

IN THE CIRCUIT COURT OF THE 15th
JUDICIAL CIRCUIT IN AND FOR
PALM BEACH COUNTY, FLORIDA

Hon John S Kastrenakes (“JSK”)
In Chambers
Courtroom 9D

CASE NO.: 50-2018-CA-00231 7-XXXX-MB

WALTER E. SAHM and
PATRICIA SAHM

Plaintiffs,

v.

BERNSTEIN FAMILY REALTY, LLC,
BRIAN O’CONNELL, AS SUCCESSOR PERSONAL REPRESENTATIVE OF THE ESTATE
OF SIMON L. BERNSTEIN;
ALEXANDRA BERNSTEIN,
ERIC BERNSTEIN,
MICHAEL BERNSTEIN,
MOLLY SIMON,
PAMELA B. SIMON,
JILL IANTONI,
MAX FRIEDSTEIN,
LISA FRIEDSTEIN, INDIVIDUALLY AND TRUSTEES OF THE SIMON L. BERNSTEIN
REVOCABLE TRUST AGREEMENT DATED MAY 20, 2008, AS AMENDED AND
RESTATED;
ELIOT BERNSTEIN, AND CANDICE BERNSTEIN, INDIVIDUALLY AND AS NATURAL
GUARDIANS OF MINOR CHILDREN JO., JA. AND D. BERNSTEIN; AND
ALL UNKNOWN TENANTS.

Defendants.

Constitutionally Mandated *Emergency Motion by Attorneys-in-Fact* Eliot Bernstein and Candice Bernstein etc. for an *Emergency Court Orders of Protection (“COPs”)* Against Legal Threats “...to come after you ...” from Licensed *Attorneys-at-Law* Who Do Evil but *Retaliate* when made to See, Hear and Talk about *their Own Evil* and their Aftermath

With all due respect to the Hon Court of Hon John S Kastrenakes (“JSK”) under penalties of perjury, *laws correctly applied* require Defendants ELIOT BERNSTEIN, AND CANDICE BERNSTEIN, INDIVIDUALLY AND AS NATURAL GUARDIANS OF MINOR CHILDREN JO., JA. AND D. BERNSTEIN (“*Legal Tenants*” or “*Attorneys-in-Fact*”) to state all the facts of the case *right* to help all involved also get all the facts of the case *right but for which* the Court shall act *above* the law to make legally unenforceable thus avoidable void decisions, orders and/or judgments (“*Void DOJs*”) with their enforcers *unimmunized* Outlaws, not act *under* the law to make legally enforceable thus unavoidable valid *DOJs* (“*Valid DOJs*”) with immunized enforcers.

1 The records of this case, and all related cases, involving the Bernsteins and all their licensed attorneys-at-law, keeps revealing ***Ted Bernstein as the mastermind*** behind his own grand scheme of things (including ***legal threats*** to Attorneys-in-Fact scared of Attorneys-at-Law) aided and abetted ***during both: due process of life causing injuries stealing all moneys in realtime*** and ***also due process of law thereafter causing even more injuries by misusing*** licensed attorneys for ***zealous representations by reenactment thereof in delayed time*** that truthful presentations thereof reveal and reconfirm ***in realtime*** before, during and after due process of life.

2 The 03.03.2020 ***legal threats*** in ***email*** by ***Attorney Tescher*** (“***Zealous Attorney***”) to ***Legal Tenants*** and to ***Zealous Attorney Rose*** (“***Conspirators***”) is not marked “***Privileged and Confidential with Zealous Attorneys;***” yet, was ***intentionally concealed*** by ***Conspirators*** from Hon ***JSK*** and from ***all other Zealous Attorneys, knowing that it includes Zealous Attorney’s legal threats that create publicly known judicial scare in the truthful minds of the injured Legal Tenants*** and ***has to “pay the price” for misusing courts of law as courts of lie.***

