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

September 16, 2019

VIA U.S. MAIL
The Honorable Dina Keever-Agrama
North County Courthouse
3188 PGA Boulevard, Room 2728
Palm Beach Gardens, FL 33410

Re: *In Re: Estate of Simon Bernstein*, Case No.: 2012CP004391 ("Simon Estate").

Dear Judge Keever-Agrama:

Consistent with your Divisional Instructions, I have enclosed the following materials for Your Honor's review and consideration in advance of the hearing specially set for 30-minutes on October 10, 2019, at 3:15 p.m.:

1. Notice of Hearing Specially Set - 30 minutes;

2. Amended Motion to Direct Payment for Benefit of Eliot Ivan Bernstein Be Paid into Court Registry; and

3. Ted Bernstein's Motion to Strike Eliot Bernstein's Filings and to Bar Eliot Bernstein from Objecting to Estate Administration.

We appreciate Your Honor's time and attention in this matter.

Respectfully submitted,

Alan B. Rose

ABR/mca
Enclosures
cc: All parties on attached service list

SERVICE LIST Case Nos.: 502012CP004391XXXXNBIH & 502014CP003698XXXXNBIJ

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Filing # 95690485 E-Filed 09/13/2019 03:35:32 PM

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

IN RE: CASE NO. 502012CP004391XXXXNBIH

ESTATE OF SIMON L. BERNSTEIN,

_____/

NOTICE OF HEARING
(SPECIALLY SET - 30 MINUTES)

YOU ARE HEREBY NOTIFIED that the undersigned has called up for hearing the following:

DATE: October 10, 2019

TIME: 3:15 p.m.

JUDGE: Honorable Dina Keever-Agrama

PLACE: Palm Beach North County Courthouse, 3188 PGA Blvd., Courtroom 4, Palm Beach Gardens, FL 33410

MATTER(S) TO BE HEARD:

AMENDED MOTION TO DIRECT PAYMENT FOR BENEFIT OF ELIOT IVAN BERNSTEIN BE PAID INTO COURT REGISTRY FILED ON AUGUST 1, 2019 [DE 869]

MOTION TO STRIKE ELIOT BERNSTEIN'S FILINGS AND TO BAR ELIOT BERNSTEIN FROM OBJECTING TO ESTATE ADMINISTRATION FILED ON JUNE 14, 2019 [DE 859]

____ ***Movant's attorney has spoken in person or by telephone with the attorney(s) for all parties who may be affected by the relief sought in the motion in a good faith effort to resolve or narrow the issues raised.***

____ ***Movant's attorney has attempted to speak in person or by telephone with the attorney(s) for all parties who may be affected by the relief sought in the motion***

☒ ***One or more of the parties who may be affected by the motion are self represented.***

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; ■ E-mail Electronic Transmission; ☐ FedEx; ☐ Hand Delivery this 13th day of September, 2019.

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Attorneys for Ted S. Bernstein

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

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Eliot Bernstein's minor children,
Jo.B., Ja.B., and D.B.

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Counsel for Joshua Bernstein

"If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact Tammy Anton Americans with Disabilities Act Coordinator, Palm Beach County Courthouse, 205 North Dixie Highway, West Palm Beach, Florida 33401; telephone number (561) 355-4380 at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days; if you are hearing or voice impaired, call 711.'

SPANISH

Si usted es una persona minusvalida que necesita algun accomodamientro para poder participar en este procedimiento, usted tiene derecho, sin tener gastos propios, a que se le provea cierta ayuda. Tenga la amabilidad de ponerse en contacto con Tammy Anton, 205 N. Dixie Highway, West Palm Beach, Florida, 33401; telèfono numero (561) 355-4380, por lo menos 7 dias antes de la cita fijada para su comparecencia en los tribunales, o inmediatamenta despues de recibir esta notificacion si el tiempo antes de la comparecencia que se ha programado es menos de 7 dias; si usted tiene discapacitacion del oido o de la voz, llame al 711.

