

SWORN STATEMENT OF ARTHUR J. MORBURGER, ESQUIRE (FL BAR No. 157287)  
REGARDING THE ILLEGAL GUARDIANSHIP AGAINST FORMER LEGAL CLIENT JOSHUA  
ENNIO ZANDER BERNSTEIN

PALM BEACH COUNTY, FLORIDA

1. My name is Arthur J. Morburger, Esquire.
2. I reside in Miami Beach, County, Florida at 5255 Collins Ave, Miami Beach, FL 33140 – Apt 5 J.
3. I provide this Sworn Statement based upon events and knowledge that I acquired while acting as a Licensed attorney in the State of Florida and representing my clients, Joshua Ennio Zander Bernstein and Jacob Noah Archie Bernstein.
4. I authorize this Sworn Statement to be filed in any Court proceeding, Administrative matter, Florida Bar or other Bar organization of any state and in any state and federal Court or federal and state criminal matters as appropriate.
5. I graduated Harvard University, LL.B., 1960.
6. I graduated Princeton University, A.B., 1957
7. For over 50 years prior to a recent Suspension and Disbarment proceeding, I had a successful practice obtaining favorable Decisions, Judgments and victories in many Courts of Florida including the District Courts of Appeals.
8. Prior to the Suspension and Disbarment, I came to review and learn of what appears to be a grossly illegal Guardian Ad Litem (“GAL”) for minors used against two of my adult clients Joshua Ennio Zander Bernstein and Jacob Noah Archie Bernstein of Palm Beach Florida while they were adults and being used in various Florida Courts, including the 15<sup>th</sup> Judicial and 4<sup>th</sup> DCA and even in a Federal Court proceeding in the Northern District of Illinois, District Court No. 1:13-cv-03643 to completely deny their due process rights in these proceedings.

9. The GAL for minors used for adult children, appeared to be per se illegal and akin to a "kidnapping" of Joshua Bernstein's legal rights as it was imposed in 2016 when all documents and records show Joshua Bernstein was not a "Minor" and had obtained the age of majority in 2015 according to his own statement, Driver's License and a legal filing filed by one Paul Turner, Esq. a Florida licensed attorney issued in 2018<sup>1</sup>.
10. Despite the fact that Joshua was born on August 27, 1997<sup>2</sup>, on August 27, 2015 and thus while he was Sui Juris he was illegally conscripted into a GAL guardianship for minors by Judge John L. Phillips, of the Palm Beach 15<sup>th</sup> Judicial court.
11. The illegal GAL was gained in the following legal actions, but the GAL appointed, a one Diana Lewis, Esq. a lawyer and former Broward jurist, infiltrated and influenced many other legal cases and criminal investigations involving Joshua using the GAL Orders illegally obtained, despite the fact that they limited her appearance to only two cases;
  - a. Shirley Bernstein Trust Case in the 15<sup>th</sup> Judicial, Case # 502014CP003698XXXXSB, <sup>3</sup>
  - b. Oppenheimer v. Bernstein Children in the 15<sup>th</sup> Judicial, Case #502014CP002815XXXXSB, <sup>4</sup>
12. Even to this date in a case involving a home Joshua has ownership in, he is sued fraudulently as a **minor** in a foreclosure lawsuit, even though he is an adult for 6 years and was an adult for years when that case was begun.
13. Amazingly and far from proper service, he was never served as an adult in Case #502018CA002317XXXXMB, Sahm v. Bernstein Family Realty, LLC, of which I made a Notice of Appearance<sup>5</sup> in.

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<sup>1</sup> Exhibit 1 - Paul Turner, Esq. Filing regarding improper GAL

<sup>2</sup> Exhibit 2 - Joshua Bernstein Birth Certificate

<sup>3</sup> Exhibit 3 - GAL Order Shirley Bernstein Trust

<sup>4</sup> Exhibit 4 - GAL Order Oppenheimer v Bernstein children

<sup>5</sup> Exhibit 5 - Arthur Morburger, Esq. Notice of Appearance Motion to Quash Attempted Service of Process and to Set Aside Default.

14. Hon. John S. Kastrenakes is presiding over the Sahm foreclosure and has been made aware by several parties of Joshua's age and his status as an adult in pleadings and in open court on the record but Hon. Judge Kastrenakes continues to hear the matters as if Joshua were a minor child of Eliot and Candice Bernstein and that he was properly served as such and no counsel involved in the matter has made changes necessary to address this very serious deprivation of rights.

15. Joshua Bernstein was not a "minor" in 2016 and my understanding of the rules and laws at that time are very clear that a "Competency" hearing and other procedures for adults legally had to take place to demonstrate he was not competent and in need of an adult Guardianship over his legal affairs since he was over the age of majority at the time.

16. No competency hearings took place, no medical experts were consulted to the best of my knowledge.

17. Therefore, the entire Guardianship from day one appears, and all legal or other actions taken on behalf of Joshua and Jacob by the court appointed GAL, Diana Lewis, Esq. are void, as should the Orders that conscripted Joshua and Jacob into these bizarre illegal GAL's.

18. It was clear from the records reviewed at the time that no Competency Hearing ever took place and in fact I reviewed a formal Cease and Desist Demand<sup>6</sup>, authored by Joshua Bernstein which appears to have his own Signature and Fingerprints in July of 2017 and this Statement by Joshua clearly indicates he never had a Competency Hearing made against him and was demanding the Illegal GAL cease any actions and correct any actions illegally taken already in his name and showing that the GAL was being used to illegally conscript him and thus REMOVE his legal decision making, denying him access to the courts and denying him due process rights entirely, severe civil rights violations, in

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<sup>6</sup> Exhibit 6 - Joshua Bernstein Cease and Desist Letter to GAL Diana Lewis, Esq.

order to cut him out of multiple settlements, his rights to be heard in court, steal his family's monies and his family's rights of inheritance.

19. I was in the process of taking legal action on behalf of Joshua Bernstein to attempt to rectify this problem, as legally and ethically required when I became subject to Suspension and then Disbarment proceedings and now submit this Statement as part of my legal duties under Bar Rules<sup>7</sup> to report the misconduct of jurists and lawyers, in wrapping up client affairs and Reporting these matters as duty bound to the Florida Bar and other state and federal, civil and criminal authorities.

20. The pleading I made to Vacate the Default Judgment<sup>8</sup> against my client is attached hereto as exhibit.

21. I am also aware that a similar set of circumstances exists for another client of mine regarding an illegal GAL and being sued as a minor when an adult in the Sahm Foreclosure, which has been used against Joshua's brother, Jacob Noah Archie Bernstein.

22. I am filing this as formal complaint with the Florida Bar and am happy to provide any additional information regarding this matter to the Florida Bar, so that I may fulfil my

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<sup>7</sup> Under the “Reporting Professional Misconduct” rule, Rule 4-8.3, an attorney is obligated to report another attorney’s misconduct if the attorney has actual knowledge of a misconduct that raises a substantial question as to the offending attorney’s “honesty, trustworthiness, or fitness as a lawyer in other respects.” Rule 4-8.3(a). An attorney, however, may not report the violation if the information is protected by the confidentiality rule, Rule 4-1.6, unless the attorney has the consent of the client. As a result, in situations where an attorney is required to report a violation, the attorney’s failure to do so would constitute misconduct under Rule 4-8.4(a). Similarly, an agreement not to file a grievance complaint would violate Rule 4-8.4(a) where the filing of a complaint would otherwise be required by Rule 4-8.3(a). See *The Florida Bar v. Fitzgerald*, 541 So.2d 602, 605 (Fla. 1989) (client’s agreement not to bring attorney’s unethical conduct to attention of the Bar is unenforceable). Therefore, if an attorney is obligated to report another attorney’s professional misconduct, the attorney must report it rather than threaten to do so.

<sup>8</sup> Exhibit 7 - Arthur Morburger, Esq. Motion to Vacate.

ethical duties to my former clients, Joshua Ennio Zander Bernstein and Jacob Noah Archie Bernstein and that I have abided by my ethical obligations to report misconduct in the legal profession as it relates to these cases and former clients.

Dated: \_\_\_\_\_

ARTHUR MORBURGER, ESQUIRE

SWORN TO BEFORE ME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2022.

\_\_\_\_\_  
NOTARY PUBLIC

Exhibit 1 - Paul Turner, Esq. Filing regarding improper GAL

IN THE CIRCUIT COURT OF THE 15<sup>TH</sup> JUDICIAL CIRCUIT IN  
AND FOR PALM BEACH COUNTY, FLORIDA

IN RE:

ESTATE OF SIMON L. BERNSTEIN  
/

DECEASED.

CASE NO. 50-2012-CP-004391-XXXX-NB

**OBJECTION TO MOTION TO APPROVE MEDIATION SETTLEMENT  
AGREEMENT WITH TESCHER & SPALLINA, P.A.**

COMES NOW Joshua Bernstein, by and through his undersigned legal counsels, Paul D. Turner, Esq., Christopher Perré, Esq., the law firm of Perlman, Bajandas, Yevoli & Albright, P.L., (“PBY&A”), and Marc J. Soss, Esq. (collectively “Counsel”), hereby files this objection to the Motion to Approve Mediation Settlement Agreement (the “Mediation Agreement”) and states as follows:

**Background**

1. On or about October 2, 2012, probate proceedings were commenced for the decedent.
2. At the time the proceedings were commenced, Joshua Bernstein (“Joshua”), one of the beneficiaries of the Estate and Trust of Simon L. Bernstein was a minor with a date of birth in August 1997.

3. On March 8, 2016, a Motion for Appointment of a Guardian Ad Litem (“GAL Motion”) to represent the interests of the children of Eliot Bernstein was filed with this Court. At the time the GAL Motion was filed Joshua was over the age of eighteen (18) years and did not require a guardian-ad-litem to be appointed for him.

4. On April 8, 2016, this Court approved the GAL Motion and appointed Diana Lewis, Esquire (“Lewis”), as the guardian-ad-litem for Joshua.

5. On November 9, 2016, a Motion to Approve Compromise and Settlement, Appoint a Trustee for the Trusts created for D.B., Ja.B. & Jo.B and Determine Compensation for Guardian-Ad-Litem was filed with this Court.

6. On October 27, 2017, a Motion to Direct Payments for Benefit of Eliot's Children to Court Registry in lieu of Appointing Trustee; and to Determine Compensation for Guardian Ad Litem and Discharge Guardian was filed with this Court. The matter is scheduled for hearing

on February 6, 2018.

### **Florida Guardian-Ad-Litem**

7. Section 744.102(10) of the Florida Statutes defines the term “Guardian-Ad-Litem” as “a person who is appointed by the court having jurisdiction of the guardianship or a court in which a particular legal matter is pending to represent a ward in that proceeding.”

8. Section 744.3025, Claims of Minors, of the Florida Statutes, further provides:

- (1)(a) The court may appoint a guardian ad litem to represent the minor’s interest before approving a settlement of the minor’s portion of the claim in a case in which a minor has a claim for personal injury, property damage, wrongful death, or other cause of action in which the gross settlement of the claim exceeds \$15,000 if the court believes a guardian ad litem is necessary to protect the minor’s interest.
- (b) Except as provided in paragraph (e), the court shall appoint a guardian ad litem to represent the minor’s interest before approving a settlement of the minor’s claim in a case in which the gross settlement involving a minor equals or exceeds \$50,000.
- (c) The appointment of the guardian ad litem must be without the necessity of bond or notice.
- (d) The duty of the guardian ad litem is to protect the minor’s interests as described in the Florida Probate Rules.
- (e) A court need not appoint a guardian ad litem for the minor if a guardian of the minor has previously been appointed and that guardian has no potential adverse interest to the minor.

- (2) Unless waived, the court shall award reasonable fees and costs to the guardian ad litem to be paid out of the gross proceeds of the settlement.
- (3) A settlement of a claim pursuant to this section is subject to the confidentiality provisions of this chapter.

9. A Guardian-Ad-Litem is appointed to represent the best interests of either an incapacitated individual or a minor in a legal proceeding.

### **Basis for Objection**

10. At the time that Lewis was appointed to be the guardian ad litem for Joshua, he was neither a minor nor incapacitated. As a result, a guardian ad litem should not have been appointed for Joshua.

11. Between April 8, 2016, the date Lewis was appointed as guardian ad litem for Joshua and the date hereof, Lewis owed a fiduciary duty to Joshua. Notwithstanding said duty, Lewis has never communicated with him, discussed the legal proceedings or made him aware of the alleged settlement reached during the mediation. As of the date of the filing of this objection, Joshua is completely unaware of the terms of the proposed settlement and has never been provided a copy of the mediation settlement agreement.

12. As a result, a guardian ad litem should not have been ever appointed for Joshua, had no authority to bind Joshua to any settlement agreements she may have allegedly entered into on his behalf, and any settlements negotiated and/or entered into on his behalf by Lewis should be deemed void.

