

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

CASE NO. 502012CP004391XXXXSB
CP - Probate

IN RE:

ESTATE OF SIMON L. BERNSTEIN,

/

**TED S. BERNSTEIN, TRUSTEE'S MOTION TO COMPEL ELIOT BERNSTEIN
TO COMPLY WITH DISCOVERY REQUESTS AND TO COMPLY WITH RULE 1.285**

Ted S. Bernstein, Successor Trustee of the Simon L. Bernstein Trust, moves to compel Eliot Bernstein to comply with a request to schedule his deposition and to comply with his obligations under Rule 1.285, and states:

Motion to Compel Deposition Date

1. In connection with a series of pending matters, the undersigned has requested that Eliot Bernstein provide dates for his deposition. Mr. Bernstein has refused and indicated that he will not appear for deposition. The Trustee seeks an order compelling him to appear for deposition.

**Motion to Compel Compliance with Rule 1.285 and/or
Enjoin Any Further Violation of the Rule**

2. As the Court was advised at a hearing on May 23, 2014, Ted S. Bernstein inadvertently sent a privileged email to Eliot Bernstein on May 22, 2014. The undersigned, as counsel, immediately notified Eliot under Rule 1.285 that the email was privileged, specifying that it was attorney/client privilege, and requesting that Eliot delete it and preserve its confidences.

3. The following morning, at the previously scheduled hearing on other matters, Eliot advised the undersigned that he had already sent the email to 2,000 people. The matter was brought

to the Court's attention, and the Court ruled that the document was privileged and inadvertently sent to Eliot, and ordered him to comply with the Rule.

4. After the hearing, the undersigned received an email from Eliot Bernstein indicating that he would "definitely delete and destroy the email in accordance with law," but also indicating that he had distributed the email widely and had sent "everyone I sent it to a request to destroy the email but as you know I cannot control them or their actions with the email since that transmission and forward."

5. The following day the undersigned received an email from Crystal Cox, who "blogs" materials provided to her by Eliot. In her email, after an insulting and vulgar comment, Cox complained that we were violating her free speech, and then she published the entirety of the attorney/client privileged email on the internet. Eliot claims he cannot control her, yet he continues to communicate with her.

6. On June 4th, Cox again re-published the entire privileged email to various persons involved in the case.

7. The undersigned moves to compel Eliot to fully comply with Rule 1.285 and, to the extent necessary, seeks an order enjoining Eliot from further communication with Crystal Cox in connection with the matters involved in this matter. If Eliot cannot control Crystal Cox and what she publishes, which is disputed, this Court should enjoin him from communicating with her further in connection with the matters involved in this action. The actions of Eliot and Cox are an affront to the jurisdiction and authority of this Court, as they are nothing but an effort to intimidate and harass the fiduciaries, professionals, the judiciary, and anyone else who stands in their way.

WHEREFORE, Ted S. Bernstein, Successor Trustee of the Simon L. Bernstein Trust, seeks an order compelling Eliot's deposition and compelling or enjoining Eliot to immediately comply with Rule 1.285.

CERTIFICATE OF SERVICE

I CERTIFY that a copy of the foregoing has been furnished to parties listed on the attached Service List, by U.S. Mail or Email only as indicated on the Service List, this 4th day of June, 2014.

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