

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

PROBATE DIVISION

FILE NO.: 502012CP004391XXXXNB IH

IN RE: ESTATE OF

SIMON L. BERNSTEIN,

Deceased.

/

RESPONSE TO MOTION FOR ORDER TO SHOW CAUSE

COMES NOW, BRIAN M. O'CONNELL, ESQ., as Successor Personal Representative of the Estate of Simon L. Bernstein ("Mr. O'Connell"), and hereby responds to the Motion for Order to Show Cause, filed herein by Ciklin Lubitz on or about September 19, 2018, and in support thereof states as follows:

1. On or about April 27, 2018, this Court entered three (3) orders directing Brian M. O'Connell, Esquire, as Successor Personal Representative of the Estate of Simon L. Bernstein, to pay a total of \$51,267.10 to Ciklin Lubitz, formerly known as Ciklin Lubitz & O'Connell ("Ciklin Lubitz"), for personal representative fees and costs and the personal representative's attorney's fees and costs incurred in the above – captioned proceeding.

2. On or about September 19, 2018, Ciklin Lubitz filed Motion for Order to Show Cause requesting this Court order Mr. O'Connell, Esquire to "show cause in writing as to why he has not complied with the three orders."

3. Accordingly, Mr. O'Connell responds as follows:

4. Mr. O'Connell has not purposefully chosen to delay or not remit payment pursuant to the Order.

5. There is a pending dispute based on contractual and equitable principles wherein Brian M. O'Connell's P.A. has various claims to Mr. O'Connell's accounts receivables, including this matter.

6. Despite Mr. O'Connell's P.A. being owed monies from such accounts receivable, Ciklin Lubitz has refused to even agree that Mr. O'Connell's PA is due any amount from any account receivable.

7. Since the date of Mr. O'Connell's resignation, on May 9, 2018, Ciklin Lubitz and Mr. O'Connell have engaged in both informal settlement negotiations and have attended a formal mediation regarding accounts receivable, among other things.

8. In this case, Mr. O'Connell, as the Personal Representative of the Estate, has a clear understanding of the above-described dispute, however, any prudent fiduciary who was made aware of such disputes would not remit payment at this time.

9. To the extent this Court finds payment should be made at this time pursuant to the Order, the prudent course of action given the above is for such monies to be paid into the Court Registry or to a neutral, third – party in escrow.

WHEREFORE, BRIAN M. O'CONNELL, ESQ., as Successor Personal Representative of the Estate of Simon L. Bernstein, respectfully requests this Court deny the Motion for Order to Show Cause, for the reasons set forth herein, or, in the alternative, direct such monies to be paid into the Court Registry or to a neutral third – party in escrow, together with any 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-mail service via the Court's e-portal or U.S. Postal Service to Counsel and Parties of record listed on the attached Service List this 24th day of September, 2018.

/s/ Ashley Crispin Ackal

BRIAN M. O'CONNELL/FBN: 308471
ASHLEY CRISPIN ACKAL/FBN: 37495
JOIELLE A. FOGLIETTA/FBN : 94238
CLARA CRABTREE CIADELLA/FBN : 106323
O'CONNELL & CRISPIN ACKAL, PLLC
420 Royal Palm Way
Suite 300
Palm Beach, Florida 33480
Telephone: (561)355-0403
Fax: (561)355-5133
Primary e-mail address: service@OCAlawyers.com
Secondary e-mail address:
secondaryservice@OCAlawyers.com

SERVICE LIST

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
---	---	--

<p>Peter Feaman, Esq. Peter M. Feaman, P.A. 3695 Boynton Beach Blvd., Suite 9 Boynton Beach, FL 33436 pfeaman@feamanlaw.com</p>	<p>Shendell & Pollock, P.L. 2700 N. Military Trail, suite 150 Boca Raton, FL 33431 241-2323 Fax: 241-2330 Gary R. Shendell, Esq. gary@shendellpollock.com estella@shendellpollock.com grs@shendellpollock.com Kenneth S. Pollock, Esq. ken@shendellpollock.com britt@shendellpollock.com grs@shendellpollock.com Matthew A. Tornincasa, Esq. matt@shendellpollock.com robyne@shendellpollock.com grs@shendellpollock.com</p>	<p>Max Friedstein 2142 Churchill Lane Highland Park, IL 60035</p>
<p>Eliot Bernstein 2753 N.W. 34th St. Boca Raton, FL 33434 iwatchit@iwatchit.tv</p>	<p>Pamela Beth Simon 950 N. Michigan Ave., Apt. 2603 Chicago, IL 60611 psimon@stpcorp.com</p>	<p>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</p>
<p>Jill Iantoni and Julia Iantoni, a Minor c/o Guy and Jill Iantoni, her Parents & Natural Guardians 2101 Magnolia Lane Highland Park, IL 60035 jilliantoni@gmail.com</p>	<p>Robert Spallina, Esq. rspallina@comcast.net</p>	<p>Paul D. Turner, Esq. Christopher T. Perré Perlman, Bajandas, Yevoli & Albright, P.L. 200 South Andrews Avenue, Suite 600 Fort Lauderdale, FL 33301 Tel.: 954/566-7117 Fax: 954/566-7115 pturner@pbyalaw.com cperre@pbyalaw.com eservice@pbyalaw.com</p>
<p>Marc J. Soss, Esq. 11010 Hyacinth Place Lakewood Ranch, FL 34202-4158 Tel.: 941/928-0310 Fax: 813/342-7967</p>	<p>Jeffrey Garber, Esq. Ciklin Lubitz 515 N. Flagler Drive, 20th Floor West Palm Beach, FL 33401</p>	<p>Brett C. Barner, Esq/ Barner & Barner, P.A. 11360 Jog Road, Suite 104, Palm Beach Gardens, FL 33418 service@barnerlaw.com bbarner@barnerlaw.com</p>

mjs@fl-estateplanning.com

bhenry@barnerlaw.com