### **Conclusion**

WHEREFORE, Joshua Bernstein pray this Honorable Court for an order (i) denying the Motion to Approve Mediation Settlement Agreement and all supplemental matters related thereto; (ii) removing Diana Lewis, Esquire as the guardian-ad-litem for Joshua; and (iii) awarding such other and further relief as deemed just and equitable under the circumstances.

### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on February 5, 2018, a true and correct copy of the foregoing document is being served, pursuant to Rule 2.516(b), Fla. R. Jud. Admin., *via* Florida Courts e-Filing Portal to the names and e-mail addresses provided by all parties, counsel of record and *pro se* parties.

Dated: February 5, 2018.

Respectfully submitted,

/s/ Paul Turner

Paul D. Turner, Esq. (0113743)

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Lakewood Ranch, FL 34202-4158

United States

T: 941-928-0310 / F: 813-342-7967

*Attorneys for Beneficiary, Joshua Bernstein.*

Exhibit 2 - Joshua Bernstein Birth Certificate

STATE OF CALIFORNIA

CERTIFICATION OF VITAL RECORD

# COUNTY OF ORANGE

SANTA ANA, CALIFORNIA

STATE FILE NUMBER		CERTIFICATE OF LIVE BIRTH STATE OF CALIFORNIA USE BLACK INK ONLY				LOCAL REGISTRATION DISTRICT AND CERTIFICATE NUMBER		
THIS CHILD	1A. NAME OF CHILD — FIRST (GIVEN)		1B. MIDDLE		1C. LAST (FAMILY)		199730 032132	
	JOSEUA		EMONIO	ZANDER	BERNSTEIN			
PLACE OF BIRTH	2. SEX	3A. THIS BIRTH, SINGLE, TWIN, ETC.	3B. IF MULTIPLE, THIS CHILD 1ST, 2ND, ETC.	4A. DATE OF BIRTH — MM/DD/CCYY	4B. HOUR — (24 HOUR CLOCK TIME)			
	MALE	SINGLE		08/27/1997	1840			
FATHER OF CHILD	5A. PLACE OF BIRTH — NAME OF HOSPITAL OR FACILITY		5B. STREET ADDRESS — STREET, NUMBER, OR LOCATION					
	HOAG MEMORIAL HOSPITAL		ONE HOAG DRIVE					
MOTHER OF CHILD	5C. CITY		5D. COUNTY		5E. PLANNED PLACE OF BIRTH			
	NEWPORT BEACH		ORANGE		HOSPITAL			
INFORMANT CERTIFICATION	6A. NAME OF FATHER — FIRST (GIVEN)		6B. MIDDLE		6C. LAST (FAMILY)		7. STATE OF BIRTH	8. DATE OF BIRTH
	ELIOT		IVAN		BERNSTEIN		IL	09/30/1963
CERTIFICATION OF BIRTH	9A. NAME OF MOTHER — FIRST (GIVEN)		9B. MIDDLE		9C. LAST (MAIDEN)		10. STATE OF BIRTH	11. DATE OF BIRTH
	CANDICE		MICHAELLE		STOMP		CA	10/09/1972
I CERTIFY THAT I HAVE REVIEWED THE STATED INFORMATION AND THAT IT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.		12A. PARENT OR OTHER INFORMANT — SIGNATURE		12B. RELATIONSHIP TO CHILD		12C. DATE SIGNED		
		<i>Patricia Korber</i>		MOTHER		08/28/1997		
I CERTIFY THAT THE CHILD WAS BORN ALIVE AT THE DATE, HOUR AND PLACE STATED.		13A. ATTENDANT OR CERTIFIER — SIGNATURE — DEGREE OR TITLE		13B. LICENSE NUMBER		13C. DATE SIGNED		
		<i>Patricia Korber M.D.</i>		G-59224		08/29/1997		
LOCAL REGISTRAR	13D. TYPED NAME, TITLE AND MAILING ADDRESS OF ATTENDANT		14. TYPED NAME AND TITLE OF CERTIFIER IF OTHER THAN ATTENDANT					
	P. KORBER, MD, 351 HOSPITAL RD., NB 92663							
	15A. DATE OF DEATH	15B. STATE FILE NO. (STATE USE ONLY)	16. LOCAL REGISTRAR — SIGNATURE		17. DATE ACCEPTED FOR REGISTRATION			
			<i>AS Gollwitz, MD</i>		09/09/1997			

464275

STATE OF CALIFORNIA  
COUNTY OF ORANGE

} SS

DATE ISSUED MAR 19 1999

CERTIFIED COPY OF VITAL RECORDS

GARY L. GRANVILLE, Clerk-Recorder  
ORANGE COUNTY, CALIFORNIA

*Gary L. Granville*

This is a true and exact reproduction of the document officially registered and placed on file in the office of the Orange County Clerk-Recorder.

This copy not valid unless prepared on engraved border displaying seal and signature of Clerk-Recorder.



Exhibit 3 - GAL Order Shirley Bernstein Trust

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.; JILLIANTONI, 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.L.; 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 ou behalf  
of her minor child, C.F.,

Defendants.

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ORDER APPOINTING DIANA LEWIS AS GUARDIAN AD LITEM FOR  
ELIOT BERNSTEIN's CHILDREN, JO.B.; JA. B.; and D.B.

THIS CAUSE came before the Court at an evidentiary hearing held on February 25, 2016,  
on Successor Trustee's Motion for Appointment of a Guardian Ad Litem to Represent the Interests  
of Eliot Bernstein's Children etc. (the "Motion"). Having considered the Motion and the arguments  
of the parties, taken judicial notice of the matters requested in the Motion, and being otherwise duly  
advised in the premises, the Court entered an Order in this matter, and a companion order in Case  
No. 502014CP002815XXXXNB, granting motions to appoint a guardian ad litem for Eliot's

children, Jo.B., Ja.B. and D.B., and setting forth a protocol for selecting a guardian ad litem. Having received the parties' notices contemplated under the companion order, the Court hereby appoints a guardian ad litem as follows:

1. Diana Lewis is hereby appointed as the guardian ad litem for Jo.B., Ja.B. and D.B. in this case, with sole and exclusive authority to represent their interests in this case. The guardian ad litem shall be entitled to petition the Court for reasonable compensation for his/her services, to be paid out of the gross proceeds of any recovery, distributions or inheritance to be received by the Jo.B., Ja.B. and D.B. from the Shirley Bernstein Trust u/a/d May 20, 2008, as amended, the Simon Bernstein Trust, and/or the Estates of Simon or Shirley Bernstein.

2. The guardian ad litem shall file an acceptance of appointment with this Court, with a copy to the parties listed at the end of this Order, within 5 business of the date of this Order; otherwise, the parties shall notify the Court by letter that the appointment has not been accepted, in which case the Court will either appoint an alternate guardian ad litem without further hearing or hold an additional hearing to select an alternate guardian ad litem.

3. The guardian ad litem shall have sufficient time after his/her acceptance of this appointment to within which to prepare necessary court filings and prepare for mediation as ordered by the Court at a hearing held on March 7, in the related case of Estate of Simon Bernstein.

4. Trustee and the guardian ad litem shall confer in good faith regarding a resolution of this matter and/or a time frame within which to try any unresolved issues.

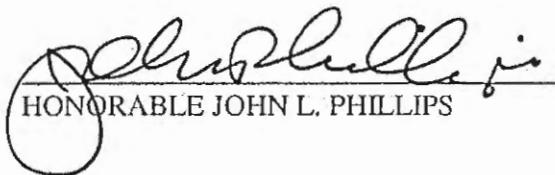
5. Pursuant to the Order dated March 1, 2016, the Guardian Ad Litem will have full power and autonomy to represent the interests of the children of Eliot Bernstein, subject to the jurisdiction and review of this Court. The Guardian Ad Litem will be entitled to petition the Court

for an award of attorneys' fees to be paid out of the gross proceeds of any recovery, distributions or inheritance to be received by Ja.B., Jo.B, and/or D.B.

6. To protect the integrity and independence of the guardian, Eliot Bernstein and all persons acting in concert with him: (a) shall not contact, email or otherwise communicate with the Guardian Ad Litem except at the request of the Guardian Ad Litem; and (b) shall not in any way threaten or harass the guardian. This Court alone shall supervise the guardian. Any violation of this order may subject the violator to severe sanctions for contempt of court. The Court will use the full measure of its coercive powers to ensure compliance with this Order.

7. The guardian ad litem shall notify this Court and Trustee of any actions taken by Eliot and/or Candice Bernstein which interfere with the guardian ad litem's duties hereunder.

DONE and ORDERED in Chambers, North County Courthouse on 4-4-, 2016.



HONORABLE JOHN L. PHILLIPS

cc: Attached service list

**SERVICE LIST** Case No.: 502014CP003698XXXXNBIH

Eliot Bernstein and Candice Bernstein,  
as Parents of  
D.B., Ja. B. and Jo. B, Minors  
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](mailto:iviewit@iviewit.tv))

John P. Morrissey, Esq.  
330 Clematis Street, Suite 213  
West Palm Beach, FL 33401  
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(561) 833-0867 - Facsimile  
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Counsel for Molly Simon, Alexandra Bernstein,  
Eric Bernstein, Michael Bernstein.

Lisa Friedstein, individually and as trustee for  
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and C.F., Minors; and Max Friedstein  
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Jill Iantoni, individually and as trustee for her  
children, and as natural guardian for J.I. a minor  
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[service@ciklinlubitz.com](mailto:service@ciklinlubitz.com);  
[slobdell@ciklinlubitz.com](mailto:slobdell@ciklinlubitz.com)

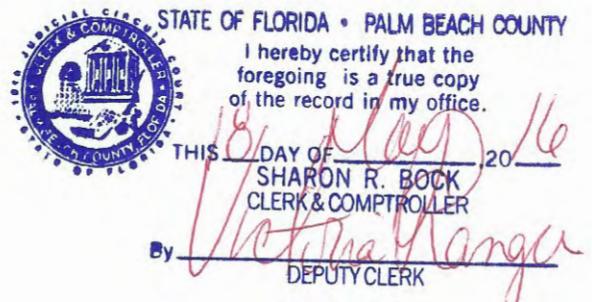


Exhibit 4 - GAL Order Oppenheimer v Bernstein children

**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.: 502014CP003698XXXXNB

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.

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**ORDER ON SUCCESSOR TRUSTEE'S MOTION TO  
APPOINT A GUARDIAN AD LITEM; FOR A GAG ORDER TO PROTECT THE  
GUARDIAN AND OTHERS; AND TO STRIKE ELIOT BERNSTEIN'S FILINGS**

THIS CAUSE came before the Court for evidentiary hearing on February 25, 2016, on  
Successor Trustee's Motion for Appointment of a Guardian Ad Litem to Represent the Interests of  
Eliot Bernstein's Children etc. (the "Motion"). The Court, having considered the record, heard  
argument of counsel and being otherwise fully advised in the premises, hereby

**ORDERS AND ADJUDGES:**

1. This Court determined after a trial held on December 15, 2015 that the beneficiaries of The Shirley Bernstein Trust Agreement dated 5/20/2008 (the "Trust") are Simon Bernstein's "then living grandchildren." Under that ruling, Simon's children – including Eliot Bernstein – are not beneficiaries of the Trust. This Court entered a written order dated February 1, 2016, determining Eliot Bernstein lacks standing to participate in this proceeding and striking his individual filings.

2. Eliot Bernstein's three children are among the class of Trust beneficiaries. Eliot seeks to use his role as parent and natural guardian of three trust beneficiaries to give him standing to continue his involvement in this case. The primary issue now raised is whether Eliot Bernstein should be permitted to continuing representing the interests of his minor children, as their parent and natural guardian, in this Trust Proceeding.

3. ~~Despite his status as natural guardian, Eliot will not be permitted to do so, and The~~  Court will appoint a Guardian ad Litem, because there is a conflict of interest between the parent and the children, and because Eliot Bernstein has proven to be an inadequate representative of the best interests of his children.

4. First, as to the conflict, Eliot's position throughout the case and at trial was that he was a beneficiary of the Trust. He continued advancing that position after trial by prosecuting an appeal of the December 16, 2015 Final Judgment. Eliot's individual interests are in conflict with the interests of his children. Under Florida law, a court should appoint a guardian ad litem when a parent's interest conflicts with the interest of her or her minor child. *Mistretta v. Mistretta*, 566 So. 2d 836, 837-38 (Fla. 1st DCA 1990)(best interests of a minor are *not* fully protected when adverse to the interests of the parent); *Florida Nat. Bank & Trust Co. at Miami v. Blake*, 155 So. 2d 798 (Fla. 3d DCA 1963) (court should have appointed a guardian ad litem for minor child when it was

apparent that the interests of the minor conflicted with the interests of the mother and father); *Gilbertson v. Boggs*, 743 So. 2d 123 (Fla. 4th DCA 1999) (guardian ad litem should have been appointed ~~when~~ <sup>when</sup> the parents' interests were adverse to the minor child).

