that are PROVEN AND ADMITTED. To date, Ted has never filed criminal charges for the crimes he is aware of that were committed while he was a fiduciary and committed on his behalf by and through his retained counsel. While the attempt to feloniously plead to the Court that it was Simon's counsel, at the time the crimes were committed Simon Bernstein was already deceased, including crimes of forging Simon's name POST MORTEM on documents submitted to the Court and the Beneficiaries and Interested Parties and FORGING SHIRLEY'S TRUST and sending it to Eliot Bernstein's minor children's counsel, Christine Yates of Tripp Scott law firm in Fort Lauderdale, FL.

101. "The Final Judgment (on appeal) resolved that the beneficiaries are ten grandchildren and that Eliot has no standing" Untrue the final judgment did not determine Eliot did not have standing and no construction hearing has ever been held to resolve who the beneficiaries are of any of the Wills and Trusts of Simon and Shirley Bernstein. This again is false and misleading.

102. “When Stansbury did not settle at the July mediation, the beneficiaries agreed to get the case tried quickly and by the Mrachek Firm,” Beneficiaries did not agree this is mass fraud as Eliot and his adult children have not agreed or consented to anything and again the grandchildren are not beneficiaries of Simon’s Estate and any consent by Diana Lewis on their behalf is predatorily gained through further fraud on the court.
103. “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.” Untrue does not have consent of all beneficiaries, Josh and Jake Bernstein, two of Eliot’s children who are over the age of capacity, have never been contacted by any parties to gain their consent, including never being noticed by any fiduciaries that they are beneficiaries as called for under Probate Rules and Statutes and Trust Rules and Statutes
104. “Eliot has been barred from participation in the Shirley matters, but may have some limited rights in Simon's estate because he filed a personal claim against Simon's Estate.”
105. “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.”

20161228 December 28, 2016 Ted Bernstein filing “AMENDED MOTION FOR SANCTIONS PURSUANT TO FLORIDA STATUTE §57.105 AGAINST WILLIAM STANSBURY AND PETER FEAMAN, ESQ. FOR FILING MOTION TO VACATE IN PART ORDER PERMITTING RETENTION OF MRACHEK FIRM [DE 497] AND MOTION TO DISQUALIFY [filed 11-28-16]; AND FOR STANSBURY'S FILING RESPONSE IN OPPOSITION TO MOTIONS TO APPOINT ADMINISTRATOR AS LITEM [DE 471] AND TO RATIFY AND CONFIRM APPOINTMENT OF TED S. BERNSTEIN AS SUCCESSOR TRUSTEE OF THE SIMON BERNSTEIN AMENDED AND RESTATED TRUST [DE 495]”

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20161228%20Trustee%20Ted%20Bernstein%20Amended%20Motion%20for%20Sanctions%20Against%20Feaman%20Pursuant%20to%2057.105%20Simon%20Estate%20Case%20CLEANED%20COPY.pdf>

106. "In addition, Stansbury opposes the Trustee's Motion to ratify his appointment or to have the Court appoint Trustee based upon the unanimous agreement of the beneficiaries."
- a.
107. "Footnote 3 - See Motion to Ratify and Confirm Appointment of Ted S. Bernstein as Successor Trustee of Trust Which Is Sole Beneficiary of the Estate, filed August 10, 2016 [DE 473]"
- a.
108. "The Trust beneficiaries all agree the Trustee should continue to serve..."
- a. Where are signed consents from all beneficiaries
- b. Diana Lewis is acting as GAL under Trusts that do not exist and have not been produced and Grandchildren never noticed they were beneficiaries by Fiduciaries.
- c. Lewis got guardianship over an adult with no proper hearings.
- d. Lewis does not have guardianship over Josh at time and now Jake both over age of consent,
- 18.
109. "Because no funds can flow from the Estate to the Trust unless and until Stansbury's claim has been resolved, any claims by Stansbury that he has standing or may be prejudiced by Ted Bernstein serving as Trustee are nonsensical."
- a. Stansbury DOES HAVE STANDING, his standing was only limited in his ability to file a Removal of Trustee on Colin BS order, which Stansbury should move to vacate now.
110. "Stansbury has never expressed concern over one of the largest assets in this Estate, a mortgage on Eliot's home."
- a. Stansbury is suing Entity that owns Eliot home in his lawsuit v. Ted and Simon.
111. "Now that Eliot had been ruled to lack standing..."

- a. Now that has been OVERRULED by Judge Scher who says Eliot as Beneficiary has standing in Simon and on record confirmed by Rose and O'Connell.
112. "Against the backdrop of increased expense and delay, the beneficiaries agreed in a Mediation Settlement Agreement to ratify the appointment of Ted S. Bernstein ("Ted" or "Trustee"), as Trustee of Simon's Trust, and to have the Trustee and the Mrachek Firm (which has been directly involved in Stansbury's litigation for several years) assume representation of the Estate in the independent action.
- a. No full consent, no written consents. Eliot and his adult children have not consented to anything and Estate beneficiaries have not consented. Estate beneficiaries of Simon are 5 children, including Ted and Pam.
113. "Ted also is the only person willing to stand up and defend the Estate against Stansbury's claim."
- a. Is O'Connell unable to stand up as PR, this makes him unfit. He should be standing up and alleging that Ted is the primary party responsible for damages to Stansbury and should pay damages.
114. "GROUNDS FOR SANCTIONS - As grounds for sanctions, Trustee states: 1. On July 30, 2012, Stansbury filed suit against Simon Bernstein, his companies (LIC and AIM), his son (Ted S. Bernstein), a trust under his control (Shirley Trust), and others. Initially, all defendants including Simon retained the same counsel."
- a. Simon never retained Greenberg Traurig
115. "At a mediation held on June 9, 2014, Stansbury settled with LIC, AIM, Ted and the Shirley Trust. Because no one was truly representing the Estate, and its only representative was Mr. Brown as the then-Curator, the Estate was unable to settle its claims. The Trustee, as sole

beneficiary of the Estate, did everything he could to attempt to achieve a settlement for the Estate, but to no avail.

- a. Trustee is not the Sole Beneficiary of the Estate.

116. “However, the beneficiaries of the Estate (including the Guardian) and the Trustee all agreed to a global settlement of all disputes between and among the beneficiaries. The Trustee and beneficiaries included in their Mediation Settlement Agreement a provision confirming their agreement as to how to move the Stansbury claim to a prompt resolution:”

- a. The GUARDIAN IS NOT A BENEFICIARY OF THE ESTATE OR GUARDIAN FOR ANY BENEFICIARY OF THE ESTATE
- b. Eliot is a Beneficiary of the Estate and thus he has not consented and if grandchildren are included his two adult children are believed not to consent. However his children have never been served notice they are beneficiaries of the trusts or estates of Simon and Shirley Bernstein.

117. “On December 22, 2016, Mr. O'Connell signed a Statement of Its Position There Is No Conflict and His Waiver of Any Potential Conflict (Exhibit "1"), confirming there is no conflict in his view; supporting the retention and appointment of counsel and the administrator to handle the Stansbury litigation; and waiving any potential waivable conflict.”

- a. Do not believe this is what he stated, FACT CHECK.

118. “5. Merely because Ted S. Bernstein is the Trustee of the Simon Trust, the sole beneficiary of the Estate...”

- a. The Trust is not Sole Beneficiary of the Estate, Ted is a beneficiary of the Estate as well as Eliot.

119. “Each of those requirements is met. In particular, Mr. O'Connell as Personal Representative agreed with beneficiaries' direction to have the Mrachek Firm defend the Estate, and to waive any "waivable" conflict.”

a.

120. “None of those issues is present here. The Mrachek Firm is representing the Trustee, who is the sole beneficiary of this Estate, in related trust and estate matters. The interest of the Trustee is to minimize the expenses and the exposure to Stansbury's claim, to maximize the ultimate distribution from the Estate to the Trust. All of the direct and indirect beneficiaries of the Trust favor this representation.”

a.

121. “The lawyer serving as PR of the Estate believes there is no conflict and has waived any potential conflict, because the Mrachek Firm's involvement will reduce expenses and because the beneficiaries favor it. The only persons complaining, Bill Stansbury and his lawyer, are far from disinterested.”

a. Eliot and adult children are believed to be complaining and have granted no consent.

122. “To the contrary, all of the defendants' interests were fully aligned to defeat Stansbury's claim, and Mrachek Firm's work assisted in lowering the Estate's burden.”

a. Not True BFR did not align against Stansbury

123. “Likewise, if the former client was Ted S. Bernstein or the company LIC!AIM, that substantially related representation is precisely why the Personal Representative, Trustee, and the beneficiaries (specifically including the Guardian) want Mrachek Firm to undertake this role.”

**20161228 RECEIVED, 12/28/2016 4:52 PM, Clerk, Fourth District Court of Appeal
“APPELLEE'S, TED S. BERNSTEIN, AS TRUSTEE, RESPONSE TO APPELLANT'S
UNTIMELY MOTION FOR REHEARING, CERTIFICATION AND TO VACATE
ORDER DISMISSING APPEAL AND TO ACCEPT LATE-FILED INITIAL BRIEF**

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20161228%204th%20DCA%20Appellee%20Ted%20Bernstein%20Response%20to%20Appellant%20Motion%20for%20Rehearing,%20Cert%20and%20Vacate%20Order%204D161449.pdf>

124. “The Bernstein Trustee brought a trust construction action as permitted under section 736.0201(4)(e-g): ascertaining beneficiaries; determining questions arising in the distribution of trust assets, including questions of construction of the trust instruments; and determining who are beneficiaries and in what percentage.”

a. Wholly untrue, no Trust Construction hearing was ever held and thus this is a BIG FAT LIE.

125. “Ultimately, the trial court will need to appoint a successor trustee for each of Grandchildren Trusts for which Eliot refuses to serve”

- a. No Grandchildren Trusts exist in record or were produced at validity hearing.
- b. No Grandchildren were ever served Notice of Trusts or Notice of Administration.
- c. No Trusts exist for Eliot’s children per Rose.

**20170111 RECEIVED, 1/11/2017 2:31 PM, Clerk, Fourth District Court of Appeal
“APPELLEE'S, TED S. BERNSTEIN, AS TRUSTEE, RESPONSE TO APPELLANT'S
AMENDED RESPONSE TO SHOW CAUSE ORDER OF DEC. 28, 2016 AND REQUEST
FOR EXTENSION OF TIME”**

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20170111%20APPELLEE%20TED%20RESPONSE%20TO%20AMENDED%20RESPONSE%20SHOW%20CAUSE%204THDCA%20DEC%2028%202016%20EVENUP%20ORDER%20SHIRLEY%20AND%20EXTENSION%20REQUEST%20ECF%20STAMPED%20COPY.pdf>

126. “(Eliot has no standing to challenge the business judgment of the Trustee, because he is not a beneficiary of the Trust.)”

- a. Eliot is a beneficiary of the Simon Trust in the Original Trust that was amended and has standing as both a beneficiary and interested party to challenge both the Original Trust and any Amendments made, etc.

20170216 BRIAN O'CONNELL STATEMENT UNDATED AND UNFILED WITH COURT, EVIDENCED IN FEBRUARY 16, 2017 HEARING JUDGE SCHER

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/EXHIBIT%2010%20-%20UNDATED%20PR%20O'Connell%20Statement%20of%20Position%20No%20Conflict%20and%20Waiver%20of%20Conflict.pdf>

127. “Some of the direct and indirect beneficiaries of the Estate I am administering advised me, in light of the Mrachek firm's prior and extensive involvement in the Stansbury Lawsuit, the beneficiaries wanted Mrachek to represent the Estate in the Stansbury Lawsuit. I agreed to that request, and agreed that Mrachek was retained to represent the Estate...”

20170216 PROCEEDINGS BEFORE THE HONORABLE ROSEMARIE SCHER THURSDAY, FEBRUARY 16, 2017

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20170216%20HEARING%20TRANSCRIPT%20JUDGE%20SCHER%20CLEAN%20COPY.pdf> 2:38 p.m. - 4:46 p.m.- Simon Bernstein Estate

128. Rose Opening Statement to Court - P.16

“1 The genesis of the motion to appoint us
2 was what happened at mediation. We had a
3 mediation in the summer. The parties signed a
4 written mediation settlement agreement. We
5 have asked Your Honor at next week's hearing to
6 approve the mediation settlement agreement. It
7 is signed by every single one of the ten
8 grandchildren or their court-appointed guardian
9 ad litem, Diana Lewis, who has now been
10 approved by this Court, upheld by the 4th
11 District, and upheld by the Supreme Court this
12 week. So I think it's safe to say that she's

13 going to be here.

14 So the settlement agreement is signed by
15 all of those people. It's signed by my client
16 as the trustee. It's also signed by four of
17 the five children, excluding Eliot Bernstein.”

129. Rose Opening Statement to Court P.17

“24 So as a result of the mediation, all the
25 other people, everybody that's a beneficiary of
P. 18

1 this estate coming together and signing a
2 written agreement, those same people as part of
3 the written agreement said we want this case to
4 finish, and how are we going to do that.”

130. Rose Opening Statement to Court P.19-20

“24. and one thing he said was that there's some people that aren't
25. here. Every single person who is a beneficiary of this estate
wants my

P. 20

1. firm to handle this for the reasons I am about
2. to tell you. And I don't think there's any
3. dispute about it.”

131. Rose Opening Statement to Court P.21

“13 So they said the beneficiaries with
14 Mr. O'Connell's consent we want Mr. Rose to
15 become the lawyer and we want Mr. Ted Bernstein
16 to become the administrator ad litem.”

132. P. 40 – Rose Opening Statement to Court

“18 That's the December 15th trial. It's on appeal
19 to the 4th District. That's what led to having
20 Eliot determined to have no standing, to Judge

21 Lewis being appointed as guardian for his
22 children. That was the key. That was the only
23 thing we have accomplished to move the thing
24 forward was that, but we had that.”

133. P.17 – Feaman Question Witness O’Connell

“3 Q. Correct? And Mr. Bernstein is not a
4 monetary beneficiary of the estate, is he?

5 A. As a trustee he is a beneficiary,
6 residuary beneficiary of the estate. And then he
7 would be a beneficiary as to tangible personal
8 property.”

134. P. 33 – Rose Addressing the Court

“14 MR. ROSE: I would just state for the
15 record that he has been determined to have no
16 standing in the estate proceeding as a
17 beneficiary.

18 THE COURT: I thought that was in the
19 Estate of Shirley Bernstein.

20 MR. ROSE: It's the same ruling --
21 (Overspeaking.)

22 THE COURT: Please, I will not entertain
23 more than one person.

24 MR. ROSE: By virtue of Judge Phillips'
25 final judgment upholding the documents, he is
P. 34

1 not a beneficiary of the residuary estate. He
2 has a small interest as a one-fifth beneficiary
3 of tangible personal property, which is –
4 THE COURT: I understand.”

135. P. 35 – Eliot Bernstein Questioning Witness O’Connell

“15 THE WITNESS: You have standing in certain
16 actions by virtue of your being a beneficiary
17 of the tangible personal property.
18 BY MR. ELIOT BERNSTEIN:
19 Q. Okay, so beneficiary?
20 A. Right.
21 Thank you. Which will go to the
22 bigger point of the fraud going on here, by the 23 way.”

**20170302 ESTATE OF SIMON L. BERNSTEIN PROCEEDINGS BEFORE THE
HONORABLE ROSEMARIE SCHER VOLUME II THURSDAY, MARCH 2, 2017 1:35 -
3:39 P.M. TRANSCRIPT EXCERPTS**

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20170216%20and%2020170302%20Hearing%20Transcripts%20Combined%20WITH%20EXHIBITS%20JUDGE%20SCHER%20CLEAN%20COPY.pdf>

136. Page 127 – Eliot addressing the Court

“9 forthcoming. And I think we'll be able to show
13:42:51 10 that there's been fraud on this Court. The
11 other date in that hearing if you look at the
12 transcript Mr. Rose claimed that I had no
13 standing, and you overruled that, or whatever
14 you call it, you did.
13:43:03 15 THE COURT: I did.”

137. Page 138 – Court Addressing Eliot

“13:51:55 10 THE COURT: You don't have to. You have
11 standing. You are sitting there. I have
12 allowed it. I have allowed it. You are a
13 tangible beneficiary whatever assets remain
14 outside of the Simon trust. I think everyone
13:52:08 15 is on the same page. If it's a dollar or if
16 it's ten dollars, that's where you have -- now,
17 I have no idea the dollar figures in any of
18 this.

19 MR. ELIOT BERNSTEIN: None of us do.”

138. Page 139 – Rose addressing the Court

“3 MR. ROSE: Just for the record, I conceded
4 at the last hearing that he had limited
13:52:35 5 standing. I did not say that he did not have
6 standing.”

139. Page 143 – Alan Rose addressing the Court

“8 MR. ROSE: That's the end of the story.
9 He is clearly a beneficiary. We have never
13:55:52 10 denied he is a beneficiary for a very narrow
11 purpose. But based on the rulings it is
12 exactly that which is a very narrow purpose.”

140. Page 212 – Feaman questioning witness Alan Rose

“7 BY MR. FEAMAN:
8 Q. You were here when Mr. O'Connell said that
9 Mr. Eliot is a beneficiary of the Simon Bernstein
15:11:47 10 estate, correct?
11 A. I was here when he said it. I have said
12 it. I don't dispute it. I have told the judge
13 that. I don't understand. For tangible personal
14 property.
15:11:55 15 Q. Okay.
16 THE COURT: What am I being handed?
17 BY MR. FEAMAN:
18 Q. I am handing you a pleading that you filed
19 in September 2015 entitled Trustee's Omnibus Status
15:12:08 20 Report and Request for Case Management
Conference.
21 And the very first page you said, relating to
22 Mr. Eliot, he is not a named -- he is not named as

23 a beneficiary of anything. And it's in the Estate
24 of Simon Bernstein. So my question is when did you
15:12:25 25 suddenly become aware that he is a beneficiary of

Page 213

1 the estate?

2 A. That sentence is -- I now see that
3 sentence is technically wrong. It's not -- I am
4 talking about where the money is and the money is
15:12:37 5 in the trust. He is not a beneficiary of the
6 trust. I may have made a misstatement.

7 THE COURT: Are you asking me to take this
8 into evidence?

9 MR. FEAMAN: Yes.

15:12:45 10 THE COURT: Objection?

11 MR. ROSE: No. It's in the court file.

12 THE COURT: I know. Let me just mark it.

13 MR. FEAMAN: No further questions.”

141. Page 228 – Eliot Bernstein questioning witness Alan B. Rose

1 BY MR. ELIOT BERNSTEIN:

2 Q. So are you saying unequivocally that you
3 have consent of all the beneficiaries to Ted
4 Bernstein representing the estate of Simon, not the
15:26:34 5 trusts, the estate of Simon?

6 A. Well, I don't have your -- of everyone,
7 you would be the one person if we needed your --

8 Q. Yes or no, do you have consent of all?

9 THE COURT: Do not raise your voice. Do
15:26:51 10 not raise your voice.

11 MR. ELIOT BERNSTEIN: I am sorry, it's
12 getting difficult with these side tracks.

13 BY MR. ELIOT BERNSTEIN:

14 Q. Please, simple, do you have consent of all
15:26:58 15 the beneficiaries of the Simon estate, yes or no?
16 MR. ELIOT BERNSTEIN: Sorry.
17 THE COURT: That's okay.
18 MR. ELIOT BERNSTEIN: I am just
19 passionate.
15:27:07 20 THE WITNESS: To the extent that you are a
21 beneficiary, no.
22 BY MR. ELIOT BERNSTEIN:
23 Q. Okay.

**Florida Court False and Fraudulent Statements by Court Appointed Officers and Orders
Generated from the Fraudulent Process Effect Illinois US District Court Northern District
of Illinois Decision Removing Eliot Bernstein as Litigant by Judge John Robert Blakey.**

142. In fact, in Blakey's dismissal of Eliot as a party to the Illinois Insurance Litigation involving the Estate of Simon, part of the decision hinges on the statement that Eliot is not a beneficiary of Simon's Estate and has no standing and thus using Res Judicata and the likes it was determined that Eliot had no interests in that matter, as follows from Case: 1:13-cv-03643 Document #: 265 Filed: 10/06/16 Page 1 of 8 Page ID #:13213 UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION "COUNTER-DEFENDANTS, CROSS-DEFENDANTS, AND THIRD-PARTY DEFENDANTS' REPLY TO ELIOT BERNSTEIN'S RESPONSE TO MOTION FOR SUMMARY JUDGMENT.

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20161006%20Counter%20Defendants%20Reply%20to%20Eliot%20Response%20for%20Summary%20Judgment%20Blakey%20II%20Ins%20Doc265%20Case%2013cv3643%2016642279-0--26835.pdf>

“II. THE FLORIDA PROBATE COURT HAS RULED, AFTER TRIAL AND HEARINGS, THAT ELIOT HAS NO INTEREST OR STANDING AS A BENEFICIARY OF THE ESTATE EITHER ON HIS OWN BEHALF OR AS PARENT/GUARDIAN FOR HIS MINOR CHILDREN. THESE PROBATE ORDERS RESOLVE ISSUES THAT ARE GERMANE TO THE ISSUE OF ELIOT’S STANDING IN THE INSTANT LITIGATION.”

and,

“(iv) Eliot Bernstein is not a beneficiary of the Estate,”

“Also, this court can and should apply the doctrine of collateral estoppel to preclude any re-litigation of one very pertinent issue that was previously determined in the Probate Actions -- that Eliot has no interest in the Estate.”

and,

“Since the Florida Probate Court already determined that Eliot is not a beneficiary in the Estate, and no longer has any authority to represents the interests of his own children, the Probate Orders are preclusive as to any relief Eliot seeks here based on an interest in the Estate.”

143. Then these false and misleading statements and pleadings filed by Court Appointed fiduciary Ted and his counsel Rose made their way through the Florida Court’s that led to erroneous Orders issued by Judge Phillips instantly after he received the cases after Judge Martin Colin recused one day after denying a Motion for Mandatory Disqualification alleging his involvement in Fraud on and Fraud by the Court and these new rulings were based in part on these knowingly false statements in pleadings and in sham hearings held and then ended up in an Order by Federal Judge Blakey that must now be vacated and voided as well due to the admission by Rose of false statements to the Court as Blakey states the following in his Order;

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION “MEMORANDUM OPINION AND ORDER” ISSUED BY
HONORABLE JUDGE JOHN ROBERT BLAKEY.

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20170130%20BLAKEY%20MEMORANDUM%20OPINION%20AND%20ORDER%20Case%2013cv03643%20Doc%20273.pdf>

“The beneficiaries of the testamentary trust identified in the Will of Simon Bernstein are “Simon Bernstein’s then living grandchildren,” while “Simon’s children – including Eliot Bernstein – are not beneficiaries.”

and,

“First, Eliot cannot sustain cognizable damages related to the disposition of the Estate or the testamentary trust in light of the Probate Court’s rulings. The Probate Court found, inter alia, that Simon Bernstein’s “children – including Eliot – are not beneficiaries” of the Will of Simon Bernstein or the related testamentary trust. [240] at 11. Instead, Simon Bernstein’s grandchildren (including Eliot’s children) are the testamentary trust’s beneficiaries. Id. Eliot also has no interest in the disposition of the testamentary trust vis-à-vis his own children, as the Probate Court was forced to appoint a guardian ad litem in light of Eliot’s “adverse and destructive” actions relative “to his children’s interest.” Id. These findings have preclusive effect in this case, 4 such that Eliot cannot demonstrate cognizable damages relative to the disposition of the Estate or the testamentary trust.”

and,

“Citing from an affidavit of Robert Spallina Esq., ““In light of Simon Bernstein’s overall estate plan, including our specific

discussions about the beneficiaries of the proceeds of the Policy, Simon Bernstein in fact executed new testamentary documents. Under Simon Bernstein's new Will and his Amended and Restated Trust Agreement, both of which were formally executed on July 25, 2012, his ten grandchildren are the ultimate beneficiaries of all of his wealth other than the Policy, which I have no doubt he intended to go to his children."

and,

"The Estate, however, paints with too broad a brush. Mr. Spallina's statements regarding his work for Simon Bernstein (including his statements regarding Simon Bernstein's modifications to his testamentary documents) are based upon Mr. Spallina's personal knowledge, and ostensibly are not hearsay. For example, Mr. Spallina might competently testify that: (1) Simon Bernstein modified his testamentary documents in 2012 to name his grandchildren (instead of his children) as the sole beneficiaries of his Estate;"

and,

"IV. Conclusion "For the foregoing reasons, Plaintiffs' motion for summary judgment on Eliot Bernstein's claims [239] is granted, and the Estate's motion for summary judgment [245] is denied."

Dated: January 30, 2016"

144. Rose stated to the Court in hearings held on February 16, 2017 and March 03, 2017 before Honorable Judge Rosemarie Scher all of the following:

145. The Federal Court and Judge Blakey must now be notified by THIS COURT of the false and misleading statements of two Court Appointed Officers of this Court, Ted Bernstein and Alan Rose, that they have polluted virtually every pleading and sham hearing since Judge Phillips was appointed and led to erroneous fraudulent Orders based upon the knowingly fraudulent pleadings

and sham hearings held under his rule and that all of this has Obstructed Justice through false and fraudulent simulated legal process in not just this Court but now the Federal Illinois court.

146. The deliberate and deceitful actions of Ted Bernstein and Alan Rose to mislead the Court and commit further Fraud on the Court to deny litigant Eliot Bernstein not only of his property rights but his due process rights not only are violations of Fiduciary Rules and Regulations and Attorney Conduct Codes for Rose but also violate criminal statutes, including but not limited to, The 2016 Florida Statutes Title XLVI CRIMES Chapter 843 OBSTRUCTING JUSTICE 843.0855 Criminal actions under color of law or through use of simulated legal process.
147. These claims that Eliot was not a beneficiary and had no standing were echoed in the Florida Courts to the 4th DCA, the FL Supreme Court and the 15th Judicial whose Orders were predicated on the false set of premises provided by Court Appointed Officers, Ted Bernstein, his counsel Alan Rose, Esq., Robert Spallina, Esq, and Brian O'Connell, Esq. as evidenced herein and was further revealed before this Court in recent hearings where both O'Connell and Rose testified counter their own pleadings by admitting that Eliot Bernstein was a beneficiary and did have standing in the Simon Bernstein estate case. This Court cannot overlook this as a "mistake" as this scheme was designed to Obstruct and Deny Due Process and use the Court as a Weapon against the Eliot Bernstein Family.
148. That for Ted Bernstein and Alan Rose to continue knowingly proffering false and fraudulent information to this Court about who the beneficiaries are and who has standing and then when proven factually wrong and admitting under oath in testimony before the Court where Court Appointed Officer of the Court Rose concedes that Eliot is a beneficiary and claims that his prior claims were a mistake would be cause enough for this Court to remove both he and his client for incompetence alone, however, it is alleged that this is part of a much deeper and elaborate

continuing and ongoing fraud on this Court and the true and proper Beneficiaries that took place under the prior Judges, resulting in Orders issued in efforts to silence Eliot Bernstein and his family and strip away their due process rights through fraudulent pleadings, sham hearings, predatorily gained guardianships on Eliot's children including an adult child with no proper hearing, all in retaliation for Eliot's blowing the Whistle on Corruption in this Court and others throughout the country. Officers of this Court have committed FELONY ACTS, Eliot has simply come to collect his family's inheritancy and has been victim to these crimes and others.

