

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,

/

**OMNIBUS MOTION INCLUDING TO CONTINUE JULY 11TH HEARING
AND SET STATUS CONFERENCE FOR JULY 11TH AND FOR OTHER RELIEF**

Ted S. Bernstein, Successor Personal Representative of the Shirley Bernstein Trust and Ted S. Bernstein, Successor Trustee of the Simon Bernstein Trust which is the residuary beneficiary of the Estate, files this Omnibus Motion seeking a continuance of the July 11th hearings; for an order setting a status conference (for the same two-hour block already reserved on July 11th), and for other relief specified herein, and states:

1. The tail is not only wagging this dog, it is trying to destroy it. Through his filings, Eliot Bernstein is systematically destroying the remaining limited assets in both estates. Instead of focusing on carving up the assets as his parents intended, Eliot is set on a course to burn it all for some reason (anger that he was cut out the Wills; disappointment that the estate is not worth \$40-\$100 million as he hoped or believed; or perhaps longstanding anger toward Ted and their three sisters). Ted seeks a status conference to allow this Court to bring everyone off the ledge and enable an orderly process to emerge from what now feels like unimaginable chaos.

2. Of prime importance, and its effect is seen more and more, Eliot tries to intimidate everyone standing nearby, and he seems to have some success with these tactics. He is a vexatious litigant -- a pro se paper machine in court proceedings who thumbprints and initials each page, and

he is a malicious reputation ruiner.¹ Mr. Brown, who is doing a "public service" here for a reduced hourly rate, wants no part of Eliot, and we do not blame him. But Eliot has caused the Curator to incur tens of thousands of dollars unnecessarily and had taken Mr. Brown to the point where he cannot wait to get out.

3. Eliot has tried to intimidate the fiduciaries and any counsel willing to represent them (including from almost day one, the undersigned and John Pankauski). According to Mr Brown no one would want to serve as PR given the current situation with Eliot. And this matter is getting more and more out of hand. Eliot blogs or distributes everything he does not like about this case; he blogs about the PRs and Trustees; blogs about counsel; and blogs about the Court. He transmits information to Crystal Cox, who he now claims he has no control over, just so she can unrelentlessly attack people, as we will demonstrate at the hearing. We need a gag order with teeth to stop Eliot and even the playing field.

4. There are two pending matters on July 11th. One is Eliot's Motion for Trust Construction of Shirley's Trust (improperly filed in her estate case) and to Remove Trustees, etc.; and the second is Eliot's Objections to Tescher & Spallina's ("T&S") Accountings. Ted seeks to continue both hearings and set a status conference to set appropriate hearings, with time for discovery.

5. As to the Trust Construction, Eliot's "Complaint" is improperly filed and has not been answered. To be heard, if a trust construction action is needed after the status conference, there will

¹ Eliot has been and continues to be associated with Crystal Cox, who is known to engage in "campaign[s] of cyber-extortion." *Randazza v. Cox*, 2012 WL 6761919 (D. Nev. Dec. 14, 2012). See Also David Carr, When Truth Survives Free Speech, N.Y. Times, Dec. 11, 2011, at B1. Eliot and Ms. Cox have now deployed their tactics on Blogger against not only prior counsel, but also Ted and his new counsel.

need to be discovery of witnesses and probably experts, and a 2-3 day trial after notice to all beneficiaries. This cannot be handled in two hours.

6. In addition, it appears a guardian ad litem will need to be appointed for Eliot's three kids based upon the positions advanced by Eliot. That GAL will need to be appointed by the Court (hopefully with protection so that Eliot does not try to intimidate the GAL) and will need time to investigate and prepare. And, we need to address who will pay for the GAL.

7. The key witnesses for the construction trial -- the drafters and counsel for the settlor - are unavailable for trial on July 11th, and there is no time to depose them and conclude other discovery.

8. As to the second hearing on Eliot's objections to T&S accounting, and as Mr. Brown the Curator has concluded, the objections are a job for the PR. The Trustee has been granted an extension to object for itself and for the new PR if there is one until the earlier of 20 days after the PR is appointed or August 15th. If there are valid objections, Eliot pro se is not the right person to best advance them or resolve them. That argument was made vis-a-vis the Illinois insurance policy litigation and it is no less true on matters in this estate.