CREOLE

Si ou sè yon moun ki enfim, ki bézwen akomodasyon pou w ka patisipe nan powosedi sa, ou kalifye san ou pa gen okenn lajan pou w peye, gen pwovizyon pou jwen kek ed. Tanpri kontakte Tammy Anton, koodonate pwogram Lwa pou ameriken ki Enfim yo nan Tribinal Konte Palm Beach la ki nan, 205 North Dixie Highway, West Palm Beach, Florida 33401; téléfonn li se (561) 355-4380 nan 7 jou anvan dat ou gen randevou pou paret nan tribinal la, oubyen imedyatman apre ou fin resevwa konvokasyon an si le ou gen pou w paret nan tribinal la mwens ke 7 jou; si ou gen pwoblem pou w tande oubyen pale, rele 711.

Filing # 93517489 E-Filed 08/01/2019 01:11:42 PM

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

IN RE: ESTATE OF: PROBATE DIVISION

SIMON L. BERNSTEIN, FILE NO: 502012CP4391XXXXNB/IH

Deceased.
_____/

AMENDED MOTION TO DIRECT PAYMENT FOR BENEFIT OF ELIOT IVAN BERNSTEIN BE PAID INTO COURT REGISTRY

COMES NOW, Brian M. O'Connell, Esq., as Successor Personal Representative of the Estate of Simon L. Bernstein ("Successor Personal Representative," and "Estate," respectively), by and through undersigned counsel, and hereby moves this Court to direct payment for the benefit of Eliot Ivan Bernstein be paid into the Court Registry, and in support thereof, states as follows:

1. On October 26, 2018, O'Connell & Crispin Ackal, PLLC, counsel for the Successor Personal Representative, sent a letter to Mr. Eliot Ivan Bernstein, 2753 N.W. 34th Street, Boca Raton, FL 33434 ("Eliot"), which enclosed the distribution check from the Estate payable to him in the amount of $16,667.60, Check No. 1008.

2. Eliot did not cash the check or respond to the letter.[1]

3. On July 24, 2019, O'Connell & Crispin Ackal, PLLC, sent another letter to Eliot, which enclosed the distribution check from the Estate payable to him in the amount of $19,159.00, Check No. 1018. See letter attached hereto as Exhibit "A".

4. Such amount, $19,159.00, was Eliot's full and final distribution from the Estate of his share of the proceeds from the sale of the Decedent's, Simon L. Bernstein ("Decedent"), tangible personal property, including the Decedent's jewelry.

[1] Similar checks to Ted Bernstein, Jill Iantoni, Lisa Friedstein, and Pam Simon were cashed on October 31, 2018, November 14, 2018, November 15, 2018, and December 12, 2018, respectively.

5. Given Eliot's prior litigation conduct, in the event the check is not cashed by August 12, 2019, as requested in the second letter, it is evident that any further attempts to contact Eliot would be futile, and the most cost-effective solution is to transfer the $19,159.00 payable to Eliot into the Court Registry.

6. While there may be some fees charged by the Clerk of Court, any such fees will be minimal in comparison to the cost of attorneys' fees for continued attempts to contact Eliot.

7. Accordingly, the Successor Personal Representative requests the Court direct that the payment of $19,159.00 to or for the benefit of Eliot be paid into the Court Registry, as this is in the best interest of the Estate, and to avoid further expense.

WHEREFORE, Brian M. O'Connell, Esq., as Successor Personal Representative of the Estate of Simon L. Bernstein, respectfully requests the Court enter its order directing the payment of $19,159.00 to or for the benefit of Eliot Ivan Bernstein be paid into the Court Registry, as further stated herein, and for any such further relief deemed just and proper by this Court.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was sent by e-service, e-mail service or U.S. Postal Service on the 1st day of August, 2019 to:

Alan B. Rose, Esq. Page, Mrachek, Fitzgerald & Rose, PA. 505 S. Flagler Dr., Suite 600 West Palm Beach, FL 33401 (561) 355-6991 arose@mrachek-law.com mchandler@mrachek-law.com	John P. Morrissey, Esq. 330 Clematis St., Suite 213 West Palm Beach, FL 33401 john@jmorrisseylaw.com	Diana Lewis obo Jacob and Daniel Bernstein. ADR & Mediation Services, LLC 2765 Tecumseh Drive West Palm Beach, FL 33409 (561) 758-3017 dzlewis@aol.com