“***Eliot: Please get your facts right.*** In your recent filing you state that I am a disbarred lawyer and a convicted felon. Both of there ***[s/b these]*** accusations are ***absolutely false***. The Florida Supreme Court SUSPENDED me for 3 years. The insider trading matter was concluded with a civil fine and NO CRIMINAL CHARGES. ¶ If you continue to make these ***clearly false and harmful statements about me, I will come after you to protect my reputation*** [knowing that:

- .1 I, ***not you***, forced the Florida Supreme Court etc. to judicially ruin my reputation;
- .2 I, ***not you, risk disbarment, suspension, etc.*** when I choose to, ***since I am not required by law to, zealously represent*** dirty clients to ***misuse*** courts of law as courts of lie to make dirty clients win and ***assume justice*** is being done, knowing that ***miscarriage of justice*** is being done;
- .3 I, ***not you***, get the facts of wrongdoings by dirty clients ***wrong*** to zealously represent them;
- .4 I, ***not you***, get paid big bucks in big dirty legal fees from my dirty clients for my risk-taking, knowing that by hook or by crook I, not you, have to achieve my dirty clients’ and my desired goals that have to be, and are always, dirty law-breaking goals to protect my dirty clients;
- .5 I, ***not you***, don’t have to but choose to sell practice of law as practice of lie forcing courts of law that are courts of truth to become courts of lie (“***Cults***”) ***violating laws against becoming Cults*** that act above the law thus without jurisdiction, authority or immunity in law (“***Taboo***”) to make my dirty clients and me win with our, and Courts of lie’s, ***unanimous belief*** in justice by laws misapplied for judicial trafficking violating the Constitution of the USA for judicial corruption with immunity known to people in all jurisdictions in all States in the USA].”^a

3 ***Alan Rose*** is also Ted’s ***Zealous Attorney*** still torturing ***Legal Tenants*** as judicially proved by the 07.18.2014 Court Order that Hon Martin H Colin (“***Hon MHC***”) was ***misused*** to sign In Re: Estate of Simon L Bernstein, Case No. 502012CP004391XXXXSB CP – Probate (***E67-E71***). In it, that ***Hon MHC*** was ***misused by Alan Rose*** was forced to ***misjudge*** as follows:

“...Any language suggesting that Ted wanted his counsel to be aggressive and forceful ***[thus not truthful]*** is not evidence of Ted committing or planning to commit what Ted knew was a crime or fraud [by ***Zealous Attorneys who take risks to not be truthful*** as

proved above, knowing that dirty clients know evidence of their wrongdoings is against them and hence keep reminding their **Zealous Attorneys to never be truthful and never fail to protect them from paying for their wrongdoings**]. ... Having read the email [with no self-serving legal legend of **Privileged and Confidential with Zealous Attorneys**], it is clearly not the case that Ted was threatening Eliot physically, like beating him up [but **Ted was clearly suffering from one too many self-gUILts of wrongdoings to repeatedly force Rose to win this Court Order to keep their conspiracy of attorney-client privilege to misuse courts of law as courts of lie concealed from their prey and We the People**].”

4 **Zealous Attorneys** and their dirty client’s obvious legal conspiracies concealed from the Courts *created the inevitable judicial need for the constitutional mandated emergency motion* for **Emergency Court Orders of Protection** (“*COPs*”) against *all licensed lawyers* capable of emailing even worse legal threats to helpless attorneys-in-fact, knowing the obvious:

- .1 That “SUSPENDED...for 3 years [*means* DISBARRED for 3 years only with **no need to use the Court for re-admission** to again begin selling legal services as **Zealous Attorneys**].”
- .2 That even “a civil fine” imposed and paid *is misusing a plea deal* made by **another Zealous Attorney** to **force** Federal Authorities, Officials, and/or Jurists to neither prosecute nor convict Attorney Tescher for CRIMINAL CHARGES and **does not mean** NO CRIMINAL CHARGES **for insider trading** by his law firm of his partner attorney Spallina and himself.
- .3 That the two bad behaviors **together** mean **self-proving legal intentions** to continue to sell as before legal services as **Zealous Attorneys repeatedly taking risks and keep making dirty legal fees from dirty client until caught and suspended for a while, disbarred for life, etc.**
- .4 That, **during those years of zealous representations**, and, thereafter, to again sell legal services as **Zealous Attorneys**

