



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

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

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

October 27, 2017

The Honorable Rosemarie Scher
North County Courthouse
3188 PGA Boulevard, Room 2728
Palm Beach Gardens, FL 33410

Re: *Ted Bernstein, as Trustee v. Alexandra Bernstein, et al.*
Case No.: 502014CP003698XXXXNBIH

Dear Judge Scher:

You presently have scheduled for November 15, 2107, at 9:30a.m., a *Motion to Approve Compromise and Settlement, (ii) Appoint a Trustee for the Trusts Created for D.B., J.A.B., and (iii) Determine Compensation for Guardian Ad Litem*. The hearing relates to a settlement between the beneficiaries of the Simon Bernstein Trust.

In addition, the issues overlap with related issues in the Shirley Bernstein Trust, as reflected in the May 22, 2017, approval order you entered in the above-styled Shirley Bernstein's Trust Construction case, copy of which order is attached. That order provides for the appointment of a replacement trustee to serve in place of Eliot Bernstein.

The Trustee, with the advice and consent of the GAL, has now filed a Motion to Deposit the Trust Funds into the Registry of the Court, rather than continue to look for a replacement Trustee, as explained in the attached motion. We would ask Your Honor to schedule this motion to be an add-on to the November 15 hearing because the issues overlap, and to issue an amended order scheduling the attached motion in both matters to be set for one consolidated hearing, as part of the existing time of November 15, 2017.

Alternatively, if Your Honor is not willing to address the attached motions as an add-on, the Trustee asks that the attached Motion be set for hearing at the Court's earliest opportunity.

The Honorable Rosemarie Scher

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We appreciate your continued time and attention to this matter.

Respectfully submitted,

Alan B. Rose

Alan B. Rose

(Signed in Mr. Rose's absence to avoid delay)

cc: All parties on attached service list (enclosures previously provided)

SERVICE LIST Case No.: 502014CP003698XXXXNBIJ

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

John P. Morrissey, Esq.
330 Clematis Street, Suite 213
West Palm Beach, FL 33401
(561) 833-0866 - Telephone
(561) 833-0867 - Facsimile
Email: John P. Morrissey
(john@jmorrisseylaw.com)
Counsel for Molly Simon, Alexandra Bernstein,
Eric Bernstein, Michael Bernstein

Lisa Friedstein, individually and as trustee for her
children, and as natural guardian for M.F. and
C.F., Minors; and Max Friedstein
lisa.friedstein@gmail.com

Jill Iantoni, individually and as trustee for her
children, and as natural guardian for J.I. a minor
jilliantoni@gmail.com

Alan Rose, Esq.
Mrachek Fitzgerald Rose
Konopka Thomas & Weiss, P.A.
505 S Flagler Drive, Suite 600
West Palm Beach, FL 33401
(561) 655-2250 - Telephone
(561) 655-5537 - Facsimile
Email: arose@mrachek-law.com

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

Brian M. O'Connell, Esq.
Joielle A. Foglietta, Esq.
Ciklin Lubitz Martens & O'Connell
515 N. Flagler Dr., 20th Floor
West Palm Beach, FL 33401
561-832-5900 - Telephone
561-833-4209 - Facsimile
Email: boconnell@ciklinlubitz.com;
jfoglietta@ciklinlubitz.com;
service@ciklinlubitz.com;
slobdell@ciklinlubitz.com

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

SERVICE LIST CASE NUMBER: 2012CP004391

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

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

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

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

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

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

Diana Lewis, Esq.
ADA & Mediations Services, LLC
2765 Tecumseh Drive
West Palm Beach, FL 33409
(561) 758-3017 - Telephone
Email: dzlewis@aol.com
Guardian *Ad Litem* for
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Jill Iantoni
2101 Magnolia Lane
Highland Park, IL 60035
jilliantoni@gmail.com
Individually and as trustee for her children, and
as natural guardian for J.I. a minor

Alan B. Rose, Esq.
Mrachek, Fitzgerald, Rose,
Kopoka, Thomas & Weiss, P.A.
505 South Flagler Drive, Suite 600
West Palm Beach, FL 33401
(561) 655-2250 - Telephone
(561) 655-5537 - Facsimile
arose@mrachek-law.com;
mchandler@mrachek-law.com
Attorneys for Ted S. Bernstein

Brian M. O'Connell, Esq.
Joielle A. Foglietta, Esq.
Ciklin Lubitz Martens & O'Connell
515 N. Flagler Dr., 20th Floor
West Palm Beach, FL 33401
(561) 832-5900 - Telephone
(561) 833-4209 - Facsimile
Email: boconnell@ciklinlubitz.com;
jfoglietta@ciklinlubitz.com;
service@ciklinlubitz.com;
slobdell@ciklinlubitz.com

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

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

Probate Division
Case No.: 502014CP003698XXXXNBIH

Plaintiff,

v.