149. Rose since admitting under oath that he made a "mistake" in his pleadings to this Court and that he "conceded" to the truth that Eliot is a beneficiary with standing contradicting his prior claims but this does not alter the effect of these misrepresentations and that they directly denied due process and procedure to Eliot Bernstein's family for over a year in the cases.
150. Neither Ted or Rose or O'Connell who have proffered this false narrative for over almost two years attempted to correct the error with this Court or other courts and again, this alone is cause for this Court to remove both Ted Bernstein and his counsel and seek sanctions, bonding and reporting to the proper authorities.
151. This is not the first instance of Ted Bernstein as Fiduciary failing to take any corrective actions when confronted with FELONY ACTS committed by his counsel as he failed to take any corrective actions after he learned that his prior counsel, who have ADMITTED AND BEEN PROVEN ALREADY TO HAVE COMMITTED FRAUD UPON THE COURT AND THE BENEFICIARIES in these matters, created forged and fraudulent documents that have benefited Ted's family and he failed to report this to criminal investigators when he learned of it.
152. In another instance, Ted, under oath when confronted with the fact that his Attorney, Robert Spallina, Esq. had applied for life insurance as the Trustee of a Trust that he was never Trustee of

and that Ted claims to be Trustee of, in deposition before the US District Court – Northern District Illinois stated when questioned by the Estate of Simon’s counsel in that matter James Stamos, Esq. the following,

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20150506%20Ted%20Bernstein%20Deposition%20with%20Exhibits.pdf>

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“3· . . . Q· . This is my final question, or just about:

4· . When you learned that Mr. Spallina had filed a claim

5· . identifying himself as trustee of the '95 trust, did you

6· . ever report to anyone in the insurance company or any

7· . authority that he, in fact, was never the trustee of the

8· . '95 trust?

9· . . . A· . I did not.

10· . . . Q· . Did you ever instruct him to take steps to

11· . correct any misimpression he might have caused others to

12· . form as a result of him having made that claim?

13· . . . A· . I'm not sure he caused misimpressions in

14· . anybody, so I don't know, and I didn't have any

15· . conversations with insurance companies.”

**SHIRLEY BERNSTEIN ESTATE & TRUST – REMOVAL OF TED BERNSTEIN AS PR
AND TRUSTEE FOR BREACHES OF FIDUCIARY DUTIES AND MORE**

153. This Court was already forced to reopen the Shirley Estate due to Proven Felony Criminal Acts of Forgery, Fraudulent Notarization and more that were committed to close the Estate of Shirley while Ted Bernstein was the acting PR and the crimes were committed by and through his retained counsel, Tescher and Spallina, and the crimes directly attempt to benefit Ted Bernstein’s family.

154. There was no proper legal Successor PR appointed by this Court for Shirley's Estate after Simon passed away as the PR, as it was not necessary since it appeared that Simon had closed the estate while living, not after he was dead, which was admitted in the first hearing before this Court on September 13, 2013 by Ted's counsel.
155. Ted was not appointed by the Court as Personal Representative prior to the reopening of Shirley's Estate nor immediately after his father's death. According to their story Ted should have been appointed after Simon died as Successor as her Estate was not closed at that time and Ted should have properly closed the Estate of Shirley, yet instead a big old fraud on this Court and the Beneficiaries instead took place.
156. Ted did not seek appointment as PR and yet acted for over a year with no appointment as PR, even signing documents¹⁰ as PR of the closed Estate of his mother and this despite the Estate having been Fraudulently closed by his father Post Mortem when he was PR. Again, this Proven and Admitted Fraud occurred while Ted was the acting fiduciary and again he failed to take any corrective actions against his business associates and bedfellows Tescher and Spallina. Again, all of this cause for this Court to Remove Ted and his counsel instantly.
157. The Fraudulent Estate closing was done while Ted claimed the Shirley Will named him Successor to Simon. Since Simon closed the Estate of Shirley as Fiduciary after he was dead, no Successor was legally appointed by the Court until after the fraud was discovered and over a year later in a bizarre ruling that appointed Ted as Successor at a time after Judge Colin stated in his initial hearing that he had enough evidence and admission of criminal acts to read Ted and his counsel their Miranda Rights.

¹⁰ Page 8 – Affidavit Signed by Ted as PR of closed Shirley Estate by Simon fraudulently and Ted acting with no Letters or Court Appt in May 2013 while making disposition of property and not granted Letters until October 2013.

[http://iviewit.tv/Simon%20and%20Shirley%20Estate/Shirley%20Bernstein%20Condo%20Sale%20Spallina%20Ted%20Documents%20\(2\).pdf](http://iviewit.tv/Simon%20and%20Shirley%20Estate/Shirley%20Bernstein%20Condo%20Sale%20Spallina%20Ted%20Documents%20(2).pdf)

158. Since the Frauds, Beneficiaries have been denied repeated requests to Ted and his Counsel to inspect ORIGINAL signed and executed Shirley and Simon Trusts and Wills and all Amendments, Codicil's, Addendums and Memorandums that were attached to them and Ted Bernstein and his counsel have claimed they are not in possession of the Original Trusts and the Shirley Will that Ted is operating under and claims to have never seen the originals despite a Court Order for Spallina and Tescher to produce them and turn them over to the Curator replacing them and this failure to accurately maintain the records and obtain them is further in violation of Florida Probate Rules and Statutes for failure to accurately maintain the trust records.

159. That Ted claims that Shirley and Simon's 10 grandchildren are beneficiaries of Shirley's Estate and Trust, however, the grandchildren and/or their parents and natural guardians have never been sent a Notice of Administration that they are beneficiaries of the Shirley Estate nor have they received a Notice of Trust for Shirley's Trust, again in violation of Florida Probate and Trust Rules and Statutes.

160. That TESCHER and SPALLINA did not turn over an ORIGINAL Shirley Trust, Shirley Will, Simon Trust, Simon Amended and Restated Trust and Simon Will to the Curator, Benjamin Brown, Esq.¹¹, who replaced them upon their resignation steeped in fraud and this failure to produce is in Contempt of a Court Order (already Exhibited herein by URL and fully included by reference herein) to turn over ALL their files upon their removal by this Court, in fact, they turned over NO ORIGINAL DOCUMENTS TO VALIDATE ANY OF THE COPIES IN THEIR 7202 Page Production, See Exhibit _____ - PUT IN FULL SET AS EXHIBIT Tescher & Spallina, PA Production Documents. Again, the failure of the Curator Brown, his replacement

¹¹ Benjamin Brown Letter Regarding Tescher and Spallina Production being COPIES ONLY – Page 13
<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20150501%20Letters%20confirming%20Personal%20Property%20Shirley%20Condo%20transferred%20to%20Saint%20Andrews%20home.pdf>

O'Connell and Ted and his counsel Rose, all acting in either legal or fiducial capacities have failed to demand Tescher and Spallina relinquish all documents as Ordered.

161. In light of the already Proven and Admitted Fraud and Forgeries committed with alleged dispositive documents submitted fraudulently to this Court by Ted's former counsel, TESCHER and SPALLINA ALL Simon and Shirley's documents must be verified to be legitimate with forensic inspection of the ORIGINALS to determine if the alleged copies are merely further fraudulent documents with alterations and forgeries and this is why Judge Colin ordered Tescher and Spallina to turn over the Originals. Again, the Order was evaded and remains so to this day as Ted Bernstein nor any of his minion of counsel have ever attempted to enforce the Court Order to get the original documents produced from his business associates, friends and his attorneys, Tescher and Spallina.
162. Ted, under oath, claimed to have been shocked to learn his attorneys had committed fraud in January of 2014 when they resigned after admissions of felony acts of forgery and fraud by their law firm, yet Ted then calls Spallina to be his star witness at the Sham Validity hearing held December 15, 2015 before Judge Phillips to testify as to the validity of the Shirley and Simon Wills and Trusts.
163. Shirley's Inventory for her estate assets produced allegedly by Simon Bernstein prior to her death, listed only \$25,000.00 of assets, yet Shirley had assets valued at far greater values that have been found missing from the inventory, including a \$250,000.00 wedding ring and a fully paid for Bentley automobile that are nowhere in her inventory but are in part somehow improperly transferred to Simon without first being accounted for on Shirley's inventory. Where Ted is fully knowledgeable about these unaccounted for assets and has done nothing to properly account for them or adjust her inventory in violation of Probate Rules and Statutes.

164. Despite Ted knowing of these unaccounted for assets missing from Shirley's Inventory and other assets missing from her Inventory, when he was appointed PR by Judge Colin he did not include these assets on an Amended Inventory and instead filed an amended inventory claiming Shirley had \$0.00 worth without even accounting for where the \$25,000.00 of inventory claimed in the prior inventory disappeared to and failing to list assets he was aware of at the time of filing.
165. Eliot Bernstein is a named Beneficiary of the Shirley Bernstein Will despite pleadings submitted by Alan Rose to this Court claiming that Eliot Bernstein is not, identical to the knowingly fraudulent claim by Rose in the Simon Estate and this claim has continued to block Eliot's due process rights in the Shirley Estate case.
166. From the 2008 Will of Shirley Bernstein illustrated below, Eliot is a child of Shirley that is a Beneficiary of Personal Property thereby making Ted and his counsel's claims to this Court that Eliot is not a Beneficiary of the Shirley Estate materially false and misleading, with scienter.

WILL OF SHIRLEY BERNSTEIN¹²

I, SHIRLEY BERNSTEIN, of Palm Beach County, Florida, hereby revoke all my prior Wills and Codicils and make this Will. My spouse is SIMON L. BERNSTEIN ("SIMON"). My children are TED S. BERNSTEIN ("TED"), PAMELA B. SIMON, **ELIOT BERNSTEIN**, JILL IANTONI and LISA S. FRIEDSTEIN.

ARTICLE I. TANGIBLE PERSONAL PROPERTY

I give such items of my tangible personal property to such persons as I may designate in a separate written memorandum prepared for this purpose. I give to SIMON, if SIMON survives me, my personal effects, jewelry, collections, household furnishings and

¹² December 15, 2015 Validity Hearing – Shirley Bernstein Trust - Plaintiff 1 - 2008 Will of Shirley Bernstein.pdf
<http://iviewit.tv/Simon%20and%20Shirley%20Estate/Plaintiff%201%20-%202008%20Will%20of%20Shirley%20Bernstein.pdf>

equipment, automobiles and all other non-business tangible personal property other than cash, not effectively disposed of by such memorandum, and if SIMON does not survive me, **I give this property to my children who survive me**, divided among them as they agree, or if they fail to agree, divided among them by my Personal Representatives in as nearly equal shares as practical, and if neither SIMON nor any child of mine survives me, this property shall pass with the residue of my estate.

**TED IS NOT FIT TO SERVE AS A FIDUCIARY OF THE
SHIRLEY BERNSTEIN TRUST¹³**

**TED BERNSTEIN IS NOT ELIGIBLE TO SERVE AS SUCCESSOR TRUSTEE AS
THE LANGUAGE OF THE TRUST DISQUALIFIES HIM TO SERVE**

167. Ted in Shirley's Trust is considered predeceased for **"ALL PURPOSES OF DISPOSITION"** of the Shirley Trust, therefore all financial transactions and other acts of disposition that Ted has made acting as a Successor Trustee are Fraudulent and in Violation of the Terms of the Shirley Trust and a breach of any alleged fiduciary duties.
168. Spallina admitted to Palm Beach County Sheriff Investigators that while acting as Counsel to Ted Bernstein as acting Successor Trustee of Shirley's Trust he Fraudulently created and Forged a Shirley Trust, as part of a Fraud on the true and proper Beneficiaries, which directly benefited his client Ted Bernstein's family by inserting Ted's children fraudulently into the Shirley Trust as possible beneficiaries.

¹³ December 15, 2015 Validity Hearing – Shirley Bernstein Trust - Plaintiff 2 - 2008 Shirley Bernstein Trust Agreement
<http://iviewit.tv/Simon%20and%20Shirley%20Estate/Plaintiff%202%20-%202008%20Shirley%20Trust%20Agreement.pdf>

169. This Fraudulent Shirley Trust gave Ted's family an alleged 3/10th interest in the Shirley Trust, whereas without the Fraud Ted's family would receive zero percent, as Ted and his lineal descendants were considered PREDECEASED "FOR PURPOSES OF THE DISPOSITIONS MADE UNDER THIS TRUST" by explicit language of the Shirley Trust.

ARTICLE III. GENERAL

E. 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)**

170. Ted has failed to administer the Shirley Trust prudently by considering the purposes, terms and distribution requirements of the trust and has violated Florida Statute 736.0804 and this is cause for this Court to remove Ted on its own motion.

171. Ted has violated the Terms of the Trust and Breached his Fiduciary Duties with each and every Disposition of the Shirley and Simon Trust he has made, including the sale of two real properties and distribution of proceeds to **improper** parties, including his own family and this makes Ted's removal by this Court on its own motion warranted.

TED BERNSTEIN HAS ABUSED PROCESS IN FILING A SHIRLEY BERNSTEIN TRUST CONSTRUCTION AND VALIDITY LAWSUIT AGAINST LEGALLY NON-EXISTENT PARTIES

172. Ted acting as Fiduciary in the Shirley Trust has sued improper and **legally nonexistent parties** in the Shirley Bernstein Trust Validity lawsuit as Defendant/Beneficiaries. Ted filed the lawsuit against parties that are not beneficiaries of Shirley's Trust and it has been discovered and now admitted by Ted's counsel Alan Rose that the parties Ted sued do not legally exist and therefore the lawsuit is baseless and lacks jurisdiction over the legally nonexistent parties and becomes further evidence of Fraud, Waste and Abuse of this Court's Resources, Fraud Upon this Court, Fraud Upon the Beneficiaries, Fraud Upon the Creditor and Interested Parties.

173. The Defendants in the Shirley Trust Construction case listed in the caption and served do not factually exist and therefore the Court has no proper jurisdiction over them and therefore the Shirley Trust case should be terminated and all pleadings, rulings, etc., other than Eliot Bernstein's counter-complaint and other filings, should be vacated.

174. The Parties that were sued as alleged beneficiaries of Shirley's Trust in this lawsuit by Ted Bernstein as Fiduciary through his counsel Alan Rose from the Amended Complaint, are as follows:

- a. ALEXANDRA BERNSTEIN;
- b. ERIC BERNSTEIN;
- c. MICHAEL BERNSTEIN;
- d. MOLLY SIMON;
- e. PAMELA B. SIMON, Individually and as Trustee f/b/o Molly Simon under the Simon L. Bernstein Trust Dtd 9/13/12;
- f. 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.;
- g. 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.;
- h. MAX FRIEDSTEIN;
- i. 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.,

175. The beneficiaries of Shirley's Trust are claimed by Ted and his counsel Alan Rose to be 10 grandchildren trusts of a Simon Bernstein Trust Dtd 9/13/12, with the Trustees of alleged grandchildren sub trusts the children of Simon, yet these beneficiaries are claimed to be under a Simon Bernstein trust that does not legally exist dated 9/13/12 and has not been produced to this Court as part of the Record and was not produced at the Sham Validity Hearing as part of any documents validated.

176. The Court should note that despite being claimed the beneficiaries of Shirley's Trust the 10 grandchildren's trusts are not sued in the Shirley Trust Lawsuit, only 4 are, Pam Simon (who is considered predeceased for all purposes of dispositions of the Shirley Trust is sued individually and as Trustee of the Simon Bernstein Trust Dtd 9/13/12 for her child), Ted Bernstein who is also considered predeceased for all purposes of dispositions of the Shirley Trust does not get sued by Ted Bernstein acting as Trustee of his children's trusts like he sued his siblings and their children, instead Ted Bernstein's children only get sued individually and no grandchildren trusts are sued for his children, despite Ted's own claims that the trusts are the beneficiaries, not his children individually.

177. Perhaps, Ted Bernstein in filing the lawsuit on behalf of the Shirley Trust as Plaintiff/Fiduciary did not want the Court to see that he would also be suing himself as Trustee/Defendant for his children's trusts that do not legally exist and thereby he concealed the obvious conflict of interest that would have been apparent with Ted as Shirley Trust Trustee/Plaintiff against Ted as Simon Bernstein Trust Dtd 9/13/12 Trustee/Defendant.
178. The Simon Bernstein Trust Dtd 9/13/12 and the alleged sub trusts for the grandchildren that were supposedly held thereunder that have not been produced to this Court even at the Validity Hearing, despite the fact that Ted claims to have funded 7 of these trusts via distributions he made to these legally non-existent trusts. These sub trusts were stated to be the following trusts that allegedly are already created and these parties should have all been sued according to Ted's claims that they are the beneficiaries of the Shirley Trust but in fact they were not sued at all, the highlighted information below showing which alleged trusts were not sued by Ted in the Shirley Trust Lawsuit;
- a. Jill Iantoni, Trustee f/b/o Julia Iantoni under the Simon Bernstein Trust dtd 09-13-2012 (EIN: 30-6348369)
 - b. Ted Bernstein, Trustee f/b/o Alexandra Bernstein under the Simon L. Bernstein Trust dtd 09-13-2012 (EIN: 30-6348370)
 - c. Ted Bernstein, Trustee f/b/o Eric Bernstein under the Simon L. Bernstein Trust dtd 09-13-2012 (EIN: 30-6348371)
 - d. Ted Bernstein, Trustee f/b/o Michael Bernstein under the Simon L. Bernstein Trust dtd 09-13-2012 (EIN: 30-6348372)
 - e. Eliot Bernstein, Trustee f/b/o Joshua Bernstein under the Simon L. Bernstein Trust dtd 09-13-2012 (EIN: 30-6348368)

- f. Eliot Bernstein, Trustee f/b/o Daniel Bernstein under the Simon L. Bernstein Trust dtd 09-13-2012 (EIN: 30-6348373)\
- g. Eliot Bernstein, Trustee f/b/o Jake Bernstein under the Simon L. Bernstein Trust dtd 09-13-2012 (EIN: 30-6348374)
- h. Pam Simon, Trustee f/b/o Molly Simon under the Simon L. Bernstein Trust dtd 09-13-2012 (EIN: 30-6372583)
- i. Lisa Friedstein, Trustee f/b/o Max Friedstein under the Simon L. Bernstein Trust dtd 09-13-2012 (EIN: 30-6372584)
- j. Lisa Friedstein, Trustee f/b/o Carly Friedstein under the Simon L. Bernstein Trust dtd 09-13-2012 (EIN: 30-6372585)

179. These alleged Grandchildren Trusts that are allegedly created but nowhere in the Record are further confirmed to exist by Tescher & Spallina, PA via email¹⁴ to have allegedly been created by August 23, 2013 and yet they were not part of Tescher and Spallina's Court Ordered Production despite that Ted Bernstein made distributions to them;

From: Kimberly Moran <kmoran@tescherspallina.com>
Sent: Thursday, August 22, 2013 12:09 PM
To: tbernstein@lifeinsuranceconcepts.com; lisa.friedstein@gmail.com; psimon@stpcorp.com; Jill lantoni; iviewit@gmail.com
Cc: Robert Spallina
Subject: Bernstein Grandchildren's trusts
Attachments: Simon L. Bernstein Amended and Restated Trust Agreement dtd 7-25-2012.pdf

Dear Ladies and Gentlemen:

We know that some of you are in the process of opening the subtrust accounts, so attached is a copy of the Simon L. Bernstein Amended and Restated Trust Agreement dated July 25, 2012, together with a list of the trusts with their respective EIN numbers and titling suggestions, although some brokerage firms or banks may title the accounts in their own way.

The trusts are as follows:

¹⁴ Kimberly Moran Email to Eliot et al. Regarding alleged Trusts for Grandchildren
<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20130822%20Kimberly%20Moran%20Spallina%20and%20Tescher%20regarding%20trusts.pdf>

1. Jill Iantoni, Trustee f/b/o Julia Iantoni under the Simon Bernstein Trust dtd 09-13-2012 (EIN: 30-6348369)
2. Ted Bernstein, Trustee f/b/o Alexandra Bernstein under the Simon L. Bernstein Trust dtd 09-13-2012 (EIN: 30-6348370)
3. Ted Bernstein, Trustee f/b/o Eric Bernstein under the Simon L. Bernstein Trust dtd 09-13-2012 (EIN: 30-6348371)
4. Ted Bernstein, Trustee f/b/o Michael Bernstein under the Simon L. Bernstein Trust dtd 09-13-2012 (EIN: 30-6348372)
5. Eliot Bernstein, Trustee f/b/o Joshua Bernstein under the Simon L. Bernstein Trust dtd 09-13-2012 (EIN: 30-6348368)
6. Eliot Bernstein, Trustee f/b/o Daniel Bernstein under the Simon L. Bernstein Trust dtd 09-13-2012 (EIN: 30-6348373)
7. Eliot Bernstein, Trustee f/b/o Jake Bernstein under the Simon L. Bernstein Trust dtd 09-13-2012 (EIN: 30-6348374)
8. Pam Simon, Trustee f/b/o Molly Simon under the Simon L. Bernstein Trust dtd 09-13-2012 (EIN: 30-6372583)
9. Lisa Friedstein, Trustee f/b/o Max Friedstein under the Simon L. Bernstein Trust dtd 09-13-2012 (EIN: 30-6372584)
10. Lisa Friedstein, Trustee f/b/o Carly Friedstein under the Simon L. Bernstein Trust dtd 09-13-2012 (EIN: 30-6372585)

If you have any questions, please do not hesitate to contact us.

Best regards,

Kimberly Moran, Legal Assistant

[Teschler & Spallina, P.A.](#)

4855 Technology Way, Suite 720

Boca Raton, FL 33431

Tel: (561) 997-7008

Fax: (561) 997-7308

180. Neither the alleged Simon Bernstein Trust Dtd 9/13/12 or the 10 grandchildren trusts have ever been produced in the Shirley Trust Lawsuit and it is now learned from Alan Rose that certain of the these grandchildren trusts that were alleged to exist now do not factually exist at this time despite Ted and Alan suing these legally nonexistent parties as alleged beneficiaries of Shirley's Trust. Another grand Fraud on the Court, Fraud on the Beneficiaries and Fraud on the Creditor that acts as cause for this Court to remove Ted Bernstein on its own motion.

From: Alan Rose <ARose@mrachek-law.com>

Sent: Tuesday, March 8, 2016 6:19 PM

To: Eliot Ivan Bernstein

Cc: Lessne, Steven; O'Connell, Brian M.; Peter Feaman, Esq. ~ Attorney at Law @ Peter M.

Feaman, P.A.; John P. Morrissey Esq. @ John P. Morrissey, P.A.; Foglietta, Joy A; Lisa S.

Friedstein; Jill Iantoni; Pam Simon

Subject: RE: Appointment of a Guardian ad Litem

Attachments: Simon Bernstein Will dtd 07-25-2012 conformed copy - original in courthouse.pdf;
Simon L. Bernstein Amended and Restated Trust Agreement dtd 7-25-2012 – duplicate original.pdf

Your requests are unreasonable and not required by the Court. As to the Trusts, they were created by the Will and Trust of Simon, additional copies of which are attached even though you have been provided copies of these on numerous occasions. As to the trusts to be created per Simon's wishes, I believe you refused to allow the trusts to be funded with an interim distribution **and you do not serve as trustee. I am not sure if these trusts have been created yet, but in any event, that is a matter of little consequence to the person serving as Guardian because he or she could oversee the setting up of any such trust if needed. [emphasis added]** There are no additional trust documents beyond what is attached.¹⁵

181. If Ted and his counsel cannot now produce the **Simon Bernstein Trust dated 9/13/12** and the 10 grandchildren trusts supposedly created then the Shirley Trust case is technically over as the parties sued do not legally exist, other than allowing Eliot's Counter Complaint to be heard and sanctions for this frivolous Abuse of Process Lawsuit that is Vexatious and Fraudulent and again cause for this Court to remove Ted Bernstein as a fiduciary on its own motion.
182. Alan Rose claims in the above email to Eliot that Eliot is not a Trustee of the non-existent Simon Bernstein Trust Dtd 9/12/13, yet Rose sued Eliot as Trustee of this non-existent trust or sub trust in the Shirley Trust lawsuit and here again the Court has cause to remove Ted Bernstein and his Counsel for cause for this Abuse of Process that continues Fraud, Waste and Abuse of Court Resources and further constitutes new acts of Fraud on the Court, Fraud on Beneficiaries, Fraud on Interested Parties and Creditors and this Court should not only remove Ted Bernstein but report the Fraud, Waste and Abuse to the Inspector General and other authorities as mandated.

¹⁵ March 08, 2016 Alan Rose Email to Eliot Bernstein et al.

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20160308%20Alan%20Rose%20Mrachek%20Letter%20Regarding%20No%20Trusts%20for%20Josh%20Jake%20and%20Danny%20under%20Simon%20Trust.pdf>

183. Alan Rose attached to the email the “Simon Bernstein Will dtd **07-25-2012** conformed copy - original in courthouse.pdf; Simon L. Bernstein Amended and Restated Trust Agreement dtd 7-25-2012 – duplicate original.pdf” and where neither of these parties were sued and there appears to be a different Simon Bernstein Amended and Restated Trust Agreement that is dated 7-25-2012 and where Eliot is not a Trustee of that Simon Trust and thus could not be sued in such capacity even if it were an error in the dates of the alleged **9/13/12** Simon Bernstein Trust that was legally sued.
184. Further, the Beneficiaries under the Simon Bernstein Amended and Restated Trust dtd 7-25-2012 are not 10 grandchildren’s trusts but the only trusts held thereunder for any grandchildren as defined to be then living grandchildren, which would be the children of Eliot, Jill and Lisa through their Family Trusts as created under the 2008 Simon Bernstein Trust, which considers Ted Bernstein, Pamela Simon and lineal descendants considered Predeceased for all purposes of dispositions. The definition of grandchildren was not changed by Simon from his 2008 Original Trust in the Amended and Restated Simon Bernstein Trust dated 7/25/2012 and so only Eliot, Jill and Lisa who hold separate Trusts and their children can receive beneficial interests.
185. Simon in allegedly amending his 2008 Trust in 2012 now considered his children Eliot, Jill and Lisa to also be considered predeceased along with Ted and Pam and now only Eliot, Jill and Lisa’s children would be the beneficiaries of the Eliot, Jill and Lisa Family Trusts that are held thereunder and referenced as the “beneficiaries” and again since Ted and Pam’s children have no trusts held under any Simon Bernstein trust they would have no claims to the proceeds.
186. The Court should note however that the parties sued by Ted are not even beneficiaries of Shirley’s Trust, which on the day she died and her trust became IRREVOCABLE the Beneficiary Class was forever cemented and those Beneficiaries are named in the Shirley Trust

as Eliot Bernstein, Jill Iantoni and Lisa Friedstein and their lineal descendants, as clearly stated in the language of the Shirley Trust exhibited below.

SHIRLEY BERNSTEIN
TRUST AGREEMENT
Dated May 20, 2008¹⁶

Article III – General

“E. 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, [emphasis added] (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**

¹⁶ December 15, 2015 Validity Hearing – Shirley Bernstein Trust - Plaintiff 2 - 2008 Shirley Bernstein Trust Agreement

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/Plaintiff%202%20-%202008%20Shirley%20Trust%20Agreement.pdf>

me [emphasis added], provided, however, if my children, ELIOT BERNSTEIN, JILL IANTONI 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.”