4 Once a predator always a predator who thanks Courts that sell obvious **miscarriage of justice** by laws misapplied as **justice** by laws correctly applied with absolute judicial immunity, **reveal the incestuous thus noble profession** of lie as law created by jurists and zealous attorneys to make the predators only pay civil fines to Governments, suffer no criminal convictions for jail time, pay no civil restitution to the prey forced to live destituted even after proving the above, and keep promoting predation as an immunized profit-making criminal enterprise as here.

5 **In so doing**, both **iconic Zealous Attorneys with protective miscarriage of justice** will keep repeating their prior bad behaviors and **keep dwarfing iconic zealous warriors with protective helmets** in the **iconic image below** unless and until all **Zealous Attorneys including the Conspirators are disbarred for life** for their bad behaviors, especially repeated bad behaviors, in this and all related cases:



“CALLING OUT AN ABUSER DOES NOT RUIN THEIR REPUTATION IT CORRECTS IT”

“The Essence of Human Pride Lies In The Willingness To Use Any Means Possible To Reach A Desired Goal”

6 As truthful attorneys-in-fact is still helping the courts of law become courts of truth, not be courts of lie, *so Zealous Attorneys* knowingly and purposely still keeps failing to get the facts right since day one to protect their dirty common client *Ted Bernstein* since *Legal Tenants* have duly proved same in their 03.03.2020 e-filing that *forced the legal threat in retaliation*.

7 In addition to *Legal Tenants*’ request in their 03.03.2020 e-filing, *Legal Tenants* now are constitutionally mandated to request an Emergency COP against legal threats by all *Zealous Attorneys* for the safety and security of *Legal Tenants* inside and outside Halls of Justice plus such other and further reliefs and redresses as mandatory restitution for ongoing destitution caused by the legal threats that are banned before, during and after due process of law.

WHEREFORE may it please Hon Court to please take judicial notice of the foregoing facts of the case and pass its legally valid and enforceable Orders required by laws *correctly applied* to end ongoing miscarriage of justice aka Justicide by judges and begin ongoing carriage of justice.

Dated: Mar 04, 2020

Respectfully Submitted by,
/s/Eliot Ivan Bernstein
PRO SE Eliot Ivan Bernstein
2753 NW 34th St
Boca Raton, FL 33434
561-245-8588
iviewit@iviewit.tv

CERTIFICATE OF SERVICE

I CERTIFY that a copy of the foregoing has been furnished to parties listed on attached Service List by E-mail Electronic Transmission and/or Court ECF this Mar 04, 2020.

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

Original to Hon Court
Palm Beach County Courthouse
Courtroom 9D
205 North Dixie Hwy.
West Palm Beach, FL 33401

Copies to all included in the Service List

SWEET APPLE, BROEKER & VARKAS, P.L.

Attorneys for Plaintiffs
4800 N. Federal Highway, Suite BIOS
Boca Raton, Florida 33431
Telephone: (561) 392-1230
Email: Pleadings@SweetappleLaw.com
ROBERT A SWEETAPPLE
Florida Bar No. 0296988
BERKLEY SWEETAPPLE
Florida Bar No. 112756

Eliot Ivan Bernstein, Pro Se – Attorney in Fact, 2753 NW 34th St., Boca Raton, FL 33434, (iviewit@iviewit.tv);

Brian O'Connell, Esq., and Ashley Crispin Ackal, Esq., O'Connell & Crispin, PLLC, 420 Royal Palm Way, Palm Beach, FL 33480 (boconnell@ocalawyers.com; acrispinackal@ocalawyers.com);

Cary P. Sabol, Esq., Law Offices of Cary P. Sabol, P.O. Box 15981, West Palm Beach, Florida 33416 (CSabol@sabollaw.com);

Alan B. Rose, Esq., Mrachek, Fitzgerald & Rose, 505 South Flagler Drive Flagler Center, Suite 600, West Palm Beach, FL 33401 (Arose@Mrachek-law.com)