5. Second, Fla. Stat. 731.303(4) provides: "If the court determines that representation of the interest would otherwise be inadequate, the court may, at any time, appoint a guardian ad litem to represent the interests of ... a minor ..."<sup>1</sup> Based upon the evidence presented and the Court's observations at the trial in December 2015 and at the evidentiary hearing on February 25, 2016, and

*✓ 20* based upon the Court's review of various motions filed by Eliot Bernstein since the trial, it is apparent Eliot Bernstein is not an adequate representative of the best interests of his children. *In fact, his actions are adverse & destructive to the children's interest*

6. Eliot Bernstein states that his agenda includes ridding the court system of corruption among judges, lawyers and fiduciaries, regardless of the ~~cost~~ <sup>to</sup> the beneficiaries. He appears to have no interest in the swift and efficient administration of the Shirley Bernstein Trust. He has taken actions to hinder and delay the administration of the Trust, and caused waste of Trust assets to respond to his assertions.

7. To the extent not already covered by this Court's Order dated February 1, 2016, Eliot Bernstein is barred from any further participation in this action, whether individually or as purported parent and natural guardian. Any and all pending motions, claims, or other filings by Eliot Bernstein,

---

<sup>1</sup> In addition, under section 744.3025, the court *may* appoint a guardian ad litem to represent a minor's interest before approving a settlement of the minor's portion of any cause of action in which the gross settlement of the claim exceeds \$15,000 if the court believes a guardian ad litem is necessary to protect the minor's interest, and "shall appoint a guardian ad litem to represent the minor's interest before approving a settlement of the minor's claim in a case in which the gross settlement involving a minor equals or exceeds \$50,000." Here, it is likely that there will be a settlement at some point in which each of minors receives a substantial distribution, and it is likely Eliot will oppose any such settlement.

on behalf of his children, <sup>are</sup> ~~is~~ hereby stricken from the record, without prejudice to the rights of the Guardian Ad Litem to take whatever actions are deemed appropriate.

8. The parties shall attempt to mutually agree on a guardian ad litem. The Court will appoint whomever the parties agree upon within the next three business days. Eliot Bernstein may participate in such discussions. To the extent the parties, including Eliot Bernstein, are unable to agree on a guardian ad litem, ~~upon notice from the Trustee's counsel the Court shall randomly names of potential Guardian Ad Litem, each of whom has agreed to appoint a guardian ad litem for Ja.B., Jo.B. and D.B. or schedule a further hearing to appoint a suitable Guardian Ad Litem. Those lists shall be filed with the Clerk with courtesy copy to the undersigned, no later than 10 days from this date.~~ <sup>each of the parties shall submit a list of three</sup>

9. The Guardian Ad Litem will have full power and autonomy to represent the interests of the children of Eliot Bernstein, subject to the jurisdiction and review of this Court. The Guardian Ad Litem will be entitled to petition the Court for an award of attorneys' fees to be paid out of the gross proceeds of any recovery, distributions or inheritance to be received by Ja.B., Jo.B, and/or D.B.

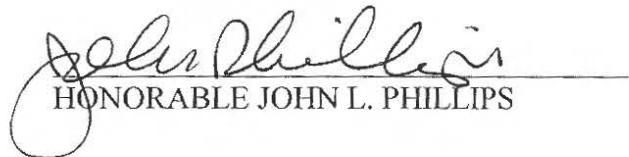
10. To protect the integrity and independence of the guardian, Eliot Bernstein and all persons acting in concert with him: (a) shall ~~not~~ <sup>not</sup> make no effort to contact, email or otherwise communicate with the Guardian Ad Litem except at the request of the Guardian Ad Litem; (b) shall make no statement of any kind about the guardian, nor post information about the guardian on the internet in any fashion; and (c) shall not in any way threaten or harass the guardian. This Court alone shall supervise the guardian, and all information concerning this guardianship shall be treated as private and confidential. Any violation of this order may subject the violator to severe sanctions for contempt of court. The Court will use the full measure of its coercive powers to ensure compliance with this Order.

*proposed*

\* Parties shall furnish an Order appointing G.A.L with the lists. The Court will act without further hearing on the appointment, if possible.

11. The Court reserves jurisdiction to enforce all terms of this Order, and to oversee the service of the guardian ad litem appointed.

DONE and ORDERED in Chambers, North County Courthouse on 3-1-16, 2016.

  
HONORABLE JOHN L. PHILLIPS

cc: Attached service list

**SERVICE LIST** Case No.: 502014CP003698XXXXNBIJ

Eliot Bernstein, individually  
and Eliot and Candice Bernstein,  
as Parents and Natural Guardians of  
D.B., Ja. B. and Jo. B, Minors  
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](mailto:iviewit@iviewit.tv))

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](mailto: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](mailto: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](mailto:jilliantoni@gmail.com)

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](mailto:arose@mracheck-law.com)

Pamela Beth Simon  
303 E. Wacker Drive, Suite 2725  
Chicago, IL 60601  
Email: [psimon@stpcorp.com](mailto: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](mailto:boconnell@ciklinlubitz.com);  
[jfoglietta@ciklinlubitz.com](mailto:jfoglietta@ciklinlubitz.com);  
[service@ciklinlubitz.com](mailto:service@ciklinlubitz.com);  
[slobdell@ciklinlubitz.com](mailto:slobdell@ciklinlubitz.com)

JOHN L. PHILLIPS  
CIRCUIT JUDGE  
NORTH COUNTY COURTHOUSE  
3188 PGA BOULEVARD  
PALM BEACH GARDENS, FL 33410



Eliot Bernstein and Candice Bernstein  
2753 NW 34<sup>th</sup> Street  
Boca Raton, FL 33434



Exhibit 5 - Arthur Morburger, Esq. Notice of Appearance Motion to Quash Attempted Service of Process and to Set Aside Default.

IN THE CIRCUITC COURT OF THE 15<sup>TH</sup> JUDICIAL CIRCUIT OF FLORIDA  
IN AND FOR PALM BEACH COUNTY, CASE NO. 50-2018-CA-002317-  
XXXX-MB

WALTER E. SAHM and  
PATRICIA SAHM,

Plaintiffs,

vs.

BERNSTEIN FAMILY REALTY, LLC., etal.,

Defendants

/

**NOTICE OF APPEARANCE**

Notice is given that Arthur J. Morburger does hereby appear as counsel for  
Joshua Bernstein and Jacob Bernstein, in the above styled action in conjunction  
with their motion to quash attempted service of process and to set aside default.

ARTHUR J. MORBURGER  
19 W.Flagler St. Ste. 404 Miami, FL 33130  
Tel. No. (305) 374-3373  
[Amorburger@bellsouth.net](mailto:Amorburger@bellsouth.net)  
Fla. Bar No. 157287  
\_\_\_\_\_  
\_\_\_\_\_  
/s/*Arthur J. Morburger*\_\_\_\_\_

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the foregoing was served by email via the  
Florida Eportal Filing System this 12<sup>th</sup> day of October, 2020.

\_\_\_\_\_  
\_\_\_\_\_  
/s/*Arthur J. Morburger*\_\_\_\_\_

**Subject:** SIGNED LETTER DEMAND TO DIANA LEWIS TO CEASE AND DESIST ILLEGAL GUARDIAN AD LITEM - FROM JOSHUA BERNSTEIN

**Date:** Tuesday, July 11, 2017 at 10:37:27 AM Eastern Daylight Time

**From:** Eliot Ivan Bernstein

**To:** Diana Lewis @ ADR & MEDIATIONS SERVICES, LLC - Fla. Bar No. 351350

**CC:** joon.kim@usdoj.gov, 'FBI Philadelphia', tom.wheeler@usdoj.gov, 'William Stansbury', 'Crystal L. Cox, in Love and Light', Sam Sugar MD, 'Natalie Andre', 'Skender Hoti', Richard Black, 'Alan B. Rose Esq.', 'Alan B. Rose Esq.', 'Anderson, Charlene', arose@mrachek-law.com, attorneys@matbrolaw.com, 'Benjamin P. Brown', bhenry@matbrolaw.com, 'Brian M. O'Connell PA ~ Partner @ Ciklin Lubitz Martens & O'Connell', ddustin@tescherspallina.com, 'Don Tescher', 'Gary R. Shendell', 'John J. Pankauski', 'John P. Morrissey Esq. @ John P. Morrissey, P.A.', john@pankauskilawfirm.com, 'Kenneth S. Pollock', 'Kimberly Moran ~ Legal Assistant / Notary Public @ Tescher & Spallina, P.A.', 'L. Louis Mrachek Esq. @ PAGE, MRACHEK, FITZGERALD, ROSE, KONOPKA, THOMAS & WEISS, P.A.', 'Lindsay Baxley aka Lindsay Giles @ Life Insurance Concepts', 'Mark R. Manceri, Esquere @ Mark R. Manceri, P.A.', 'Mimi K. McAndrews', mrmlaw1@gmail.com, 'Pamela Beth Simon', 'Peter Feaman', 'Peter Feaman, Esq. ~ Attorney at Law @ Peter M. Feaman, P.A.', pmatwiczyk@matbrolaw.com, 'Robert Spallina', service@feamanlaw.com, 'Andrew Dietz @ Rock-It Cargo USA, Inc.', Barbara Stone, Barbara Stone Gmail, 'CANDICE BERNSTEIN', Candice Schwager, Candice Schwager ~ Attorney at Law @ Schwager Law Firm, 'Caroline Prochotska Rogers Esq.', 'Eliot I. Bernstein', Frank Brady aka Kevin McKeown @ Expose Corrupt Courts, iviewit@gmail.com, JoAnne M. Denison Esq., Kevin R. Hall, 'Michele M. Mulrooney ~ Partner @ Venable LLP'

**Attachments:** 20170711 FINAL SIGNED Joshua Bernstein Cease and Desist Diana Lewis re Guardian Ad Litem.pdf

Diana Lewis, please see the attached SIGNED CEASE AND DESIST letter from my ADULT son Joshua Bernstein to you. If you have any questions please feel free to contact me.

Eliot I. Bernstein  
Inventor, really cool shit that changed your world!  
Iviewit Holdings, Inc. – DL  
2753 N.W. 34th St.  
Boca Raton, Florida 33434-3459  
(561) 245.8588 (o)  
(561) 886.7628 (c)  
[iviewit@iviewit.tv](mailto:iviewit@iviewit.tv)  
<http://www.iviewit.tv>

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***From the Desk of :***  
***Joshua Ennio Zander Bernstein***

**2753 NW 34th Street, Boca Raton, FL 33434**

July 11, 2017

ADR & MEDIATIONS SERVICES, LLC

Diana Lewis

2765 Tecumseh Drive

West Palm Beach, FL 33409

(561) 758-3017 Telephone

[dzlewis@aol.com](mailto:dzlewis@aol.com)

(Fla. Bar No. 351350)

**RE: DIANA LEWIS DEMAND TO CEASE AND DESIST ILLEGAL GUARDIAN AD LITEM OF JOSHUA BERNSTEIN, CORRECT ALL FRAUD, OTHER RELIEF**

Attention Diana Lewis, Esq.,

My name is Joshua Ennio Zander Bernstein and it has come to my attention that you are an attorney and former Judge in Palm Beach County and Officer of the Court, allegedly acting as Guardian Ad Litem for me since April 07, 2016 allegedly as a “minor child” of Eliot Ivan Bernstein and Candice Michelle Bernstein.

I make this voluntary request for you to now Cease and Desist all actions allegedly as my Guardian Ad Litem, turn over all records, discovery and information obtained in the course of your actions as my alleged Guardian and correct any and all frauds in all Courts or elsewhere impacted by this illegal Guardianship, including but not limited to, the Estate and Trust cases of my deceased grandparents, Simon and Shirley Bernstein.

**RE: DIANA LEWIS DEMAND TO CEASE AND DESIST ILLEGAL GUARDIAN AD  
LITEM OF JOSHUA BERNSTEIN, CORRECT ALL FRAUD, OTHER RELIEF**

---

As I show in this letter, at all times relevant in these Estate and Trust cases both Ted Bernstein who is my uncle, his lawyer Alan Rose, lawyer Steven Lessne and yourself have all had actual knowledge that I was over the age of 18 before this Guardianship via a Guardian Ad Litem for minors was ever established and thus was never a "Minor". Therefore, since I was over the age of 18 years at the time of the "Guardianship" this could only occur after a "competency hearing" which of course has never occurred and you, Ted Bernstein, Alan Rose, Brian O'Connell and Steven Lessne have at all times had actual knowledge of these facts and the illegality of the Guardianship which appears to have been used as a predatory weapon against my family to interfere in proper rights of Inheritance and to cover up frauds in the cases.