ARTICLE II. AFTER MY DEATH

“E. Disposition of Trusts Upon Death of Survivor of My Spouse and Me. Upon the death of the survivor of my spouse and me,

1. **Limited Power**. My spouse (if my spouse survives me) may appoint the Marital Trust and Family Trust (except any part added by disclaimer from the Marital Trust and proceeds of insurance policies on my spouse's life) to or for the benefit of one or more of my lineal descendants and their spouses;

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. Any assets allocated under this Subparagraph II.D. to my children (as that term is defined under this Trust), 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. [emphasis added]** 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 II. 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 II.E. below. [emphasis added]**

[The Court should note that the language in the Trust refers to “Subparagraph II. E. below” but that language is cited in II. E. in the document and below that is II. F., not II. E. as referenced in the document, again this may be further evidence of fraudulent document alteration.]

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.”

187. Further, each of these three qualified Beneficiaries named had three Sub Trusts that were created and funded on the day the Shirley and Simon Trusts were executed in 2008 and they are the Eliot Bernstein Family Trust (see EXHIBIT – Eliot Bernstein Family Trust <http://iviewit.tv/Simon%20and%20Shirley%20Estate/20080520%20Eliot%20Bernstein%20Family%20Trust.pdf>), Jill Iantoni Family Trust and Lisa Friedstein Family Trust.
188. These parties are the TRUE AND PROPER BENEFICIARIES of Shirley’s IRREVOCABLE TRUST on the day she died and they were not even sued as Beneficiaries in the Shirley Trust Lawsuit as eligible beneficiaries in violation of Probate/Trust Rules and Statutes.

189. Eliot, Jill and Lisa were instead sued “individually, as Trustee” of the non-existent trusts for their children that are alleged beneficiaries of the Simon Trust dated 9/13/12 that does not legally exist at this time and who were sued in Shirley’s Trust Lawsuit. The Beneficiaries are defined in the Shirley Trust to be her then living children, where Ted, his sister Pam and their lineal descendants are considered predeceased by definition with their children.
190. Nowhere are 10 grandchildren trusts that were sued in the Shirley Trust Lawsuit mentioned as beneficiaries in the IRREVOCABLE Shirley Trust document not even as possible Beneficiaries and four grandchildren of Ted and Pam’s are clearly considered IRREVOCABLY “PREDECEASED.”
191. No notices of Beneficial Interests have ever been sent to any of these alleged 10 grandchildren trust beneficiaries as now claimed to be the beneficiaries by the Trustee Ted, in violation of Probate/Trust Rules and Statutes and Duties to Inform, again Breaching Fiduciary Duties and cause for Ted’s removal on this Court’s own motion.
192. Unfortunately for Ted, Pam and their lineal descendants, when Shirley died and the Shirley Trust became IRREVOCABLE, Ted, Pam and their children were forever barred from distributions or ever becoming beneficiaries of Shirley’s Trust.
193. However, Ted, Pam and their lineal descendants are inserted into a Shirley Trust Lawsuit as beneficiaries as filed by Ted and his counsel Rose and were sued as beneficiaries of a Simon Trust in this crazy Sham Shirley Trust Lawsuit in efforts to pay improper beneficiaries further and make ILLEGAL distributions already made to these NONEXISTENT IMPROPER PARTIES now appear legal.
194. The reason for all this CONTINUED Fraud on the Court to change beneficiaries of an IRREVOCABLE TRUST is based in part on trying to make it appear legal that the Fraudulent

Dispositions and Distributions that already occurred when Ted, acting as Trustee, made dispositions of the Shirley Trust to improper parties, including his family and his sister Pam's family (40% of the distributions) through fabricated and fraudulent non-existent trusts while the language of the Shirley Trust precludes Ted from making ANY DISPOSITIONS. Therefore, distributions of the Shirley Trust, especially to his family and Pam's family that again are considered predeceased is especially egregious and in violation of the terms of the trust and cause for this Court on its own motion to remove Ted Bernstein for breaches of his fiduciary duties.

195. In contradiction of three years of prior Law of the Case, statements made to Palm Beach County Sheriff deputies and this Court, Ted and his new counsel Rose are trying to now make those prior illegal dispositions and distributions of assets (two homes) that were valued shortly before Simon's death at approximately \$6,000,000.00 and sold by Ted for approximately \$2,000,000.00 (the whole time the homes were listed there was an upward market), with distributions of over \$500,000.00 made already to improper beneficiaries that include Ted and Pam's family for 40% of the distributions, despite clear language in the Shirley Trust that has Ted and Pam and their lineal descendants considered Predeceased for Purposes of Disposition of the Shirley Trust at the time of her death when the trust became IRREVOCABLE and the Beneficiary Class was set in stone.
196. To accomplish this attempt to make the prior ILLEGAL DISPOSITIONS via distributions to IMPROPER BENEFICIARIES now appear legal, Ted and his new counsel Alan Rose are pulling yet another Fraud on the Court and Fraud on the true and proper Beneficiaries, claiming these nonexistent trusts that are not beneficiaries of Shirley's Trust are somehow beneficiaries. Claiming these factually incorrect statements of who the beneficiaries are to this Court through

misleading pleadings and sham hearings and getting this Court to issues Orders from these knowingly false statements that Obstruct Justice claiming that Eliot is not a beneficiary of the Shirley Trust and the grandchildren are. These Orders come of course without any Construction Hearing held to make any determinations to change the beneficiaries and while clearly Eliot is a named Beneficiary of the IRREVOCABLE SHIRLEY TRUST as exhibited herein.

197. Ted's prior counsel have already admitted to Fraudulently creating a Shirley Trust that attempted to change the Beneficiaries through Fraudulent language inserted via a Fraudulent and Forged Amendment to Shirley's Trust that put forth Fraudulent Language that included Ted and Pam's families as beneficiaries, after Shirley was dead by several years and the Shirley Trust was long IRREVOCABLE with the Beneficiary Class already determined. If Ted and Rose's claims that the 10 grandchildren are beneficiaries of Shirley's Trust then why in the world would they procure a Fraudulent Shirley Trust in efforts to insert them fraudulently?

198. In fact, statements made to Palm Beach Sheriff Deputies by Alan Rose, Esq. himself contradict statements and arguments advanced to this Court in pleadings he has filed in the Simon and Shirley Estate and Trust cases.

199. Rose Statements to PBSO referenced below can be found @ the following URL, hereby linked document incorporated by reference in entirety herein,

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/PBSO%20FILES/Copies/Set%20Two.pdf>

(SET TWO). Alan Rose stated to PBSO:

Page 14 of 59 of PBSO report, Page 26,

“ATTORNEY ALAN ROSE PROVIDED A STATEMENT, STATING HE WISHED TO CLARIFY SOME THINGS IN REGARDS TO HOW THE ESTATE DOCUMENTS READ IN HIS OPINION. **HE STATED THAT SHIRLEY'S ASSETS**

WENT TO LISA, JILL, AND ELIOT OR THEIR LINEAL DECEDENTS.

HE STATED THAT ONCE SHIRLEY PASSED HER ASSETS WENT INTO HER TRUST.

HE STATED THAT SIMON WAS THE SOLE BENEFICIARY FOR HIS LIFE. HE STATED THAT SIMON DID HAVE A POWER OF APPOINTMENT THAT **HE COULD EXERCISE; REFERENCE SHIRLEY'S TRUST, CHANGING THE BENEFITS TO LISA, JILL, AND ELIOT'S CHILDREN.**

SIMON COULD CHANGE HIS DOCUMENTS AT ANY TIME UP TO HIS DEATH. ALAN STATED THERE IS QUESTION AS TO WHETHER OR NOT SIMON HAD THE POWER TO DISTRIBUTE THE FUNDS FROM THE TRUST TO SIX GRANDCHILDREN OR 10. THE 10 WOULD INCLUDE THE CHILDREN OF ALL FIVE OF SIMON'S KIDS.

HE STATED THAT SHIRLEY'S ORIGINAL DOCUMENTS STATE THAT TED AND PAM AND THEIR LINEAL DECEDENTS ARE CONSIDERED PREDECEASED . HE STATED THAT WERE OTHER WAYS TO MAKE SIMON'S WISHES COME TRUE FOR THE ESTATES . HE SAID THAT CHANGES COULD HAVE BEEN MADE TO SIMON' S DOCUMENTS [emphasis added] TO REFLECT SHIRLEY' S SO THAT EQUAL DISTRIBUTIONS WERE MADE AMONGST THE 10 GRANDCHILDREN. THIS EXPLANATION OF THE DOCUMENTS GENERATED A SIMILAR IF NOT THE SAME CONCLUSION AS THAT OF SPALLINA'S FROM LAST WEEK.

Page 20 of 59 of PBSO report, Page 32,

“ON 02/14/14 I RECEIVED COPIES OF RECEIPT OF PARTIAL DISTRIBUTION FORM FROM ATTORNEY ALAN ROSE. I RECEIVED A FORM SIGNED BY PAMELA SIMON IN REGARDS TO MOLLY SIMON, SIGNED AUGUST 30, 2013. I RECEIVED ONE SIGNED BY JILL IANTONI IN REGARDS TO JULIA IANTONI SIGNED ON AUGUST 30, 2013. I RECEIVED THREE SIGNED BY TED BERNSTEIN , ONE FOR EACH MICHAEL , ALEXANDRIA, AND ERIC BERNSTEIN.

THEY WERE NOT DATED.

THE FORM READS THAT THE AFOREMENTIONED GRANDCHILDREN (MOLLY, JULIA, MICHAEL, ALEXANDRIA, AND ERIC) OF SIMON BERNSTEIN ARE TO RECEIVE \$80,000 EACH INTO THEIR TRUSTS. IT ALSO STIPULATES THAT **THE MONEY IS TO BE RETURNED IF THE COURTS DEEM THAT IT WAS IMPROPERLY DISTRIBUTED.** [emphasis added] IT REFERENCES THE SHIRLEY BERNSTEIN TRUST AGREEMENT.

THIS CASE REMAINS OPEN.

DETECTIVE RYAN W. MILLER #7704

02/14/14 @ 1457 HRS.

TRANS. VIA EMAIL/COPY/PASTE: 02/20/2014/MDR/#6405

200. The Court should note that Alan Rose claimed to PBSO that Simon **could** have made changes to his trust prior to his death thereby admitting that Simon did not make changes to Shirley’s Trust that **could** have changed the beneficiaries to 10 grandchildren prior to his death. Simon **could not** ADD or SUBTRACT any parties to Shirley’s Irrevocable Trust Class of Beneficiaries that are limited to Eliot, Jill and Lisa and their lineal descendants, once she passed and the Shirley Trust became Irrevocable.

201. To this Court now, Ted through his replacement counsel Rose claims that Simon did make changes while alive and the beneficiaries were changed in Shirley's Trust to include Ted and Pam's family, in fact, suing these alleged improper beneficiaries in the Shirley Trust Lawsuit through the non-existent trusts that Rose now admits are not even created at this time and Rose claims they now can be created by a future Guardian in his email cited already herein. Rose now pleading to this Court that Simon had made the changes while alive, that the trusts exist and the beneficiaries were changed to these nonexistent trusts. The Court will also note that Rose stated that those improper parties paid as beneficiaries have signed something stating they would return the monies depending on what the Court determined as to who the beneficiaries are.
202. Since no Trust Construction hearings have ever been held to change the beneficiaries from those stated in the Shirley Trust, Eliot, Jill and Lisa and their lineal descendants, to these new legally nonexistent alleged beneficiaries of Simon's Trust, the True and Proper Beneficiaries remain as those named in the Shirley Trust at the time of her death.
203. Even if the Beneficiaries were somehow changed by Simon in the Shirley Trust to the grandchildren through an alleged execution of his power of appointment then only Eliot, Jill and Lisa's children would be the Beneficiaries of Shirley's Trust and Simon Trust through their family trusts, so only six of ten grandchildren would qualify and Eliot's children would receive 50% of the Shirley Trust assets as beneficiaries being that they make up 3 of the 6 grandchildren who have Family Trusts.
204. Ted's prior Counsel to him as Fiduciary in Shirley's Trust and the creator of the Shirley Trust documents, Robert Spallina further claimed to Palm Beach County Sheriff deputies contradictory statements to his December 15, 2015 Testimony before this Court, regarding who the beneficiaries are, the following statements were made to PBSO by Spallina regarding Shirley's

beneficiaries. Spallina Statements to PBSO referenced below can be found @ the following URL, hereby linked document incorporated by reference in entirety herein,

(PBSO DOCUMENT SET TWO)

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/PBSO%20FILES/Copies/Set%20Two.pdf>

AUDIO INTERVIEWS WITH PBSO OF SPALLINA, TED AND ROSE FULLY INCORPORATED BY REFERENCE HEREIN @

Kimberly Moran – Legal Assistant & Notary for law office of Tescher & Spallina, PA.

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/PBSO%20FILES/13097087%20Sub001/20130924%20Detective%20Miller%20Mark%20Berry%20and%20Kimberly%20Moran%20Missing%20Roth%2001%20Track%201%20redacted.mpg>

Ted Bernstein with Alan Rose

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/PBSO%20FILES/14029248%20Sub002/20140128%20Miller%20Ted%20Rose%2021040128%2001%20Track%201.mpg>

Robert Spallina with Attorney Roth

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/PBSO%20FILES/14029489%20Sub001/20140121%20Miller%20Spallina%20Roth%20Groover%2001%20Track%201%20-%20Copy.mpg> and

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/PBSO%20FILES/14029489%20Sub001/01%20Track%201.mp3> and

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/PBSO%20FILES/14029489%20Sub001/02%20Track%202.mp3> and

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/PBSO%20FILES/14029489%20Sub001/03%20Track%203.mp3>

205. Spallina states to PBSO as follows:

Page 5 of 59 of PBSO report, Page 17 of Document,

“SPALLINA SAID THAT THE ESTATE PLAN WAS SIMILAR TO MOST OTHERS, IT SAID SHOULD ONE SPOUSE DIE FIRST, THE OTHER WILL RECEIVE EVERYTHING (ALL ASSETS).

HE SAID THAT UNDER BOTH TRUSTS , THE INITIAL DOCUMENTS READ THAT UPON THE SECOND DEATH, TWO CHILDREN (TED AND PAM) WERE EXCLUDED.”

“SPALLINA REITERATED THAT UPON THE DEATH OF THE SECOND SURVIVOR, EVERYTHING FROM BOTH TRUSTS GOES TO JILL, LISA, AND ELIOT. HE TOLD ME THAT WAS THE LAST CHANGE SHIRLEY EVER MADE TO HER DOCUMENTS AND THAT SHE PASSED ON DECEMBER 2010. SIMON WAS STILL ALIVE AND THE TRUST READ THAT EVERYTHING WENT TO HIS BENEFIT. SPALLINA REITERATED THAT HER DOCUMENTS READ THAT UPON SIMON'S DEATH, EVERYTHING (HER ASSETS) WENT TO JILL, LISA, AND ELIOT.” [emphasis added]

“HE SAID SIMON TOLD HIM THAT HE WANTED TO MAKE THE NECESSARY CHANGES TO HAVE BOTH TRUSTS READ THAT THE 10 GRANDCHILDREN WERE THE BENEFICIARIES. HE TOLD ME THAT HE TOLD SIMON (SI AS HE CALLS HIM) THAT HE COULD NOT MAKE THOSE CHANGES TO SHIRLEY'S TRUST BECAUSE SHE HAD WROTE TED AND PAM AND THEIR CHILDREN AS PREDECEASED IN HER TRUST. SPALLINA REITERATED THAT SIMON CAN DO WHATEVER HE WANTS WITH HIS ESTATE, BUT ALL HE CAN DO WITH SHIRLEY'S TRUST IS GIVE IT TO LISA, JILL, AND ELIOT'S CHILDREN.

SPALLINA SAID THAT HE EXPLAINED TO HIM AGAIN, THAT ONLY HIS TRUST, NOT SHIRLEY'S CAN GO TO BOTH GRANDCHILDREN, UNLESS HE TAKES ALL OF THE ASSETS OUT OF THE SHIRLEY TRUST AND PUTS THEM INTO HIS NAME.” [emphasis added]

Page 8 of 59 of PBSO report, Page 20 of Document,

“SO, AFTER THE AFOREMENTIONED PHONE CALL, NEW DOCUMENTS WERE DRAWN UP FOR SIMON'S ESTATE. THESE NEW DOCUMENTS GAVE EVERYTHING TO ALL 10 GRANDKIDS. HE ALSO EXERCISED HIS POWER OF SHIRLEY'S ESTATE, LEAVING EVERYTHING TO ALL 10 GRANDKIDS, EVEN THOUGH LEGALLY HE COULD NOT INCLUDE TED AND PAM'S KIDS BECAUSE OF THE PREDECEASED LIMITATION. [emphasis added] HE SAID THESE DOCUMENTS WERE EXECUTED AT THE END OF JULY 2012. HE SAID SEVEN WEEKS LATER SIMON DIES, UNEXPECTEDLY. I FOUND THAT SIMON PASSED ON SEPTEMBER 13, 2012 OF A HEART ATTACK.

SPALLINA SAID THAT THEY NOTICED THAT THE FIRST PAGE OF THE DOCUMENT SKIPPED FROM ONE TO THREE, SO HE TOOK IT UPON HIMSELF TO ADD IN NUMBER TWO, BEFORE SENDING IT TO YATES. THE CHANGE THAT NUMBER TWO MADE TO THE TRUST, AMENDED PARAGRAPH E OF ARTICLE III, MAKING IT READ THAT ONLY TED AND PAM WERE CONSIDERED PREDECEASED, NOT THEIR CHILDREN. HE SAID THE ORIGINAL TRUST STATES THAT TED, PAM, AND THEIR CHILDREN ARE DEEMED PREDECEASED.” [emphasis added]

Page 8 of 59 of PBSO report, Page 20 of Document,

“HE SAID THAT TED MADE A DISTRIBUTION TO SEVEN OF THE 10 GRANDCHILDREN'S TRUSTS. FOUR OF WHICH INCLUDE TED'S THREE CHILDREN AND PAM'S CHILD.

SPALLINA SAID THAT TED ONLY FUNDED SEVEN OF THE GRANDCHILDREN, BECAUSE ELIOT REFUSED TO OPEN ACCOUNTS FOR HIS THREE KIDS SO THAT TED COULD FUND THEM.

HE SAID THAT IN SEPTEMBER OF 2013, \$80,000 WAS DISTRIBUTED TO EACH OF THE SEVEN TRUSTS, WHICH IS A TOTAL OF \$560,000. **SPALLINA REITERATED THAT TED WAS TOLD TO NOT MAKE DISTRIBUTIONS.**”

206. Several statements made to PBSO should jump out at this Court as being contradictory to the statements being made to this tribunal currently by Ted and his replacement counsel Rose. First, it is clear that Spallina and Rose stated to PBSO that the beneficiaries of Shirley’s Irrevocable Trust could only be Eliot, Jill and Lisa and their lineal descendants and now they are claiming to the Court that the beneficiaries are 10 grandchildren trusts that are nonexistent legally at this time and have not been put into the Court Record anywhere, including at the Validity Hearing and now claim that Eliot is not a Beneficiary of Shirley’s Trust despite their prior statements to PBSO stating he is.

207. Through further FRAUD ON THE COURT AND FRAUD BY COURT OFFICERS however, fallacious statements were made to Judge Phillips and Judge Colin through Fraudulent and False pleadings that Obstructed Justice through false process that led to erroneous Orders in Shirley’s Trust case that are based on contradictory statements by Spallina and Rose now claiming to the Court that Eliot is not a Beneficiary and that Eliot has no Standing in the Shirley Trust because he is not a Beneficiary.

208. Nothing could be further from the truth as the Dispositive documents and evidence that Phillips construed as Valid for the Shirley Trust clearly show, yet the Frauds continue and despite whether Rose submitted Fraudulent pleadings to the Court, all Judge Phillips would have had to

do to determine who the named Beneficiaries in the documents he claimed Valid was to read them to see that in all cases Eliot is a Beneficiary with Standing.

209. In the December 15, 2015 Hearing for Validity, Spallina and Rose sell a contradictory story to the Court than what they stated to PBSO that makes one of the two stories told perjurious.

Spallina and Roses statements from the December 15, 2015 hearing referenced below can be found @ the following URL,

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20151215%20Hearing%20Transcript%20Phillips%20Validity%20Hearing%20ELIOT%20COMMENTS.pdf> , the hereby linked document is incorporated by reference in entirety herein,

December 15, 2015 Hearing¹⁷ Eliot Bernstein questioning Witness Robert Spallina

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“22· ·BY MR. BERNSTEIN:

23· · · · Q· ·Did the fraudulently altered document change

24· ·the beneficiaries that were listed in Shirley's trust?

25· · · · A. [SPALLINA] · ·They did not.”

210. Here below for the Court to see in black and white is the language of the alleged First Amendment and the Second Fraudulent First Amendment, again no Originals have been produced to test the voracity of either for further evidence of Fraud, yet it is clear that the altered document produced DID change the beneficiary class to include Ted and Pam’s children by removing the predeceased language for them and thus the fraudulently altered document DID

¹⁷ December 15, 2015 Validity Only Hearing Judge Phillips
<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20151215%20Hearing%20Transcript%20Phillips%20Validity%20Hearing%20ELIOT%20COMMENTS.pdf>

change the beneficiaries contrary to Spallina's sworn statement before this Court that contradicts his prior statement to Palm Beach County Sheriff Officers:

First Amendment¹⁸

NOW THEREFORE, by executing this instrument, I hereby amend the Trust Agreement as follows:

1. I hereby delete Paragraph B. of Article II. in its entirety.
3. I hereby ratify and reaffirm the Trust Agreement as amended by this First Amendment.

Fraudulent Second First Amendment¹⁹

NOW THEREFORE, by executing this instrument, I hereby amend the Trust Agreement as follows:

1. I hereby delete Paragraph B. of Article II. in its entirety.
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."

¹⁸ December 15, 2015 Validity Hearing, Plaintiff 3 - First Amendment to Shirley Bernstein Trust Agreement
<http://iviewit.tv/Simon%20and%20Shirley%20Estate/Plaintiff%203%20-%20First%20Amendment%20to%20Shirley%20Bernstein%20Trust%20Agreement.pdf>

¹⁹ Plaintiff 6 - Second First Amendment to Shirley Bernstein Trust Agreement - Spallina stated he Fraudulently Altered and Forged
<http://iviewit.tv/Simon%20and%20Shirley%20Estate/Plaintiff%206%20-%20Second%20First%20Amendment%20to%20Shirley%20Bernstein%20Trust%20Agreement%20-%20Spallina%20Alleges%20he%20Fraudulent%3by%20Altered.pdf>

3. I hereby ratify and reaffirm the Trust Agreement as amended by this First Amendment.

And now the Court by reading the language of the 2008 Shirley Trust Paragraph E of Article III, which considers Ted and Pam's Lineal Descendants also predeceased that the fraudulent second amendment removes this predeceased limitation on their lineal descendants, thereby CHANGING THE BENEFICIARIES OF THE TRUST to give Ted and his sister Pam's family a 40% Interest in the Trust. Spallina has perjured his testimony to this Court and the Court being now cognizant of this Perjurious claim by a Court Appointed Officer/Lawyer/Fiduciary has compulsory obligations to report the misconduct to the proper criminal authorities and rectify and correct the orders derived from these false and fraudulent statements pled to this Court by Rose and Spallina, two Court Appointed Officers, that moved this Court to make clearly erroneous decisions and issue erroneous Orders. The language from Shirley's Trust reads as follows:

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 IANTONI 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.

211. Spallina's statement to PBSO evidenced above however claims that the Fraudulent and Forged Shirley Trust Amendment DID change the beneficiaries of Shirley's trust to attempt to include Ted's children as beneficiaries by removing the predeceased language for them in contradiction to his statement at the Validity Hearing to this Court that the language did not change the beneficiary class as evidenced already herein.
212. The statement by Spallina to the Court that it DID NOT change beneficiaries in the December 15, 2015 Hearing on the Validity of the Documents or his statement to Palm Beach County Sheriff Deputies or both are perjurious and must be reported to the proper authorities by this Court as further Fraud on the Court and Obstruction of Justice through further Felony Criminal Acts of Fraudulent Process before the Tribunal by a Court Appointed Officer and Fiduciary of the Court.
213. Spallina further states to PBSO in his statement evidenced above that Simon **could not legally change** the beneficiaries of Shirley's Trust to add Ted and Pam and their lineal descendants and claims that he then drafted papers to do what could not legally be done and thus admits that he drafted Fraudulent Documents for Simon to allegedly sign changing the beneficiaries ILLEGALLY in the 2012 Simon Bernstein Amended and Restated Trust that this Court determined was valid. This again would constitute a new Fraud on the Beneficiaries and must be reported by this Court to the proper authorities.
214. In fact, dispositions, including but not limited to, improper distributions were made by Ted acting as Fiduciary despite the language considering him Predeceased for ALL PURPOSES OF DISPOSITION from Shirley's Trust. Ted made these payments in Violation of the Terms of the Shirley Trust to 7 of the alleged but not produced to this Court grandchildren's trusts of Simon's Trust, including three of his own children who are also considered predeceased and there is still

no evidence that any of the alleged 10 grandchildren's trusts exist at this time and none are in the Record.

215. If Simon had done an Amended and Restated Trust just weeks before his death and being an expert Estate Planning Life Insurance Agent for 50 years, why did he not name the ten grandchildren anywhere in his Amended and Restated Trust and why did he not create the subtrusts for the 10 grandchildren when he was living and that were allegedly made part of the Simon Amended and Restated Trust but were not produced with the Simon Trust validated by this Court.
216. All 10 grandchildren trusts that Ted maintains are the beneficiaries of Shirley Trust were not even sued in this lawsuit he filed, as Ted Bernstein's children were sued individually only and not through their alleged trusts created through a legally nonexistent Simon Bernstein Trust dated 9/12/13 with Ted as Trustee of his children's trusts, despite the fact that he sued his siblings and their children through these legally nonexistent trusts claiming these trusts were the beneficiaries and litigants.
217. Ted made distributions, despite language in the Shirley Trust that considers him predeceased for ALL PURPOSES OF DISPOSITIONS of the Shirley Trust and then made distributions to his children's alleged trusts under the legally nonexistent Simon Bernstein Trust dated 9/12/13 and then failed to sue these Trusts as the alleged Beneficiaries.
218. Eliot Bernstein was sued as Trustee of a non-existent trust the Simon Bernstein Trust dated 9/13/12 and he has never been provided a copy of any such Trust and only recently learned from Alan Rose that the trusts that were allegedly already created for his children do not legally exist at this time.

219. Rose was directed by Judge Colin to sue all possible beneficiaries of the Shirley Trust in a two count Validity and Construction lawsuit, Alan Rose instead sued alleged beneficiaries of Simon Bernstein's trust and Shirley's Irrevocable Class of Beneficiaries were not sued at all, which only include Eliot Bernstein, Lisa Friedstein Bernstein and Jill Iantoni Bernstein and their lineal descendants individually, with benefits passing through their established and funded family trusts under the Simon and Shirley Trusts, which were created when Simon and Shirley did their initial trusts in 2008.
220. When Shirley died her Beneficiaries were Irrevocable and the Class of Beneficiaries set in stone. From that point forward Beneficiaries could neither be added nor subtracted by Simon Bernstein or any other party despite any wishes of Simon's after Shirley's death, thus the meaning of IRREVOCABLE.
221. The Shirley Trust Construction and Validity Lawsuit was also not properly filed by Rose as a civil case but instead as a probate case.
222. Finally, Rose in an about face to his earlier claims that the Grandchildren's Trusts do not exist, now claims to this Court in Filing # 48914108 E-Filed 11/15/2016 02:24:32 PM in the Estate of Shirley Bernstein that,

“Moreover, the persons who are the ultimate beneficiaries of The Shirley Bernstein Trust, a Trust created for the benefit of each of her ten grandchildren, are controlled by four of her children and the Guardian Ad Litem appointed to represent Eliot's children. All of those parties support and have agreed to that it is in the best interests of the Beneficiaries of this Estate for the Court to order the immediate re-closure of this Estate.”