Joshua Bernstein 2753 N.W. 34th St. Boca Raton, FL 33434	Lisa Friedstein and Carley Friedstein, Minor c/o Jeffrey and Lisa Friedstein Parent and Natural Guardian 2142 Churchill Lane Highland Park, IL 60035 Lisa@friedsteins.com Lisa.friedstein@gmail.com	Max Friedstein 2142 Churchill Lane Highland Park, IL 60035
Eliot Bernstein 2753 N.W. 34th St. Boca Raton, FL 33434 iviewit@iviewit.tv	Pamela Beth Simon 950 N. Michigan Ave., Apt. 2603 Chicago, IL 60611 psimon@stpcorp.com	Marc J. Soss, Esq. 11010 Hyacinth Place Lakewood Ranch, FL 34202-4158 Tel.: 941/928-0310 Fax: 813/342-7967 mjs@fl-estateplanning.com

/s/ Joielle A. Foglietta
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Florida Bar No: 308471
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EXHIBIT A

O'CONNELL & CRISPIN ACKAL, PLLC

ATTORNEYS AT LAW

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BRIAN M. O'CONNELL*, MEMBER
ASHLEY CRISPIN ACKAL, MEMBER
*Florida Bar Board Certified, Wills, Trusts, & Estates

PHIL D. O'CONNELL, JR P.A., OF COUNSEL
JOIELLE A. FOGLIETTA
CLARA C. CIADELLA
MORGAN E. METZGER

VIA FEDEX

July 24, 2019

Mr. Eliot Ivan Bernstein
2753 N.W. 34th Street
Boca Raton, FL 33434

Re: Estate of Simon Bernstein ("Estate")

Dear Mr. Bernstein:

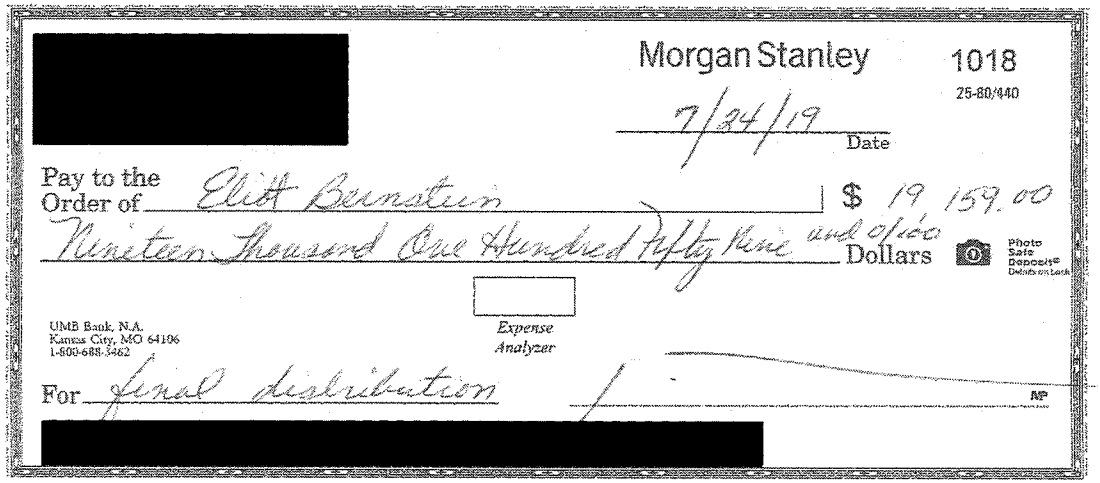
Enclosed please find the distribution check payable to you in the amount of $19,159.00, which is your full and final distribution from the Estate. Please cash the enclosed check by **August 12, 2019**. If the check is not cashed by this date, for security reasons, among others, we will request the bank stop payment on the check.

Further, if the check is not cashed by **August 12, 2019**, we will be proceeding with setting the Personal Representative's "Motion to Direct Payment for Benefit of Eliot Ivan Bernstein Be Paid Into Court Registry" for hearing. Should you have any questions, please do not hesitate to contact our office at (561) 355-0403.

Sincerely,

for Joielle Foglietta Craig, Esq.

/JFC
Enc.



[redacted]

Morgan Stanley

1018

25-80/440

7/24/19
Date

Pay to the Order of Eliot Bernstein $ 19,159.00

Nineteen Thousand One Hundred Fifty Nine and 0/100 Dollars

Photo Safe Deposit® Details on Back

Expense Analyzer

UMB Bank, N.A.
Kansas City, MO 64106
1-800-688-3462

For final distribution

[redacted]

MP

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

CASE NO. 502012CP004391XXXXNBIH
CP - Probate

IN RE:

ESTATE OF SIMON L. BERNSTEIN,

_____/

MOTION TO STRIKE ELIOT BERNSTEIN'S FILINGS AND TO BAR ELIOT BERNSTEIN FROM OBJECTING TO ESTATE ADMINISTRATION

Trustee, Ted. S. Bernstein ("Trustee") as sole residuary beneficiary of the Estate, files his Motion to Strike Eliot Bernstein's Filings and to Bar Eliot Bernstein from Objecting to Estate Administration.