9. Instead of trying to shoehorn into two hours these two mini-trials that will take days and that need discovery which Eliot has resisted, Ted requests that the Court set a Status Conference for the two-hour block on July 11th. Among the issues to be addressed:

- a. Status of All Pending Matters, including identifying agreed issues, narrowing disputed issues, determining position of all parties and beneficiaries on each issue and addressing settlement or mediation;
- b. Time needed for trial and discovery on each matter;

- c. Ted's facial standing under the Will and Trust documents to serve as Successor PR and Trustee and his right to retain counsel unfettered by Eliot's constant attacks, accusations, and threats (two recent Eliot emails are attached for Court's review);
- d. Eliot's standing as he is not named beneficiary under Simon's Will or Appointment of assets of Shirley's Trust, and the need for a Guardian ad Litem;
- e. The status of appointing a successor PR for the Estate of Simon;
- f. Request for an injunction or gag order to enable this Court, and not Eliot, to police the fiduciaries serving in these proceedings and to prevent all blogging and communication by Eliot with Cox and anyone else to make it possible to retain professionals and allow the professionals to do their jobs toward the administration of justice.
- g. Request that Eliot be ordered to not communicate with persons other than counsel of record, including the lawyers and staff employed by the undersigned law firm;
- h. Interim issues to be addressed in absence of PR, including estate's \$365,000 Mortgage; and other property issues.

WHEREFORE, Ted requests that this Court grant a continuance and set a two-hour status conference for July 11th.

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 June, 2014.

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

– and –

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From: Eliot Ivan Bernstein [<mailto:iviewit@iviewit.tv>]

Sent: Friday, June 13, 2014 8:54 AM

To: Alan Rose; 'Eliot Ivan Bernstein'

Cc: 'Peter M. Feaman, Esq.'; mkoskey@feamanlaw.com; 'William H. Glasko, Esq.'; tmealy@gcprobatelaw.com; 'Robert Spallina, Esq.'; 'Donald Tescher, Esq.'; 'Benjamin P. Brown, Esq.'; lmcdaniel@matbrolaw.com; 'John P. Morrissey'; 'John Pankauski, Esq.'; paula@pankauskilawfirm.com; 'Irwin J. Block, Esq.'; 'Caroline Prochotska Rogers Esq.'; 'Michele M. Mulrooney ~ Partner @ Venable LLP'; 'Andrew R. Dietz @ Rock It Cargo USA'; 'Marc R. Garber Esq. @ Flaster Greenberg P.C.'; 'Marc R. Garber Esq. @ Flaster Greenberg P.C.'; 'Marc R. Garber Esq.'; tourcandy@gmail.com

Subject: RE: Bernstein Estates - ABR to Parties 06-12-14 re Draft Orders from 06-12-14 Hearings

Alan, I also object for other reasons, including but far from limited to that there is a pending motion to add you as a Respondent for your adverse interests created from your involvement with Tescher and Spallina and others in the already proven and admitted criminal acts that have taken place by prior Attorneys at Law and Fiduciaries in these matters that without question now make you both a material and fact witnesses regarding the criminal acts and your factual involvement with the perpetrators during the time of the criminal acts. This alone should force your voluntary Disqualification from these matters. Your continued actions, despite your requirements under attorney conduct codes and law to disqualify voluntarily from matters when you have adverse interests and conflicted, will be imputed as further aiding and abetting the prior crimes and continuing new one, including but not limited to, obstruction of justice through an intentional attempt to deny due process through such continued improper actions as an Officer of the Court while knowing of your and your clients adverse interests and conflicts that preclude further involvement.

A note to the attorneys at law involved in these matters who are receiving this email, I believe you are duty bound to report attorneys at law who have adverse interests and conflicts and refuse to disqualify when these are apparent and yet further advance improper legal arguments through the violation of their attorney conduct codes and law in proceedings you are involved with them in and certainly Alan and Ted's involvement with the former Attorneys at Law and parties involved in the already proven and admitted crimes, is irrefutably reason that they will be material and fact witnesses and have adverse interests and should disgorge themselves of any fiduciary and/or legal capacities they are acting in and cease and desist all contact in such capacities with any other attorneys at law involved. If you are aware that Ted and Alan will be material and fact witnesses in these matters and cannot continue to act impartially and continue to correspond with them, settle with them or make any other communications with them in these improper capacities, this could be construed as aiding and abetting and obstruction and more. Just something to consider.