223. Here Rose now claims 10 Grandchildren's Trusts are the beneficiaries of Shirley's Trust and where the trusts are "created" and yet he has failed to produce to this Court any of the alleged 10 Grandchildren Trusts.

224. It should be noted that at the Sham Validity Hearing held on 12/15/15 before Judge Phillips no ORIGINAL ESTATE OR TRUST DOCUMENTS WERE PRODUCED, NO GRANDCHILDREN TRUSTS WERE PRODUCED AND IT WAS LEARNED THAT THE FIDUCIARY TED AND HIS COUNSEL ROSE AND FORMER COUNSEL SPALLINA DID NOT KNOW WHERE ORIGINALS WERE, DESPITE A COURT ORDER THAT SHOULD HAVE HAD ALL TESCHER AND SPALLINA'S DOCUMENTS TURNED OVER TO THE SUCCESSOR CURATOR BENJAMIN BROWN, ESQ. and then the originals should have passed to the Successor PR Brian O'Connell. Both Brown and O'Connell have claimed only to have received copies of the Tescher and Spallina Production documents and the Originals, including all trusts remain missing/suppressed/denied/destroyed, in contempt of this Court's Order to produce.

**SIMON BERNSTEIN TRUST – REMOVAL OF TED BERNSTEIN AS TRUSTEE FOR
BREACHES OF FIDUCIARY DUTIES AND MORE**

225. The previous Co-Trustees of the 2012 Simon Trust were DONALD R. TESCHER, ESQ. and ROBERT L. SPALLINA, ESQ. (Tescher & Spallina) by virtue of the Successor Trustee provision set forth in Article IV, Section C of the 2012 Simon Trust. A copy of the 2012 Amended and Restated Trust is attached hereto as Exhibit "A."

226. By a letter dated January 14, 2014 addressed to the five children of Simon Bernstein, as opposed to the alleged beneficiaries of the 2012 Simon Trust, TESCHER and SPALLINA resigned as,

- i. Co-Trustees of Simon's 2012 Amended and Restated trust,
- ii. Co-Personal Representatives/Executors to the Simon Estate,

- iii. Counsel to themselves as Co-Trustees and Co-Personal Representatives of Simon's Estate and Trust,
- iv. **Counsel to Ted** as Trustee of the Shirley Trust,
- v. **Counsel to Ted** as Personal Representative of the Shirley Estate,
- vi. **Counsel to Ted** as Trustee of the legally nonexistent Simon Bernstein Irrevocable Insurance Trust dated 1995,
- vii. Spallina as alleged Trustee of the legally nonexistent Simon Bernstein Irrevocable Insurance Trust dated 1995, and,
- viii. Counsel in all other fiducial and legal capacities they were acting in for any Bernstein family related matters.

A copy of the letter²⁰ is attached hereto as **Exhibit "B."**

227. In the 2008 Simon Trust Ted is not named as a Successor Trustee and instead the Creditor, William Stansbury, is named Successor Trustee. In the 2012 Amended and Restated Trust Ted also is not named by Simon weeks before he dies and instead Spallina and Tescher were alleged to have been named.
228. Donald Tescher upon resignation after admitting his law firm and partner Robert Spallina committed Fraud by creating a Fraudulent Shirley Trust that inserted language to include Ted and Pamela's families into the trust as possible beneficiaries made an inconceivable successorship appointment, POST RESIGNATION AMIDST ADMISSIONS OF FRAUD and elected their client Ted on whose behalf as fiduciary the felony criminal acts were committed, bedfellow and business associate Ted to succeed Tescher and his partner as Co-Trustees and all without Court Approval.
229. This Fraudulent successorship must be voided by the Court as language in the Simon Trust has Ted considered predeceased for ALL PURPOSES of the Trust and further in the Successor Trustee language a successor cannot be a related party. Again, the Court must remove Ted on its own motion for these reasons alone.

²⁰ January 14, 2014 Tescher & Spallina, PA Resignation Letter
<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20140114%20Tescher%20and%20Spallina%20Resignation%20Letter%20as%20PR%20in%20estates%20of%20Simon%20and%20Shirley.pdf>

230. The Court recognizes the following statement from the 2008 Simon L. Bernstein Trust that was allegedly amended by Simon in 2012, which states clearly,

“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...”

231. The Court recognizes the following language from the 2012 Simon Amended & Restated Trust, which states,

“Notwithstanding the foregoing, **for all purposes of this Trust and the dispositions made hereunder [Emphasis Added]**, my children, TED S. BERNSTEIN, PAMELA B. SIMON, ELIOT BERNSTEIN, JILL IANTONI and LISA S. FRIEDSTEIN, shall be deemed to have predeceased me as I have adequately provided for them during my lifetime.”

232. After their resignation amidst the multiple Fraudulent Felony Criminal Acts their law firm committed upon this Court and Beneficiaries, TESCHER in his resignation letter stated after resigning, as if he still was acting as a Co-Trustee, "If the majority of the Bernstein family is in agreement, I would propose to exercise the power to designate a successor trustee by appointing Ted Bernstein in that capacity." This statement coming after his resignation for his firm's involvement in Fraud on the Court, Fraud on the Beneficiaries and Fraud on the Creditor while retained by their client Ted as the acting Fiduciary.

233. This improper transfer of Successorship to Ted, was designed to keep Ted in control of the Simon Trust through the fiduciary position and despite the language of the Simon Trust that Tescher and Spallina themselves authored that precludes Ted from any such fiducial role as he is

considered predeceased for ALL purposes of the trust, yet it was necessary to replace themselves with their friend who they knew would continue the pattern and practice of fraud they were all involved in and to further aid and abet covering up the crimes of Spallina and Tescher to protect all of them by further committing fraud on the court, fraud on the beneficiaries and fraud on the creditor who were attempting to expose their crimes.

234. Of course, the minute the Court recognized that FELONY CRIMINAL ACTS occurred in this Court by Ted Bernstein as Fiduciary and his counsel, all of them should have been instantly removed from the proceedings to protect the beneficiaries and this Court from further fraudulent acts and as this was not done by this Court and so there is a never ending stream of fraud taking place in new fraudulent acts and efforts to cover up the past fraudulent acts by parties directly implicated in the PROVEN and ADMITTED frauds being allowed to retain fiducial and legal standing in these proceedings.

235. In the PBSO report Ted and Spallina also offer contradictory statements regarding the distributions that Ted made from Shirley's Trust through allegedly Simon's Trust to improper beneficiaries that do not legally exist at this time.

236. Spallina stated to PBSO officers,

(PBSO DOCUMENT SET TWO)

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/PBSO%20FILES/Copies/Set%20Two.pdf>

Page 9 of 59 of PBSO report – Page 21 of document

“SPALLINA STATED THAT AGAINST HIS ADVICE, A DISTRIBUTION WAS MADE FROM ONE OF THE TRUSTS AFTER SIMON'S DEATH. HE STATED THAT HE ADVISED AGAINST THIS AND WHEN SIMON PASSED, A FORMER PARTNER FILED A CLAIM AGAINST THE ESTATE FOR \$2,500,000.”

Page 9 of 59 of PBSO report and page 10 of 59 – Page 21 and 22 of document

“SPALLINA STATED THAT TED BERNSTEIN IS THE TRUSTEE FOR SHIRLEY'S TRUST.

HE SAID THAT SHIRLEY HAD A CONDO THAT WAS SOLD FOR \$1,400,000 AND THAT MONEY WENT INTO THE TRUST. HE SAID THAT TED DISCUSSED WITH HIS SIBLINGS, POSSIBLY EXCLUDING ELIOT, THAT THERE WAS CONCERN ABOUT A CREDITOR GETTING SOME OF THE MONEY. HE SAID THAT TED MADE A DISTRIBUTION TO SEVEN OF THE 10 GRANDCHILDREN ' S TRUSTS. FOUR OF WHICH INCLUDE TED ' S THREE CHILDREN AND PAM ' S CHILD. SPALLINA SAID THAT TED ONLY FUNDED SEVEN OF THE GRANDCHILDREN, BECAUSE ELIOT REFUSED TO OPEN ACCOUNTS FOR HIS THREE KIDS SO THAT TED COULD FUND THEM.

HE SAID THAT IN SEPTEMBER OF 2013, \$80, 000 WAS DISTRIBUTED TO EACH OF THE SEVEN TRUSTS , WHICH IS A TOTAL OF \$560, 000. **SPALLINA REITERATED THAT TED WAS TOLD TO NOT MAKE DISTRIBUTIONS. [EMPHASIS ADDED]**”

237. Now from Ted’s statement to PBSO regarding distributions of Shirley Trust monies,

Page 12 of 59 PBSO Report and Page 24 of document

“TED STATED THAT HE WAS TOLD THAT SHIRLEY'S TRUST WAS TO BE DISTRIBUTED AMONGST HER 10 GRANDCHILDREN. TED STATED THAT HE DID NOT READ ALL OF SHIRLEY'S TRUST DOCUMENTS AND THAT SPALLINA AND TESCHER HAD BOTH TOLD HIM SEVERAL TIMES HOW SHIRLEY'S TRUST WAS TO BE DISTRIBUTED.”

Page 13 of 59 of PBSO Report and Page 25 of document

“HE STATED THAT SPALLINA TOLD HIM IT WAS OK TO DISTRIBUTE THE FUNDS. [EMPHASIS ADDED] HE STATED THAT TESCHER AND SPALLINA RESPONDED VIA E-MAIL ON HOW TO RECEIVE THE FUNDS, SUCH AS SETTING UP TRUST ACCOUNTS FOR THE FUNDS TO GO INTO. TED TOLD ME THAT THERE WERE CONVERSATIONS, WHERE HE WAS TOLD THAT SIMON'S ASSETS COULD NOT BE DISTRIBUTED DUE TO CREDITORS FILING AGAINST THE ESTATE, BUT HE WAS LEAD TO BELIEVE IT WAS OK TO MAKE A PARTIAL DISTRIBUTION OF FUNDS FROM SHIRLEY'S ESTATE, BUT THAT THEY WOULD NEED TO BE CAREFUL IN REGARDS TO DISTRIBUTING FUNDS THAT WERE OBTAINED THROUGH LIQUIDATING HER JEWELRY AND PERSONAL PROPERTY.”

238. Here the Court can witness that Spallina claimed to PBSO as illustrated already herein that he told Ted, as his counsel, not to make distributions and that Ted contradicts that claim in his statement to PBSO where he claims that Spallina and Tescher both advised him that it was ok to make distributions.
239. The Court can clearly see the discrepancies in Ted and his former counsel and his current counsel Rose's statements and this puts Ted as a fiduciary in an adverse position with beneficiaries who would want to know which statements are true and which false but with Ted as a biased party as fiduciary with self-preservation conflicts to keep him and his former counsel from further prosecution, Ted has not, will not and cannot question Tescher and Spallina because if their story is true, Ted has perjured himself to the PBSO and could be charged. Again, Ted as Fiduciary is conflicted and adverse to beneficiaries in matters involving the Shirley and Simon's Estates and Trusts and cannot be an impartial fiduciary and due to his failure to recognize these

conflicts and adverse interests and resign as any proper fiduciary would, this Court must remove Ted on its own motion for cause.

**TED BERNSTEIN IS NOT ELIGIBLE TO SERVE AS SUCCESSOR TRUSTEE IN
THE SIMON BERNSTEIN TRUST AS THE LANGUAGE OF THE SIMON TRUST
DISQUALIFIES HIM TO SERVE AS SUCH AND MORE**

240. Ted in 2008 Simon Trust like in the Shirley Trust is considered predeceased for ALL PURPOSES OF DISPOSITION of the Trust as already evidenced herein.

241. Ted in Simon Trust 2012 considered predeceased for ALL PURPOSE of trust as already evidenced herein and therefore all financial transactions, distributions and ALL other acts of disposition made by Ted claiming to be a Fiduciary are Fraudulent and in Violation of the Terms of the Trust.

242. Article IV, Section C.(3) (Page 16) of the 2012 Simon Trust states:

C. Appointment of Successor Trustee

3. . . . A successor Trustee appointed under this subparagraph shall **not** be a Related or Subordinate Party of the trust. (**emphasis added**)

243. Under Article III, Subsection E (7), A "Related or Subordinate Party" is defined in the Trust as follows:

ARTICLE III. GENERAL

E. Definitions. In this Agreement,

7. Related or Subordinate Party. A "*Related or Subordinate Party*" to a trust describes a beneficiary of the subject trust or a related or subordinate party to a beneficiary of the trust as the terms "related or subordinate party" are defined under Code Section 672(c).

The "Code" is defined as "the Internal Revenue Code of 1986 ... "

A "Related or subordinate party" under the Code means any nonadverse party who is " ...

(2) any one of the following: The Grantor's father, mother, issue, brother or sister ... "

244. Ted is the son, or an "issue" of the Grantor, SIMON BERNSTEIN, and a related party (father) to some of the beneficiaries. Therefore, Ted is ineligible as a "Related or Subordinate Party" to serve as a Successor Trustee under §736.0706(2)(c).

245. Further, Ted is specifically disqualified to be a Successor Trustee by the terms of the 2012 Simon Trust in another provision of the Trust that also disqualifies Ted as he is considered predeceased for ALL PURPOSES of the Trust. Article III E (1) states:

Notwithstanding the foregoing, **for all purposes of this Trust and the dispositions made hereunder**, my children, Ted S. BERNSTEIN, PAMELA B. SIMON, ELIOT BERNSTEIN, JILL IANTONI and LISA S. FRIEDSTEIN, shall be deemed to have predeceased me..." (**emphasis added**)

246. Therefore, by the very language of the 2012 Simon Amended and Restated Trust, Ted, in any scenario, is wholly disinherited, considered legally predeceased and further disqualified by the provision of the Trust to serve as a Successor Trustee or make any dispositions.

247. Further, the Court is being asked now to approve yet another settlement with the new PR, Brian O'Connell of the Estate of Simon who has been notified of a very serious conflict of interest with a partner of his firm Jerald Beer and Eliot and Simon Bernstein.

248. Where Eliot is pursuing Mr. Beer in a variety of State and Federal, Civil, Criminal and Ethical actions in regard to the IP thefts of Eliot's and Simon's making his firm now highly conflicted with Eliot and Simon's Estate. Despite being notified of this conflict of interest by Eliot Bernstein several times in writing and seeking his resolution of the Conflict or his resignation, Mr. O'Connell has refused to voluntarily resign or bring the matter to the Court for

determination. Mr. O'Connell filed an answer to the Shirley Bernstein Trust Lawsuit Amended Complaint claiming Ted was **not a validly serving Trustee** of the Simon Trust and from that pleading stated,

AFFIRMATIVE DEFENSE

“1. First Affirmative Defense - Lack of Standing - Ted Bernstein lacks the requisite standing **as he is not validly serving as Trustee of the Simon Trust [emphasis added]**, is not a beneficiary of the Simon Trust, and is not representing any minor child that is a beneficiary of the Simon Trust.”²¹

249. Further, O'Connell was informed by Mr. Feaman in writing of multiple Conflicts of Interest and Adverse interests²² being ignored by Ted and his counsel Alan Rose, including in their actions in

²¹ February 17, 2015 Brian O'Connell Answer and Affirmative Defense to Shirley Trust Construction Lawsuit <http://iviewit.tv/Simon%20and%20Shirley%20Estate/20150217%20Answer%20%20Affirmative%20Defenses%20O'Connell%20States%20Ted%20is%20NOT%20VALID%20TRUSTEE.pdf>

²² March 14, 2014 Feaman Letter to Curator Benjamin Brown, Esq. regarding fraud in Illinois Insurance Litigation involving Spallina fraudulent application for Life Insurance and Ted Bernstein and Robert Spallina's fraudulent representation as alleged Trustee of a lost trust that neither possesses that filed a Federal Court action using said non-existent trust.

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20140304%20Stansbury%20Letter%20to%20Curator.pdf> and

August 05, 2014 Feaman Letter to Alan Rose re Using the Grandchildren as Pawns and monies set aside for their schooling.

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

August 29, 2014 Feaman Letter to Successor Personal Representative Brian O'Connell stating assets were being illegally converted and more.

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

September 19, 2014 Feaman letter to O'Connell regarding missing and unaccounted for assets of the estate.

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

December 16, 2014 Feaman Letter to Brian O'Connell regarding Conflicts of Interest and more of Ted Bernstein and Alan Rose that should cause the removal of both parties, Ted from fiduciary roles and Alan as counsel for the fiduciary.

<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>

a Federal Court and despite this, after learning that Eliot was pursuing a Conflict of Interest against his firm, Mr. O'Connell did an "About Face" and began Aiding and Abetting and further facilitating Ted and his Counsel Rose in trying to cover up the prior crimes and continue the ongoing crimes.

250. Mr. O'Connell has Breached his Fiduciary Duties and again this is being reported to State and Federal, Civil, Criminal and Ethical authorities at this time. Mr. O'Connell is also trafficking in stolen goods from the Estates and Trusts of Simon and Shirley Bernstein while making False and Fraudulent pleadings to the Court and entering into knowingly Fraudulent Settlements with a Trustee he claims is NOT VALIDLY SERVING in the Simon Trust.
251. To make matters worse, despite Eliot advising the 4th DCA of the Conflict of Interest between Brian O'Connell and his Partner Jerald Beer at the firm of Ciklin Lubitz Martens & O'Connell with Eliot and Simon over the IP thefts and the possible Conflict that could arise with Chief Judge of the 4th DCA, Cory Ciklin, also a former Partner at his brother's law firm, it was learned that Chief Judge Ciklin had ignored the Conflict of Interest with his prior firm and ruled in several of the panels issuing Orders on these matters. Despite the 4th DCA Sua Sponte replacing Judge Ciklin after the fact of his participation as a trier of facts where he was clearly Conflicted the whole 4th DCA process is now open to review for further evidence of Obstruction, as Eliot will have to pursue each party involved in the decisions to determine the effect of Mr. Ciklin's involvement, what documents Ciklin obtained, whom he spoke with, etc. making most of the Appellate panels members now Material and Fact Witnesses in the matters and causing them to

and

August 26, 2016 - Feaman Letter to Judge Phillips regarding Ted and Alan conflicts and more.

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20160826%20Feaman%20Letter%20to%20Judge%20Phillips%20re%20Simon%20Estate%20and%20Motion%20for%20Retention%20of%20Counsel%20and%20to%20Appoint%20Ted%20Adminsitrator%20Ad%20Litem.pdf>

mandatorily Disqualify themselves and void their Orders. See Exhibit – Orders Removing Ciklin and Replacing Him on Orders.

252. That the Court should take note that despite O’Connell claiming Ted Bernstein is not validly serving as Trustee of the Simon Trust, O’Connell continued working with Ted Bernstein and Alan Rose as Trustee of the Simon Bernstein Trust racking up huge legal bills for the Estate and Trust of Simon and Shirley Bernstein in what amounts to another fraudulent billing scheme to abscond with Estate and Trust assets.

**TED BERNSTEIN, AS SUCCESSOR TRUSTEE AND PR, HAS FAILED TO FOLLOW
FLORIDA STATUTE 736.0813 AND 736.08135 BY BREACHING HIS DUTY TO
INFORM AND ACCOUNT**

253. The duty to account is so fundamental to the law of trusts that this duty cannot be diminished by the trust itself. The trust instrument may provide that a trustee need not account or only account informally to a beneficiary, but according to the Florida Trust Code, any such limiting provisions are ineffectual and cannot relieve the trustee of his or her duty to account fully to a qualified beneficiary. See: Florida Statute. 736.0105(2) (s).

254. The duty of a trustee to account has been codified in Florida Statute 736.0813:

736.0813 Duty to inform and account.---The trustee shall keep the qualified beneficiaries of the trust reasonably informed of the trust and its administration.

(1) The trustee's duty to inform and account includes, but is not limited to, the following:

(a) Within 60 days after acceptance of the trust, the trustee shall give notice to the qualified beneficiaries of the acceptance of the trust and the full name and address of the trustee.

(b) Within 60 days after the date the trustee acquires knowledge of the creation of an irrevocable trust, or the date the trustee acquires

knowledge that a formerly revocable trust has become irrevocable, whether by the death of the settlor or otherwise, the trustee shall give notice to the qualified beneficiaries of the trust's existence, the identity of the settlor or settlors, the right to request a copy of the trust instrument, and the right to accountings under this section.

(c) Upon reasonable request, the trustee shall provide a qualified beneficiary with a complete copy of the trust instrument.

(d) A trustee of an irrevocable trust shall provide a trust accounting, as set forth in s. 736.08135, to each qualified beneficiary annually and on termination of the trust or **on change of the trustee. (emphasis supplied)**

(e) Upon reasonable request, the trustee shall provide a qualified beneficiary with relevant information about the assets and liabilities of the trust and the particulars relating to administration.

255. TRUST AND ESTATE DOCUMENTS WERE SECRETED FROM BENEFICIARIES.

256. BENEFICIARIES HAVE BEEN REFUSED THE RIGHT TO INSPECT ORIGINAL DISPOSITIVE DOCUMENTS FROM THE ESTATES AND TRUSTS.

257. TRUSTS and WILLS of Simon and Shirley are missing Attachments, Codicils, Addendums and Schedules so that beneficiaries cannot determine what the Estate Corpus and Trust Res are for each.

258. NO ACCOUNTINGS HAVE BEEN PROVIDED TO THE BENEFICIARIES SINCE TED HAS CLAIMED TO BE A FIDUCIARY IN ALL OF THE FOLLOWING:

259. SHIRLEY ESTATE – No accounting since September 13, 2012 when Ted began acting as Successor Personal Representative/Executor. (Ted was not PR/Executor until on or about October 18, 2013 when appointed by Judge Colin).

260. THERE HAS NEVER BEEN AN ACCOUNTING SENT TO ANY PARTY OF SHIRLEY'S ESTATE SINCE DECEMBER 08, 2010 WHEN SHIRLEY PASSED AWAY IN VIOLATION

OF PROBATE RULES AND STATUTES DESPITE CHANGES IN PR FROM TED TO SIMON.

261. SHIRLEY TRUST - No accounting since September 13, 2012 when Ted alleged himself to be Successor Personal Representative/Executor.
262. THERE HAS NEVER BEEN AN ACCOUNTING SENT TO ANY PARTY OF SHIRLEY'S TRUST SINCE DECEMBER 08, 2010 WHEN SHIRLEY PASSED AWAY IN VIOLATION OF PROBATE RULES AND STATUTES.
263. SIMON TRUST – No accounting since January 14, 2014 when allegedly Ted became Successor Trustee after his counsel resigned amidst admission of fraudulently altering Shirley's Trust documents and more and illegally and against the dispositive documents anointed Ted as a Successor as their final fraudulent act as resigned fiduciaries before being removed from these proceedings and resigning from all Bernstein family matters.
264. SIMON ESTATE – No accounting from September 13, 2012 until May 01, 2014 until Donald Tescher, Esq. and Robert Spallina, Esq. resigned and were ordered by the Court to produce an accounting. The accounting has been met with multiple objections that remain unheard at this time.

FAILED ACCOUNTINGS – SHIRLEY ESTATE

265. Ted has failed to provide timely statutorily required accounting for the Estate of Shirley and the Inventories produced have been challenged and there are missing assets that have been failed to properly be inventoried and more, all in violation of Florida Probate/Trust Rules and Statutes.
266. Since Ted was appointed Personal Representative in the Shirley Bernstein Estate, NO statutorily required accounting has been filed with beneficiaries despite repeated requests, and despite the change in fiduciaries when the Estate was reopened, in violation of probate and trust rules and statutes.

267. That the Estate of Shirley was reopened due to PROVEN AND ADMITTED Fraud Upon the Court and Fraud Upon the Beneficiaries and despite no Valid Waivers of Accounting by all Beneficiaries, including Eliot Bernstein and his children, Ted has failed to provide a Final or Interim accounting.

FAILED ACCOUNTINGS – SHIRLEY TRUST

268. Ted has provided NO ACCOUNTING FOR THE SHIRLEY TRUST since he has been the alleged Successor Trustee in violation of Florida Probate/Trust Rules and Statutes.

269. Since becoming the Successor Trustee of the 2008 Shirley Bernstein Trust Agreement on September 13, 2012 Ted has failed to provide a full copy of Shirley's Trusts with all Schedules and Addendums as required by statute to account for the Trust Corpus/Trust Res and has provided no statutorily required accountings.

270. A trustee cannot fulfill his duty to account by merely turning over to the beneficiaries the check register of the trust bank account, a list of checks, bank statements, copies of bills and receipts. It is the duty of the trustee to provide a proper and sufficient accounting.

271. Allegations by multiple parties of fraudulent sales of Tangible Personal Property

a. Feaman notifies Phillips of unresolved fraud and Phillips ignores

272. Home Sale was done with a fraudulent land trust. The purchaser of the Homestead home, Donald Trump's friend Mitchell Huhem was found dead in home shortly after moving in with his head blown clear off and this was discovered after Eliot notified this Court, the Federal Court and other State and Federal agencies of the Fraudulent documents used in the Probate court for the sale of the home.

273. Eliot had called for the Disqualification of Judge Martin Colin for his direct involvement in the aiding and abetting the Fraudulent sale of the home, as he was acting far outside the Color of Law by allowing Ted, who again is considered PREDECEASED FOR ALL PURPOSES OF

DISPOSITIONS OF THE SHIRLEY TRUST, to sell the home in what initially was a secreted sale from beneficiaries and interested parties.

FAILED ACCOUNTINGS – SIMON TRUST

274.

275. No timely accountings were produced as required by Probate Rules and Statutes by the former Co-Trustees of the Simon Bernstein Trust, Tescher and Spallina prior to their resignation for Fraud.

276. No accountings were produced as required by Probate Rules and Statutes as required by the former Co-Trustees of the Simon Bernstein Trust after their resignations for Frauds committed by their law firm Tescher & Spallina, PA.

277. No accounting was demanded by Ted Bernstein as Successor Trustee who was improperly appointed by his former counsel Tescher and Spallina from Tescher and Spallina upon their resignations as required by Probate Rules and Statutes.

278. Ted Bernstein's accounting for the Simon Trust starts upon his taking successorship with no prior accounting for the Simon Trust and thus does not meet generally accepted accounting principles as there is no way to know how much was in the Simon Trust prior to Ted and how much is now missing.

279. Between Ted and his former counsel there was NO accounting for over three years in Simon's Trust in Violation of Probate/Trust Rules and Statutes.

280. Ted's failure to statutorily and timely account in the Shirley Estate, the Shirley Trust and the Simon Trust is cause for this Court to remove Ted as a Fiduciary of the Simon Trust on its own motion.

281. In a recent pleading filed November 28, 2016 with Judge Scher by Alan Rose with this Court Rose states, "*Eliot lives in a world filled with conspiracy and fraud, where everyone is a thief,*

forged or murderer, and where he was car-bombed to cover up the theft of his trillion dollar invention.” Here, Alan Rose identifies an Intellectual Property pool owned by Eliot and his father that has been valued in the Billions to Trillions of dollars and it is the backbone technology to over 90% of digital transmissions in the world and without such technologies there would be no YouTube video, no cell phone video, 75% of your cable channels would not exist and more. Despite the fact that Simon was a seed investor with 30% interest in the IP, nowhere in Simon or Shirley’s estate and trusts has the value of this asset been identified by the fiduciaries and does not even appear as an asset in anything they have put forth!