Introduction and Factual Background

The Estate of Simon L. Bernstein (the "Estate") has been opened and litigated since 2012. It has taken over seven years to administer the Estate solely because Eliot Bernstein ("Eliot"), who is Decedent's son, has no interest in seeing his parents' trust and estates administered in an economic and efficient process to maximize the distribution to the beneficiaries.

Instead of allowing his own children to receive an inheritance from their grandfather, Eliot is on an never-ending crusade against his incorrect belief of injustice and corruption among judges, lawyers, fiduciaries, and others, including the Florida Supreme Court and the Florida Bar. Eliot has stated that his agenda includes ridding the court system of corruption among judges, lawyers and fiduciaries, regardless of the cost to the beneficiaries. Eliot again exemplified his agenda in the May 21, 2019 filing entitled "*SilverBullet Cross Motion for Valid Decision, Order and Judgment*

Granting Mandatory Restitution for Discretionary Destitution Caused by All Void DOJs" (the "Eliot Motion").

While it is difficult to decipher what Eliot seeks in the Eliot Motion,[1] it appears it was filed to object to Successor Personal Representative's Petition for Fees and Costs of Attorney for Successor Personal Representative (the "Fee Petition"). However, Eliot lacks standing to object to the Fee Petition. He is no longer considered an "interested person" in the Estate. After a trial on December 15, 2015, this Court determined that Eliot is a very limited specific devisee. Furthermore, Eliot has already received all of the property devised to him, leaving him with no further interest in the Estate.

The day after the December 15 trial, this Court entered final judgment ruling that the Will of Simon L. Bernstein dated July 25, 2012 ("Simon's Will") was "genuine and authentic, and [is] valid and enforceable according to [its] terms." A copy of the December 16, 2015 Final Judgment is attached as Exhibit "A."

Simon's Will provided that Eliot, as a child of Simon, was entitled to Simon's "personal effects, jewelry, collections, household furnishings and equipment, automobiles and all other non-business tangible personal property other than cash." These personal effects were to be divided among Simon's children as they agree, and if they could not agree, the Personal Representative was to divide Simon's personal property in as nearly equal shares as practicable. The residue of Simon's

---

[1] The "WHEREFORE" clause states "may it please Hon Court to please take judicial notice of the foregoing facts of life and pass its legally valid and enforceable Valid DOJ required by laws correctly applied granting this SilverBullet Cross Motion to resurrect Justice and to end still ongoing Justicide but for which due process of law will not end with no time limit, period, case closed?"

Estate was to go into the Simon L. Bernstein Amended and Restated Trust Agreement dated July 25, 2012 (the "Simon Trust").

The December 16, 2015 Final Judgment also determined that the Simon Trust was "genuine and authentic, and [is] valid and enforceable according to [its] terms." The Simon Trust stated that, "for all purposes of this trust and the dispositions made hereunder, my children, ... ELIOT BERNSTEIN ... shall be deemed to have predeceased me as I have adequately provided for them during my lifetime." As a result, the beneficiaries of the Simon Trust were Simon's grandchildren. This included Eliot's children. The December 16, 2015 Final Judgment made clear that Eliot was only entitled to Simon's tangible personal property and was not a beneficiary under the Simon Trust.

Furthermore, the Simon Trust provided that Eliot was to be the trustee of the family trust created for Eliot's children. However, this Court appointed a Guardian ad Litem solely to protect the interests of Eliot's children as a result of Eliot's conduct in the Shirley Bernstein[2] Trust proceedings (the "Guardian ad Litem Order")[3]. A copy of the Guardian ad Litem Order is attached as Exhibit "B." The Guardian ad Litem Order stated:

> ... Based upon the evidence presented and this Court's observations at the trial in December 2015 and at the evidentiary hearing on February 25, 2016, and 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 and destructive to the children's interests***.

---

[2] Shirley Bernstein is the deceased wife of Simon Bernstein, and mother of Eliot.