Further, all of you actually know and have known that no "competency hearing" was ever held against me nor have I ever been provided ANY Due Process Notice or been served to appear in any proceeding or have an Opportunity to be heard at any of the relevant proceedings to date.

What is even more egregious about your conduct as a former Judge and done as an "Officer of the Court" is that you not only have continued in your actions as alleged Guardian in this illegal Guardianship despite being specifically advised that I was over the age of 18 years prior to the Guardianship itself, but have even gone as far as to give alleged "Consents" on my behalf to various actions by Ted Bernstein and Alan Rose and entered into "Settlements" on my behalf again giving "Consent" all without my knowledge, without my Consent and without any Notice of Opportunity to be heard provided to myself. In fact, as you actually know, you and I have never even spoken to one another.

**RE: DIANA LEWIS DEMAND TO CEASE AND DESIST ILLEGAL GUARDIAN AD  
LITEM OF JOSHUA BERNSTEIN, CORRECT ALL FRAUD, OTHER RELIEF**

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I have come to learn that under Federal law under Title 18 USC Sec.242 it is a Federal Criminal Offense for Civil Rights Violations for 2 or more persons to conspire to Violate my US Constitutional rights, which have been violated by your actions in this case together in common with Attorney Alan Rose and Steven Lessne, Fiduciary Ted Bernstein and with the compliance and acquiescence of attorney Brian O'Connell as current Personal Representative of my grandfather Simon's Estate.

Please take notice that I have copied the US Dept of Justice Civil Rights Division head Tom Wheeler and offices of the FBI and US Attorney on this request.

I have further learned the following from the US Dept. of Justice Website:

"Section 242 of Title 18 makes it a crime for a person acting under color of any law to willfully deprive a person of a right or privilege protected by the Constitution or laws of the United States.

For the purpose of Section 242, acts under "color of law" **include acts not only done by federal, state, or local officials within the their lawful authority, but also acts done beyond the bounds of that official's lawful authority, if the acts are done while the official is purporting to or pretending to act in the performance of his/her official duties. Persons acting under color of law within the meaning of this statute include police officers, prisons guards and other law enforcement officials, as well as judges, care providers in public health facilities, and others who are acting as public officials.** It is not necessary that the crime be motivated by animus toward the race, color, religion, sex, handicap, familial status or national origin of the victim.



Page 3 of 22  
July 11, 2017

**RE: DIANA LEWIS DEMAND TO CEASE AND DESIST ILLEGAL GUARDIAN AD LITEM OF JOSHUA BERNSTEIN, CORRECT ALL FRAUD, OTHER RELIEF**

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The offense is punishable by a range of imprisonment up to a life term, or the death penalty, depending upon the circumstances of the crime, and the resulting injury, if any." See, <https://www.justice.gov/crt/deprivation-rights-under-color-law>.

Ted Bernstein, who is my uncle by blood. and his attorney Alan Rose have at all times known my Birthdate particularly in relation to exorbitant and fraudulent legal Fees billed after the passing of my grandfather Simon Bernstein and the refusal to release my car Registration to me, which had been a birthday gift to me from my Grandfather only days before he passed that Ted and others tried to claim was an asset of the Estate of my grandfather. My birthdate was specifically raised in those proceedings and the Guardian Ad Litem proceedings and thus, these parties at all times knew that I was not a "minor" at the time the predatory Guardian Ad Litem was approved.

You apparently accepted Guardian Ad Litem over me as a "minor", however, I have been Sui Juris since my 18th birthday on August 27, 2015 having been born on August 27, 1997.

Having been over the age of 18 years and thus not a "minor" under Florida law as of August 27, 2015, the Petitions filed on January 04, 2016 in the Shirley Trust case and January 07, 2017 in the Oppenheimer case and the Orders appointing you as Guardian Ad Litem on March 01, 2016 in the Shirley Trust case and March 03, 2016 in the Oppenheimer case, and your Acceptance of the appointments in both cases on April 07, 2016 all were done illegally and with knowledge that I was Sui Juris at the time and therefore every action taken on my behalf through the Guardian Ad Litem must now be corrected to reflect your lack of proper and legal jurisdiction over me.

I have never spoken with you, met with you, granted you any authority over me and in any way enabled or allowed your acting in any capacity and in any matter on my behalf as an adult. This is a Cease and Desist demand to stop all further illegal acts on my behalf.

**RE: DIANA LEWIS DEMAND TO CEASE AND DESIST ILLEGAL GUARDIAN AD LITEM OF JOSHUA BERNSTEIN, CORRECT ALL FRAUD, OTHER RELIEF**

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On March 01, 2016, while I was Sui Juris, in CASE NO.: 502014CP003698XXXX (NB)

“Shirley Bernstein Trust” styled,

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

Plaintiff,

v.

ALEXANDRA BERNSTEIN; ERIC  
BERNSTEIN; MICHAEL BERNSTEIN;  
MOLLY SIMON;  
PAMELA B. SIMON, Individually and  
as Trustee f/b/o Molly Simon under the  
Simon L. Bernstein Trust Dtd 9/13/12;  
ELIOT BERNSTEIN, individually, as  
Trustee f/b/o D.B., Ja. B. and Jo. B. under  
the Simon L. Bernstein Trust Dtd  
9/13/12, and on behalf of his minor  
children D.B., Ja. B. and Jo. B. [emphasis added]; 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.

---

in the Florida Probate Court an Order (SEE EXHIBIT 1 – GAL ORDER) was issued for  
Guardian Ad Litem based on pleadings filed that represented that the GAL was for minor  
children of Eliot and Candice. The Order states in part,

**RE: DIANA LEWIS DEMAND TO CEASE AND DESIST ILLEGAL GUARDIAN AD LITEM OF JOSHUA BERNSTEIN, CORRECT ALL FRAUD, OTHER RELIEF**

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“2. Eliot Bernstein's three children are among the class of Trust beneficiaries. Eliot seeks to use his role as parent and natural guardian of three trust beneficiaries to give him standing to continue his involvement in this case. The primary issue now raised is whether Eliot Bernstein should be permitted to continuing representing the interests of his minor children, as their parent and natural guardian, in this Trust Proceeding.” **[emphasis added]**

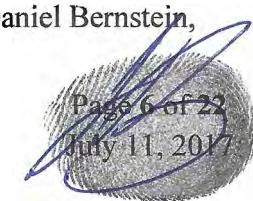
“4. ...Eliot's individual interests are in conflict with the interests of his children. Under Florida law, a court should appoint a guardian ad litem when a parent's interest conflicts with the interest of her or her minor child. Mistretta v. Mistretta, 566 So. 2d 836, 83 7-38 (Fla. 1st DCA 1990) (best interests of a minor are not fully protected when adverse to the interests of the parent); Florida Na1. Bank & Trust Co. at Miami v. Blake, 155 So. 2d 798 (Fla. 3d DCA 1963) (court should have appointed a guardian ad litem for minor child when it was apparent that the interests of the minor conflicted with the interests of the mother and father); Gilbertson v. Boggs, 743 So. 2d 123 (Fla. 4th DCA 1999) (guardian ad litem should have been appointed when the parents' interests were adverse to the minor childs).” **[emphasis added]**

“5. ...Second, Fla. Stat. 731.303 (4) provides: "If the court determines that representation of the interest would otherwise be inadequate, the court may, at any time, appoint a guardian ad litem to represent the interests of ... a minor ... "[emphasis added]

On April 04, 2016, while I was Sui Juris, you were appointed as the Guardian Ad Litem to represent the interests of Eliot Bernstein's **MINOR** children. See (SEE EXHIBIT 2 –SHIRLEY TRUST GAL Order)

On March 03, 2016, while I was Sui Juris, in CASE NO.: 502014CP002815XXXXNB (IH) titled,

“OPPENHEIMER TRUST COMPANY OF DELAWARE, in its capacity as Resigned Trustee of the Simon Bernstein Irrevocable Trusts created for the benefit of Joshua, Jake and Daniel Bernstein,

  
Page 6 of 22  
July 11, 2017

**RE: DIANA LEWIS DEMAND TO CEASE AND DESIST ILLEGAL GUARDIAN AD LITEM OF JOSHUA BERNSTEIN, CORRECT ALL FRAUD, OTHER RELIEF**

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Petitioner,  
vs.  
ELIOT AND CANDICE BERNSTEIN,  
in their capacity as parents and natural  
guardians of JOSHUA, JAKE AND  
DANIEL BERNSTEIN, minors, [emphasis added]

Respondents.

/"

in the Florida Probate Court an Order (SEE EXHIBIT 3 – GAL ORDER OPPENHEIMER) was issued. That Order states in part the following;

“...(the "Motion") filed by Petitioner, Oppenheimer Trust Company Of Delaware ("Oppenheimer"), in its capacity as the resigned trustee of three Irrevocable Trusts settled by Simon Bernstein on September 7, 2006 for the benefit of his grandchildren, minors, Joshua, Jake and Daniel Bernstein (the "Grandchildren Trusts").” [emphasis added]

“1. The sole beneficiaries of the Grandchildren Trusts, and the only real parties in interest in this litigation (other than Oppenheimer), are Joshua, Jake and Daniel Bernstein (the "Minor Beneficiaries"). Neither Eliot nor Candice Bernstein (the "Bemsteins") were sued in their individual capacities by Oppenheimer, nor have they moved for, or been granted, permission to intervene in their individual capacities. They have been afforded standing in these proceedings, to date, solely as the parents and natural guardians of the Minor Beneficiaries.  
[emphasis added]

“2. The Bernsteins have been shown to have multiple conflicts of interest with the Minor Beneficiaries...All of the above, and certainly in combination, render the Bemsteins inappropriate and inadequate representatives for the Minor Beneficiaries in this litigation. [emphasis added]

On April 07, 2016, while I was Sui Juris, you filed a “NOTICE OF ACCEPTANCE OF APPOINTMENT AS GUARDIAN AD LITEM FOR Jo.B., Ja.B. AND D.B. IN THE ABOVE STYLED CASE” in the Shirley Trust Construction case (Filing # 40000163 E-Filed 04/07/2016 04:06:21 PM) (SEE EXHIBIT 4 – NOTICE) which states in part;

**RE: DIANA LEWIS DEMAND TO CEASE AND DESIST ILLEGAL GUARDIAN AD LITEM OF JOSHUA BERNSTEIN, CORRECT ALL FRAUD, OTHER RELIEF**

---

“NOTICE OF ACCEPTANCE OF APPOINTMENT AS GUARDIAN AD LITEM FOR Jo.B., Ja.B. AND D.B. IN THE ABOVE STYLED CASE COMES NOW Diana Lewis and notifies the court of her acceptance of appointment as Guardian ad litem for Eliot Bernstein's minor children, Jo.B., Ja.B. and D.B. pursuant to this court's order dated April 4, 2016, and the terms and conditions set forth therein.” **[emphasis added]**

Similarly, on April 07, 2016, while I was Sui Juris, you filed a “NOTICE OF ACCEPTANCE OF APPOINTMENT AS GUARDIAN AD LITEM FOR JOSHUA, JAKE AND DANIEL BERNSTEIN IN THE ABOVE STYLED CASE” in the Oppenheimer Case (Filing # 39999717 E-Filed 04/07/2016 04:03:08 PM), which states in part;

COMES NOW Diana Lewis and notifies the court of her acceptance of appointment as Guardian ad litem for JOSHUA, JAKE and DANIEL BERNSTEIN (the "Minor Beneficiaries") pursuant to this court's order dated April 4, 2016. **[emphasis added]**

I am unaware of any Guardian Ad Litem Orders entered in the Simon and Shirley Probate Cases ( Case # 502012CP004391XXXXSB – Simon Bernstein Estate and Case # 502011CP000653XXXXSB – Shirley Bernstein Estate) giving you any guardianship powers over me to make any representations or take any actions on my behalf in those cases.

The March 01, 2016 Oppenheimer Order states,

“4. For the above reasons, the guardian ad /item appointed in Case No.: 502014CP003698XXXXNB shall be deemed appointed simultaneously as the guardian ad /item for the Minor Beneficiaries in this case, with sole and exclusive authority to represent the Minor Beneficiaries' interests in this case .Jo.B., Ja.B. AND D.B. IN THE ABOVE STYLED CASE” **[emphasis added]**

The Shirley Bernstein Trust Order Appointing Guardianship is similarly limited to legal authority of the guardianship in that case only and only for MINOR CHILDREN.