E-service recipients selected for service (selected by Court for In Chamber Notice of Service):

Name	Email Address
Cary P. Sabol Esq.	CSABOL@SABOLLAW.COM Sara@sabollaw.com
Clara Crabtree Ciadella	service@OCAlawyers.com secondaryservice@OCAlawyers.com
Eliot Ivan Bernstein	iviewit@iviewit.tv iviewit@gmail.com tourcandy@gmail.com
Alan B Rose	arose@mrachek-law.com manderson@mrachek-law.com blewter@mrachek-law.com arose@mrachek-law.com manderson@mrachek-law.com blewter@mrachek-law.com
Donald R. Tescher	dtescher@tescherlaw.com agehle@tescherlaw.com
Robert L. Spallina	rspallina@tescherlaw.com kmoran@tescherlaw.com
Alan Jay Ciklin	aciklin@ciklinlubitz.com
Brian M O'Connell	service@OCAlawyers.com secondaryservice@OCAlawyers.com
Steven Alan Lessne	slessne@gunster.com ivanegas@gunster.com eservice@gunster.com
Diana Lewis	dzlewis@aol.com
Mrachek, Fitzgerald, Rose, Konopka, Thomas & Weiss	arose@mrachek-law.com
Ciklin Lubitz f.k.a. Ciklin Lubitz Martens & O'Con	aciklin@ciklinlubitz.com
O'Connell & Crispin Ackal, PLLC	mailto:boconnell@ocalawyers.com
Oppenheimer Trust Company of Delaware	Janet.Craig@opco.com
Oppenheimer Trust Company of New Jersey	Hunt.Worth@opco.com
Ted Bernstein	ted@lifeinsuranceconcepts.com
Gunster, Yoakley & Stewart, P.A.	slessne@gunster.com
GrayRobinson, P.A.	mayanne.downs@gray-robinson.com
ADR & MEDIATIONS SERVICES, LLC	dzlewis@aol.com
Robert A Sweetapple	pleadings@sweetapplelaw.com lwills@sweetapplelaw.com rsweetapple@sweetapplelaw.com
Berkley Sweetapple	bsweetapple@sweetapplelaw.com

MASTER SERVICE LIST - SSFL15th - 2014CP002815
Case

Oppenheimer v BFR and Children Trusts

#	Law Firm / Attorney	Address/Emails	Party Represented
1	Tescher & Spallina, PA / Donald R. Tescher, Robert L. Spallina	Boca Village Corporate Center I 4855 Technology Way Suite 720 Boca Raton, FL 33431 (561) 997-7008 dtescher@tescherlaw.com, dtescher@tescherspallina.com, ddustin@tescherlaw.com, rspallina@comcast.net, rspallina@tescherspallina.com	Tescher & Spallina, PA, Robert Spallina (Personally & Professionally), Donald Tescher (Personally & Professionally),
2	Mark R. Manceri, P.A. / Mark R. Manceri, Esq. - Bar Number: 444560	1600 S Federal Hwy Ste 900 Pompano Beach, FL 33062-7520 954-491-7099 mrmlaw@comcast.net, mrmlaw1@gmail.com	Bernstein Family Realty (BFR), Ted Bernstein, Mark R. Manceri, Esq. (Professionally & Personally)
3	Mrachek, Fitzgerald, Rose, Konopka, Thomas & Weiss, P.A. / Page, Mrachek, Fitzgerald & Rose, P.A. / Alan B. Rose, Esq.	505 South Flagler Drive Suite 600 West Palm Beach, Florida 33401 +1 (561) 355-6991 arose@mrachek-law.com, arose@pm-law.com, mchandler@mrachek-law.com, abourget@mrachek-law.com	Ted Bernstein as Manager BFR, Attorney Alan B. Rose, Esq. (Personally & Professionally), Page, Mrachek, Fitzgerald & Rose, P.A.
4	Pankauski Law Firm PLLC / John J. Pankauski, Esq.	120 South Olive Avenue 7th Floor West Palm Beach, FL 33401 +1 (561) 514-0900 john@pankauskilawfirm.com, courtfilings@pankauskilawfirm.com, Michelle@Pankauskilawfirm.com	Ted Bernstein, Attorney John Pankauski, Esq. (Personally & Professionally), Pankauski Law Firm PLLC
5	ADR & MEDIATIONS SERVICES, LLC / Diana Lewis Fla. Bar No. 351350 - GAL	2765 Tecumseh Drive West Palm Beach, FL 33409 (561) 758-3017 dzlewis@aol.com	Joshua, Jacob & Daniel Bernstein