[3] *Ted Bernstein v. Alexandra Bernstein, et. al,* Case No. 502014CP003698, Palm Beach County, Florida D.E. 161.

Despite this Court making clear that Eliot is a very limited specific devisee and not capable of looking after his own children's interests, Eliot has been nothing but a thorn in the side of the administration of the Estate and all other related legal proceedings. He has delayed the closing of the Estate. He has costed the Estate and his family a significant amount of money in attorneys' fees and other costs.

Eliot has received the full distribution that this Court determined he is entitled to after a full day trial. Therefore, Eliot is no longer an Interested Person, as defined by Section 731.201, Fla. Stat. Eliot lacks standing to object to the Fee Petition. Furthermore, this Court should exclude and strike any future objections to the administration of the Estate, or require that the pleading is signed by a Florida licensed attorney. As explained below, this Court has excluded Eliot in other related matters. The Fourth District also requires any pleading from Eliot to be signed by a member of the Florida Bar.

Argument

To object to the Fee Petition, Eliot must have standing, either because he is a beneficiary or because he is representing his children's interest. To have standing, Eliot must be an "Interested Person." Section 731.201 (23), Fla. Stat. defines an Interested Person as:

> any person who may be reasonably be expected to be affected by the outcome of the particular proceeding involved. ***The term does not include a beneficiary who has received complete distribution.***

Eliot is not affected by the Fee Petition or any further pleadings. Eliot has received everything this Court determined he was entitled to from the Estate. He is entitled to nothing more. Additionally, as a result of the Guardian ad Litem Order, Eliot cannot represent his children because "his actions are adverse and destructive to the children's interests."

Every time Eliot files a pleading, it wastes the Estate's resources, the Court's time, and delays the beneficiaries from receiving their distribution. Eliot abuses the court system by continuing to file objections and pleadings interfering with the administration of the Estate. Therefore, Trustee requests that this Court order enter an order striking each of Eliot's future pleadings or require any pleadings filed by Eliot be signed by a licensed Florida attorney.

This Court has the authority to restrain Eliot, a *pro se* litigant, and let the administration continue uninterrupted by him. "When a pro se litigant files frivolous ... pleadings in a lawsuit, the court has the authority to restrain such a litigant from abusing the legal system and prevent him from abusing, annoying, or harassing those against whom such suits or pleadings have been filed." *Balch v. HSBC Bank, USA, N.A.,* 128 So. 3d 179, 181 (Fla. 5th DCA 2013). There is no doubt that Eliot's conduct over the past seven years has abused the legal system and harassed Trustee and the rest of his family. The Eliot Motion is nonsensical and seeks to interfere with the efficient administration of the Estate. Eliot does not want to see the resolution of the Estate and distributions to his children. His actions should be stopped.

This Court has previously used this authority to bar Eliot from participating in the litigation surrounding his mother's trust. Paragraph 7 of the Guardian ad Litem Order (Ex. B) stated:

> To the extent not already covered by this Court's Order dated February 1, 2016, Eliot Bernstein is barred form any further participation in this action, whether individually or as purported parent and natural guaridan. Any and all pending motions, claims or other filings by Eliot Bernstein on behalf of his children are hereby stricken from the record, without prejudice to the rights of the Guardian Ad Litem to take whatever actions are deemed appropriate.

Additionally, on August 23, 2017, after entertaining many of Eliot's previous *pro se,* lengthy and frivolous appeals, the Fourth District Court of Appeals sanctioned Eliot (the "Sanction Order").

A copy of the Sanction Order is attached as Exhibit "C." The Sanction Order states: "The Clerk of this Court [the Fourth DCA] is directed to no longer accept any paper filed by Eliot Ivan Bernstein ***unless the document has been reviewed and signed by a member in good standing of the Florida Bar who certifies that a good faith basis exists for each claim presented***."

To protect the Estate's and the Trust's (as sole residuary beneficiary) remaining assets and to avoid wasting this Court's time, Trustee requests that this Court adopt what this Court did in the Guardian ad Litem Order, and bar Eliot from further participating in the Estate proceedings. Alternatively, this Court adopt the Fourth's ruling in the Sanction Order mandating that any of Eliot's claims be signed by a member in good standing of the Florida Bar certifying that a good faith basis exists for Eliot's pleadings.