**RE: DIANA LEWIS DEMAND TO CEASE AND DESIST ILLEGAL GUARDIAN AD  
LITEM OF JOSHUA BERNSTEIN, CORRECT ALL FRAUD, OTHER RELIEF**

---

As you can see from my birthday listed above I turned 18 on August 27, 2015 and AT NO TIME IN THESE PROCEEDINGS WAS I A MINOR AND I WAS SUI JURIS WHEN ORDERS WERE ISSUED AND PLEADINGS WERE MADE BY ATTORNEYS AT LAW ALAN B. ROSE and STEVEN LESSNE to gain a predatory guardianship on me while I was an Adult by falsely pleading to the Court that I was a Minor and I have been advised that this guardianship is in violation of Florida Criminal and Civil Statutes and perhaps Federal law.

The 2016 Florida Statutes - Title XLIII - DOMESTIC RELATIONS - Chapter 744 - GUARDIANSHIP

744.521 Termination of guardianship.—**When a ward becomes sui juris** or is restored to capacity, when the guardian has been unable to locate the ward through diligent search, or, for a guardian of the property, when the property subject to the guardianship has been exhausted, the guardian shall file a final report and receive his or her discharge. A guardian of the person is discharged without further proceeding upon filing a certified copy of the ward's death certificate. The court may require proof of the removal of incapacity.

History.—s. 1, ch. 74-106; ss. 21, 26, ch. 75-222; s. 4, ch. 86-120; s. 89, ch. 89-96; s. 63, ch. 90-271; s. 1110, ch. 97-102.

Note.—Created from former s. 746.12.

"Minor Ward Reaches 18 Unless the minor is incapacitated, at the age of 18 he or she is no longer a minor and is deemed to be legally old enough to manage his or her own finances or property. The guardianship is terminated and the assets are distributed to the minor."

[https://umshare.miami.edu/web/wda/ethics/guardianship\\_rev1-07.pdf](https://umshare.miami.edu/web/wda/ethics/guardianship_rev1-07.pdf)

No adult Guardianship proceedings under The 2016 Florida Statutes - Title XLIII - DOMESTIC RELATIONS GUARDIANSHIP Chapter 744 took place for me as legally required as I was an adult at the time guardianship was sought for and gained over me and no capacity hearing was held at any time. As you can see from the Pleadings and Orders submitted in the case and outlined herein the Guardian Ad Litem was ILLEGALLY gained over me while an adult and I



**RE: DIANA LEWIS DEMAND TO CEASE AND DESIST ILLEGAL GUARDIAN AD  
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was misrepresented to the Court as a minor by Officers of the Court, Alan B. Rose, Esq. and Steven Lessne, Esq. and Fiduciary of the Estates and Trusts of my grandparents Simon and Shirley Bernstein, my uncle Ted Bernstein. I have been made aware that my uncle Ted and all other parties knew at the time my legal age and that I was Sui Juris.

Therefore, due to your lack of legal authority over me despite any Court Orders gained through simulated legal process, immediately;

1. **CEASE AND DESIST** from any further representations of myself, Joshua Bernstein, in any proceedings, settlements or other matters involving me.
2. **NOTIFY** the Florida Court that **ALL OF YOUR PRIOR REPRESENTATIONS AND ACTS ON BEHALF OF JOSHUA BERNSTEIN** are and always have been improper and illegal and cease and desist this **KNOWINGLY, GROSS, WILLFUL, WANTON** and **RECKLESS** criminal violation of your fiduciary duties as a **Guardian Ad Litem** .
3. **WITHDRAW** any and all Consent you have given in any matters relating to Joshua Bernstein.
4. **FILE** immediately within or without the final report the fact that I, Joshua Bernstein, was placed as an adult illegally in a guardianship for minors and that no legal adult guardianship proceedings were held giving you legal authority from the onset of your legal representations on my behalf, receive discharge and turn over all records and properties regarding the guardianships as required.
5. **MAKE NO** further appearances in Court on my behalf or state in any pleadings consent on my behalf or take any any action whatsoever on my behalf claiming that you are a acting as **Guardian Ad Litem** for me.

**RE: DIANA LEWIS DEMAND TO CEASE AND DESIST ILLEGAL GUARDIAN AD  
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6. **NOTIFY ALAN ROSE AND STEVEN LESSNE** to similarly take all actions to remove and strike all pleadings, orders, settlements, etc. in any court cases made on my behalf as a minor and cease and desist any further acts on my behalf.
7. **NOTIFY ALL COURTS** affected by your actions that you have never had proper guardianship for me as an adult.
8. **NOTIFY ALL COURTS** that you have made improper representations in pleadings and hearings in the Simon and Shirley Bernstein Estate cases and the Oppenheimer cases where you have never been granted a legal guardianship over me. The Courts to be notified and cases related to your actions that have been affected by the misconduct shall include but not be limited to,
  - a. The Florida Probate Court – HONORABLE Judge Rosemarie Scher, cases:
    - i. Case # 502012CP004391XXXXSB – Simon Bernstein Estate
    - ii. Case # 502015CP001162XXXXNB – Simon Bernstein Trust to Remove Ted Bernstein
      1. OLD CASE # Was Civil but Colin transferred to Probate ? 502014CA014637XXXXMB
    - iii. Case # 502011CP000653XXXXSB – Shirley Bernstein Estate
    - iv. Case # 502014CP003698XXXXNB – Shirley Trust Construction
    - v. Case # 502014CP002815XXXXSB – Oppenheimer v. Bernstein Minor Children
    - vi. Case # 502015CP002717XXXX Colin Closed and transferred to Coates Eliot Bernstein v. Simon Estate Case for Claims
    - vii. Case # 502014CA014637XXXXMB BERNSTEIN, ELIOT I VS BERNSTEIN, THEODORE S
    - viii. Case # 50-2010-CP-003128-XXXX-SB – Joshua Bernstein alleged 2010 Trust Case Colin
    - ix. Case # 50-2010-CP-003125-XXXX-SB - – Jacob Jake Bernstein alleged 2010 Trust Case Colin
    - x. Case # 50-2010-CP-003123-XXXX-SB– Daniel Danny Bernstein alleged 2010 Trust Case Colin

**RE: DIANA LEWIS DEMAND TO CEASE AND DESIST ILLEGAL GUARDIAN AD  
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b. The Florida 15th Judicial Civil Circuit Court and HONORABLE JUDGE

Cymonie Rowe, case:

- i. Case # 502012CA013933XXXXMB William E. Stansbury v. Ted S. Bernstein et al. -

c. The Florida 4<sup>th</sup> District Court of Appeals – Note – Do not submit any information to Chief Judge Corey Ciklin who is conflicted in these matters already as being a former law partner of Personal Representative of the Estate of Simon Bernstein, Brian O'Connell's law firm, Ciklin Lubitz Martens & O'Connell, where Judge Ciklin already has Sua Sponte removed himself from proceedings he was involved with in these matters and removed his name from several prior issued Orders at that court.

- i. Case 15-3849 ELIOT BERNSTEIN ESTATE OF SIMON BERNSTEIN
- ii. Case 16-1449 ELIOT IVAN BERNSTEIN OPPENHEIMER TRUST CO. OF DELAWARE, ET AL.
- iii. Case 16-1476 ELIOT IVAN BERNSTEIN OPPENHEIMER TRUST CO. OF DELAWARE, ET AL.
- iv. Case 16-2249 ELIOT IVAN BERNSTEIN OPPENHEIMER TRUST CO. OF DELAWARE, ET AL.
- v. Case 16-0222 ELIOT IVAN BERNSTEIN TED BERNSTEIN, AS TRUSTEE, ET AL.
- vi. Case 16-1478 ELIOT IVAN BERNSTEIN TED BERNSTEIN, AS TRUSTEE, ETC., ET AL.
- vii. Case 16-3314 ELIOT IVAN BERNSTEIN TED BERNSTEIN, AS TRUSTEE, ETC., ET AL.
- viii. Case 16-0064 ELIOT IVAN BERNSTEIN TED BERNSTEIN, AS TRUSTEE. ET AL.
- ix. Case 16-3162 ELIOT IVAN BERNSTEIN WILLIAM E. STANSBURY, et al.
- x. Case 16-4120 ELIOT IVAN BERNSTEIN WILLIAM E. STANSBURY, et al.

**RE: DIANA LEWIS DEMAND TO CEASE AND DESIST ILLEGAL GUARDIAN AD LITEM OF JOSHUA BERNSTEIN, CORRECT ALL FRAUD, OTHER RELIEF**

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- d. The Florida Supreme Court – Note – Do not submit any information to Chief Judge Jorge Labarga as he is conflicted with the Eliot Bernstein family in these matters.
  - i. SC16-29
- e. The United States District Court Northern District of Illinois Case 1:13-cv-03643 Simon Bernstein Irrevocable Insurance Trust Dtd 6/21/95 v. Heritage Union Life Insurance Company – HONORABLE Judge John Robert Blakey and Chief Judge Ruben Castillo.
  - i. Case # 13-cv-03643 - Federal Lawsuit in the US District Court of Eastern Illinois
- f. United States Court of Appeals for the Seventh Circuit - Chief Judge Diane P. Wood in relation to the Lower Court Case 1:13-cv-03643 Simon Bernstein Irrevocable Insurance Trust Dtd 6/21/95 v. Heritage Union Life Insurance Company.
  - i. Case No. 17-1461 APPEAL UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

9. **TURN OVER** all of your professional and individual insurance policies and bonding information to me as claims against you individually and professionally and your firm, will be forthcoming for the massive damages caused to me from your breaches of fiduciary duties and other misconduct. Your firm appears as follows and I believe it was set up specifically for liability purposes for these matters with my family, immediately prior to your acceptance of Guardian Ad Litem for me:

ADR & MEDIATIONS SERVICES, LLC  
Diana Lewis  
2765 Tecumseh Drive

Page 13 of 22  
July 11, 2017

**RE: DIANA LEWIS DEMAND TO CEASE AND DESIST ILLEGAL GUARDIAN AD LITEM OF JOSHUA BERNSTEIN, CORRECT ALL FRAUD, OTHER RELIEF**

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West Palm Beach, FL 33409  
(561) 758-3017 Telephone  
Email: [dzlewis@aol.com](mailto:dzlewis@aol.com)  
By: /s/ Diana Lewis  
(Fla. Bar No. 351350)

10. **TURN OVER** all records, documents, emails, faxes, information of any kind regarding me obtained by and during these illegal actions to my attention at my permanent address of, 2753 NW 34<sup>th</sup> Street, Boca Raton, FL 33434.

I have been notified that on repeated occasions over the past year my father and mother Eliot and Candice Bernstein have notified you directly of my Sui Juris status and you have refused to take any actions to end the improper Guardian Ad Litem and continue to make representations, agreements and settlements on my behalf and hopefully this notice will cause you to

**IMMEDIATELY CEASE AND DESIST THIS ILLEGAL CONDUCT.**

I have also been made aware that my father and mother, Eliot and Candice Bernstein have notified state and federal authorities of your misconduct on my behalf, including but not limited to acts such as,

1. Dissolving various Trusts in my name set up by my grandparents,
2. Dissolving Bernstein Family Realty, LLC, set up by my grandparents of which I am a 33% owner,
3. Making appearances in various court and legal proceedings illegally on my behalf,
4. Consenting to various legal agreements illegally on my behalf,
5. Consenting to various settlements illegally on my behalf.

I have learned that in Case # 502014CP003698XXXXNB – Shirley Bernstein Trust in the Fifteenth Judicial Probate Court you are acting under an alleged Trust created in my name that I

**RE: DIANA LEWIS DEMAND TO CEASE AND DESIST ILLEGAL GUARDIAN AD LITEM OF JOSHUA BERNSTEIN, CORRECT ALL FRAUD, OTHER RELIEF**

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was sued as a defendant under with my father, Eliot Bernstein, as Trustee and where I have never received formal notice of any such trust, nor do I believe my parents or any other party, including the courts have received, although I am a beneficiary allegedly under this trust. The Trust I am sued under is titled,

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.**

Please provide a copy of the “**Simon L. Bernstein Trust Dtd 9/13/12**” and any subtrusts held thereunder in my name supposedly created on 9/13/12 the date of my grandfather’s death. If you are in possession of any such trust or subtrust OR ANY OTHER TRUST in my name, please instantly turn over all records regarding this legal entity I have been sued under and that you are acting illegally as a Guardian Ad Litem over my person in such legal action under such trust.