282. In fact, Mr. Rose has repeatedly offered to give the IP interests of Simon and Shirley to Eliot without any valuation or consent of the Beneficiaries whose interests he would be giving away, Eliot has consistently rejected such inappropriate transfer of other beneficiaries interests without their consent in the technologies. Simon’s interest would equate to roughly 300 BILLION dollars, making this one of the largest estate cases in the country historically according to Rose’s Trillion dollar estimate.

283. Further, that the accountant being used by Ted Bernstein and Brian O’Connell is Gerald R. Lewin, CPA of CBIZ, who was ground floor when the inventions were created and was the accountant for the technology companies, his daughter Erika Lewin in house accounting and he was also present when leading engineers from Real 3D, Inc. (owned by 70% Lockheed, 10% Intel and 20% SGI, later wholly acquired by Intel) claimed the technologies to be priceless, the holy grail and worth hundreds of billions of dollars of royalties.

284. Lewin did the shareholder issues for Simon and Shirley Bernstein and other shareholders with the attorneys from Proskauer Rose, LLP, Albert Gortz and Christopher Wheeler, Esq., who he referred to do the corporate and intellectual property legal work. Mr. Gortz also involved in the

Estate planning of Simon and Shirley Bernstein, hired to protect the Intellectual Properties royalties and pass them through to Simon's family with as little taxation as possible when the company was going to go public.

285. On the way to the IPO however it was learned that there were fraudulent and forged patents done by Proskauer and others that were filed with the USPTO and so began one of the longest crime stories on record that continues to this day.

286. The company then learned that they were involved in lawsuits and an involuntary bankruptcy that turned out to be involving similarly named companies being used in an elaborate legal fraud done by the lawyers to steal out the backdoor with the IP in others names and one of the sham lawsuits was discovered in the court of Jorge Labarga 1. Case # CA 01-04671 AB Proskauer Rose v Iviewit, now Chief Judge of the Florida Courts, his remarkable rise to Chief Judge with only a week at the 4th DCA closely corresponds to the thefts of the IP and successful evasion of prosecution due to Labarga's case fixing that took place as part of the initial frauds on the court Eliot complained of initially.

287. That despite Rose and Ted and O'Connell, all acting in legal and/or fiducial capacities have knowledge of this asset owned by Eliot and his father and the value being as Rose has stated a "trillion" dollars, the exclusion with scienter from any accountings produced thus far failing to include the IP at any value is again cause for this Court to remove Ted and his counsel on its own motion.

288. The IP gives explanation to why all these crimes are being committed in the Estates and Trusts of Simon and Shirley Bernstein by Court Officers and Court Appointed Officers/Lawyers/Fiduciaries/Guardians and it gives the Court 1 Trillion reasons to start and may

also be the reason Ted Bernstein alleged MURDER OF HIS FATHER BY POISONING on the day he died and ordered an autopsy and sheriff investigation on the day his father died.

289. Ted and his sister Pam who are excluded from the Estates and Trusts and who have no interest in the IP have been disgruntled about Simon and Shirley's decision to carve them out from their inheritances, which would preclude them from any interests in the IP, other than those interests Eliot has set aside for their families from interests.

290. Ted in fact has become close personal friends and business associates with the key parties Eliot and his father have accused of stealing their IP, including Albert Gortz and Christopher Clark Wheeler of Proskauer Rose law firm and Gerald Lewin of CBIZ accounting firm and others. In fact, Proskauer at the time Ted brought Spallina and Tescher into his parents' lives was throwing parties for Tescher and Spallina inducting them into the Jewish Federation and honoring their legal service and information has been given to this Court in the record regarding these relationships and the danger Ted's relations have put Eliot and his father's family in.

291.

**TED BERNSTEIN, AS TRUSTEE, HAS FAILED TO KEEP ACCURATE RECORDS
AND COMMITTED WASTE OF TRUST AND ESTATE ASSETS AND AS
FIDUCIARY HAS CAUSED FRAUD, WASTE AND ABUSE OF COURT
RESOURCES IN THE SIMON AND SHIRLEY BERNSTEIN ESTATE AND TRUST**

292. Failure to maintain transparency

293. No original documents despite court order for Spallina and Tescher to turnover ALL records.

294. Missing and lost and legally non-existent trusts

295. Missing life insurance policies

296. Missing funded trust with 3 Million immediately prior to Simon's death.

297. Missing Simon business records despite court order to inventory them, hard drives, files, etc.

298. Ted as successor trustee has a duty to maintain clear, complete, and accurate books and records regarding the trust.

299. The Florida Trust Code explicitly states that a trustee shall keep clear, distinct and accurate records of the administration of the trust.

736.0810 Record keeping and identification of trust property.

(1) A trustee shall keep clear, distinct, and accurate records of the administration of the trust.

(2) A trustee shall keep trust property separate from the trustee's own property.

(3) Except as otherwise provided in subsection

(4), a trustee shall cause the trust property to be designated so that the interest of the trust, to the extent feasible, appears in records maintained by a party other than a trustee or beneficiary.

(5) If the trustee maintains records clearly indicating the respective interests, a trustee may invest as a whole the property of two or more separate trusts.

300. Tescher and Spallina were ordered to turn over ALL their records and properties in their possession to the Curator, Benjamin Brown, Esq. by Judge Martin Colin upon their resignation due to frauds committed by their law firm while acting as Co-Fiduciaries in the Simon Estate and Trust and also acting as Ted's counsel in the Shirley Estate and Trust he was acting as Fiduciary in.

301. No original signed and executed Trust for Simon and Shirley were turned over to Ted and Ted has claimed to have never seen the Original documents or know where they are. All documents tendered by Tescher and Spallina were alleged copies of documents and they did not turn over ANY original documents in their 7,202 pages of production. Ted does not possess the original

signed and executed 2012 Simon Trust under which he alleges to operate as Successor Trustee, nor the original 2008 Shirley Will and Shirley Trust.

302. At this time no original signed and legally executed originals exist of the 2012 Simon Bernstein Amended and Restated Trust.

303. The former Co-Fiduciaries of the Simon Bernstein Amended and Restated Trust, TESCHER and SPALLINA, upon termination as Co-Trustees, have produced no original documents to the former Curator, Benjamin Brown, Esq., despite the Court's Order to turn over all records and properties in their possession to Brown. This leaves ALL records in Simon and Shirley Estates and Trust produced by Spallina and Tescher as potentially fraudulent and in need of comparison to the original documents they are alleged copies of. Without originals to compare them to the whole production should be viewed as further possible fraudulent documents crafted to attempt to cover up and continue Felony Criminal Acts.

304. Here the Court should note that when Colin first discovered Ted, Tescher and Spallina were involved in PROVEN AND ADMITTED CRIMINAL FELONY ACTS and allowed them all to remain as Fiduciaries and allowed Tescher and Spallina to remain counsel to Ted as a Fiduciary without any repercussions or reporting of their multiple Criminal Acts, he gave them all time to retain possession of the documents and records of Simon and Shirley Bernstein and retain possession of the assets and this allowed them for several months the opportunity to craft new fraudulent documents to attempt to defeat Eliot Bernstein's complaints against them and it is alleged on information and belief that many, if not all, of the production documents are fraudulent and efforts to cover up and further FELONY CRIMINAL ACTS, including but not limited to, Insurance Frauds, Securities Fraud, Fraud on this Court, Fraud on a Federal Court, Bank Fraud and more.

305. Had this Court seized the records of those involved in the initial Frauds on the Court and the assets, the opportunity to tamper with documents etc. would have ceased instantly and instead the Court's failure aided those involved in the Fraud by giving them months to suppress, destroy, conceal, tamper with and fraudulently create the records of Simon and Shirley Bernstein in their possession.
306. Despite the Court Order to turn over ALL records to the Curator, neither the Curator Benjamin Brown, Esq., nor his Successor Brian O'Connell as PR, nor Ted Bernstein, have demanded that Tescher and Spallina turn over the Original Records to comply with the Court Order despite multiple written requests by Beneficiaries and Interested Parties and therefore have further aided and abetted this scheme to suppress the true records of Simon and Shirley Bernstein.
307. The Court held a Validity Hearing where no Original Documents were produced and when requested to produce them Ted Bernstein, Alan Rose and Robert Spallina in the December 15, 2015 Hearing did not know where they were and Ted and Alan claimed never to have seen them. This lack of transparency, especially where Fraudulent Trusts have already been PROVEN AND ADMITTED to have been created and disseminated by Ted as a Fiduciary by and through his counsel is further cause for this Court to remove Ted Bernstein on its own motion.
308. Real estate was sold at fire sale prices and distributions were made to knowingly improper parties by Ted, against the advice of SPALLINA according to his statements to Palm Beach Sheriff Deputies, and other accounts were discovered being used post mortem at Legacy Bank and others.
309. Bank accounts and investment accounts records remain unaccounted for and suppressed and original documentation is again wholly missing, again cause for Ted's removal.

**MISSING/LOST/SUPPRESSED/DENIED/DESTROYED DOCUMENTS IN THE
ESTATES AND TRUSTS OF SIMON AND SHIRLEY BERNSTEIN**

310. 1995 Simon L. Bernstein Irrevocable Insurance Trust dated 6/95

- a. Ted filed lawsuit on behalf of this trust claiming he was Trustee and has been unable to produce a signed executed copy.
- b. Robert Spallina filed a Death Benefit Claim form with Heritage Union Life claiming that he was the Trustee of the trust not his client Ted Bernstein and then was unable to produce a signed executed copy of the trust that led to the life insurance carrier denying the claim.
- c. Spallina later claimed to Palm Beach County Sheriff Deputies that he had nothing to do with the Life Insurance policy and did not have a policy or trust.

311. Grandchildren Trusts under the Simon L. Bernstein Trust dated 9/13/2012. While claimed to be beneficiaries of Simon and Shirley Bernstein's Trusts, these sub trusts have never been produced, nor were made part of any Simon Trust at the sham "Validity" hearing and where the alleged grandchildren beneficiaries were never notified according to FL Statute that they were legal beneficiaries of the trusts by Ted, Spallina and Tescher. These alleged trusts were sued in the Shirley Bernstein Trust lawsuit instigated by Ted Bernstein, despite not having trusts and no known trusts created on the date Simon died of 9/13/2012.

312. Simon L. Bernstein Trust dated 9/13/2012

- a. This trust allegedly created the day Simon Bernstein died (Simon died on 9/13/2012 at approximately 1am with no lawyers at his side) was sued in the Shirley Bernstein Trust lawsuit and has never been produced to this Court or any party. The subtrusts alleged to be beneficiaries under this trust do not exist at this time and Alan Rose, Esq. Ted's counsel claims they do not exist at this time, despite he and Ted suing them.

313. ALL ORIGINAL DOCUMENTS HELD BY TESCHER AND SPALLINA

314. Simon's business records and equipment is all missing and was not inventoried by the Personal Representatives of the Estate of Simon, including Donald Tescher, Esq., Robert Spallina, Esq., Curator Benjamin Brown, Esq. and Brian O'Connell, Esq. O'Connell failed to inventory the business records and take possession of Simon's equipment, etc. despite a Court Order to inventory the items.
315. A trustee who, after being requested to do so, refuses to provide a beneficiary with relevant information about the assets of the trust, refuses to account for how the trust is being administered, and who refuses to provide an accounting when required, has breached his fiduciary duty owing to the beneficiaries and should be removed. Ted has refused countless production requests for the original documents and many other documents with intent, as well as, Brian O'Connell, Esq. further making the Estates and Trusts lack transparency and verifiable accounting of both documents and assets.

**TED BERNSTEIN SHOULD BE REMOVED AS SUCCESSOR TRUSTEE BASED ON
CONFLICTS OF INTEREST AND ADVERSE INTERESTS DUE TO FRAUDS ON THE
COURT AND FRAUDS ON THE BENEFICIARIES COMMITTED WITH TED AS A
FIDUCIARY BY AND THROUGH HIS RETAINED COUNSEL**

316. That because these crimes that changed beneficiaries were caused with Ted as the acting Fiduciary of Shirley's Trust by and through his Retained Counsel acting on his behalf and the crimes directly benefitted Ted Bernstein's family, Ted now stands to lose or gain interests in the Estates and Trusts for he and his sister Pam's families depending on the outcome of the proceedings, amounting to 40 PERCENT of the Estate and Trust values of both Simon and Shirley Bernstein. If the fraud is not successful their families will get 0 PERCENT.

317. Therefore, unequivocally, Ted is now has Adverse Interests to certain Beneficiaries, including Eliot Bernstein and his children and Ted now has Conflicts of Interest due to his family's possible interests in the outcome of proceedings.
318. Ted is also Adverse and Conflicted with Beneficiaries as it was his Attorneys at Law who committed multiple Felony Criminal Acts in and out of the Court, Fraud on the Beneficiaries, Fraud on Minor children's counsel and on the Creditor William Stansbury.
319. If Ted is unsuccessful in continuing the cover up of the Frauds Upon the Court for he and his former and current counsel both he and his current and former counsel may also go to prison for these crimes and forfeit their assets and this also makes Ted adverse to parties who are pursuing for the criminal wrongdoings and breaches of fiduciary duties.
320. Ted's family's interest again creates insurmountable Adverse Interests and Conflicts of Interest for Ted with other beneficiaries, especially with his brother Eliot is pursuing Ted and his counsel in State and Federal, Civil, Criminal and Ethical complaints and so his life depends on successfully continuing the Fraud in and on the Court and on Eliot and depriving Eliot's family of any benefits to their inheritancy and depriving them of true records, accountings, etc. through misuse of his fiducial capacity.
321. Ted and his counsel have Adverse Interests to Eliot's family and in fact are hostile towards Eliot and his minor children, due to the fact that Eliot and his wife Candice are the ones who uncovered the FRAUDS UPON THE COURT and other FELONY CRIMINAL ACTS and exposed them to criminal prosecution and is actively pursuing them in State and Federal, Civil, Criminal and Ethical complaints, this further gives cause to this Court to remove Ted as a Fiduciary in these matters on its own motion.

322. Ted and his Attorneys at Law have conspired to use a strategy of force and aggression on Eliot, which was discovered in an email Ted sent to Eliot describing their tactics and then later Ted attested to their intent on the record before the Court. **See Ted Admission of Force and Aggression Against Eliot on Record – See Blog Post of Ted Letter.**
323. Because of the conflicts of interests with the beneficiaries, Ted has failed to maintain a duty of impartiality owed to the beneficiaries and should therefore be removed.
324. Statements made by SPALLINA to Palm Beach Sheriff Investigators reveal that Ted took distributions against the advice of his counsel, again making him wholly unfit to continue as a fiduciary in these matters. **See Exhibit ____ -**
325. Ted also claimed to Palm Beach Sheriff Investigators that he had not read all of the trust documents that he was acting as fiduciary under, again making him wholly unfit to continue as a fiduciary in these matters. **See Exhibit ____ -**

TED BERNSTEIN DOES NOT UNDERSTAND CONFLICTS OF INTEREST OR ADVERSE INTERESTS AND THEREFORE IS INEPT IN DETERMINING IF HE HAS CONFLICTS OR ADVERSE INTERESTS WITH BENEFICIARIES

- 326.
327. Ted Bernstein when deposed regarding his conflict of interest in the Illinois Litigation, where acting as Trustee of a Lost/Missing/Suppressed/Destroyed Trust that stands to inherit insurance proceeds where Ted is a 20% benefactor of the proceeds is directly competing for the insurance benefits with the Estate of Simon Bernstein where the funds would allegedly pour over to a Simon Bernstein Trust where Ted is also acting as a Trustee BUT is not a benefactor of that Trust, does not see the inherent conflict of interest this dual representation creates where he is a benefactor of hundreds of thousands of dollars in one instance and zero in the other.

**20150506 IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN
DISTRICT OF ILLINOIS EASTERN DIVISION Case No. 13 cv 3643 - DEPOSITION OF
TED BERNSTEIN Taken on behalf of the Estate of Simon Bernstein DATE TAKEN: May
6, 2015**

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20150506%20Ted%20Bernstein%20Deposition%20with%20Exhibits.pdf>

The Estate of Simon Attorney John Stamos, Esq. questioning Ted Bernstein:

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12· . . . Q· · Well, do you have any official role in any

13· · official capacity with regard to the estate itself or

14· · any entities or structures that relate to the estate?

15· MR. SIMON:· Objection; vague.

16· . . . A· · I believe I do; as trustee.

17· . . . Q· · Of what are you trustee?

18· . . . A· · Simon Bernstein Trust.

19· . . . Q· · What is the year of that trust?

20· . . . A· · I don't recall.

21· . . . Q· · You are also a plaintiff in the case that's

22· · pending in Chicago; is that correct?

23· . . . A· · Yes.

24· . . . Q· · So have you perceived any divergence of

25· · interest or any conflict of interest in having a role

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1· · with respect to the trust and the estate while

·2· · simultaneously being a plaintiff in the case in Chicago?

·3· . . . A· · I do not.

·4· . . . Q· · As the trustee of the trust, the Simon

·5· · Bernstein Trust, will the proceeds of the estate, once

·6· · they are disbursed, be disbursed to that trust of which

·7· · you are a trustee?

·8· MR. SIMON:· Objection; speculation.

·9· . . . Q · To your knowledge, is that your understanding
10· of the mechanics of it?

11· . . . A · I do believe that that's correct.

12· . . . Q · And you agree that, if you are successful as a
13· plaintiff in the Chicago case, the amount of assets
14· available in the estate to be disbursed to the trust of
15· which are you a trustee will be reduced, correct?

16· . . . A · Could you -- could you ask me that in a
17· different way?

18· . . . Q · Yes. If you are successful as a plaintiff in
19· the Chicago case and the proceeds of the insurance
20· policy regarding which we are all litigating is
21· disbursed to the plaintiffs in the Chicago case, those
22· funds will not be disbursed to the estate. You
23· understand that?

24· . . . A · I do.

25· . . . Q · And, therefore, the estate will have less

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·1· funds to disburse to the trust of which you are a
·2· trustee. Do you understand mechanically that's what
·3· would happen in that circumstance?

·4· . . . A · I -- I do.

·5· . . . Q · So you don't perceive a conflict in those
·6· roles?

·7· . . . A · I do not.

328. Ted Bernstein under oath in a hearing on March 16, 2016 before Judge Scher stated the following in regard to his conflicts of interest and adverse interests whereby he was acting simultaneously in settlement negotiations as Trustee for Shirley and Simon's Trust where he has no financial interest as he is not a beneficiary and also acting as a defendant in the settlement

who has a two and half million dollar liability personally in the lawsuit being settled and thereby the conflict allowed Ted to shift the entire liability to the Trusts while securing a release from the lawsuit for himself personally, textbook conflict of interest that enabled fraud on the beneficiaries he represents as a fiduciary.

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20170316%20HEARING%20TRANSCRIPT%20BERNSTEIN%20Judge%20Scher.pdf>

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9 BY MR. ELIOT BERNSTEIN:

10 Q. Ted, did you settle with Stansbury

11 individually in the Stansbury action?

12 A. I did.

13 Q. Did you settle Shirley's trust as trustee,

14 settle her out of the Stansbury lawsuit?

15 A. It has been a while but I believe I did.

16 Q. Were you adverse to the beneficiaries of

17 Shirley's trust when you did that?

18 A. I'm sorry. I don't understand what you

19 mean.

20 Q. You don't understand what an adverse

21 interest is?

22 A. I don't understand what the question was.

23 Q. Did you have an adverse interest with the

24 beneficiaries of the estate when you settled

25 Shirley's trust?

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1 A. I don't believe that I ever had an adverse

2 interest.

3 Q. Do you know what that is?

4 A. I think I understand what the word adverse

5 means.

6 Q. Okay. So you don't know what an adverse

7 interest is technically?

8 MR. ROSE: Objection. Asked and

9 answered.

10 BY MR. ELIOT BERNSTEIN:

11 Q. You were sued by Mr. Stansbury you heard

12 here and you're cognizant of -- and you heard Mr.

13 Stansbury say that you had, according to his

14 complaint, possible liability for the actions done

15 to him; is that correct?

16 MR. ROSE: Objection. In light of the

17 settlement he has no liability to Mr.

18 Stansbury.

19 THE COURT: Sustained.

20 BY MR. ELIOT BERNSTEIN:

21 Q. Prior to the settlement, did you have

22 liability in the Stansbury lawsuit?

23 MR. ROSE: Objection. Relevance and

24 materiality as to timing. We are not asking

25 him to be appointed back in when he was a

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1 defendant.

2 THE COURT: Overruled.

3 THE WITNESS: I don't believe I had

4 liability, no.

5 BY MR. ELIOT BERNSTEIN:

6 Q. Well, you were sued so wouldn't that

7 represent a liability to you?

8 A. No.

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9 CROSS EXAMINATION

10 BY MR. FEAMAN:

11 Q. Thank you. Good afternoon, sir.

12 A. Hello.

13 Q. Now, there was a chart here that was

14 referred to in your direct examination by your

15 counsel. Do you have that chart, Mr. Rose? This

16 one?

17 Okay. Now, there is a reference that the
18 trustees of the Simon trust were in an agreement
19 with the trustees of the subtrust for the
20 grandkids.

21 By the way, many of the grandkids are
22 adults now; are they not?

23 A. Yes.

24 Q. The trustees of the subtrusts, I believe
25 you testified as far as they exist, are in agreement

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1 with you becoming the administrator ad litem,
2 correct?

3 A. That's correct. That's what I testified
4 to.

5 Q. Those other trustees, those are your other
6 siblings other than Mr. Eliot, correct?

7 A. Yes.

8 Q. And all of those other siblings are also
9 plaintiffs with you in the Chicago action; are they
10 not?

11 A. I believe so.

12 Q. Okay. So as far as any potential conflict
13 of interest that may exist that I know you deny,

14 they are in the same position as you relative to
15 being adverse to the estate in the Chicago action,
16 Bernstein estate, correct, sir?

17 MR. ROSE: Object to the form. A, calls
18 for legal conclusion. B, it's contrary to the
19 terms of the trust that we have talked about,
20 which Exhibit, paragraph 4J allows the
21 fiduciary to serve as a fiduciary even though
22 they are interested in some other aspects of
23 the estate or trust.

24 THE COURT: I'm just deciding as to the
25 appropriate question. I'm going to overrule

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1 it. You can answer, if you can.

2 THE WITNESS: I'm sorry. Can you please
3 ask me that question again or --

4 BY MR. FEAMAN:

5 Q. I'll ask it again. All of these other
6 trustees of the subtrusts are your three other
7 siblings, not including Mr. Eliot, because there is
8 five of you, correct?

9 A. That's correct.

10 Q. So the four of you are all the trustees of

11 the subtrusts, correct?

12 A. Yes.

13 Q. Other than Mr. Eliot. And the four of you

14 are also plaintiffs in the Chicago litigation,

15 correct?

16 A. Yes.

17 Q. And the plaintiffs in that Chicago

18 litigation are adverse to the estate of Simon, of

19 your dad, in that litigation; is that correct?

20 A. Not correct. I'm not saying yes or no. I

21 feel like I'm being put in a box about this word

22 adverse. So my understanding of that word I feel is

23 a rock solid understanding of that word, but I feel

24 like I'm being put in a box today about what you're

25 trying to get me to say something about this

Pageg 315

1 adversity. I don't think they are adverse. I don't

2 think my siblings are adverse other than they are

3 trying to collect the proceeds of a life insurance

4 policy.

5 Q. Right. If they don't collect, the money

6 is going to go to the estate, isn't it?

7 A. I'm not sure of that.

8 Q. Okay. Is that -- are you aware that's
9 what the estate is seeking in that action?
10 A. Well, I know that's what they're seeking
11 but you are asking me if I was aware if they were
12 going to go there.
13 MR. FEAMAN: That's all I have on cross,
14 Your Honor.

**OTHER BREACHES OF FIDUCIARY DUTIES AND OTHER CAUSES FOR
REMOVAL OF TED BERNSTEIN – LACK OF COMPETENCY AND CARE**

329.

330. Failed to Account timely and according to code and the Trust documents.

331. Failed to send full Estate and Trust documents to beneficiaries with all attachments, codicils, addendums, etc.

332. Failed to notify beneficiaries that he was acting as a fiduciary according to code.

333. Failed to report CRIMINAL ACTS to the proper authorities.

334. Has attempted to convert assets to himself regarding a life insurance policy and worked in direct opposition to the Estates and Trusts for his own personal gain and those of his attorneys at law that are involved.

335. Ted has admitted to the Court under oath in a July 11, 2014 hearing that he and his Attorney at Law, Alan Rose, Esq. have a strategy of “Forcefulness” and “Aggression” to deal with Eliot and those trying to help Eliot.

**THIS COURT PREVIOUSLY REJECTED TED AS A FIDUCIARY IN THE ESTATE
OF SIMON BERNSTEIN**

336. Ted's Petition to be appointed Curator was rejected on February 19th, 2014 by this Court. *See*, Order attached hereto as Exhibit "C."

337. Ted Withdrew his second Petition to become Personal Representative of the Estate of Simon and replace the Curator Benjamin Brown, Esq. Ted withdrew at the time of the Hearing on July 11, 2014 on the Court's Urging to Withdraw his pleading or he and his counsel Rose and Pankauski would face severe sanctions for bringing the action forward, as Ted did not appear to be fit to be a Successor at that time.

338. The July 11, 2014 Hearing Transcript reflects the following exchange by Judge Martin Colin,

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1	pick. So I'll have nothing to do with the
2	actual person because it will be someone that
3	one of the three of you picks. They all -- the
4	only way that that won't work out is if one of
5	the people you pick are obviously not
6	qualified, but I assume that's not going to be
7	the case.
8	So you need to -- if we go that route, on
9	the two names that each side of the three sides
10	are going to pick, make sure that they are
11	willing to serve in advance.
12	Okay. The reason I don't want Ted is
13	because under 733.501 I take a position that
14	given where this case is, and the hype that --
15	we're achieving a disconnect between what
16	should be involved and what could be a sensible
17	straightforward estate administration on the
18	estate portion of the case -- because that's
19	all that's before me right now. And not get
20	carried on into a whole bunch of other things
21	that aren't yet before me or not yet filed.
22	So we're going to take this in nice small
23	steps. This order applies to the estate case
24	because there is no other case before me.
25	So we're not going to let this blossom

**ILLINOIS INSURANCE TRUST FRAUD – FRAUD ON A FEDERAL COURT &
FRAUD ON AN INSURANCE CARRIER – TED CONFLICT OF INTEREST AND**

**ADVERSE INTEREST BREACHES FIDUCIARY DUTIES IN THIS COURT AND
FEDERAL COURT**

339. At the time of SIMON'S death, it was determined that there existed a life insurance policy issued by Heritage Union Insurance Company ("Heritage") alleged by Ted and his counsel Robert Spallina and Donald Tescher to be payable to the Simon Bernstein Irrevocable Insurance Trust dated June 1, 1995 (the "Insurance Trust") as beneficiary. A legally binding executed copy of this Insurance Trust has never been produced for this Court or the Federal Court.
340. Shortly after SIMON's death in 2012, Spallina submitted a claim form to Heritage Union Life on behalf of the legally nonexistent Simon Bernstein Irrevocable Insurance Trust dated June 1, 1995. Spallina signed the claim form as the "Trustee" of the nonexistent Insurance Trust in an effort to make the insurance proceeds payable to his law firm trust account. Spallina was intent on then distributing the proceeds outside the Simon Bernstein Estate and Simon Bernstein Trust to the detriment of the Estate and Trust beneficiaries and to the benefit of his client, bedfellow and business associate Ted Bernstein individually, who would gain $\frac{1}{4}$ of the life insurance benefits if the death benefit was paid to Spallina as Trustee of the legally non-existent Insurance Trust.
341. Spallina did this for his client Ted, who as set forth above, was considered predeceased under the Simon Estate and Simon Trust and where Ted would get nothing of the Life Insurance proceeds if the benefits were paid to the Estate of Simon and then rolled over into the Simon Trust.
342. Under Florida law, if it is determined that no Simon Bernstein beneficiaries exist and are making claim to the proceeds, including the legally nonexistent Insurance Trust at the time of SIMON'S death, the insurance proceeds would escheat to the Estate of Simon and then per the terms of Simon's Last Will and Testament would pour over into the Simon Trust.