WHEREFORE, Trustee requests that this Court strike the Eliot Motion, filed May 21, 2019, bar Eliot from any further pleadings in the Estate, and any other relief this Court deems appropriate.

CERTIFICATE OF SERVICE

I CERTIFY that on this 14th day of June, 2019, I electronically filed the foregoing document with the Clerk of the Court via the Florida Courts eFiling Portal, which will serve the same via email transmission on all counsel on the attached Service List.

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Attorneys for Ted S. Bernstein

By: /s/ *Alan B. Rose*
ALAN B. ROSE
Florida Bar No. 961825

SERVICE LIST - CASE NO. 502012CP004391XXXXNBIH

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Counsel for Joshua Bernstein

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,

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.,

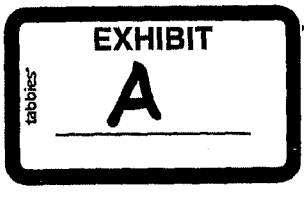
Defendants.
_____/

Probate Division
Case No.: 502014CP003698XXXXNBIJ

COPY

FINAL JUDGMENT ON COUNT II OF THE AMENDED COMPLAINT

This cause came before the Court for trial on December 15, 2015, pursuant to the Court's *ORDER SETTING TRIAL on AMENDED COMPLAINT (DE 26) COUNT II* dated September 24, 2015. The Court, having received evidence in the form of documents and testimony of witnesses,



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having heard argument of counsel and *pro se* parties who wished to argue, and being otherwise fully advised of the premises, hereby enters a Final Judgment as to Count II of the Amended Complaint:

1. This is an action for declaratory judgment to determine the validity, authenticity and enforceability of certain wills and trusts executed by Simon Bernstein and Shirley Bernstein, as follows:

A. Shirley Bernstein Trust Agreement dated May 20, 2008 ("Shirley Trust", attached to the Amended Complaint as Exhibit A, EX. P2 AT TRIAL)

B. First Amendment to Shirley Bernstein Trust Agreement dated November 18, 2008 ("Shirley First Amendment", attached to the Amended Complaint as Exhibit B, EX. P3 AT TRIAL)

C. Will of Simon L. Bernstein dated July 25, 2012 ("Simon Will", attached to the Amended Complaint as Exhibit C, EX. P4 AT TRIAL)

D. Simon L. Bernstein Amended and Restated Trust Agreement dated July 25, 2012 ("Simon Trust", attached to the Amended Complaint as Exhibit D ~~and~~, EX. P5 AT TRIAL), and

E. Will of Shirley Bernstein dated May 20, 2008 ("Shirley Will", attached to the Amended Complaint as Exhibit E, EX. P1 AT TRIAL)

(collectively, the "Testamentary Documents").

2. Based upon the evidence presented during the trial, the Court finds that the Testamentary Documents, as offered in evidence by Plaintiff, are genuine and authentic, and are valid and enforceable according to their terms.

3. The Court finds that Simon's Testamentary Documents were signed by Simon and Shirley's Testamentary Documents were signed by Shirley, in the presence of two attesting witnesses who signed in the presence of the testator and in the presence of each other. § 732.502, Fla. Stat.; § 736.0403(2)(b), Fla. Stat.

4. The Court finds the Testamentary Documents meet the requirements for self-proof, as specified in §732.503, Fla. Stat. Alternatively, the Testamentary Documents were properly admitted based upon the testimony of at least one of the attesting witnesses, which occurred. §733.201, Fla. Stat.

5. Based on the evidence presented, the Court finds that Plaintiff, Ted S. Bernstein, Trustee, was not involved in the preparation or creation of the Testamentary Documents. ~~Indeed,~~ Ted S. Bernstein had never seen the documents before his father's death. ~~Moreover,~~ Ted S. Bernstein played no role in any questioned activities of the law firm Tescher & Spallina, PA, who represented Simon and Shirley while they were alive. There is no evidence to support the assertions of ELIOT BERNSTEIN that Ted Bernstein forged or fabricated any of the Testamentary Documents, or aided and abetted others in forging or fabricating documents. The evidence shows ~~Thus,~~ Ted Bernstein played no role in the preparation of any improper documents; the presentation of any improper documents to the Court; or any other improper act, contrary to the allegations of Eliot Bernstein ~~made in the pleadings in this case or in various blogs and websites in which Eliot Bernstein has attacked the actions of Ted Bernstein.~~

6. Based on the evidence presented, the Court finds that an unauthorized version of the First Amendment to Shirley Bernstein Trust Agreement was prepared sometime after Simon died. This document (Pl. Ex. 6) was not signed by Shirley Bernstein and, therefore, is not an operative document.