6	Gray Robinson, PA / Steven Lessne, Esq.	225 NE Mizner Blvd #500 Boca Raton, FL 33432 steven.lessne@gray-robinson.com	<p>Dennis McNamara Executive Vice President and General Counsel Oppenheimer & Co. Inc. Corporate Headquarters 125 Broad Street New York, NY 10004 800-221-5588 Dennis.mcnamara@opco.com info@opco.com</p> <p>Janet Craig Oppenheimer Trust Company of Delaware, Manager BFR 405 Silverside Road Wilmington, DE 19809 Janet.Craig@opco.com</p> <p>Hunt Worth, Esq. President Oppenheimer Trust Company of Delaware 405 Silverside Road Wilmington, DE 19809 302-792-3500 hunt.worth@opco.com</p> <p>William McCabe Oppenheimer & Co., Inc. 85 Broad St Fl 25 New York, NY 10004 William.McCabe@opco.com</p>
---	--------------------------------------------	------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

7	Steven A. Lessne, Esq. Gunster, Yoakley & Stewart, P.A.	777 South Flagler Drive, Suite 500 East West Palm Beach, FL 33401 Telephone: (561) 650-0545 Facsimile: (561) 655-5677 E-Mail Designations: slessne@gunster.com jhoppel@gunster.com eservice@gunster.com	Dennis McNamara Executive Vice President and General Counsel Oppenheimer & Co. Inc. Corporate Headquarters 125 Broad Street New York, NY 10004 800-221-5588 Dennis.mcnamara@opco.com info@opco.com Janet Craig Oppenheimer Trust Company of Delaware, Manager BFR 405 Silverside Road Wilmington, DE 19809 Janet.Craig@opco.com Hunt Worth, Esq. President Oppenheimer Trust Company of Delaware 405 Silverside Road Wilmington, DE 19809 302-792-3500 hunt.worth@opco.com William McCabe Oppenheimer & Co., Inc. 85 Broad St Fl 25 New York, NY 10004 William.McCabe@opco.com
8	Unrepresented		James Dimon Chairman of the Board and Chief Executive Officer JP Morgan Chase & CO. 270 Park Ave. New York, NY 10017- 2070 Jamie.dimon@jpmchase.com
9	Unrepresented		STP Enterprises, Inc. 303 East Wacker Drive Suite 210 Chicago IL 60601-5210 psimon@stpcorp.com
10	Unrepresented		Gerald R. Lewin CBIZ MHM, LLC 1675 N Military Trail Fifth Floor Boca Raton, FL 33486 561-994-5050 lewin@cbiz.com

11	Unrepresented	CBIZ MHM, LLC General Counsel 6480 Rockside Woods Blvd. South Suite 330 Cleveland, OH 44131 ATTN: General Counsel generalcounsel@cbiz.com (216)447-9000
12	Unrepresented	Albert Gortz, Esq. Proskauer Rose LLP One Boca Place 2255 Glades Road Suite 421 Atrium Boca Raton, FL 33431-7360 agortz@proskauer.com
13	Unrepresented	Heritage Union Life Insurance Company A member of WiltonRe Group of Companies 187 Danbury Road Wilton, CT 06897 cstrroup@wiltonre.com
14	Unrepresented	Estate of Simon Bernstein Brian M O'Connell Pa 515 N Flagler Drive West Palm Beach, FL 33401 boconnell@ciklinlubitz.com
15	Unrepresented	Byrd F. "Biff" Marshall, Jr. President & Managing Director Gray Robinson, PA 225 NE Mizner Blvd #500 Boca Raton, FL 33432 biff_marshall@gray-robinson.com
16	Unrepresented	T&S Registered Agents, LLC Wells Fargo Plaza 925 South Federal Hwy Suite 500 Boca Raton, Florida 33432 dtescher@tescherspallina.com