343. After Spallina's death benefit claim was DENIED by Heritage because Spallina could not produce even a copy of an executed Simon Bernstein Irrevocable Insurance Trust dated June 1, 1995 nor prove that he was the "Trustee" of the legally non-existent trust he signed as, Ted somehow with no successorship papers then replaced his counsel Spallina as the alleged "Trustee" of the lost/suppressed/missing/destroyed Insurance Trust they claimed was the beneficiary.
344. Ted then filed with the Illinois Civil Circuit Court a Breach of Contract lawsuit against Heritage for their failure to pay the Death Benefit Claim to Spallina as the alleged "Trustee." The lawsuit was transferred to Federal Court by the Life Insurance Carrier Jackson National in the United States District Court for the Northern District of Illinois in Chicago, the case currently presiding under the Honorable Judge, John Robert Blakey.
345. After TESCHER and SPALLINA resigned as Personal Representatives, the Estate of Simon Bernstein filed a Motion to Intervene in the Illinois life insurance litigation to assert the Estate's interest in the life insurance proceeds. The Curator, Ben Brown, Esq. retained counsel referred by Peter Feaman, Esq., in Illinois with the approval of this Court and then approval to intervene by the Federal Court.
346. The Plaintiffs in the Life Insurance Litigation include Ted Bernstein acting as "Trustee" of the legally nonexistent Simon Bernstein Irrevocable Insurance Trust dated June 1, 1995 and Ted Bernstein, individually. The Defendant Parties now include the Estate of Simon where the benefits if they came into the Estate would likely pour into the Simon Bernstein Trust where Ted is acting as Successor Trustee. If the insurance proceeds are paid to the Estate and pour into the Simon Trust Ted Bernstein has 0% interest in the proceeds. On the other hand, if the insurance proceeds are paid to the legally nonexistent Simon Bernstein Irrevocable Insurance Trust dated

June 1, 1995 Ted stands to gain 25% of the benefits. Again, Ted has an inherent and classic Conflict of Interest that should preclude Ted acting in the Simon Trust as Fiduciary and in the legally nonexistent Insurance Trust Lawsuit in Federal Court and again this is further cause for this Court to Remove Ted on its own motion for cause.

347. Ted and his Counsel then filed a Memorandum of Law in Opposition to the Estate's Motion to Intervene (the "Opposition Memorandum"²³).

348. The opening paragraph of the Opposition Memorandum states as follows:

NOW COMES Plaintiffs, SIMON BERNSTEIN IRREVOCABLE INSURANCE TRUST dtd 6/21/95, by **TED BERNSTEIN, as Trustee, (collectively referred to as "BERNSTEIN TRUST"), TED BERNSTEIN, individually,** PAMELA B. SIMON, JILL IANTONI AND LISA FRIEDSTEIN... **(emphasis added)**

349. As Plaintiff, Ted stands to benefit personally if the claim by the Simon Bernstein Estate to the life insurance proceeds is defeated because Ted and his siblings (other than Eliot) have taken the position that they are the beneficiaries of the insurance proceeds through a legally nonexistent Simon Bernstein Irrevocable Insurance Trust dated June 1, 1995 and not their children.

350. Despite the opposition of Ted Bernstein acting as Trustee to the LEGALLY NON-EXISTENT Simon Bernstein Irrevocable Insurance Trust dated June 1, 1995 to the Intervention by the Estate in the Federal Court case, the Federal Court granted the Estate's Motion to Intervene as a potential beneficiary as a legally binding trust has never been produced to this date.

351. Prior to the Estate becoming a beneficiary there are two beneficiaries named by the carrier Heritage Union as Primary and Contingent Beneficiaries who have claim to the policy, namely

²³ [Link to Copy of Opposition](#)

the Simon Bernstein Trust, NA as Contingent Beneficiary and LaSalle National Trust, NA as the Primary Beneficiary.

352. Ted is now an opposing party of record to the Estate's claim in the Illinois life insurance and breach of contract litigation.
353. Ted, individually and as the alleged trustee of the nonexistent Simon Bernstein Irrevocable Insurance Trust dated June 1, 1995, has placed his personal interests above the interests of the 2012 Simon Trust beneficiaries that he claims to also represent who would receive the insurance funds which would flow into the Simon Bernstein Amended and Restated Trust from the Estate if they are awarded to the Estate if no other potential beneficiaries exist.
354. Through Ted's opposition to the Estate's intervention in the Illinois life insurance and breach of contract litigation, and that he is a party plaintiff in that litigation, an inherent conflict of interest is present where Ted is blocking the interests of beneficiaries of the Simon Bernstein Amended and Restated Trust which he is not one of, while simultaneously acting as Trustee of the Trust is again irrefutable conflict of interest that makes Ted conflicted and adverse to other beneficiaries and is cause for his immediate removal and sanctioning.
355. Ted, as Successor Trustee of the 2012 Simon Bernstein Amended and Restated Trust, owes a duty of loyalty under §736.0706(1), Fla. Stat. (2014) to the trust beneficiaries to administer the trust solely in their interests. His actions in the Illinois Insurance Litigation have violated that duty.
356. Ted, acting as a fiduciary to the Simon Bernstein Amended and Restated Trust, must support, or at the least not obstruct, the efforts of the Estate and 2012 Simon Trust to recover an additional

approximately \$2+ million in life insurance²⁴ benefits. However, Ted benefits directly from his obstruction and therefore has an obvious conflict of interest that biases his actions.

357. If the insurance proceeds are recovered for the Estate of Simon, this would dramatically increase the Estate assets that Estate and Trust beneficiaries receive.
358. This attempt to redirect the insurance proceeds by Ted to Ted through a lost insurance trust scheme has caused intentional interferences and delays with expectancies to the beneficiaries of the life insurance funds and again is cause for Ted's immediate Removal on this Court's own motion.
359. Ted attempted to block the grandchildren he claims are beneficiaries, including minor children, from their interests being represented by counsel in the Illinois insurance litigation, leaving the grandchildren's interests wholly unprotected while trying to secure the benefits for himself, again hiring a team of attorneys, despite the Conflict of Interest this represents Ted refuses to withdraw as fiduciary, his counsel continues to represent him in multiple conflicts and so this Court must Remove Ted and his counsel and any remnants to them by its own motion for cause.
360. Ted's efforts in the Life Insurance Litigation are designed to keep the approximately \$2 million + out of the estate and trust and to redirect the money to him and his siblings, excluding Eliot Bernstein whom the lawsuit was instigated without and attempted to cut him out of the payout and his rights as a Plaintiff like all the other siblings in the Illinois Insurance Litigation of which Ted left Eliot out. Ted is adverse to Eliot and his family as they are the ones who have exposed the Criminal Acts of Fiduciaries and Counsel and Officers of this Court.
361. The alleged beneficiaries of the Heritage Policy, which policy is also missing from the Record and has not been produced by any party, according to Heritage Union Life are LaSalle National

²⁴ The Court should note here that NO LIFE INSURANCE POLICY HAS BEEN PRODUCED BY ANY PARTY INCLUDING THE INSURANCE CARRIER and again this now is a missing/lost/destroyed/suppressed document that should have been part of Simon's extensive Estate Plans.

Trust, NA as Primary Beneficiary and the Simon Bernstein Trust NA as Contingent Beneficiary and to date nobody has contacted LaSalle or its Successor and the Simon Bernstein Trust, NA. that Simon confirmed shortly before his death as the Contingent Beneficiary is now alleged to not exist and on information and belief is being Suppressed/Denied/Destroyed so that Ted and his counsel can continue to try and steal the policy proceeds and hide whatever other assets may be in the Simon Bernstein Trust, NA.

362. Ted, Spallina and Tescher claimed there is no Simon Bernstein Trust, NA although Simon confirmed these beneficiaries shortly before his death with the carrier Heritage Union Life. Claims have been made to the Federal Court with parole evidence that the insurance trust the benefits are to flow into, the Simon Bernstein Trust, NA, may have 50+ million dollars of benefit in it that was rolled over from a VEBA 501(C)(9) plan for Simon's companies that was dissolved and the benefits rolled out into new devices, including the alleged Simon Bernstein Trust, NA that the carrier claims is the Contingent Beneficiary.
363. As a consequence of the foregoing Conflicts of Interest and Adverse Interests, Ted again has breached his fiduciary duties to the beneficiaries of the 2012 Simon Trust by opposing efforts to make the Estate and Simon Trusts more solvent, which in turn exposes the Estate and Simon Trusts to increased liability. This warrants his removal under §736.0706(2)(a).
364. Ted's continued interference is an attempt to redirect estate assets to himself personally and would further damage the trust beneficiaries as Ted's interference has caused unnecessary and costly legal fees to the Estate and Trust beneficiaries and delay of inheritancy through the use of false process using again non-existent trusts to instigate lawsuits and this time using such nonexistent vehicle to make a claim for insurance policy benefits.

365. Ted again has Conflicting Interests and Adverse Interests with parties in the fact that if he is not successful in continuing the Fraud on the Federal Court and this Court in regard to the Insurance Frauds alleged, Ted and his counsel Robert Spallina, Donald Tescher, Adam M. Simon, David B. Simon, Alan Rose, et al. who have participated in the Insurance Fraud Scheme will go to jail and face enormous civil damage claims by the beneficiaries, creditor and others.
366. Again, Ted and his counsel are Adverse to Eliot's family who has exposed the Illinois Insurance Frauds and reported them to the proper State and Federal, Civil, Criminal and Ethical Authorities.
367. Peter Feaman has filed with this Court and the Illinois Federal Court many pleadings exposing this insurance scheme and the Conflicts of Interests of Ted and his Counsels violations of Attorney Conduct Codes and more, [see Exhibit __ - Feaman Filing Regarding Conflicts in IL](#)

**MISAPPROPRIATION OF TRUST FUNDS BY TED BERNSTEIN ACTING AS
FIDUCIARY, FOR TED'S LEGAL DEFENSE OF BREACH OF CONTRACT AND
FRAUD CLAIMS IN VIOLATION OF THE 2016 FLORIDA STATUTES TITLE
XLII ESTATES AND TRUSTS - 736.0802 DUTY OF LOYALTY**

368. Legal and fiduciary fees have run rampant, with often 6-10 attorneys attending hearings on behalf of Ted Bernstein and no other parties having legal representation at various times throughout, including minor children who Ted is acting as Fiduciary for and where the trusts and other instruments provide counsel for. Ted's self-preservation conflict of interest is the only concern of Ted Bernstein who is the Fiduciary who the Frauds have taken place under, along with Ted's counsel both past and present, in crimes that if successful benefit Ted over other beneficiaries and if unsuccessful they face prison and loss of all of their assets both personal and professional, including their homesteads.
369. Ted has done nothing to report or correct the crimes committed on his watch by his counsel and has provided none of the injured and damaged parties like Eliot's family any funds for legal

counsel as required in the dispositive documents of Simon and Shirley, instead using them unaccounted for and unapproved by this Court for his defense against the victim beneficiaries.

370. In fact, Ted called his good friends Tescher and Spallina to help him in the Validity Hearing, having Spallina testify as to the veracity of the documents as a friendly witness, including to the validity of the Shirley Trust document and then upon Cross Examination by Eliot, Spallina admitted to having created a Fraudulent Shirley Trust document that he Forged and Disseminated to Eliot's minor children's counsel.

371. These Conflicts of Interest and Adverse Interests created by the multiple PROVEN AND ADMITTED Frauds on the Court, Frauds on Beneficiaries and Frauds on the Creditor, all with Ted acting as a Fiduciary and all that may or may not benefit Ted depending on the outcome make Ted unsuitable to act in any Fiduciary capacity in these matters and as Ted refuses to acknowledge his Conflicts and Adversity and voluntarily withdraw this Court must act on its own motion to Remove Ted and his counsel and any of the remnants of the parties involved in any way with the Frauds, including wiping clean the Record of their fraudulent conflict riddled Sham Pleadings and voiding and vacating all Sham Orders that derived from them.

372. Ted Bernstein due to these Proven and Admitted Frauds and the Courts Failure to Remove him has further allowed for the misuse of the Estates and Trusts assets for Ted to form a legal defense team using unaccounted for Trust and Estate funds with no Court approval in order to protect himself and his former Counsel and others involved in the crimes, including but not limited to, his former and current counsel, Tescher, Spallina, Manceri, Rose, Swergold, Morrissey, Pankauski, Lessne and others.

373. Ted's legal strategy has been to use Trust and Estate funds to defend himself with a legal defense team larger than OJ Simpson's against the Fraud and Breaches of Fiduciary Duty charges against

him and his former and current counsel to prevent prosecution of himself and them, while intentionally delaying inheritancy and denying legal counsel for beneficiaries defenses as provided for in various of the Estate and Trust documents of Shirley and Simon²⁵ that Ted is acting under.

374. If Ted were to provide counsel and funds to the beneficiaries pursuing State and Federal, Civil, Criminal and Ethical complaints against him and his counsel he would be harming himself possibly and his friends as they could all go to prison if successfully prosecuted and clearly this creates yet another Conflict of Interest for Ted that warrants that Ted and all parties tied to Ted to be finally removed by this Court as should have been done when Fraud on the Court was first discovered in the first hearing with Judge Colin in the Estates and Trusts where Ted was the acting Fiduciary. .

375. The Court does not need any party/litigant to advance this cause for Removal of Ted, it is the courts obligation to deal with Fraud Upon THIS COURT by COURT APPOINTED OFFICERS/LAWYERS/FIDUCIARIES/GUARDIANS and is further required by Judicial Canon, Attorney Conduct Code and Law to take actions. Without remedying the Frauds and protecting the parties and properties under this Court's jurisdiction, this Court's Officers actions become actions committed Outside the Color of Law and thus constitute criminal aiding and abetting and more.

376. Ted Bernstein's legal defense team is partially listed below and to date there is no accountings of how much of the funds are Estate and Trust funds but according to Ted's counsel it has eaten up most of the Estate and Trust funds, of which there is no clear accountings for as of this date.

- Alan Rose – Brought in by Ted, Spallina and Tescher

²⁵ Bernstein Family Holdings, Bernstein Family Investments and Bernstein Family Realty Documentation @ <http://iviewit.tv/Simon%20and%20Shirley%20Estate/Bernstein%20Family%20Realty%20Bernstein%20Family%20Holdings%20Bernstein%20Family%20Investments%20records.pdf>

- Robert Spallina – Ted’s counsel, resigned amidst admissions of fraud as co-trustee fiduciary in Simon Estate and Trust
- Donald Tescher – Ted’s counsel, resigned amidst admissions of fraud of Partner Spallina as co-trustee fiduciary in Simon Estate and Trust Resigned as Ted’s counsel after admitting law firm committed fraud and forgery in Bernstein family affairs
- John Pankauski – Represented Ted
- Jon Swergold – Represented Ted in Stansbury litigation
- David Simon – represents Ted in Il Fed
- Adam Simon – represents Ted in Il Fed
- John Morrissey – represents Ted children
- Mark Manceri (Resigned)

377. Other injured parties have also had to pay legal fees, including but not limited to,

- a. Peter Feaman, Esq. for the Creditor William Stansbury
- b. Benjamin Brown, Esq. replacement as Curator of Ted’s counsel and former PR’s of the Estate of Simon, Tescher and Spallina who resigned amidst a host of PROVEN AND ADMITTED Felony Criminal Acts.
- c. Brian O’Connell, Esq. replacement to Benjamin Brown, Esq. where Brown refused Judge Colin’s demands to continue in the case and become the Curator citing that the case was too crazy for him. Brown, after claiming to have received Certified Tax Returns for Simon and Shirley Bernstein, mysteriously died on a treadmill days later and the Tax Returns were never turned over to O’Connell, according to his law firm and which returns have not been produced to this date to this Court either.

378. That Ted Bernstein, nor his counsel, nor Ted's prior counsel, despite many pleadings filed with this Court alleging both Breach of Fiduciary Duties and Fraud by Fiduciaries and PROVEN and ADMITTED FELONY CRIMINAL ACTS by fiduciaries and counsel in these matters is already established have failed to seek consent from any parties, any qualified beneficiaries of Ted and his counsels fees for defense of Ted Bernstein, which violates The 2016 Florida Statutes Title XLII ESTATES AND TRUSTS 736.0802 Duty of loyalty, in particular,

736.0802 (10)

b) If a trustee incurs attorney fees or costs in connection with a claim or defense of breach of trust which is made in a filed pleading, the trustee may pay such attorney fees or costs from trust assets without the approval of any person and without any court authorization. However, the trustee must serve a written notice of intent upon each qualified beneficiary of the trust whose share of the trust may be affected by the payment before such payment is made. The notice of intent does not need to be served upon a qualified beneficiary whose identity or location is unknown to, and not reasonably ascertainable by, the trustee.

(c) The notice of intent must identify the judicial proceeding in which the claim or defense of breach of trust has been made in a filed pleading and must inform the person served of his or her right under paragraph (e) to apply to the court for an order prohibiting the trustee from using trust assets to pay attorney fees or costs as provided in paragraph (b) or compelling the return of such attorney fees and costs to the trust. The notice of intent must be served by any commercial delivery service or form of mail requiring a signed receipt; the manner provided in the Florida Rules of Civil Procedure for service of process; or, as to any party over whom the court has already acquired jurisdiction in that judicial proceeding,

in the manner provided for service of pleadings and other documents by the Florida Rules of Civil Procedure.

(d) If a trustee has used trust assets to pay attorney fees or costs described in paragraph (b) before service of a notice of intent, any qualified beneficiary who is not barred under s. 736.1008 and whose share of the trust may have been affected by such payment is entitled, upon the filing of a motion to compel the return of such payment to the trust, to an order compelling the return of such payment, with interest at the statutory rate. The court shall award attorney fees and costs incurred in connection with the motion to compel as provided in s. 736.1004.

(e) Upon the motion of any qualified beneficiary who is not barred under s. 736.1008 and whose share of the trust may be affected by the use of trust assets to pay attorney fees or costs as provided in paragraph (b), the court may prohibit the trustee from using trust assets to make such payment and, if such payment has been made from trust assets after service of a notice of intent, the court may enter an order compelling the return of the attorney fees and costs to the trust, with interest at the statutory rate. In connection with any hearing on a motion brought under this paragraph

**REMOVAL OF TED BERNSTEIN'S COUNSEL AND ALL PARTIES ASSOCIATED
WITH TED BERNSTEIN OR HIS COUNSEL AS FIDUCIARIES AND/OR LEGAL
COUNSEL FOR FRAUD ON THE COURT AND FRAUD ON THE BENEFICIARIES
AND CREDITOR**

379. That Alan Rose replaced Tescher and Spallina as Ted's counsel as Fiduciary and let the Court be reminded that Tescher and Spallina committed Felony Criminal Acts not only upon the Eliot Bernstein Family and the William Stansbury Family but THIS COURT and it was at a time that they were working with Alan B. Rose, Esq. who they retained along with Ted in these matters.

380. As with Ted, this Court should have removed all parties associated with Ted the Fiduciary and his counsel who were involved in any way to correct the Fraud on the Court instantly as Felony Crimes against parties is certainly cause for the Court to act on its own motion and instead the Court allowed Ted to replace his counsel with another lawyer who continues the same pattern and practice of Fraud on the Court and Fraud on the Beneficiaries to aid and abet Ted and the lawyers who retained him into the matters.
381. Rose now also has a conflicting Self-Preservation interest in that if the Frauds on the Court and Fraud on the Beneficiaries that continue to play out in this Court do not hold up, he too may face prison time and loss of all assets for his part in the Frauds.
382. Rose is a material and fact witness to the actions of Tescher and Spallina who he was intimately involved with in these matters, he is giving statements to Palm Beach County Sheriff Officers in Criminal Complaints filed against he and Ted et al. that contradict statements given to this Court, he is making a litany of false pleadings leading to soon to be void and baseless orders by this Court, where in doing all this Rise has conflicts of interest and adverse interests personally, he is holding sham hearings that are further Fraud, Waste and Abuse of this Court's resources as they were gained through Sharp Practices and damaging the already victimized Eliot Bernstein and William Stansbury families, when he should have been removed instantly by this Court when those who referred him in to the cases were PROVEN and FURTHER ADMITTED multiple felony criminal acts.
383. Eliot Bernstein is not the only party alleging that Alan Rose is violating Attorney Conduct Codes and Law in his illegal representations of Ted but also Creditor Stansbury's Attorney at Law Peter Feaman, Esq. who has notified this Court, the Illinois Federal Court under Judge John Robert Blakey and others of the Conflicts and Adverse interests and other potential felony criminal

activity that Rose has in various actions he is representing Ted under. **See Exhibits – See Docket Entries maybe already exhibited herein**

384. The Court's blind eye to these ongoing conflicts and adverse interests of its Court Appointed Officers and failure to remedy them according to Attorney Conduct Code, Judicial Canon, the FL Court Statewide Fraud Policy and Law further acts to continue to damage the Eliot Bernstein and William Stansbury families by subjecting them to further Fraudulent Process in this Court, which continues to damage them both financially, physically and emotionally.
385. The Court has legal obligations that it is well aware of to regulate the misconduct, especially criminal misconduct of its Court Officers and Court Appointed Officers/Attorneys/Fiduciaries/Guardians and removal on its own motion of Alan Rose is mandatory under those obligations, a failure to follow legal obligations by this Court constitutes further actions Outside the Color of Law by this Court's officers.

FRAUDULENT SETTLEMENTS NEGOTIATED WITH TED BERNSTEIN HAVING CONFLICTS OF INTEREST AND ADVERSE INTERESTS

SPALLINA AND TESCHER UNDISCLOSED SETTLEMENT

386. Ted in an act that defies logic and law is negotiating with Spallina and Tescher an Undisclosed Settlement with Tescher and Spallina's insurance company and where not only are there further conflicts of interest that preclude this it acts as a new reportable crime of Insurance Fraud. Ted is attempting to settle with his former Retained Counsel, Bedfellows and Business Associates for the Criminal Acts they committed on Ted's behalf as Fiduciary to the detriment of the Beneficiaries and Creditor with an Insurance company. Ted again has a conflicting self-preservation interest and conflicting and adverse interests in negotiating this fraudulent settlement to protect himself, Tescher and Spallina and others and settle again to the detriment of Beneficiaries and the Creditor (who, along with other injured parties was left out of the

settlement although all damaged parties) and instead Ted settling in his counsel both former and present and his best interests.

387. These conflicts and adverse interests coupled with the possibility of further insurance fraud to the detriment of the Creditor and Eliot Bernstein family, make this Court removing Ted on its own motion mandatory and compulsory and revoke or deny any proposed settlements that involve Ted or his counsel, who should have both already been removed for cause on multiple grounds cited herein.

STANSBURY UNDISCLOSED SETTLEMENT OF SHIRLEY ESTATE, SHIRLEY TRUST, SIMON TRUST & SIMON ESTATE WITH TED BERNSTEIN

388. In the Stansbury Settlement Ted Negotiated as a Defendant in the lawsuit of Stansbury with Conflicts of Interest and Adverse Interests against the beneficiaries of the Simon and Shirley Estate and Trusts that he simultaneously negotiated on behalf of as Fiduciary on their behalf and where through this conflict of interest between Ted as a Defendant in the Stansbury Litigation (where he has shared risk in the Lawsuit for money damages) and Ted as a Fiduciary for the Shirley Estate an Trust (where he has no risk in the Lawsuit for money damages since he is considered predeceased for purposes of Dispositions in both Shirley and Simon's Estates and Trusts) and Ted negotiated a settlement with Stansbury that removed Ted from all personal liability and shifted the entire liability to the Simon Bernstein Estate and Trusts.

389. Ted allowed himself to be negotiated out individually of the Stansbury lawsuit by shifting the liabilities he had personally as a Defendant in the Stansbury lawsuit of between 1.25 Million to 2.5 Million dollars wholly to the Simon Bernstein Estate and Simon Bernstein Trust beneficiaries where he has no financial interest and allowing Shirley's Trust out of the lawsuit where again he had no financial interest in that trust and thereby shifting his entire personal liability to the Simon

Estate and Simon Trust Beneficiaries, that are also defendants but where Ted has no personal interest in the Simon Estate or Simon Trust.

390. For Ted this appears a great settlement made with conflicts of interest and adverse interests, as he settled as fiduciary to leave the Estate and Trusts at risk of damages, while settling to remove himself personally from the claims, in exchange for unknown amounts of money settled for and paid for by what appears checks that could have also in part been owed to the Estate of Simon where again Ted has no interest.
391. Some of the money believed to pay the settlement according to pleadings in that case comes from checks which were sent to Mr. Stansbury that he was supposed to return to the companies of Simon and Ted's, including but not limited to, LIC Holdings, LLC and Arbitrage International Management. Then the companies were supposed to pay the partners, Ted, Simon and Stansbury their shares of the commission checks. Apparently Ted allowed Stansbury to keep these funds as part of the undisclosed settlement and forgo any amounts due to Simon's estate beneficiaries, again shifting the liability away from him personally and onto the beneficiaries of the Estate of Simon where Ted has no personal interests in the benefits.
392. The lawsuit is for approximately 2.5 Million of which either Ted as a Defendant could have been found to have been liable for either the whole \$2.5 Million or if split liability half or \$1.25 Million if it was determined that both he and Simon were equally liable for the damages to Stansbury. Ted having NO interest in the Simon and Shirley Estates and Trusts having been wholly disinherited, then negotiated with Stansbury both as an Individual Defendant in the Lawsuit and a Fiduciary for the Estate of Shirley as Defendants, a settlement that has left Ted individually with zero liabilities removing himself from the lawsuit liabilities as part of his deal and leaving the Simon Estate and Simon Trust with 100% of the liabilities. This was achieved

by negotiating with Conflicts of Interest and Adverse Interests to the parties he represented as Fiduciary, a classic Conflict that benefited Ted at the expense of those he was fiducially obligated to.