7. This ruling is intended to be a Final Judgment under Rule 9.170 of the Florida Rules of Appellate Procedure, determining the validity of Testamentary Documents, denying any objection to the probate of Shirley's and Simon's Wills or the validity of the Trust Agreements, and determining which persons are entitled to receive distributions from these trusts and estates.

8. Based upon the rulings made by the Court in this trial of Count II, the Court reserves jurisdiction to determine the remaining issues in this action.

DONE AND ORDERED in Chambers, in Palm Beach County, Florida, this 16 day of December, 2015.

John L. Phillips
CIRCUIT COURT JUDGE

cc: All parties on the attached service list

SERVICE LIST Case No.: 502014CP003698XXXXNBIJ

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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,

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.,

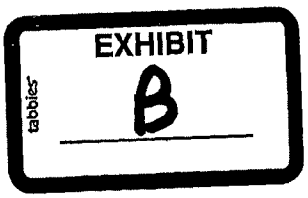
Defendants.
_____/

Probate Division
Case No.: 502014CP003698XXXXNB

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:



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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 continues 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~~ when the parents' interests were adverse to the minor childs).

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 ..."[1] 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 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 to 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,

---

[1] 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, ~~is~~ are 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 Litm.~~ each of the parties shall submit a list of three names of potential Guardian Ad Litems, each whom has agreed to accept the appointment if selected. Those lists shall be filed with the Clerk with courtesy copy to the undersigned, no later than 10 days from this date.*

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 ~~make no effort to~~ not 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~~ (b) 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.

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

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

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IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT, 1525 PALM BEACH LAKES BLVD., WEST PALM BEACH, FL 33401

August 23, 2017

CASE NO.: 4D17-1932
L.T. No.: 502014CP003698XXXXNB

ELIOT IVAN BERNSTEIN v. TED BERNSTEIN, AS TRUSTEE, ET AL.

Appellant / Petitioner(s) Appellee / Respondent(s)

BY ORDER OF THE COURT:

ORDERED that on July 19, 2017, this court ordered appellant to show cause why sanctions should not be imposed. Having considered appellant's August 8 and August 18, 2017 partial responses and motions for extension of time to respond, we deny the request for extension of time in the August 18, 2017 motion (we granted a short extension requested in the August 8, 2017 motion) and determine that sanctions are appropriate. For the reasons set forth in the July 19, 2017 order to show cause, we now impose sanctions pursuant to *Johnson v. Bank of New York Mellon Trust Co.*, 136 So. 3d 507, 508 (Fla. 2014); *Lomax v. Taylor*, 149 So. 3d 1135, 1137 (Fla. 2014); *Riethmiller v. Riethmiller*, 133 So. 3d 926 (Fla. 2013). The Clerk of this Court is directed to no longer accept any paper filed by Eliot Ivan Bernstein unless the document has been reviewed and signed by a member in good standing of the Florida Bar who certifies that a good faith basis exists for each claim presented.

Served:

cc: Lorin Louis Mrachek
Gary R. Shendell
John P. Morrissey
Alan Benjamin Rose
Joielle A. Foglietta
Ralph S. Janvey
Albert Gortz
Eliot Ivan Bernstein
Theodore Stuart Bernstein
James Dimon
Neil Wolfson
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Kenneth S. Pollock
Peter Marshall Feaman
Dennis McNamara
Joseph M. Leccese
Byrd "biff" F. Marshall, Jr.
Lisa Friedstein
Pamela Beth Simon
William McCabe
Stp Enterprises, Inc.
Heritage Union Life Ins.
Life Insurance Concepts
Mark R. Manceri
Charles D. Rubin
John Pankauski
Donald R. Tescher
Kimberly Moran
Hunt Worth
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David Lanciotti
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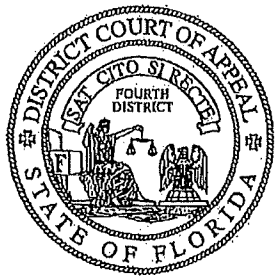
LONN WEISSBLUM, Clerk
Fourth District Court of Appeal