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

Defendants.

**ORDER (i) APPROVING SETTLEMENT; (ii) DISMISSING REMAINING
CLAIMS; AND (iii) RETAINING JURISDICTION TO ENFORCE
SETTLEMENT, APPOINT A TRUSTEE FOR CERTAIN TRUSTS
AND DETERMINE COMPENSATION FOR GUARDIAN AD LITEM**

THIS CAUSE came before the Court on May 18, 2017 on Ted Bernstein's *Motion to Approve Compromise and Settlement etc.* ("the Motion"). The Court, having reviewed the Motion and the record, and having been advised that no one else objected to the Motion or this proposed Order, and being otherwise fully advised in the premises, hereby ORDERS AND ADJUDGES:

with Standing (in)

1. The Motion is GRANTED in part as set forth below, and DEFERRED in part pending further orders and/or hearings.

2. After mediation, a written Mediation Settlement Agreement ("Settlement") was executed by and between: (i) Ted S. Bernstein, as Trustee of the Simon L. Bernstein Trust (the "Simon Trust"), which is the sole beneficiary of this Estate; and (ii) the trustees of ten trusts created for the benefit of Simon's ten grandchildren under the terms of Simon's Trust, being all of beneficiaries and potential beneficiaries of the Simon Trust.¹

3. The Settlement is approved and made effective immediately, subject to the terms of the Settlement. The Court will retain jurisdiction to enforce and fully implement the Settlement.

4. The Hon. John L. Phillips previously entered a Final Judgment on Count II and dismissed the counterclaim filed by Eliot Bernstein. The Settlement resolves all remaining issues raised in the Amended Complaint, including those set forth in Count I, other than the enforcement and implementation of the settlement, and the compensation and discharge of the Guardian.

5. The Court ~~determines that~~ ^{retains jurisdiction to determine} an appropriate hourly rate for the service of the Guardian

~~is \$~~ ^{is \$} ~~one~~ ^{one}  and will enter a separate order determining compensation owed to the Guardian after hearing. 

6. As to the Trustee's request that the Court appoint a Trustee for the three trusts created for Eliot's children (the "Eliot Children Trusts" as defined in the Settlement) and thereafter discharge the Guardian, the Court will appoint a trustee upon unanimous agreement of all persons concerned,

¹ Trusts created for the benefit of Jo. B., Ja. B. and D.B., by Diana Lewis as Guardian ad Litem and pending appointment of a Trustee; Trust created for the benefit of J.I. by Jill Iantoni as Trustee; Trusts created for the benefit of Alexandra Bernstein, Eric Bernstein and Michael Bernstein by Ted Bernstein as Trustee; Trust created for the benefit of Molly Simon by Pam Simon as Trustee; and Trust created for the benefit of Max Friedstein and C.F. by Lisa Friedstein as Trustee.

The parties with standing shall file their proposed Trustee and
including the Guardian. In the absence of unanimous agreement within 30 days from the date of this Order, the Court will appoint an independent person or entity to serve as Trustee of the Eliot Children Trusts, who shall utilize the trust funds solely in the best interests of Eliot's Children. The Court retains jurisdiction to select and appoint a trustee to serve as trustee for the Eliot Children Trusts and/or to take further action with respect to these trusts. The order appointing a trustee for each of the Eliot Children Trusts will include a provision discharging the Guardian.

7. The Court retains jurisdiction to enforce and implement the settlement, determine the compensation and discharge of the Guardian, to appoint a trustee for the Eliot Children Trusts, and to address any related issues concerning the administration of the Trust.

DONE AND ORDERED in Chambers, North County Courthouse on 5/22, 2017.

Rosemarie
HONORABLE ROSEMARIE SCHER

cc: All parties on the attached service list

* A courtesy copy shall be sent to the Court's judicial assistant.

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Diana Lewis, Esq.
ADA & Mediations Services, LLC
2765 Tecumseh Drive
West Palm Beach, FL 33409
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330 Clematis Street, Suite 213
West Palm Beach, FL 33401
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(561) 833-0867 - Facsimile
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West Palm Beach, FL 33401
561-832-5900 - Telephone
561-833-4209 - Facsimile
Email: boconnell@ciklinlubitz.com;
jfoglietta@ciklinlubitz.com;
service@ciklinlubitz.com;
slobdell@ciklinlubitz.com