I have done preliminary research into your name online since learning of this predatory Guardian Ad Litem placed knowingly upon me as an adult and have learned that you are a FORMER Judge and no longer a Florida Registered Judge who has lost her judgeship to Jennifer Ticktin since on or about 2014<sup>1 2 3</sup> where I learned from the attached articles, “But Ticktin, a 35-year-old

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<sup>1</sup> “Ugly PBC judicial campaign pits Diana Lewis and Jessica Ticktin” By Jane Musgrave - Palm Beach Post Staff Writer

Updated: 12:41 p.m. Friday, August 08, 2014 | Posted: 7:00 a.m. Friday, August 08, 2014  
<http://www.mypalmbeachpost.com/news/local-govt--politics/ugly-pbc-judicial-campaign-pits-diana-lewis-and-jessica-ticktin/NczV3oHgQuXksyXpl11Jdl>

<sup>2</sup> “Race for Palm Beach County Circuit Judge Group 14 seat is personal” July 19, 2014 | By Brittany Shammas, Sun Sentinel  
[http://articles.sun-sentinel.com/2014-07-19/news/fl-election/palm-circuit-judges-14-20140719\\_1\\_lewis-incumbent-judge-ticktin-law-group](http://articles.sun-sentinel.com/2014-07-19/news/fl-election/palm-circuit-judges-14-20140719_1_lewis-incumbent-judge-ticktin-law-group)

**RE: DIANA LEWIS DEMAND TO CEASE AND DESIST ILLEGAL GUARDIAN AD LITEM OF JOSHUA BERNSTEIN, CORRECT ALL FRAUD, OTHER RELIEF**

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partner at Ticktin Law Group and a Boca Raton resident, says she targeted Lewis for a reason. She cited a 2013 Palm Beach County Bar poll in which Lewis ranked last among 34 circuit court judges in categories including knowledge and application of the law, impartiality and judicial demeanor. "I think that right now we have an issue with the incumbent judge," Ticktin said. "Last time she was given a second chance, and I don't think that she did well with that second chance. I think it's time for change." In noting your bar association number above I believe that as both a former judge and current registered attorney at law I need not educate you on your obligations to notify all tribunals, criminal and civil and all parties with any liabilities resulting from your and others you worked in conspire with actions, as required by both State and Federal - Civil, Criminal and Ethical Rules and Statutes.

That these Knowingly, Gross, Willful, Wanton and Reckless Acts, which appear as Financial Exploitation of an Adult through an ILLEGAL GUARDIAN AD LITEM FOR A MINOR and further appear part of a larger conspiracy against the rights of my father, my mother and my brothers are simultaneously being forwarded to state and federal criminal authorities to investigate and prosecute any prior and future criminal acts, so please **govern yourself accordingly** in any future actions you may take in any matters relating to my family and myself.

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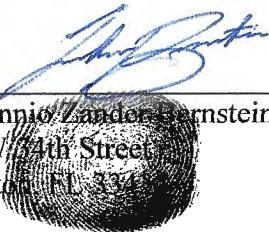
<sup>3</sup> "Palm Beach Judge Diana Lewis Loses Judicial Seat to Challenger Raising Issues with Demeanor" Florida You Judge Wednesday, August 27th, 2014 at 5:26 pm by admin by Haydee Oropesa <http://www.floridayoujudge.com/palm-beach-judge-diana-lewis-loses-judicial-seat-to-challenger-raising-issues-with-demeanor/>

**RE: DIANA LEWIS DEMAND TO CEASE AND DESIST ILLEGAL GUARDIAN AD  
LITEM OF JOSHUA BERNSTEIN, CORRECT ALL FRAUD, OTHER RELIEF**

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I authorize this Statement and Cease and Desist Request to be filed in any and all state and federal proceedings as relevant and necessary.

Sincerely,

X:   
Joshua Ennio Zander Bernstein  
2753 NW 34th Street  
Boca Raton, FL 33434

Dated: 7/11/17

Witness:

X:   
Name: Jacob Bernstein  
2753 NW 34th Street  
Boca Raton, FL 33434

Dated: 7/11/17

**RE: DIANA LEWIS DEMAND TO CEASE AND DESIST ILLEGAL GUARDIAN AD**  
**LITEM OF JOSHUA BERNSTEIN, CORRECT ALL FRAUD, OTHER RELIEF**

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EXHIBIT 1

**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.: 502014CP003698XXXXNB

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.

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**ORDER ON SUCCESSOR TRUSTEE'S MOTION TO  
APPOINT A GUARDIAN AD LITEM; FOR A GAG ORDER TO PROTECT THE  
GUARDIAN AND OTHERS; AND TO STRIKE ELIOT BERNSTEIN'S FILINGS**

THIS CAUSE came before the Court for evidentiary hearing on February 25, 2016, on  
Successor Trustee's Motion for Appointment of a Guardian Ad Litem to Represent the Interests of  
Eliot Bernstein's Children etc. (the "Motion"). The Court, having considered the record, heard  
argument of counsel and being otherwise fully advised in the premises, hereby

**ORDERS AND ADJUDGES:**

1. This Court determined after a trial held on December 15, 2015 that the beneficiaries of The Shirley Bernstein Trust Agreement dated 5/20/2008 (the "Trust") are Simon Bernstein's "then living grandchildren." Under that ruling, Simon's children – including Eliot Bernstein – are not beneficiaries of the Trust. This Court entered a written order dated February 1, 2016, determining Eliot Bernstein lacks standing to participate in this proceeding and striking his individual filings.

2. Eliot Bernstein's three children are among the class of Trust beneficiaries. Eliot seeks to use his role as parent and natural guardian of three trust beneficiaries to give him standing to continue his involvement in this case. The primary issue now raised is whether Eliot Bernstein should be permitted to continuing representing the interests of his minor children, as their parent and natural guardian, in this Trust Proceeding.

3. ~~Despite his status as natural guardian, Eliot will not be permitted to do so, and The~~  Court will appoint a Guardian ad Litem, because there is a conflict of interest between the parent and the children, and because Eliot Bernstein has proven to be an inadequate representative of the best interests of his children.

4. First, as to the conflict, Eliot's position throughout the case and at trial was that he was a beneficiary of the Trust. He continued advancing that position after trial by prosecuting an appeal of the December 16, 2015 Final Judgment. Eliot's individual interests are in conflict with the interests of his children. Under Florida law, a court should appoint a guardian ad litem when a parent's interest conflicts with the interest of her or her minor child. *Mistretta v. Mistretta*, 566 So. 2d 836, 837-38 (Fla. 1st DCA 1990)(best interests of a minor are *not* fully protected when adverse to the interests of the parent); *Florida Nat. Bank & Trust Co. at Miami v. Blake*, 155 So. 2d 798 (Fla. 3d DCA 1963) (court should have appointed a guardian ad litem for minor child when it was

apparent that the interests of the minor conflicted with the interests of the mother and father); *Gilbertson v. Boggs*, 743 So. 2d 123 (Fla. 4th DCA 1999) (guardian ad litem should have been appointed ~~then~~<sup>when</sup> the parents' interests were adverse to the minor child).

5. Second, Fla. Stat. 731.303(4) provides: "If the court determines that representation of the interest would otherwise be inadequate, the court may, at any time, appoint a guardian ad litem to represent the interests of ... a minor ..."<sup>1</sup> Based upon the evidence presented and the Court's observations at the trial in December 2015 and at the evidentiary hearing on February 25, 2016, and

*in fact, his actions are adverse & destructive to the children's interest*  
based upon the Court's review of various motions filed by Eliot Bernstein since the trial, it is apparent Eliot Bernstein is not an adequate representative of the best interests of his children.

6. Eliot Bernstein states that his agenda includes ridding the court system of corruption among judges, lawyers and fiduciaries, regardless of the ~~cost~~<sup>to</sup> the beneficiaries. He appears to have no interest in the swift and efficient administration of the Shirley Bernstein Trust. He has taken actions to hinder and delay the administration of the Trust, and caused waste of Trust assets to respond to his assertions.

7. To the extent not already covered by this Court's Order dated February 1, 2016, Eliot Bernstein is barred from any further participation in this action, whether individually or as purported parent and natural guardian. Any and all pending motions, claims, or other filings by Eliot Bernstein,

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<sup>1</sup> In addition, under section 744.3025, the court *may* appoint a guardian ad litem to represent a minor's interest before approving a settlement of the minor's portion of any cause of action in which the gross settlement of the claim exceeds \$15,000 if the court believes a guardian ad litem is necessary to protect the minor's interest, and "shall appoint a guardian ad litem to represent the minor's interest before approving a settlement of the minor's claim in a case in which the gross settlement involving a minor equals or exceeds \$50,000." Here, it is likely that there will be a settlement at some point in which each of minors receives a substantial distribution, and it is likely Eliot will oppose any such settlement.

on behalf of his children, <sup>are</sup> ~~is~~ hereby stricken from the record, without prejudice to the rights of the Guardian Ad Litem to take whatever actions are deemed appropriate.

8. The parties shall attempt to mutually agree on a guardian ad litem. The Court will appoint whomever the parties agree upon within the next three business days. Eliot Bernstein may participate in such discussions. To the extent the parties, including Eliot Bernstein, are unable to agree on a guardian ad litem, ~~upon notice from the Trustee's counsel the Court shall randomly appoint a guardian ad litem for Ja.B., Jo.B. and D.B. or schedule a further hearing to appoint a suitable Guardian Ad Litem. with the Clerk with courtesy copy to the undersigned, no later than 10 days from this date.~~ <sup>each of the parties shall submit a list of three names of potential Guardian Ad Litem, each of whom has agreed to accept the appointment if selected. These lists shall be filed with the Clerk with courtesy copy to the undersigned, no later than 10 days from this date.</sup>

9. The Guardian Ad Litem will have full power and autonomy to represent the interests of the children of Eliot Bernstein, subject to the jurisdiction and review of this Court. The Guardian Ad Litem will be entitled to petition the Court for an award of attorneys' fees to be paid out of the gross proceeds of any recovery, distributions or inheritance to be received by Ja.B., Jo.B, and/or D.B.

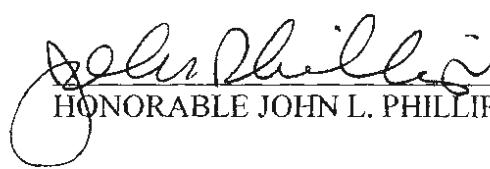
10. To protect the integrity and independence of the guardian, Eliot Bernstein and all persons acting in concert with him: (a) shall ~~not~~ <sup>not</sup> make no effort to contact, email or otherwise communicate with the Guardian Ad Litem except at the request of the Guardian Ad Litem; (b) shall make no statement of any kind about the guardian, nor post information about the guardian on the internet in any fashion; and (c) shall not in any way threaten or harass the guardian. This Court alone shall supervise the guardian, and all information concerning this guardianship shall be treated as private and confidential. Any violation of this order may subject the violator to severe sanctions for contempt of court. The Court will use the full measure of its coercive powers to ensure compliance with this Order.

*proposed*

*\* Parties shall furnish an Order appointing GAL with the lists. The Court will act without further hearing on the appointment, if possible.*

11. The Court reserves jurisdiction to enforce all terms of this Order, and to oversee the service of the guardian ad litem appointed.

DONE and ORDERED in Chambers, North County Courthouse on 3-1-16, 2016.



HONORABLE JOHN L. PHILLIPS

cc: Attached service list

**SERVICE LIST Case No.: 502014CP003698XXXXNBIJ**

Eliot Bernstein, individually  
and Eliot and Candice Bernstein,  
as Parents and Natural Guardians of  
D.B., Ja. B. and Jo. B, Minors  
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](mailto:iviewit@iviewit.tv))

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](mailto: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](mailto: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](mailto:jilliantoni@gmail.com)

Alan Rose, Esq.  
Mrachek Fitzgerald Rose  
Konopka Thomas & Weiss, P.A.  
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West Palm Beach, FL 33401  
(561) 655-2250 - Telephone  
(561) 655-5537 - Facsimile  
Email: [arose@mrachek-law.com](mailto:arose@mrachek-law.com)

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Joielle A. Foglietta, Esq.  
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561-832-5900 - Telephone  
561-833-4209 - Facsimile  
Email: [boconnell@ciklinlubitz.com](mailto:boconnell@ciklinlubitz.com);  
[jfoglietta@ciklinlubitz.com](mailto:jfoglietta@ciklinlubitz.com);  
[service@ciklinlubitz.com](mailto:service@ciklinlubitz.com);  
[slobdell@ciklinlubitz.com](mailto:slobdell@ciklinlubitz.com)

JOHN L. PHILLIPS  
CIRCUIT JUDGE  
NORTH COUNTY COURTHOUSE  
3188 PGA BOULEVARD  
PALM BEACH GARDENS, FL 33410



Eliot Bernstein and Candice Bernstein  
2753 NW 34<sup>th</sup> Street  
Boca Raton, FL 33434



**RE: DIANA LEWIS DEMAND TO CEASE AND DESIST ILLEGAL GUARDIAN AD**  
**LITEM OF JOSHUA BERNSTEIN, CORRECT ALL FRAUD, OTHER RELIEF**

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**RE: DIANA LEWIS DEMAND TO CEASE AND DESIST ILLEGAL GUARDIAN AD  
LITEM OF JOSHUA BERNSTEIN, CORRECT ALL FRAUD, OTHER RELIEF**

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EXHIBIT 2

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.; JILLIANTONI, 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.L.; 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 ou behalf  
of her minor child, C.F.,

Defendants.

