

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.: 502014CP003698XXXXNBIJ

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.

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

Plaintiff, Ted S. Bernstein, as Successor Trustee of the Shirley Bernstein Trust Agreement dated May 20, 2008 ("Shirley Trust"), moves the Court to approve the confidential settlement reached at mediation held on July 25, 2016, states:

1. On July 25, 2016, the parties conducted mediation to address numerous issues involving this Trust and the related matters involving Simon Bernstein's Estate and Trust.

2. In connection with certain issues in this Trust, the Personal Representative, the Trustee, and the beneficiaries of the trusts created under the Trust, reached a global settlement of any claims against the law firm of Tescher & Spallina, P.A. ("T&S"). The settlement is confidential, and will be made available to the Court for *in camera* review. The settlement resolves all claims against T&S, Donald Tescher and Robert Spallina in exchange for a payment to the Trustee of the Shirley Bernstein Trust Agreement dated 5/20/08 and a separate payment to the Estate of Simon Bernstein.

COURT DOES NOT HAVE JURISDICTION TO HEAR INTERVIVOS TRUST ISSUE FL STATUTE 736.0201

3. The settlement is effective immediately, and contingent only upon the affirmance by the Fourth District Court of Appeal of the pending appeals by Eliot Bernstein and the entry of a final, nonappealable order approving the settlement.

MISSING NECESSARY PARTIES - ELIOT AND HIS CHILDREN

4. The Trustee and each of the parties to the settlement agreement believe that the settlement is in the best interests of the Trust and its beneficiaries.

5. The Guardian *Ad Litem* appointed by this Court to represent the interests of Eliot Bernstein's children, each of whom is a beneficiary of a trust created under the Bernstein testamentary documents, agrees that the settlement is in the best interests of Eliot Bernstein's children.

THERE ARE NO TRUSTS CREATED UNDER THE WILLS OF SIMON OR SHIRLEY BERNSTEIN ALL TRUSTS INTERVIVOS

WHEREFORE, Trustee requests that the Court grant this motion, approve the settlement, and thereafter dismiss this case, retaining jurisdiction solely to enforce the settlement agreement, and any other relief this Court deems appropriate.

**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 15th day of February, 2017.

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By: /s/ Alan B. Rose  
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**SERVICE LIST Case No.: 502014CP003698XXXXNBIJ**

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