17	Unrepresented	David Lanciotti Executive VP and General Counsel LaSalle National Trust NA CHICAGO TITLE LAND TRUST COMPANY, as Successor 10 South LaSalle Street Suite 2750 Chicago, IL 60603 David.Lanciotti@ctt.com
18	Unrepresented	Joseph M. Leccese Chairman Proskauer Rose LLP Eleven Times Square New York, NY 10036 jleccese@proskauer.com
19	Unrepresented	Brian Moynihan Bank of America Chairman of the Board and Chief Executive Officer 100 N Tryon St #170, Charlotte, NC 28202 Phone:(980) 335-3561
20	Unrepresented	Ralph S. Janvey Krage & Janvey, L.L.P. Federal Court Appointed Receiver Stanford Financial Group 2100 Ross Ave, Dallas, TX 75201 rjanvey@kjllp.com
21	Unrepresented	Neil Wolfson President & Chief Executive Officer Wilmington Trust Company 1100 North Market Street Wilmington, DE 19890-0001 nwolfson@wilmingtontrust.com
22	Unrepresented	Dennis G. Bedley Chairman of the Board, Director and Chief Executive Officer Legacy Bank of Florida Glades Twin Plaza 2300 Glades Road Suite 120 West – Executive Office Boca Raton, FL 33431 info@legacybankfl.com DBedley@LegacyBankFL.com

23	Pro Se		Eliot Bernstein 2753 NW 34th St Boca Raton, FL 33434 561-245-8588 iviewit@iviewit.tv, iviewit@gmail.com, tourcandy@gmail.com
24	Unrepresented		Jacob Noah Archie Bernstein 2753 NW 34th St Boca Raton, FL 33434 561-245-8588 telenetjake@gmail.com
25	Unrepresented		Daniel Elijsha Abe Ottomo Bernstein c/o Eliot & Candice Bernstein 2753 NW 34th St Boca Raton, FL 33434 561-245-8588 iviewit@iviewit.tv, tourcandy@gmail.com
26	Unrepresented		Joshua Ennio Zander Bernstein 2753 NW 34th St Boca Raton, FL 33434 561-245-8588 telenetjosh@gmail.com
27	Unrepresented		Matthew Logan
28	Unrepresented		Pamela Beth Simon, Molly Simon 950 North Michigan Avenue Suite 2603 Chicago, IL 60611 +1 (312) 819-7474 x Ext. 414 psimon@stpcorp.com, molly.simon1203@gmail.com
29	Unrepresented		Jill Iantoni 2101 Magnolia Lane Highland Park, IL 60035 +1 (312) 804-2318 jilliantoni@gmail.com

30	Unrepresented		Lisa Friedstein, Carly Friedstein, Max Friedstein 2142 Churchill Lane Highland Park, IL 60035 +1 (847) 877-4633 lisa@friedsteins.com, lisa.friedstein@gmail.com, mscarly@gmail.com, khooolmax@gmail.com
31	Unrepresented		Michael Bernstein, Eric Bernstein, Alexandra Bernstein 880 Berkley Street Boca Raton, FL 33487 alb07c@gmail.com, mchl_bernstein@yahoo.com, edb07fsu@gmail.com
32	Unrepresented		Lindsay Baxley aka Lindsay Giles (Personally & Professionally)
33	Unrepresented		Kimberly Francis Moran (Personally & Professionally)
34	Wilson Elser / Anthony P. Strasius, Esq.	100 Southeast Second Street Suite 3800 Miami, FL 33131 +1 (305) 341-2287 anthony.strasius@wilsonelser.com	Gerald R. Lewin CBIZ MHM, LLC 1675 N Military Trail Fifth Floor Boca Raton, FL 33486 561-994-5050 lewin@cbiz.com