Alan, I and hopefully all the lawyers in this communiqué, will be objecting to any orders you put forth while conflicted and with adverse interests as further FRAUD ON THE COURT and the Beneficiaries and Interested parties, in order to cover up the already proven and admitted crimes and further aid and abet those attorneys and fiduciaries who brought you into these matters and whom you acted with in perpetrating their frauds. I also will be filing additional criminal charges for the obstruction et al. against you and your firm and all partners, associates, of counsel and employees that participate in any way in these matters forward. I believe the Attorneys at Laws involved and copied herein may also due what they are legally and ethically required to do and report you and Ted and file with the proper authorities instantly regarding your continued misconduct and more. Please, do the right thing under law and your ethical cannons and voluntarily cease your misconduct and cease further FRAUD, WASTE and ABUSE of Estates assets and time.

Best ~ Eliot

Thanks ~ Eliot

From: Alan Rose [<mailto:ARose@mrachek-law.com>]
Sent: Friday, June 13, 2014 1:30 AM
To: Eliot Ivan Bernstein
Cc: Peter M. Feaman, Esq.; mkoskey@feamanlaw.com; William H. Glasko, Esq.; tmealy@gcprobatelaw.com; Robert Spallina, Esq.; Donald Tescher, Esq.; Benjamin P. Brown, Esq.; lmcdaniel@matbrolaw.com; John P. Morrissey; John Pankauski, Esq.; paula@pankauskilawfirm.com; Irwin J. Block, Esq.; Caroline Prochotska Rogers Esq.; Michele M. Mulrooney ~ Partner @ Venable LLP; Andrew R. Dietz @ Rock It Cargo USA; Marc R. Garber Esq. @ Flaster Greenberg P.C.; Marc R. Garber Esq. @ Flaster Greenberg P.C.; Marc R. Garber Esq.; tourcandy@gmail.com; Eliot I. Bernstein, Inventor ~ Iviewit Technologies, Inc.
Subject: Re: Bernstein Estates - ABR to Parties 06-12-14 re Draft Orders from 06-12-14 Hearings

If that is your only objection, we will send in the orders with that noted to judge.

Alan B. Rose

On Jun 12, 2014, at 19:42, "Eliot Ivan Bernstein" <iviewit@gmail.com> wrote:

I object to these orders, as Ted is not the successor trustee of the alleged Trusts as far as I know legally and he cannot now serve in any capacities for a myriad of reasons. This is why you Alan should not be acting further either, especially where there is a motion to add you as a Respondent/Defendant and to remove your client for a host of reasons, including your direct past involvement with Tescher and Spallina to advance their frauds and again this continued action by you just appears more fraud, waste and abuse but I will take that up with Judge Colin if necessary. Have you notified your liability carrier of your situation in these matters and that you have been noticed of your involvement in the litigation as a Respondent/Defendant yet. Can you please send over your carrier information so that I may notice them as well in the event that you are not? Thanks ~ Eliot

From: Marie Chandler [<mailto:MChandler@mrachek-law.com>] **On Behalf Of** Alan Rose
Sent: Thursday, June 12, 2014 6:26 PM
To: Eliot I. Bernstein; Peter M. Feaman, Esq.; mkoskey@feamanlaw.com; William H. Glasko, Esq.; tmealy@gcprobatelaw.com; Robert Spallina, Esq.; Donald Tescher, Esq.; Benjamin P. Brown, Esq.; lmcdaniel@matbrolaw.com; John P. Morrissey; John Pankauski, Esq.; paula@pankauskilawfirm.com; Irwin J. Block, Esq.
Cc: Alan Rose
Subject: Bernstein Estates - ABR to Parties 06-12-14 re Draft Orders from 06-12-14 Hearings

Attached are draft orders regarding the hearings of today before Judge Colin. Please let me have your comments at your earliest convenience.

Best wishes.

Alan

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