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ORDER APPOINTING DIANA LEWIS AS GUARDIAN AD LITEM FOR  
ELIOT BERNSTEIN's CHILDREN, JO.B.; JA. B.; and D.B.

THIS CAUSE came before the Court at an evidentiary hearing held on February 25, 2016,  
on Successor Trustee's Motion for Appointment of a Guardian Ad Litem to Represent the Interests  
of Eliot Bernstein's Children etc. (the "Motion"). Having considered the Motion and the arguments  
of the parties, taken judicial notice of the matters requested in the Motion, and being otherwise duly  
advised in the premises, the Court entered an Order in this matter, and a companion order in Case  
No. 502014CP002815XXXXNB, granting motions to appoint a guardian ad litem for Eliot's

children, Jo.B., Ja.B. and D.B., and setting forth a protocol for selecting a guardian ad litem. Having received the parties' notices contemplated under the companion order, the Court hereby appoints a guardian ad litem as follows:

1. Diana Lewis is hereby appointed as the guardian ad litem for Jo.B., Ja.B. and D.B. in this case, with sole and exclusive authority to represent their interests in this case. The guardian ad litem shall be entitled to petition the Court for reasonable compensation for his/her services, to be paid out of the gross proceeds of any recovery, distributions or inheritance to be received by the Jo.B., Ja.B. and D.B. from the Shirley Bernstein Trust u/a/d May 20, 2008, as amended, the Simon Bernstein Trust, and/or the Estates of Simon or Shirley Bernstein.

2. The guardian ad litem shall file an acceptance of appointment with this Court, with a copy to the parties listed at the end of this Order, within 5 business of the date of this Order; otherwise, the parties shall notify the Court by letter that the appointment has not been accepted, in which case the Court will either appoint an alternate guardian ad litem without further hearing or hold an additional hearing to select an alternate guardian ad litem.

3. The guardian ad litem shall have sufficient time after his/her acceptance of this appointment to within which to prepare necessary court filings and prepare for mediation as ordered by the Court at a hearing held on March 7, in the related case of Estate of Simon Bernstein.

4. Trustee and the guardian ad litem shall confer in good faith regarding a resolution of this matter and/or a time frame within which to try any unresolved issues.

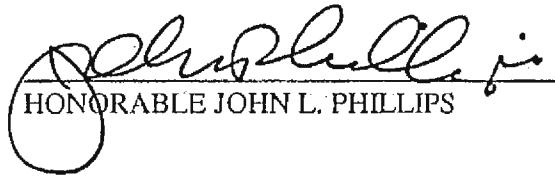
5. Pursuant to the Order dated March 1, 2016, the Guardian Ad Litem will have full power and autonomy to represent the interests of the children of Eliot Bernstein, subject to the jurisdiction and review of this Court. The Guardian Ad Litem will be entitled to petition the Court

for an award of attorneys' fees to be paid out of the gross proceeds of any recovery, distributions or inheritance to be received by Ja.B., Jo.B, and/or D.B.

6. To protect the integrity and independence of the guardian, Eliot Bernstein and all persons acting in concert with him: (a) shall not contact, email or otherwise communicate with the Guardian Ad Litem except at the request of the Guardian Ad Litem; and (b) shall not in any way threaten or harass the guardian. This Court alone shall supervise the guardian. Any violation of this order may subject the violator to severe sanctions for contempt of court. The Court will use the full measure of its coercive powers to ensure compliance with this Order.

7. The guardian ad litem shall notify this Court and Trustee of any actions taken by Eliot and/or Candice Bernstein which interfere with the guardian ad litem's duties hereunder.

DONE and ORDERED in Chambers, North County Courthouse on 4-4-, 2016.



HONORABLE JOHN L. PHILLIPS

cc: Attached service list

**SERVICE LIST** Case No.: 502014CP003698XXXXNBIH

Eliot Bernstein and Candice Bernstein,  
as Parents of  
D.B., Ja. B. and Jo. B, Minors  
2753 NW 34th Street  
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Eric Bernstein, Michael Bernstein.

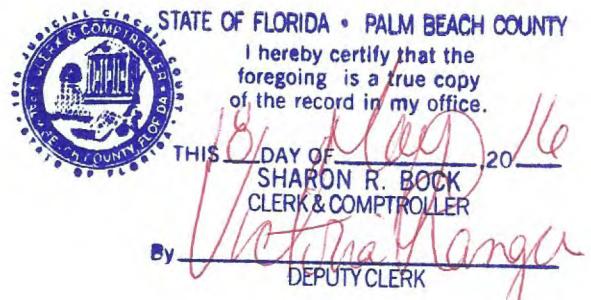
Lisa Friedstein, individually and as trustee for  
her children, and as natural guardian for M.F.  
and C.F., Minors; and Max Friedstein  
[lisa.friedstein@gmail.com](mailto:lisa.friedstein@gmail.com)

Jill Iantoni, individually and as trustee for her  
children, and as natural guardian for J.I. a minor  
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**RE: DIANA LEWIS DEMAND TO CEASE AND DESIST ILLEGAL GUARDIAN AD**  
**LITEM OF JOSHUA BERNSTEIN, CORRECT ALL FRAUD, OTHER RELIEF**

---

EXHIBIT 3

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

PROBATE DIVISION

CASE NO.: 502014CP002815XXXXNB (IH)

OPPENHEIMER TRUST COMPANY  
OF DELAWARE, in its capacity as  
Resigned Trustee of the Simon Bernstein  
Irrevocable Trusts created for the benefit  
of Joshua, Jake and Daniel Bernstein,

Petitioner,

vs.

ELIOT AND CANDICE BERNSTEIN,  
in their capacity as parents and natural  
guardians of JOSHUA, JAKE AND  
DANIEL BERNSTEIN, minors,

Respondents.

---

**ORDER APPOINTING GUARDIAN AD LITEM FOR MINORS,**  
**JOSHUA, JAKE AND DANIEL BERNSTEIN**

THIS CAUSE came before the Court at an evidentiary hearing held on February 25, 2016 upon the *Omnibus Motion (I) To Appoint A Guardian Ad Litem For The Minor Beneficiaries Of The "Grandchildren Trusts;" (II) To Hold Eliot And Candice Bernstein In Contempt Of Court For Their Continued Violation Of A Court Order And Repeated Statements Assaulting The Dignity Of The Court; And (III) To Establish A Schedule And Protocol For Accounting And Turnover Proceedings* (the “Motion”) filed by Petitioner, Oppenheimer Trust Company Of Delaware (“Oppenheimer”), in its capacity as the resigned trustee of three Irrevocable Trusts settled by Simon Bernstein on September 7, 2006 for the benefit of his grandchildren, minors, Joshua, Jake and Daniel Bernstein (the “Grandchildren Trusts”). Having considered the Motion

and the arguments of the parties, taken judicial notice of the matters requested in the Motion, and being otherwise duly advised in the premises, the Court rules as follows:

1. The sole beneficiaries of the Grandchildren Trusts, and the only real parties in interest in this litigation (other than Oppenheimer), are Joshua, Jake and Daniel Bernstein (the “Minor Beneficiaries”). Neither Eliot nor Candice Bernstein (the “Bernsteins”) were sued in their individual capacities by Oppenheimer, nor have they moved for, or been granted, permission to intervene in their individual capacities. They have been afforded standing in these proceedings, to date, solely as the parents and natural guardians of the Minor Beneficiaries.

2. The Bernsteins have been shown to have multiple conflicts of interest with the Minor Beneficiaries. For example, in their pleadings, they repeatedly allege that the trusts created for the Minor Beneficiaries’ benefit are fraudulent and that they, and not their children, are the true beneficiaries. *Counter-Complaint*, ¶¶ 44-50, 52-60, 65, 109-110, 186 and 253; *Objection to Oppenheimer Accountings*, pp. 1 and 20. In addition, the Bernsteins insist that their overarching goal in this litigation “is to bring about a change in the legal system in efforts to root out systemic corruption at the highest levels by a rogue group of criminals disguised as attorneys at law, judges, politicians and more.” *Counter-Complaint*, ¶ 212. No reasonable inference can be drawn that the Minor Beneficiaries have a similar interest or agenda, or that pursuing such an agenda at the risk of dissipating their own inheritance is in their best interest.

3. Eliot Bernstein also has a history of vexatious litigation and public disrespect for and disobedience to the judicial system and its officers, as detailed in Oppenheimer’s Motion. Eliot Bernstein was adjudicated a vexatious litigant by the United States District Court for the Southn Distrct of New York and enjoined from filing further specified claims in any court without its prior permission. Yet, Eliot Bernstein asserted those enjoined claims in his Counter-

Complaint in apparent violation of the injunction. The Bernsteins are in continued violation of a May 4, 2015 Order entered by Judge Martin Colin, which required compliance over nine months ago, and in recent filings with Florida appellate courts, the Bernsteins insist that all orders entered in this case “are void as a matter of law, and are of no legal force and effect.” *Petition for All Writs (dated January 29, 2016)*, ¶ 101. Further, the Bernsteins have repeatedly alleged that multiple judges have committed fraud in their official capacities in these proceedings and that all Florida judges have conflicts of interest which prohibit them from presiding over these proceedings. *Id.*, ¶ 106-107. All of the above, and certainly in combination, render the Bernsteins inappropriate and inadequate representatives for the Minor Beneficiaries in this litigation.

4. For the above reasons, the guardian *ad litem* appointed in Case No.: 502014CP003698XXXXNB shall be deemed appointed simultaneously as the guardian *ad litem* for the Minor Beneficiaries in this case, with sole and exclusive authority to represent the Minor Beneficiaries’ interests in this case. The guardian *ad litem* shall be entitled to petition for reasonable compensation for his/her services, to be paid out of the gross proceeds of any recovery, distributions or inheritance to be received by the Minor Beneficiaries from the Shirley Bernstein Trust u/a/d May 20, 2008, as amended, the Simon Bernstein Trust, and/or the Estates of Simon or Shirley Bernstein.

5. The Answer and Counter-Complaint filed by Eliot and Candice Bernstein (which they purport to file (i) “Individually, PRO SE;” (ii) “as the Natural Guardians of [the Minor Beneficiaries];” (iii) “as Guardians of the members of Bernstein Family Realty, LLC;” and (iii) “as beneficiaries of [sixteen (16) Trusts, two (2) Estates, and multiple] Corporate Entities set up by Simon and Shirley Bernstein”), and the “Objection to Final Accounting; Petition for Formal, Detailed Audited and Forensic Accounting and Document Production” (the “Objection”) filed by

Eliot and Candice Bernstein, "individually and on behalf of [their] minor children, who are alleged qualified beneficiaries of Settlor's Estate and Trusts," are hereby stricken.

6. The guardian *ad litem* shall have 45 days from his/her appointment within which to file a response to Oppenheimer's Petition and objections, if any, to Oppenheimer's accountings.

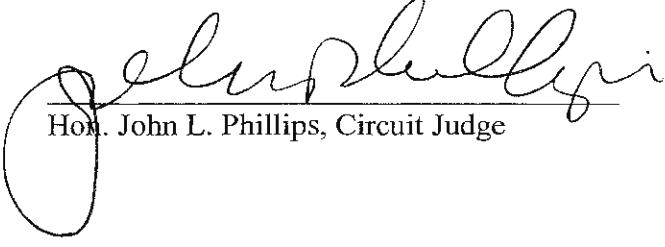
7. Oppenheimer and the guardian *ad litem* shall confer in good faith regarding a resolution of this matter and/or a timeframe within which to try any unresolved issues.

8. Neither Eliot nor Candice Bernstein shall take any action which interferes with the guardian *ad litem*'s duties.

9. *The pending Motion for Contempt as to Eliot and Candice Bernstein are also held to be in contempt of court for their willful violation of Judge Martin Colin's May 4, 2015 Order. The Court withholds coercive sanctions based upon the appointment of a guardian *ad litem* and striking of the Bernsteins' pleadings, which renders the Bernsteins' compliance moot.*

DONE AND ORDERED in Chambers, Palm Beach County, Florida on

3-1-, 2016.

  
Hon. John L. Phillips, Circuit Judge

Copies furnished to:

Steven A. Lessne, Esq.  
Gunster, Yoakley & Stewart, P.A.  
4855 Technology Way, Suite 630  
Boca Raton, FL 33431

Eliot and Candice Bernstein  
2753 N.W. 34<sup>th</sup> Street  
Boca Raton, FL 33434

**RE: DIANA LEWIS DEMAND TO CEASE AND DESIST ILLEGAL GUARDIAN AD**  
**LITEM OF JOSHUA BERNSTEIN, CORRECT ALL FRAUD, OTHER RELIEF**

---

EXHIBIT 4

**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.

/

**NOTICE OF FILING AND OF SERVING NOTICE OF ACCEPTANCE**

Plaintiff, Ted S. Bernstein (the "Trustee"), as Successor Trustee of the Shirley Bernstein Trust Agreement dated May 20, 2008, as amended, hereby gives notice of filing the attached, *Notice of Acceptance of Appointment as Guardian Ad Litem for Jo.B., Ja.B., and D.B.* as requested by appointed Guardian Ad Litem, Diana Lewis.