^a **From:** Don Tescher <dtescher@tescherlaw.com>
Date: March 3, 2020 at 9:11:57 AM EST
To: "iviewit@gmail.com" <iviewit@gmail.com>, Alan Rose <ARose@mrachek-law.com>
Subject: Residence Foreclosure

Elliot: Please get your facts right. In your recent filing you state that I am a disbarred lawyer and a convicted felon. Both of there *[s/b their]* accusations are absolutely false. The Florida Supreme Court SUSPENDED me for 3 years. The insider trading matter was concluded with a civil fine and NO CRIMINAL CHARGES.

If you continue to make these clearly false and harmful statements about me, I will come after you to protect my reputation.

Sent from my iPhone

Donald R. Tescher / Telephone: (508) 743-5335/ Facsimile: (508) 743-5335
 Cell: (561) 901-7972 / Dtescher@tescherlaw.com

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

CASE NO. 502012CP004391XXXXSB
CP - Probate

IN RE:

ESTATE OF SIMON L. BERNSTEIN,

**ORDER ON TED S. BERNSTEIN'S, AS SUCCESSOR TRUSTEE OF THE
SIMON L. BERNSTEIN TRUST, MOTION TO COMPEL
ELIOT BERNSTEIN TO COMPLY WITH RULE 1.285**

THIS CAUSE having come before the Court for evidentiary on July 11, 2014, upon Ted S. Bernstein's, as Successor Trustee of the Simon L. Bernstein Trust, Motion To Compel Eliot Bernstein to Comply with Rule 1.285 ("The Motion"), and after being fully advised in the premises, it is hereby,

ORDERED AND ADJUDGED that

1. Ted S. Bernstein ("Ted") sent an email to Eliot Bernstein ("Eliot") and later claimed that the email was an inadvertent disclosure of privileged materials, invoking the procedures under Florida Rule of Civil Procedure 1.285. Eliot contested the assertion of the privilege, and this Court held an evidentiary hearing on July 11, 2014. Based upon the evidence presented at the evidentiary hearing, the Court makes the following findings of fact and conclusions of law.

2. Ted wrote an email (Eliot's Exhibit 1 for ID only) and actually sent the email to Eliot. The email was sent by Ted to Eliot at 10:12 pm on May 22, 2014.

3. Ted advised his counsel at 10:57 p.m. that the email was sent to Eliot by mistake. Ted's counsel then advised Eliot by email at 11:07 p.m. on May 22, 2014, stating:

You received an email from Ted intended solely for me, and accidentally sent to you by mistake.

The email was sent around 10:12 pm tonight

Please delete the email immediately without reading it and confirm that deletion by email. The communication was attorney-client protected and you are not entitled to read or possess the email due to the accidental transmission.

Thank you in advance, and if you fail to comply with this request we will be forced to take corrective action with the Court.

4. The Court finds that by Ted's counsel so notifying Eliot, Ted invoked the procedures of Rule 1.285. Therefore, under subpart (b), Eliot as the party receiving notice of an assertion of privilege under subdivision (a) shall promptly return, sequester, or destroy the materials specified in the notice, as well as any copies of the material. The party receiving the notice shall also promptly notify any other party, person, or entity to whom it has disclosed the materials of the fact that the notice has been served and of the effect of this rule. That party shall also take reasonable steps to retrieve the materials disclosed.

5. Eliot also challenged the assertion of privilege, claiming that the email was not privileged under section 90.502(4)(a) and (c). That assertion necessitated the evidentiary hearing.

6. The Court finds that Ted did not intend that email to go Eliot, but instead, meant it to go to his lawyer. Indeed, having read the email the Court finds that it is pretty easy to see that the letter was intended to go to Ted's lawyer because (i) in the beginning of the email it says the lawyer's first name, and (ii) the discussion in the letter is clearly directed to that which is part of the subject of the letter, which is this case. Thus, the Court makes a finding of fact that this letter was intended to go to Ted's counsel.