393. Stansbury's Lawsuit Complaint and Amended Complaint appear to have Ted Bernstein doing most of the alleged bad acts and fraud against Stansbury. Further, from Tax Records from the period Stansbury claims fraud was committed against him while Ted and Simon were equal partners in the business, the year that Stansbury claims money was stolen from him, Ted took several million dollars more than Simon his equal partner from the business, in approximately the amount Stansbury claims was stolen from him. Therefore, Ted may have gained millions of dollars in swindling Stansbury that Simon was unaware of and then shifted the damages of the Stansbury claims to Simon's estate and trust beneficiaries.
394. Finally, Simon became aware of the Stansbury lawsuit only weeks before he died and was very distraught over it as he considered Stansbury a son to him, claimed to parties that he believed that Stansbury was paid everything owed him according to Ted and he even had made Stansbury the Successor Trustee and Successor PR of his Estate and Trust, not Ted his eldest son.
395. It is believed that Shirley Bernstein also made Stansbury, not Ted the Successor Trustee and the Shirley Trust is a forgery inserting Ted into the fiduciary position despite the fact that the language in the Shirley Trust clearly has him considered Predeceased For All Purposes of Dispositions of the Shirley Trust and in the Simon Trust he is considered Predeceased for ALL Purposes of the Simon Trust and therefore even if he were named a successor his roles would be limited and nil as he cannot make dispositions of the trust that a fiduciary with such power would be required to do.

396. There is also another settlement on the table now, involving settling Stansbury in Simon's Estate and Trusts. Here again we find that Ted negotiated a settlement with his counsel Rose and Stansbury's counsel and again the settlement shifts the liabilities to the beneficiaries of Simon's Estates and Trusts and leaves Ted wholly free of any damages or liabilities in the Stansbury lawsuit, again shifting the burden from himself to the Estates and Trusts he represents as fiduciary.

397. Ted now wants to have his counsel Rose represent the Simon Estate to handle the Stansbury Litigation and the conflicts and adverse interests remain in play for Ted in the Simon Estate, as Ted will not litigate against himself on behalf of the Simon Estate Beneficiaries and claim that Ted as a Defendant individually is responsible in some part to Stansbury when he can bury that claim and walk away successfully having shifted the entire lawsuit liability to parties he is representing as fiduciary in an Estate where he has no interest having been disinherited.

**STATE AND FEDERAL, CIVIL, CRIMINAL AND ETHICAL ONGOING
INVESTIGATIONS INTO FELONY CRIMINAL ACTS RELATING TO THE
ESTATES AND TRUSTS OF SHIRLEY AND SIMON BERNSTEIN WHERE TED IS
A CENTRAL SUSPECT, ALONG WITH HIS COUNSEL AND MEMBERS OF THIS
COURT WHO ARE ALLEGED TO HAVE ACTED OUTSIDE THE COLOR OF
LAW AND HAVE USED THE COURT AS WEAPON TO SUPPRESS AND DENY
DUE PROCESS AND PERSONAL PROPERTY RIGHTS OF THE ELIOT
BERNSTEIN FAMILY AS WHISTLEBLOWERS OF COURT CORRUPTION IN
THIS COURT BY AND THROUGH ITS OFFICERS (JUDGES, COLIN, FRENCH,
PHILLIPS AND COATES) AND THROUGH ITS COURT APPOINTED
OFFICERS/ATTORNEYS/FIDUCIARIES/GUARDIANS**

398. Following is a short list of some of the primary criminal and civil allegations involved in ongoing complaints, where Ted and his counsel are suspects who have been interviewed by various agencies, some (Tescher & Spallina) already have been charged with Felony Criminal Securities Violations and pled consents and to Criminal Acts, one legal assistant and notary public who worked for Tescher & Spallina, PA has been arrested and convicted for admitted acts of Forgery and Fraud, Spallina has admitted before this Court and to Criminal Investigators

further Forgery and Fraud, there is Proven and Admitted Fraud Upon the Court and there are many pending allegations of further FELONY CRIMINAL ACTS under investigation, all involving Ted and his counsel and all making them adverse and conflicted with parties and all NOT QUALIFIED TO ACT AS FIDUCIARIES AT THIS TIME and make this Court's Removal Mandatory of all parties even tangentially related to the Frauds and other crimes being investigated, including but not limited to;

- Case No. 12-0913 – Palm Beach County Medical Examiner – Autopsy Ordered by Ted Bernstein for alleged poisoning of his father Simon L. Bernstein – Opened by Ted Stuart Bernstein with the aid of his legal counsel claiming a possible murder of his father Simon Bernstein by a one Maritza Puccio (whom PBSO never interviewed at all.) Opened and reported by Ted Bernstein September 13, 2012 the day Simon Bernstein died leading to a delay in the funeral in violate of his religious practices and where Ted and Pamela Simon claimed the body had been taken to a “private” autopsy company in Miami Florida, which was later learned to be wholly false. The original Autopsy did not check for Poison and the case had to be reopened by me over a year later to conduct a Heavy Metal Poison Test, which came back with elevated levels of Arsenic, Cadmium and another heavy metal, yet the report is for a 113 year old man named Simon Bernstein and Simon Bernstein was only 76 when he passed away suddenly, violently and unexpectedly.
- Palm Beach Sheriff and Boca Raton PD – Case No. 12121312 – Alleged Murder of Simon Bernstein via Poisoning. The case was initiated by Ted Stuart Bernstein on September 13, 2012 the day his father Simon Bernstein died. This rush to contact

authorities claiming murder was Ted's very first order of business minutes after the death of his father starting at the hospital with a demand for an Autopsy.

- Case No, 1604246 – Homicide/Suicide – Mitchell Huhem
- Case No. 13097087 – Palm Beach County Sheriff Criminal Complaint re Multiple Financial Crimes, Fraud, Forgery, Theft of Assets and more filed 07/15/13 with the Palm Beach County Sheriff. Filed by Eliot Bernstein.
- Case No. 14029489 – Palm Beach County Sheriff – Supplemental Financial Crimes. Filed by Detective Ryan Miller et al.
- Case No. 13159967 – 12/23/13 Palm Beach County Sheriff Palm Beach County Sheriff Theft Report Filed 12/23/2013.
- Case No. 13CF010745 – Palm Beach County Sheriff Arrest of Kimberly Moran. Kimberly Moran Criminal Complaint.
- FBI – multiple complaints
- USAG
- SEC
- FL Department of Insurance
- IRS – soon to be filed

399. Crimes alleged and under current and ongoing State and Federal, Civil, Criminal and Ethical investigation, include but are not limited to all of the following;

- RICO,
- Racketeering,
- Murder,
 - i. Shirley Bernstein,

- ii. Simon Bernstein,
- iii. Benjamin Brown, and,
- iv. Mitchell Huhem,
- Attempted Murder via Car Bombing Eliot Bernstein Family,
- Violations of Civil Rights,
- Due Process violations,
- Conspiracy,
- Coercion,
- Extortion,
- Document forgery,
- Document fraud,
- Fraudulent notarizations,
- Intentional Interference with an Expectancy,
- Fraudulent Billing Schemes,
- Fraud on and fraud by various FL state court officers and court appointed officials/attorneys/fiduciaries/guardians,
- Fraudulent Papers and Pleadings submitted to State and Federal Courts as part of larger Obstruction of Justice,
- Fraud on beneficiaries, interested parties and creditors of ongoing civil cases,
- Insurance fraud,
- Private and Public Securities fraud,
- Trust Company fraud,
- Mail fraud,

- Wire fraud,
- Bank fraud,
- Theft,
- Abuse of process,
- Obstruction of Justice both state and federal,
- Identity theft,
- Trafficking in Stolen goods,
- Financial Exploitation of Minors,
- Interstate commerce violations,
- Perjury,
- Intellectual Property Thefts,
- Fraud on US Patent Office,
- Obstruction of State and Federal investigations,
- Spoilation of Evidence,
- Misprision of Felony,
- Aiding and Abetting,
- Tax Evasion,
- Elder Abuse,
- Corporate Fraud,
- Creditor Fraud and more.

400. Knowing that Court Officials of this Court are also directly implicated in these investigations for obstructing investigations, aiding and abetting and more makes this Court's retention of jurisdiction in these proceedings in the Simon and Shirley Bernstein Estate and Trust Cases with

current Conflicted and Adverse Parties and Material and Fact Witnesses at will to continue ongoing fraud on, in and by the Court virtually neutered from moving forward with these cases without the APPEARANCE OF IMPROPRIETY, as THIS COURT AND ITS OFFICERS AND COURT APPOINTED OFFICERS ARE THE SUSPECTS IN ALL OF THESE CRIMES AND CRIMINAL, CIVIL AND ETHICAL COMPLAINTS.

401. The Court's continued handling of the cases and every SHAM PLEADING, SHAM HEARING, FRAUDULENT SALE OF ASSETS and virtually every single action forward, since the original Fraud on the Court, Fraud on the Beneficiaries, the Creditor and others has never been remedied by this Court and instead the crimes have been allowed to continue, the parties involved in the crimes allowed to remain as fiduciaries and counsel and therefore each action of this Court steered improperly by conflicted and adverse Court Officers and Court Appointed Officers who mandatorily and compulsorily should have been removed is a new violation of LAW, a new OBSTRUCTION OF JUSTICE and continued RETALIATION AGAINST THE ELIOT BERNSTEIN FAMILY misusing the Court as a weapon to suppress and deny due process to litigants that are exposing criminal acts of its Officers and Court Appointed Officers.
402. The Fraudulently issued Orders in these matters, all issued OUTSIDE THE COLOR OF LAW will be vacated when the frauds are finally cured and parties involved in them removed from influencing and steering every act of these proceedings forward in frauds upon frauds on the Court and Beneficiaries et al.
403. Eliot has been working with other brave court corruption whistleblowers to expose a corrupt group of Florida Probate/Trust/Family Court Attorneys and Judges and is also working with several national originations to have these most serious crimes alleged against Officers of the

Court and Court Appointed Officers, prosecuted to the fullest extent of the law for actions far Outside the Color of Law.

404. Eliot is therefore in need of Whistleblower protections and this Court should notify all state and federal criminal authorities that Eliot has PROVEN and ADMISSION of very serious and egregious FELONY CRIMINAL ACTS committed by members of the Florida Bar practicing before and appointed by this Court and is need of protection of his fundamental due process rights and rights to life, liberty and property from THIS COURT and possibly the entire FL Court System.

- a. From AAAPG a nationwide Elder Abuse Organization founded by Dr. Sam Sugar, an AD RUN in the Palm Beach Post alongside the Post's series "Guardianship – A Broken Trust" read,

**FLORIDA RESIDENTS BEWARE!!!
YOU ARE IN DANGER OF BEING FINANCIALLY ATTACKED
AND DEPRIVED OF ALL OF YOUR LEGAL RIGHTS BY
FLORIDA GUARDIANSHIP / PROBATE JUDGES, ATTORNEYS
AND THE "PROFESSIONAL" GUARDIANS THEY PROTECT
IN ILLEGITIMATE, CORRUPT GUARDIANSHIP COURT
PROCEEDINGS DESIGNED TO FINANCIALLY DEFRAUD
YOU AND YOUR FAMILY ALL OF YOUR ASSETS AS THEY
ISOLATE AND ABUSE YOUR LOVED ONES**

*MARCO RUBIO, BILL NELSON
PAM BONDI, RICK SCOTT, PRESIDENT OBAMA, JAMES COMEY
WE HAVE DESPERATELY SOUGHT YOUR INTERVENTION
FOR YEARS TO SAVE AND PROTECT OUR FAMILIES
BUT YOU HAVE MISERABLY FAILED TO PROTECT US*

**LORETTA LYNCH, U.S. DEPARTMENT OF JUSTICE, WE DEMAND
THE IMMEDIATE APPOINTMENT OF FEDERAL MONITORS TO
PROVIDE OVERSIGHT ON THESE FLORIDA COURTS TO HONESTLY
INVESTIGATE AND ULTIMATELY PROSECUTE THE GUARDIANS,
JUDGES AND ATTORNEYS WHO RUN THIS VILE RACKET**

**MR. DONALD TRUMP, AS A PALM BEACH RESIDENT, WE
CHALLENGE YOUR PRESIDENTIAL CAMPAIGN TO SHINE A
NATIONAL SPOTLIGHT ON THIS ABJECT ABUSE OF
U.S. CITIZENS AND FAMILIES**

Florida is home to over 4.5 million retirees and baby boomers who seek a sunny place to spend their golden years. But, even as the flow of seniors in the "Silver Tsunami" increases, retiring to Florida as well as other "retirement States" has become a nightmare as the wealth accumulated by honest, law abiding, hard working Americans is being systematically extorted in thousands of fraudulent guardian and probate proceedings every year.

This devious scheme mercilessly deprives retirees of their assets inheritances and constitutional rights with racketeering lawyers, judges, guardians and complicit state agencies.

Probate/Guardianship Courts all across the State are used to financially exploit, isolate and often physically abuse elderly adults with assets while family members who object and expose these crimes publically are viciously retaliated against and isolated from their loved ones. And there is no reason to expect that anything will change without Federal intervention.

Billions of dollars have been extorted from our loved ones in this inconceivable crime that is hidden in secrecy in the Courts using sequestered files, "Inside Clubhouse" Lawyers, massive billing fraud, persons taken into Guardianship with no due process and blatant unchecked conflicts of interest and unfit, complicit Judges.

Before another victim falls into the abyss of these court based predators, we urge you to learn more at

<http://aaapg.net/the-guardianship-racket-in-florida/>

Political Advertisement paid for by the AAAPG

- b. Eliot has also joined forces with FACT/Families Against Court Travesties – an offshoot of NOW/National Organization for Women.

Families
Against
Court
Travesties

PO Box 7322
Delray Beach FL 33482
(800) 201-5560

www.FactsCourtWatch.org

FactsCourtWatch@gmail.com

facebook.com/FamiliesAgainstCourtTravesties

Press Release February 20, 2016

CORRUPTION, COLLUSION AND CRONYISM IN PBC COURTS

Thanks to Palm Beach Post's reporter John Pacenti for uncovering some of the **corruption** in the Guardianship section of the Palm Beach County court system. It is **endemic**, in both the Guardianship and Family Court divisions. **Families Against Court Travesties, Inc. (FACTS)**, a non-profit organization, has been monitoring these courtrooms for over 13 years and has evaluations of some of the judges in these divisions. Because of Mr. Pacenti's investigative reporting, Chief Justice Colbath has said he would overhaul the guardianship system. Has he?

The Family Court system needs overhauling as well. Because of court appointed professionals and the expensive, connected attorneys who recommend them, children are being torn away from good, loving parents and irreparable damage is done to the entire family.

Those involved in the Guardianship collusion are:

Judge Martin Colin whose wife Elizabeth Savitt's cases went to their friend Judge French, who appeared to rubber stamp her overreaching fees and those of her associates.

Professional Guardian Elizabeth Savitt (Judge Colin's wife) who owns a guardianship business that appeared consistently before Judge French. According to the Palm Beach Post, she took fees without court approval, double-billed, overcharged and encouraged unnecessary litigation.

Judge David French (close friends with the couple) who apparently did not disclose his friendship with Savitt to opposing lawyers, as required.

Chief Justice Jeffrey Colbath who allowed Judge Colin to remain in the Guardianship Division for 4 years after Savitt became a registered Guardian, while other judges rotated regularly. While Justice Colbath was in Family Court several years ago, FACTS Court Watch was often called due to many complaints against him. Having him as Chief Justice is like having the fox guard the chicken coop.

These people are not above the law and need to be prosecuted!

These families must receive justice!

The corruption in these courts has to end!

Contact State Attorney David Aronberg at StateAttorney@sa15.state.fl.us or (561) 355-7100.

Contact US Attorney General Loretta Lynch at <http://www.justice.gov/contact-us> or (202) 353-1555

To read more, go to <http://www.mypalmbeachpost.com/guardianships-colin-savitt/>

FACTS, Inc. is a 501(c)3 non-profit all-volunteer corporation created by PBC National Organization for Women.

CREDITOR WILLIAM STANSBURY'S FILINGS BY FL LICENSED ATTORNEY PETER FEAMAN, ESQ. REGARDING TED BERNSTEIN AS FIDUCIARY AND HIS COUNSELS' MISCONDUCT, CONFLICTS AND MORE

FEAMAN AND STANSBURY NOTIFICATION TO CRIMINAL AUTHORITIES OF MISCONDUCT IN THIS COURT AND A US FEDERAL COURT BY TED BERNSTEIN AS FIDUCIARY AND HIS COUNSEL IN THE ESTATES AND TRUSTS OF SIMON AND SHIRLEY BERNSTEIN:

405. Licensed Attorney at Law Peter Feaman, Esq. has contacted Florida Law Enforcement agencies regarding Ted Bernstein and his Counsel's criminal and ethical misconduct.
406. Licensed Attorney at Law Peter Feaman, Esq. has contacted Federal Agents and filed complaint information regarding Ted Bernstein and Robert Spallina et al. with Palm Beach FBI and other FBI offices.
407. Licensed Attorney at Law Peter Feaman, Esq. has contacted Predatory Guardian Diane Lewis regarding the misconduct of Ted Bernstein and Alan Rose, Esq. et al.
408. Stansbury has filed with the Department of Insurance a complaint/inquiry regarding an alleged Fraudulent Insurance Death Benefit Claim made by Robert Spallina.
409. Stansbury has filed with Department of Labor regarding Breaches of Fiduciary Duties by Ted Bernstein regarding Corporate plan administration and it was determined that Ted Bernstein may have breached his fiduciary duties in that matter²⁶.

FEAMAN AND STANSBURY NOTIFICATION TO COURTS AND OTHER PARTIES OF CRIMINAL AND CIVIL MISCONDUCT IN THE COURTS:

NOTIFICATION TO JUDGE PHILLIPS OF THEFT OF TANGIBLE PERSONAL PROPERTY OF SHIRLEY AND SIMON BERNSTEIN BY FLORIDA LICENSED ATTORNEY PETER FEAMAN

410. Both the creditor and Eliot have presented evidence to the Court of missing and stolen assets of the Estates and Trusts and in fact in a recent hearing on September 1, 2016 before Judge John Phillips, attorney Peter Feaman brought up to Judge Phillips that there was stolen Personal

²⁶ Department of Labor Report

Property and in typical Phillips style he asked Feaman if it was before him that day, which in part it was and then determined it was not without any evidentiary hearing and ruled to “even up” with the Estate of Simon for properties that were stolen in Shirley’s Estate, in yet another bizarre Phillip’s Order. Feaman stated to Judge Phillips at the hearing regarding theft of properties committed by Court Appointed Officers and Fiduciaries as follows,

TRANSCRIPT OF PROCEEDINGS BEFORE HONORABLE
JOHN L. PHILLIPS DATE: September 1, 2016 TIME: 8:44 a.m. -
8:50 a.m.

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20160901%20Phillips%20Hearing%20Transcript%20re%20TPP%20COPY%20CLEANED.pdf>

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“1 P-R-0-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
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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.

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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

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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

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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.”

411. Again Judge Phillips was made aware that there were allegations of Fraud and Theft in the Estate of Simon not only by Eliot Bernstein but now by licensed attorney at law Peter Feaman, Esq., not just of stolen Jewelry but other Tangible Personal Properties missing from inventories and accountings and Phillips completely ignored his duty to report and regulate frauds in his Court committed as alleged by Feaman by Fiduciaries and Counsel in the matters.

412. Phillips in fact here is notified of theft of TPP in the Estates of Simon and Shirley and the Court despite knowing of these claims, then issues an absurd “even up” Order²⁷, whereby Judge

²⁷ September 01, 2016 Judge John Phillips Even Up Order on Stolen Tangible Personal Property

Phillips tries to compensate for Stolen Items of TPP by allowing Ted to settle with Simon's Estate for Shirley's TPP that remains un-inventoried in Shirley's Estate and was stolen and then alleged sold with no notice, no accounting of the transaction and no consent of the beneficiaries, including Eliot, whose TPP it was by inheritance in the Will of Simon.

413. The Court should note several lies told by Alan Rose in the Court excerpt in his never ending stream of false and fabricated statements to this Court. First, the furniture, art and possessions in Shirley's Condominium that was being evened up is at the center of a several year ongoing investigation into what happened to Shirley's Personal Properties.
414. Mr. Rose now changes prior claims to this Court, Beneficiaries and the Creditor that Shirley Bernstein's Personal Property, including the furnishing of a several million dollar Ocean Front Condominium with private elevator and floor was sold with the Condominium by Ted Bernstein for \$12,457.00.
415. However, HUD reports and more show that no furniture was sold with the Condominium, including Ted's own statements and his counsel's statements to the Curator Benjamin Brown that the property from Shirley's Condominium was being stored at the 7020 Lions Head Lane Boca Raton, FL 33496 Homestead property. See footnote link for Emails Between Curator and Ted Bernstein Counsel Regarding Missing TPP²⁸.
416. This new story of an unaccounted for sale has changed from what the Beneficiaries, Creditor, Curator²⁹ and this Court were originally told about this TPP in the Condominium, which was that

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20160901%20ORDER%20PHILLIPS%20Bernstein%20Estate%20Approve%20Agreement%20Ted%20and%20Brian%20re%20TPP.pdf>

²⁸ Emails Between Curator and Ted Bernstein Counsel Regarding Missing TPP

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20150501%20Letters%20confirming%20Personal%20Property%20Shirley%20Condo%20transferred%20to%20Saint%20Andrews%20home.pdf>

²⁹ Filing # 14658448 Electronically Filed 06/10/2014 05:46:29 PM "CURATOR'S MOTION TO INSPECT AND TAKE POSSESSION OF ESTATE TANGIBLE PERSONAL PROPERTY"

it was moved upon the sale to the Primary Homestead Residence of Simon Bernstein and was being stored in the 4 garages, which it filled to the ceilings.

417. Because the sale was unaccounted for and the property was missing, the Curator Benjamin Brown, Esq. filed for a re-inventorying of the Condo TPP to be completed at the 7020 Lions Head Lane address where the TPP was said to have been moved in the initial story provided to this Court, the Fiduciary Ben Brown, Esq., the Beneficiaries and the Creditor.
418. Prior to his sudden and tragic early death immediately after receiving the Simon and Shirley Bernstein Certified Tax Returns which have gone missing since, Benjamin Brown, Esq. did not perform a re-inventorying and this was left to the Successor PR who replaced him, Brian O'Connell, Esq. both referred to the matters by Attorney Peter Feaman, Esq. the Creditor's counsel.
419. O'Connell was then issued an Order by Judge Colin to re-inventory the TPP at the Homestead at 7020 Lions Head Lane, Boca Raton, FL and also was to do an inventory of Simon Bernstein's physical office location for collection of business records and TPP of Simon's, which would have included stored files of the Intellectual Property companies of he and his son Eliot's, his business records and properties, which was never completed in contempt of this Court's Order and where such business records and properties remain missing as of this day.
420. O'Connell did do a Court Ordered re-inventorying to account for the missing furniture from the Condominium and upon opening the 4 garages that were to be filled to the ceiling with the Condominium furnishings and other TPP according to Ted and his counsel, 3 garages were entirely empty and 1 had some tables with pepper shakers and the like on it, all of Shirley's Condominium Tangible Personal Property was missing.

421. That after the Court issued Orders to re-inventory the properties of Shirley's Condominium at the Lions Head home based on Ted's claims they were stored there, Alan Rose began with a new story that the items were now sold with the Condominium despite having no sales receipts and no notice sent to any beneficiaries of such sale of their TPP and no consent from any beneficiaries. A sale that is unaccounted for and according to the new story was done with the intent to "even up" the missing/stolen inventory at a later date. This is because once they were caught stealing the TPP and failing to list these items on Shirley's Inventory, they came up with a new story that contradicts the prior record of the case. Note that none of the TPP of Shirley Bernstein is listed on her inventory, instead without accounting for it on Shirley's Inventory and then transferring it to Simon as required, some of the properties mysteriously end up on Simon's inventory and what is listed as Shirley's far exceeds the numbers produced on her inventory. In furniture and jewelry alone of Shirley's from PR O'Connell appraisals and even Ted's appraisals the amount of furniture and jewelry far exceeds the \$25,000.00 of inventory listed by Spallina and the \$0.00 listed by Ted. Ted cannot claim to this Court that he was unaware of the unaccounted for items as he did an appraisal on Shirley's properties that exceeded what was stated on Spallina and his own inventory. This failure to properly account is cause for this Court to remove Ted Bernstein on its own motion.

422. That allegedly according to an Inventory³⁰ produced by the fraudsters Tescher and Spallina and allegedly filed with the Court by Simon Bernstein, it shows that Shirley Bernstein's total property was worth \$25,000.00 and it is just a number with no accounting for what property made up the number. According to Spallina's statements to this Court in an Evidentiary Hearing

³⁰ Simon Bernstein Inventory of Shirley Personal Property
<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20110829%20Inventory%20Shirley%20NO%20COURT%20DOCKET%20STAMP.pdf>

held in October 2013³¹ he claimed the Inventory was done by Simon giving him a total value of Shirley's Personal Property by phone, in an estimate so low as to make it almost criminal if the story were true and so there is no itemized listing of property on the inventory to determine what constituted Shirley's twenty five thousand dollars of possessions. The inventory was never sent to beneficiaries.

423. The Court should further note that this alleged Inventory that Simon did was never sent to any beneficiaries of Shirley's Estate which would be her 5 children, according to her 2008 Will, in violation of Probate Rules and Statutes.

424. However, being a very wealthy woman for most of 50 years of her life, Shirley's Estate worth at the time of her death far exceeded this number as her personal properties included a vast holding of Jewelry (some pieces valued at \$250,000.00 alone and an insurance policy on approximately 1M more of items), Art, Furnishings, a fully paid Bentley and more. The furnishing included all the properties in her two homes that were held under Shirley Bernstein Trust,

- a. the exclusive and ritzy Saint Andrews Country Club Homestead home with Private Elevator, 10 bathrooms, etc. at 7020 Lions Head Lane, Boca Raton, FL and
- b. Shirley's getaway Boca Raton Beach Front Condominium Private Elevator to Private Floor only 5 miles away from her Homestead home at The Aragon 2494 S Ocean BLVD, #C5, Boca Raton, FL33432. (Both properties were furnished with the finest furniture and art.)

425. Ted Bernstein even had appraisals done, which have been challenged in this Court as further evidence of Fraud, whereby the furnishing alone in the Condominium were valued at \$14,865.00 and the furnishings of the Saint Andrews Homestead were appraised at \$36,270.00. It is alleged that Ted has stolen with his counsel millions of dollars of properties, including but not limited to,

³¹ October 28, 2013 Evidentiary Hearing

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20131028%20Evidentiary%20Hearing%20TRANSCRIPT%20Shirley%20Estate.pdf>

artwork, furnishings, jewelry, automobiles and more of Shirley's Properties prior to the inventories being completed for Shirley and Simon.

426. Further, the combined total of just the furnishings in Ted's appraisals totals \$51,135.00 and this is over double the value Robert Spallina claims in the October 28, 2013 Evidentiary Hearing that Simon told him Shirley was worth, orally and that he filed with this Court.
427. That Ted Bernstein submitted an Amended Inventory³² whereby with no accounting for the Spallina filed Inventory of \$25,000.00 disbursements, Ted claims Shirley Bernstein was worth nothing \$0.00, despite Ted having information of Shirley's properties that exceed the value he and Spallina stated in the October 28, 2013 Hearing.
428. The Court should note that Mr. Feaman claims that Jewelry was similarly reported to Judge Phillips to be missing from the Estate of Simon, of which Insurance Estimates and other information submitted already to this Court put her wedding ring value alone at \$250,000.00 and there is much more jewelry missing from the inventories done in Simon's Estate.
429. Ted Bernstein is aware of items that were not on Shirley's inventory totaling far more than \$25,000, yet in recent filings to reclose the Estate of Shirley he claims he is aware of no other assets than those NOT listed on her inventory.
430. However, Shirley's Wedding Ring and her fully paid for Bentley and more together combine to nearly \$500,000.00 of inventory of Shirley's that is nowhere on her Inventories, despite Tescher and Spallina and Ted knowing of these items that remain unaccounted for on Shirley's inventory at the time of her death and NO AMENDMENTS have been made by Ted to her inventory to reflect these items Ted and his counsel are both aware of.