## CERTIFICATE OF SERVICE

I CERTIFY that a copy of the foregoing has been furnished to parties listed on attached Service List by:  Facsimile and U.S. Mail;  U.S. Mail;  Email Electronic Transmission;  FedEx;  Hand Delivery this 7<sup>th</sup> day of April, 2016.

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*Attorneys for Ted S. Bernstein*

By: /s/ Alan B. Rose  
Alan B. Rose (Fla. Bar No. 961825)

**SERVICE LIST** Case No.: 502014CP003698XXXXNBIH

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as Parents of D.B., Ja. B. and Jo. B, Minors  
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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  
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children, and as natural guardian for J.I. a minor  
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**IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICAL CIRCUIT IN AND FOR  
PALM BEACH COUNTY, FLORIDA**

TED BERNSTEIN, as Trustee  
Of the Shirley Bernstein Trust Agreement  
Dated May 20, 2008, as amended.

Plaintiff,

v.

Probate Division  
Case No.: 2014CP003698 (IH)

ALEXANDRA BERNSTEIN; ERIC BERNSTEIN;  
MICHAEL BERNSTEIN; MOLLY SIMO;  
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 of 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  
Friedman and C.F., under the Simon L.  
Bernstein Trust Dtd 9/13/12, and on  
bealf of her minor child, C.F.,

Defendants.

/

**NOTICE OF ACCEPTANCE OF APPOINTMENT AS GUARDIAN AD LITEM FOR  
Jo.B., Ja.B. AND D.B. IN THE ABOVE STYLED CASE**

COMES NOW Diana Lewis and notifies the court of her  
**acceptance** of appointment as Guardian *ad litem* for Eliot  
Bernstein's minor children, Jo.B., Ja.B. and D.B. pursuant to  
this court's order dated April 4, 2016, and the terms and  
conditions set forth therein.

**CERTIFICATE OF SERVICE**

I CERTIFY that a true and correct copy of the foregoing has been furnished to the parties by E-mail Electronic Transmission on the attached Service List for Case No.: 2014CP003698 (IH) this 7<sup>th</sup> day of April, 2016.

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By: /s/ Diana Lewis  
Diana Lewis (Fla. Bar No. 351350)  
(Mediator No.:32461 R)

**SERVICE LIST** Case No.: 502014CP003698XXXXNBIH

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Eric Bernstein, Michael Bernstein

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and C.F., Minors; and Max Friedstein  
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**IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT  
IN AND FOR PALM BEACH COUNTY, FLORIDA**

OPPENHEIMER TRUST COMPANY OF  
DELAWARE, in its Capacity As Resigned  
Trustee of the Simon Bernstein Irrevocable Trusts  
Created for the Benefit of Jo. B., Ja. B., and D.B.,  
Minors

Probate Division  
Case No.: 502014CP002815XXXXSB(IY)

Petitioner,

v.

ELIOT AND CANDICE BERNSTEIN, in their  
Capacity as Parents and Natural Guardians of Jo. B.,  
Ja. B., and D.B., Minors

Respondents.

/

**NOTICE OF FILING AND OF SERVING NOTICE OF ACCEPTANCE**

Ted S. Bernstein (the "Trustee"), as Successor Trustee of the Shirley Bernstein Trust  
Agreement dated May 20, 2008, as amended, hereby gives notice of filing the attached, *Notice of  
Acceptance of Appointment as Guardian Ad Litem for Jo.B., Ja.B., and D.B.* as requested by  
appointed Guardian Ad Litem, Diana Lewis.

**CERTIFICATE OF SERVICE**

I CERTIFY that a copy of the foregoing has been furnished to parties listed on attached Service List by:  Facsimile and U.S. Mail;  U.S. Mail;  Email Electronic Transmission;  FedEx;  Hand Delivery this 7<sup>th</sup> day of April, 2016.

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By: /s/ Alan B. Rose  
Alan B. Rose (Fla. Bar No. 961825)

## SERVICE LIST

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Candice Bernstein,  
as Parents and Natural Guardians of  
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*Counsel for Petitioner*

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

OPPENHEIMER TRUST COMPANY OF DELAWARE,  
in its capacity as Resigned Trustee of  
the Simon Bernstein Irrevocable Trusts  
created for the benefit of Joshua, Jake  
and Daniel Bernstein,

Petitioner,

vs.

Probate Division  
Case No.:2014CP002815 (IH)

ELIOT AND CANDICE BERNSTEIN,  
in their capacity as parents and  
natural guardians of JOSHUA, JAKE  
AND DANIEL BERNSTEIN, minors,

Respondents.

/

---

**NOTICE OF ACCEPTANCE OF APPOINTMENT AS GUARDIAN AD LITEM FOR  
JOSHUA, JAKE AND DANIEL BERNSTEIN IN THE ABOVE STYLED CASE**

COMES NOW Diana Lewis and notifies the court of her  
**acceptance** of appointment as Guardian *ad litem* for JOSHUA, JAKE  
and DANIEL BERNSTEIN (the "Minor Beneficiaries") pursuant to  
this court's order dated April 4, 2016.

**CERTIFICATE OF SERVICE**

I CERTIFY that a true and correct copy of the foregoing has  
been furnished to the parties by E-mail Electronic Transmission  
on the attached Service List for Case No.: 2014CP002815 (IH)  
this 7<sup>th</sup> day of April, 2016.

ADR & MEDIATIONS SERVICES, LLC  
Diana Lewis  
2765 Tecumseh Drive  
West Palm Beach, FL 33409  
(561) 758-3017 Telephone  
Email: [dzlewis@aol.com](mailto:dzlewis@aol.com)  
By: /s/ Diana Lewis  
(Fla. Bar No. 351350)

Page Two

**SERVICE LIST Case No.: 2014CP002815**

Steven A. Lessne  
Gunster, Yoakley & Stuart, P.A.  
4855 Technology Way, Suite 630  
Boca Raton, FL 33431

Eliot and Candice Bernstein  
2753 N.W. 34<sup>th</sup> Street  
Boca Raton, FL 33434

IN THE CIRCUIT COURT OF THE 15<sup>TH</sup> JUDICIAL CIRCUIT IN  
AND FOR PALM BEACH COUNTY, FLORIDA

IN RE:

ESTATE OF SIMON L. BERNSTEIN  
/

DECEASED.

CASE NO. 50-2012-CP-004391-XXXX-NB

**OBJECTION TO MOTION TO APPROVE MEDIATION SETTLEMENT  
AGREEMENT WITH TESCHER & SPALLINA, P.A.**

COMES NOW Joshua Bernstein, by and through his undersigned legal counsels, Paul D. Turner, Esq., Christopher Perré, Esq., the law firm of Perlman, Bajandas, Yevoli & Albright, P.L., (“PBY&A”), and Marc J. Soss, Esq. (collectively “Counsel”), hereby files this objection to the Motion to Approve Mediation Settlement Agreement (the “Mediation Agreement”) and states as follows:

**Background**

1. On or about October 2, 2012, probate proceedings were commenced for the decedent.
2. At the time the proceedings were commenced, Joshua Bernstein (“Joshua”), one of the beneficiaries of the Estate and Trust of Simon L. Bernstein was a minor with a date of birth in August 1997.

3. On March 8, 2016, a Motion for Appointment of a Guardian Ad Litem (“GAL Motion”) to represent the interests of the children of Eliot Bernstein was filed with this Court. At the time the GAL Motion was filed Joshua was over the age of eighteen (18) years and did not require a guardian-ad-litem to be appointed for him.

4. On April 8, 2016, this Court approved the GAL Motion and appointed Diana Lewis, Esquire (“Lewis”), as the guardian-ad-litem for Joshua.

5. On November 9, 2016, a Motion to Approve Compromise and Settlement, Appoint a Trustee for the Trusts created for D.B., Ja.B. & Jo.B and Determine Compensation for Guardian-Ad-Litem was filed with this Court.

6. On October 27, 2017, a Motion to Direct Payments for Benefit of Eliot's Children to Court Registry in lieu of Appointing Trustee; and to Determine Compensation for Guardian Ad Litem and Discharge Guardian was filed with this Court. The matter is scheduled for hearing

on February 6, 2018.

### **Florida Guardian-Ad-Litem**

7. Section 744.102(10) of the Florida Statutes defines the term “Guardian-Ad-Litem” as “a person who is appointed by the court having jurisdiction of the guardianship or a court in which a particular legal matter is pending to represent a ward in that proceeding.”

8. Section 744.3025, Claims of Minors, of the Florida Statutes, further provides:

- (1)(a) The court may appoint a guardian ad litem to represent the minor’s interest before approving a settlement of the minor’s portion of the claim in a case in which a minor has a claim for personal injury, property damage, wrongful death, or other cause of action in which the gross settlement of the claim exceeds \$15,000 if the court believes a guardian ad litem is necessary to protect the minor’s interest.
- (b) Except as provided in paragraph (e), the court shall appoint a guardian ad litem to represent the minor’s interest before approving a settlement of the minor’s claim in a case in which the gross settlement involving a minor equals or exceeds \$50,000.
- (c) The appointment of the guardian ad litem must be without the necessity of bond or notice.
- (d) The duty of the guardian ad litem is to protect the minor’s interests as described in the Florida Probate Rules.
- (e) A court need not appoint a guardian ad litem for the minor if a guardian of the minor has previously been appointed and that guardian has no potential adverse interest to the minor.

- (2) Unless waived, the court shall award reasonable fees and costs to the guardian ad litem to be paid out of the gross proceeds of the settlement.
- (3) A settlement of a claim pursuant to this section is subject to the confidentiality provisions of this chapter.

9. A Guardian-Ad-Litem is appointed to represent the best interests of either an incapacitated individual or a minor in a legal proceeding.

### **Basis for Objection**

10. At the time that Lewis was appointed to be the guardian ad litem for Joshua, he was neither a minor nor incapacitated. As a result, a guardian ad litem should not have been appointed for Joshua.

11. Between April 8, 2016, the date Lewis was appointed as guardian ad litem for Joshua and the date hereof, Lewis owed a fiduciary duty to Joshua. Notwithstanding said duty, Lewis has never communicated with him, discussed the legal proceedings or made him aware of the alleged settlement reached during the mediation. As of the date of the filing of this objection, Joshua is completely unaware of the terms of the proposed settlement and has never been provided a copy of the mediation settlement agreement.

12. As a result, a guardian ad litem should not have been ever appointed for Joshua, had no authority to bind Joshua to any settlement agreements she may have allegedly entered into on his behalf, and any settlements negotiated and/or entered into on his behalf by Lewis should be deemed void.

### **Conclusion**

WHEREFORE, Joshua Bernstein pray this Honorable Court for an order (i) denying the Motion to Approve Mediation Settlement Agreement and all supplemental matters related thereto; (ii) removing Diana Lewis, Esquire as the guardian-ad-litem for Joshua; and (iii) awarding such other and further relief as deemed just and equitable under the circumstances.

### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on February 5, 2018, a true and correct copy of the foregoing document is being served, pursuant to Rule 2.516(b), Fla. R. Jud. Admin., *via* Florida Courts e-Filing Portal to the names and e-mail addresses provided by all parties, counsel of record and *pro se* parties.

Dated: February 5, 2018.

Respectfully submitted,

/s/ Paul Turner

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IN THE CIRCUIT COURT OF THE 15<sup>TH</sup> JUDICIAL CIRCUIT OF FLORIDA  
IN AND FOR PALM BEACH COUNTY, CASE NO. 50-2018-CA-002317-  
XXXX-MB

WALTER E. SAHM and  
PATRICIA SAHM,

Plaintiffs,

vs.

BERNSTEIN FAMILY REALTY, LLC., et al.,

Defendants

/

**MOTION TO VACATE DEFAULT**

Defendants Joshua Bernstein and Jacob Bernstein, by and through undersigned attorney, move the Court to vacate and set aside the June 1, 2020 Default since, at the time of the Default, Candice could not appear, or even be referred to, as “natural guardian” for Joshua and Jacob (contrary to the wording of the Default and style of the case) since Joshua and Jacob were each adults, not minors, and not subject to service through Candice, as is wrongly indicated in the Default, nor were Joshua and Jacob minors even as of the time when suit was commenced and neither Joshua nor Jacob have been served or otherwise been made parties to this action.

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/s/*Arthur J. Morburger*\_\_\_\_\_

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the foregoing was served by email via the Florida Eportal Filing System this 12<sup>th</sup> day of October, 2020.

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/s/*Arthur J. Morburger*\_\_\_\_\_