7. The Court also rejects Eliot's argument that the email was not privileged because of Florida Statute 90.502(4)(c), but that subsection does not apply. Likewise, the Court finds that the

crime-fraud exception in 90.504(4)(a) also does not apply. Any language suggesting that Ted wanted his counsel to be aggressive and forceful is not evidence of Ted committing or planning to commit what Ted knew was a crime or fraud. The Court rejects Eliot's assertion that Ted was threatening Eliot with some force or bodily harm, or the like. Having read the email, it is clearly not the case that Ted was threatening Eliot physically, like beating him up.

8. Having determined that the lawyer-client privilege does apply and this email was not requesting perpetration of a crime of assault or battery against Eliot, the next question then becomes whether there remains grounds to challenge the assertion of privilege. The court find that there is not.

9. In light of this Court's finding, the Court orders the following as a remedy:

A. Eliot delete all copies of the email in Eliot's possession or control, including any electronic copies.

B. Eliot shall give prompt notice to every recipient – everybody to whom Eliot sent a copy of the email – of this ruling by sending each such person a copy of this Order and direct that they shall also delete and not transmit. Eliot shall file a proof of compliance with this Court, including a copy of his transmittal letter to each recipient.

C. Eliot shall not, from the time of the Court's oral ruling, forward the email to anybody. If Eliot violates this Order, the Court ~~will~~ ^{MAF (WTC)} hold him in contempt of court and consider appropriate remedy for such violation.

10. If Eliot appeals this Order, he must obey and follow this Order pending the appeal.

DONE AND ORDERED in Chambers, in Palm Beach County, Florida, this 18 day of July, 2014.



Martin H. Colin
CIRCUIT COURT JUDGE

cc: All parties on the attached service list

SERVICE LIST

Eliot I. Bernstein
2753 N.W. 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: pfeaman@feamanlaw.com;
service@feamanlaw.com;
mkoskey@feamanlaw.com
Counsel for William Stansbury

William H. Glasko, Esq.
Golden & Cowan, P.A.
17345 S. Dixie Highway
Palmetto Bay, FL 33157
(305) 856-5440 - Telephone
(305) 856-9388 - Facsimile
Email: eservice@palmettobaylaw.com;
bill@palmettobaylaw.com;
tmealy@gcprobate.com
Counsel for Lisa Sue Friedstein, individually and as trustee for her children, and as natural guardian for M.F. and C.F., Minors; Jill Marla Iantoni, individually and as trustee for her children, and as natural guardian for J.I. a minor

Robert Spallina, Esq.
Tescher & Spallina
Boca Village Corporate Center I
4855 Technology Way, Suite 720
Boca Raton, FL 33431
Email: rspallina@tescherspallina.com

Donald Tescher, Esq.
Tescher & Spallina
Boca Village Corporate Center I
4855 Technology Way, Suite 720
Boca Raton, FL 33431
Email: dtescher@tescherspallina.com

Irwin J. Block, Esq.
700 South Federal Highway, Suite 200
Boca Raton, FL 33432
(561) 910-3071 - Telephone
(561) 910-3080 - Facsimile
Email: ijb@ijblegal.com
Counsel for Tescher & Spallina

Benjamin P. Brown, Esq.
Matwiczyk & Brown, LLP
625 North Flagler Drive, Suite 401
West Palm Beach, FL 33401
(561) 651-4004 - Telephone
(561) 651-4003 - Facsimile
Email: attorneys@matbrolaw.com
Curator for the Estate of Simon Bernstein

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@jimorrisseylaw.com
Counsel for Molly Simon, Alexandra Bernstein, Eric Bernstein, Michael Bernstein

Alan Rose, Esq.
Mracheck 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@mracheck-law.com

John J. Pankauski, Esq.
Pankauski Law Firm P.L.L.C.
120 South Olive Avenue, Suite 701
West Palm Beach, FL 33401
Email: courtfilings@pankauskilawfirm.com