³² March 31, 2015 Ted Bernstein Court Filed Inventory Shirley
<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20150331%20Inventory%20Shirley%20Estate%20filed%20by%20Ted%20Bernstein.pdf>

431. No adjustments were made for the value of the Furnishings of her homes that is clearly over \$25,000.00 according to Ted's own appraisals, no adjustments were made for the items that were discovered by Eliot missing from her inventory and this alone is cause for the Court to remove Ted and his counsel in any fiducial and/or legal capacities.
432. Further, how could Tangible Personal Property that was owned by Shirley Bernstein have transferred to Simon Bernstein without it first having been accounted for on Shirley's Inventory and then transferred to Simon after her death? This further begets the question of just how much of Shirley's TPP was not inventoried and is now missing.
433. The only amount of TPP that Shirley could have transferred to Simon is \$25,000.00 according to Spallina and \$0.00 according to Ted, again, Ted as PR in Shirley's Estate, despite knowing of these unaccounted for assets that in some instances were in his possession³³ has failed to properly Amend her Inventory to reflect these assets and again provides the Court evidence of improper Accountings, Fraud, Theft and again cause for IMMEDIATE REMOVAL by this Court of Ted on its own motion.
434. The Court should also take note that Diana Lewis has no guardianship legal authority in the Simon Bernstein Estate case for any party, as the grandchildren are not beneficiaries of the Simon Estate and has acted illegally in approving the sale of Tangible Personal Property that belongs to the children of Simon Bernstein, namely, Ted, Pamela, Eliot, Jill and Lisa, nowhere are the grandchildren named in any Will of Simon L. Bernstein that has been produced and her consent appears part of a fraudulent transaction to cover up for stolen property.

³³ September 14, 2012 Robert Spallina and Donald Tescher Email to Ted Bernstein regarding Tangible Personal Property
<http://iviewit.tv/Simon%20and%20Shirley%20Estate/Exhibit%20Ted%20Notified%20he%20is%20responsible%20for%20Shirley%20and%20Simon%20Inventory%20at%20Condo%20and%20Home%20of%20Simon.pdf>

435. Therefore, Diana Lewis approving the “Even Up Order” on behalf of Eliot Bernstein’s children in the Estate of Simon where she has no legal standing or guardianship over any beneficiary is another abuse of her predatory guardianship and cause for her removal, sanctions and reporting to the proper authorities by this Court as it relates to the stolen Tangible Personal Property.
436. The Court should also note that Eliot Bernstein was not present at any GAL hearings held in the Simon Bernstein Estate or Simon Bernstein trust cases and any orders issued stating such hearings were held with parties present and presenting arguments is false and thus issued through further fraud on the Court by Court Officers and Court Appointed Officers who issued blatantly false Orders.
437. This ignoring by a sitting Judge Phillips, of an Attorney at Law exposing fraud and theft of Estate assets, is exactly what Phillips did when Spallina admitted his part in Frauds on this Court and Fraud on Beneficiaries that he partook in and Phillips in both instances ignored his duties to report and regulate the frauds and thefts committed by Court Appointed Officers/Attorneys/Fiduciaries/Guardians.
438. Spallina in the December 15, 2015 hearing before this Court admitted on the stand and under oath to a multitude of new State and Federal FELONY crimes when cross examined by Eliot and claimed he had not reported some of the crimes to the Court and authorities prior.
439. The record reflects Phillips ignoring this information and moving on as if he heard nothing, no show cause issued by the Court for Spallina to explain his crimes and failing to report the crimes of a Court appointed officer to the proper State and Federal, Civil, Criminal and Ethical authorities or regulate the admitted crimes.
440. Instead, Phillips allowed Spallina to testify to the validity of the documents and based his decision that the documents were valid on Spallina’s testimony alone whose credibility with this

Court and the Beneficiaries is zero due to the fact that he has already admitted his law firm committed felony criminal acts in the Estate and Trust cases against beneficiaries and he has pled guilty to criminal misconduct in an Insider Trading Case and where on the record under cross examination Spallina then admitted to Forging, Fraudulently Creating and Distributing to parties in Shirley's Trust case a Fraudulent Shirley Trust, including Eliot Bernstein's Minor Children's attorney as part of a fraud to change beneficiaries.

441. Despite the Admission of Felony Criminal Acts in the Shirley Trust by Spallina to the Court, Phillips ignored this and took Spallina's word as the only witness to the documents being valid despite hearing that he had personally fraudulently altered one of the documents he was testifying as to its authenticity.
442. Remarkable to say the least that validity was based on one witness whose law firm and him committed Forgeries, Fraudulently Notarized Documents and Fraud on the Court, Fraud on the Beneficiaries and Fraud on the Creditor and where Spallina's testimony should have been stricken.
443. The Court should have had him Show Cause to the Court regarding the Frauds on the Court and Frauds on the Beneficiaries he was admitting to and then Phillips should have reported the FELONIES to the proper authorities as Mandated under Attorney Conduct Codes, Judicial Canons, the Florida Statewide Court Fraud Policy and Law.
444. Spallina may have even violated his consent order with the SEC by misrepresenting the facts of that case and his criminal case with the FBI in the December 15, 2015 hearing, which may revoke his consent and subject him to further criminal prosecution once the Court reports the crimes to the SEC and FBI as mandated.

OTHER NOTIFICATIONS TO THIS COURT AND OTHERS OF FRAUD AND MORE BY WILLIAM STANSBURY AND PETER FEAMAN

445. November 28, 20016 CLAIMANT, WILLIAM E. STANSBURY'S SUMMARY OF ISSUES
<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20161128%20Claimant%20Stansbury%20Summary%20of%20Issues%20Simon%20Estate%20Status%20Conference.pdf>
446. November 28, 2016 Stansbury Letter to Judge Scher with copy of Stansbury Summary of issues for Status Conference.pdf
<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20161128%20Stansbury%20Letter%20to%20Judge%20Scher%20with%20copy%20of%20Stansbury%20Summary%20of%20issues%20for%20Status%20Conference.pdf>
447. November 28, 2016 Stansbury Motion to Disqualify Alan Rose as Legal Counsel for the Estate of Simon Bernstein Due to Conflict of Interest.pdf
<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20161128%20Stansbury%20Motion%20to%20Disqualify%20Alan%20Rose%20as%20Legal%20Counsel%20for%20the%20Estate%20of%20Simon%20Bernstein%20Due%20to%20Conflict%20of%20Interest.pdf>
448. November 15, 2016 Feaman Stansbury FILED IN SHIRLEY TRUST Simon Estate Demand for Accounting as to Missing Personal Property of Estate.pdf
<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20161115%20Feaman%20Stansbury%20FILED%20IN%20SHIRLEY%20TRUST%20Simon%20Estate%20Demand%20for%20Accounting%20as%20to%20Missing%20Personal%20Property%20of%20Estate.pdf>
449. August 26, 2016 - Feaman Letter to Judge Phillips regarding Ted and Alan conflicts and more.
<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20160826%20Feaman%20Letter%20to%20Judge%20Phillips%20re%20Simon%20Estate%20and%20Motion%20for%20Retention%20of%20Counsel%20and%20to%20Appoint%20Ted%20Adminsitrator%20Ad%20Litem.pdf>
450. March 18, 2016 - Stansbury Motion for Protective Order as to Deposition of William Stansbury and Appearance at Evidentiary Hearing / Trial

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20160318%20Feaman%20Stansbury%20Motion%20For%20Protective%20Order.pdf>

451. March 03, 2016 - Stansbury Statement Regarding Guardian Ad Litem hearing held improperly by Judge John Phillips to gain predatory guardianship on Eliot's two minor children and one adult child.

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20160302%20Signed%20William%20Stansbury%20Amended%20Eliot%20and%20Candice%20Bernstein%20GAL%20issue%203.2.2016.pdf>

452. February 27, 2016 Feaman Letter to Chief Judge Jeffrey Colbath informing him that Judge Martin Colin Violated Administrative Orders when he POST RECUSAL interfered with the court process to transfer the cases and instead steered them in violation of court rules and procedures.

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20160217%20Feaman%20Letter%20to%20Chief%20Judge%20Jeffrey%20Colbath.pdf>

453. December 01, 2015 Petition of Claimant and Creditor William Stansbury to Intervene, notifying the Court of a multitude of reasons for the immediate removal of Ted and his counsel.

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20151201%20Petition%20of%20Claimant%20and%20Creditor%20Stansbury%20to%20Intervene%20Shirley%20Trust%20Feaman.pdf>

454. December 16, 2014 Feaman Letter to Brian O'Connell regarding Conflicts of Interest and more of Ted Bernstein and Alan Rose that should cause the removal of both parties, Ted from fiduciary roles and Alan as counsel for the fiduciary.

<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>

455. September 19, 2014 Feaman letter to O'Connell regarding missing and unaccounted for assets of the estate.

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

456. August 29, 2014 Feaman Letter to Successor Personal Representative Brian O'Connell stating assets were being illegally converted and more.

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

457. August 05, 2014 Feaman Letter to Alan Rose re Using the Grandchildren as Pawns and monies set aside for their schooling.

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

458. July 29, 2014 Feaman filed "PETITION TO REMOVE Ted BERNSTEIN AS SUCCESSOR TRUSTEE OF THE SIMON BERNSTEIN REVOCABLE TRUST"

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20140729%20Petition%20to%20Remove%20Ted%20Bernstein%20as%20Successor%20Trustee%20of%20Simon%20Trust%20Stansbury%20Filed.pdf>

459. June 27, 2014 Peter Feaman filing on behalf of William Stansbury, "RESPONSE IN OPPOSITION TO THE APPOINTMENT OF Ted BERNSTEIN AS SUCCESSOR PERSONAL REPRESENTATIVE AND MOTION FOR THE APPOINTMENT OF AN INDEPENDENT THIRD PARTY AS BOTH SUCCESSOR PERSONAL REPRESENTATIVE AND TRUSTEE OF THE SIMON BERNSTEIN TRUST AGREEMENT"

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20140627%20Response%20in%20Opposition%20to%20the%20Appointment%20of%20Ted%20Bernstein%20as%20Successor%20PR%20etc%20filed%20by%20Feaman%20Stansbury.pdf>

460. June 02, 2014 Stansbury Objections to Final Accounting of Co-Personal Representatives Tescher and Spallina.

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20140602%20Objection%20to%20Spallina%20Teschera%20Accounting%20Stansbury%20Feaman.pdf>

461. May 22, 2014 “JOINDER IN PETITION FILED BY ELIOT IVAN BERNSTEIN FOR REMOVAL OF TRUSTEE AND FOR TRUST ACCOUNTING” Notifying the Court of criminal and fiduciary misconduct in the Estates and Trusts of Simon and Shirley Bernstein involving Ted Bernstein and his counsel.

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20140522StansburyJoinder1.pdf>

462. March 14, 2014 Petition for Admin Ad Litem filed by Feaman

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20140314%20Petition%20for%20Administrator%20Ad%20Litem%20Feaman%20Stansbury.pdf>

463. March 14, 2014 Feaman Letter to Curator Benjamin Brown, Esq. regarding fraud in Illinois Insurance Litigation involving Spallina fraudulent application for Life Insurance and Ted Bernstein and Robert Spallina’s fraudulent representation as alleged Trustee of a lost trust that neither possesses that filed a Federal Court action using said non-existent trust.

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20140304%20Stansbury%20Letter%20to%20Curator.pdf>

464. February 11, 2014 “RESPONSE IN OPPOSITION TO MOTION FOR APPOINTMENT OF Ted BERNSTEIN AS CURATOR AND MOTION FOR THE APPOINTMENT OF ELIOT BERNSTEIN AS CURATOR OR SUCCESSOR PERSONAL REPRESENTATIVE OR, IN THE ALTERNATIVE, FOR APPOINTMENT OF AN INDEPENDENT THIRD PARTY AS SUCCESSOR PERSONAL REPRESENTATIVE OR CURATOR.” Outlines to conduct serious Misconduct in the Shirley Estate and Shirley Trust by Fiduciaries and Counsel, Ted Bernstein, Donald Tescher, Robert Spallina et al.

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20140217%20Stansbury%20Response%20in%20Opposition.pdf>

465. October 17, 2013 Feaman filed “Motion to Intervene” notifying court of misconduct of fiduciaries

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20131017%20Stansbury%20Motion%20to%20Intervene%20Shirley%20Estate%20from%20record.pdf>

466. June 20, 2012 Letter from Peter Feaman to Ted Bernstein regarding allegations of fraud, check fraud, mail fraud and more by Ted Bernstein.

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20120620%20Feaman%20Stansbury%20Letter%20to%20Ted%20re%20Lawsuit.pdf>

TED BERNSTEIN FAILURE TO REMEDY; FRAUD UPON THE COURT, FRAUD UPON BENEFICIARIES, FRAUD UPON THE CREDITOR, BREACHES OF FIDUCIARY DUTIES, CONFLICTS OF INTEREST AND ADVERSE INTERESTS

467. Upon learning of Felony Criminal Acts committed by his retained counsel, Ted Bernstein has taken no steps to legally remedy the frauds as a fiduciary under whom many of the crimes were undertaken and instead has further breached fiduciary duties and committed further fraud using the Court in some instances to facilitate crimes of retaliation against the Eliot Bernstein family.

468. Ted upon learning that SIX family members signatures were FORGED and FRAUDULENTLY NOTARIZED did nothing to protect the injured parties and instead attempted to pardon the criminal actors by filing pleadings with this Court claiming that they were good people who were his friends.

469. Ted did not file formal criminal complaints with any State Criminal authority despite Ted’s own signature being FORGED and FRAUDULENTLY NOTARIZED AND DEPOSITED WITH THIS COURT UNDER HIS NAME AS FIDUCIARY and in fact has worked to defeat the criminal complaints against his “friends” to the further detriment to the beneficiaries that Ted is acting on behalf of who were damaged by he and his counsels criminal acts.

a. Exhibit Ted’s statement to PBSO that he has not reviewed the Wills and Trusts he operates under and only takes advice of counsel.

b. Exhibit Spallina statement to PBSO that Ted was advised not to make distributions.

CONCLUSION

THIS COURT HAS LEGAL OBLIGATIONS TO REPORT AND REGULATE FRAUD UPON THE COURT COMMITTED BY COURT OFFICERS AND COURT APPOINTED OFFICERS/ATTORNEYS/FIDUCIARIES/GUARDIANS AND TO PROTECT VICTIMS AND THEIR PROPERTIES UNDER THE COURT'S JURISDICTION FROM THESE LEGAL PROCESS ABUSE CRIMES AND IN FAILING TO DO SO ITS ORDERS BECOME NULL AND VOID AND ITS OFFICERS AND ITS COURT APPOINTED OFFICERS ACTS THEREFORE OUTSIDE THE COLOR OF LAW

470. The Court has obligations to remedy Fraud Upon the Court committed by Court Officers/Judges and Court Appointed Officers/Attorneys/Fiduciaries/Guardians and to protect the Victims' Rights and Properties under its Jurisdiction.
471. However, in these matters to date, these self-regulating remedies have been wholly ignored since this Court was determined and proven to be the scene of proven Felony Criminal Acts including Fraud Upon the Court through Fraudulently Notarized Documents and Forged Documents posited with the Court and other crimes already discussed herein committed by Court Appointed Officers/Fiduciaries and despite the fact that this Court is MANDATED by FL Attorney Conduct Code, FL Judicial Canon, FL Statewide Court Fraud Policy and Law to report the misconduct of its Officers and Court Appointed Officers to the proper State and Federal, Civil, Criminal and Ethical authorities when it becomes aware of such crimes.
472. That not only has the Court failed in every instance over almost four years of discovering multiple felony criminal acts involving the court to report the crimes of its members, it has done nothing to protect the VICTIMS OF THE COURT ORCHESTRATED FRAUD, allowed Conflicted and Adverse Parties to continue to participate despite involvement in multiple Frauds on the Court and instead has begun to RETALIATE against the VICTIMS/WHISTLEBLOWERS to deprive them of Civil Rights and Property Rights through

TORTUROUS INTERFERENCE WITH AN EXPECTANCY through FURTHER LEGAL PROCESS ABUSE AND CONTINUED AND ONGOING PROPERTY THEFTS AND FRAUDS.

473. The cases cannot continue forward without first resolving the Frauds and all of them and removing all traces of parties tied to the frauds including Court Officers and Court Appointed Officers/Attorneys/Fiduciaries/Guardians to insure fair and impartial due process forward. The Court should have removed all parties even remotely tied to the Fraud on the Court and the parties who committed it and who were referred to the matters through any such parties, to guarantee due process free of any Conflicts of Interest and Adverse Interests forward. Leaving any of these parties in legal and fiducial capacities is beyond the Appearance of Impropriety and may have serious criminal ramifications for Officers of this Court whose are obligated to report and remedy the crimes and did not, including but not limited to, Aiding and Abetting, Misprision of Felony, Fraud by Court Officials ACTING OUTSIDE THE COLOR OF LAW and more
474. It is not Eliot's job or any litigant under the Court's Jurisprudence to prove crimes involving Fraud on the Court by Court Appointed Officers/Lawyers/Fiduciaries/Guardians and while Eliot Bernstein and his family have done just that regarding this Court they have not only become VICTIMS but WHISTLEBLOWERS against Officers of this Court and Court Appointed Officers/Lawyers/Fiduciaries/Guardians. Instead, it is this Court's duty to Eliot's Family, the Beneficiaries, the Creditor and Interested Parties to protect and safeguard them when such crimes are discovered and not prey further upon them in efforts to DAMAGE them further through further FRAUD, WASTE and ABUSE of COURT RESOURCES.
475. The court should have taken all of the following corrective measures in addition to the Mandated Actions by Attorney Conduct Code, Judicial Canon, the Florida Statewide Fraud Policy and Law

upon discovering that Fraud on the Court had occurred and was committed, admitted and proven to be due to direct FELONY CRIMINAL ACTS by Court Appointed Officers/Lawyers/Fiduciaries/Guardians;

1. Reported all criminal and ethical misconduct to the proper State and Federal, Criminal, Civil and Ethical authorities regarding the Fraud on the Court and other crimes discovered. The Court failed to report and still has failed to do so, even after having admission of Spallina of new crimes that he claimed to have **never reported** to anyone prior to a Dec. 15, 2015 Hearing before Judge Phillips who ignored the admissions entirely.
2. The court failed to notify any authorities of the Frauds discovered and Admitted in the first hearing held on 9/13/13 before Judge Colin. Instead it was found that the Court chambers of Judge Colin contacted Palm Beach County Sheriff investigators handling the matters and directly interfered and obstructed criminal investigations that were ongoing into the Frauds on the Court, whereby the investigations were briefly closed because Martin Colin's chambers had told deputies that Colin would be handling the investigations of his Court and his Officers and they should cease. The cases with PBSO had to be reopened after successfully positioning that the Civil Court had no criminal jurisdiction to investigate or prosecute felony crimes, including Fraud on the Court and where the Court Officers, including Judge Colin and Judge David E. French at the time were at minimum Material and Fact witnesses to the crimes that occurred in and on the Court against the Court, the Beneficiaries and the Creditor and further that Colin, French and other actors of the Court were suspects until rendered innocent of involvement.

3. The Court should have Seized all records from all parties, Court Officers/Judges/Clerks and Court Appointed Officers/Lawyers/Fiduciaries/Guardians involved in the Frauds on the Court. The Court did not.
4. Court Officers/Judges/Clerks and Court Appointed Officers/Lawyers/Fiduciaries/Guardians involved in the Frauds on the Court should have instantly been Removed and those parties known to have been involved, Sanctioned and Bonded and removed of any fiducial or legal capacities. The court did not.
5. Turn over all Court records for inspection by the damaged parties and to further test for further Fraudulent Documents Submitted with the Court to Obstruct Justice. The court did not.
6. Seize and Freeze all assets under its Jurisdiction until new conflict free Court Officers and Court Appointed Officer could be implemented and vetted. The court did not.
7. Martin Colin and Judge French were mandatorily required to have recused as it was their Courts that were the scenes of the crimes committed by their Court Appointed Officers/Lawyers/Fiduciaries involved in the crimes against the Court, the Beneficiaries and Creditors and their names directly involved in various of the Fraudulent Documents and other Frauds on the Court and thus at minimum they were both material and fact witnesses and have ethical and legal obligations to do so. They did not.
8. Moved to protect the beneficiaries from further crimes. The court did not and has not.

9. Moved to provide counsel to the VICTIMS OF THE COURT ORCHESTRATED CRIMES, especially the minor children involved and who were damaged by the Fraud in and on the Court by court appointed officers and required bonding of at least 100 million dollars (which does not include interests owned by the Estates and Trusts of Simon and Shirley in technologies valued in hundreds of billions of dollars plus) and where this is only at this time an estimated value of the estates and trusts of Simon and Shirley Bernstein, estimated as no proper and statutorily required accountings were produced and there remains outstanding objections by multiple parties to the accountings and inventories that were put forth, including allegations of theft and misappropriation of assets.

476. The failure of the court to regulate and report criminal misconduct to the proper authorities and correct the cases to remove any remnants of the fraud and instead even allowing the parties who committed the frauds to continue practicing in the cases before the court for months, until forced out after confession to Palm Beach County Sheriff investigators of fraud on the court and fraud on the beneficiaries and then the Court allowed them to resign as counsel, left their pleadings in place, allowed them to pick successors (others directly involved in the same frauds, ie Ted and Alan Rose) to continue the fraud. Thus, the court officers failure to follow attorney conduct codes, judicial canons and law and report and regulate the fraud in the court, in acts far outside the color of law, has caused continued damages for several years to the victims of the crimes (certain beneficiaries, the creditor and others) committed by court officers and officials, including several minor children. The court used as a weapon to further retaliation and harm on the victims.

477. The failure to regulate and resolve the fraud on the court and insure fair and impartial due process unaffected by adverse interests of parties involved in the fraud and conflicts of interests caused by allowing them to continue as fiduciaries and counsel in the matters, has led to almost five years of WASTE FRAUD AND ABUSE of court resources to attempt to cover up the fraud and retaliate against Eliot Bernstein, the Creditor William Stansbury and others who have attempted to expose the frauds and remove the tentacles to the fraud in the court that have continuously Obstructed Justice in efforts to cover up the crimes instead of resolving them properly and according to law. Note only have the victims been further harmed through a mass of expense but the Florida Court System has as well and this Fraud, Waste and Abuse must not only be ceased but reported to the Inspector General of the Courts and law enforcement officials by this Court.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests that this Court under the following;

736.1001 Remedies for breach of trust.—

- (1) A violation by a trustee of a duty the trustee owes to a beneficiary is a breach of trust.
- (2) To remedy a breach of trust that has occurred or may occur, the court may:

- (a) Compel the trustee to perform the trustee's duties;
- (b) Enjoin the trustee from committing a breach of trust;
- (c) **Compel the trustee to redress a breach of trust by paying money or restoring property or by other means;**
- (d) Order a trustee to account;
- (e) **Appoint a special fiduciary to take possession of the trust property and administer the trust;**
- (f) Suspend the trustee;
- (g) **Remove the trustee as provided in s. 736.0706;**

- (h) Reduce or deny compensation to the trustee;
- (i) **Subject to s. 736.1016, void an act of the trustee, impose a lien or a constructive trust on trust property, or trace trust property wrongfully disposed of and recover the property or its proceeds;** or
- (j) Order any other appropriate relief.

(3) As an illustration of the remedies available to the court and without limiting the court's discretion as provided in subsection (2), if a breach of trust results in the favoring of any beneficiary to the detriment of any other beneficiary or consists of an abuse of the trustee's discretion:

- (a) To the extent the breach of trust has resulted in no distribution to a beneficiary or a distribution that is too small, the court may require the trustee to pay from the trust to the beneficiary an amount the court determines will restore the beneficiary, in whole or in part, to his or her appropriate position.
- (b) To the extent the breach of trust has resulted in a distribution to a beneficiary that is too large, the court may restore the beneficiaries, the trust, or both, in whole or in part, to their appropriate positions by requiring the trustee to withhold an amount from one or more future distributions to the beneficiary who received the distribution that was too large or by requiring that beneficiary to return some or all of the distribution to the trust.

THEREFORE, the Court should;

1. Report all current and past PROVEN, ADMITTED AND ALLEGED FELONY CRIMINAL ACTS this Court is aware of committed by its Court Officers and Court

Appointed Officers/Lawyers/Fiduciaries/Guardians to the proper State and Federal, Civil, Criminal and Ethical authorities as required by Judicial Canon, Attorney Conduct Code, the Florida Statewide Fraud Policy and Law.

2. Remove Ted as the alleged Successor PR of the Shirley Estate for cause,
3. Remove Ted as the alleged Successor Trustee of the Shirley Bernstein Trust for cause,
4. Remove Ted as the alleged successor trustee of the Simon Trust for cause,
5. Appoint a successor trustee with no conflicts of interests or affiliation with any of the former fiduciaries or attorneys at law involved in the prior frauds in any way,
6. Require the filing of an AUDITED Trust and Estate Accounting for Simon and Shirley Bernstein as required by law.
7. Award damages for failure to account and for improper accounting, including the removal of the trustee, reducing or denying compensation to the trustee, and requiring the trustee to repay money to the trust or by restoring property to the trust by other means.
8. Require bonding by Ted and all of his current and former counsel in the amount of 100 Million Dollars or more,
9. Appoint a special fiduciary to take possession of the trust property and administer the trust;
10. Subject to §736.1016, void an act of the trustee, impose a lien or a constructive trust on trust property, or trace trust property wrongfully disposed of and recover the property or its proceeds; any other appropriate relief this Court deems just and proper, including an award of attorney's fees and costs.

Dated: Saturday, December 6, 2014

Eliot Bernstein, *pro se*
2753 NW 34th Street
Boca Raton, FL 33434
iviewit@iviewit.tv

CERTIFICATE OF SERVICE

I, ELIOT IVAN BERNSTEIN, HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by email to all parties on the following Service List, Saturday, December 6, 2014.

Eliot Bernstein, Pro Se, Individually and as legal guardian on behalf of his three minor children.

X_____

SERVICE LIST

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	John P Morrissey. Esq. John P. Morrissey, P.A. 330 Clematis Street Suite 213 West Palm Beach, FL 33401 john@jmorrisseylaw.com	Carley & Max Friedstein, Minors c/o Jeffrey and Lisa Friedstein Parents and Natural Guardians 2142 Churchill Lane Highland Park, IL 6003 Lisa@friedsteins.com lisa.friedstein@gmail.com
Julia Iantoni, a Minor c/o Guy and Jill Iantoni, Her Parents and Natural Guardians 210 I Magnolia Lane Highland Park, IL 60035 jilliantoni@gmail.com		

EXHIBIT A

**SIMON L. BERNSTEIN TRUST AGREEMENT DATED MAY 20, 2008, AS AMENDED
AND RESTATED IN THE SIMON L. BERNSTEIN AMENDED AND RESTATED
TRUST AGREEMENT DATED JULY 25, 2012**

EXHIBIT B

DONALD R. TESCHER, ESQ. LETTER DATED JANUARY 14, 2014

EXHIBIT C

**COURT ORDER DENYING TED BERNSTEIN'S MOTION TO BE APPOINTED
CURATOR OR SUCCESSOR PERSONAL REPRESENTATIVE TO THE ESTATE OF
SIMON BERNSTEIN**