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1. IN THE CIRCUIT COURT OF THE 15TH JUDICIAL CIRCUIT, IN AND FOR PALM BEACH COUNTY, FLORIDA
2. PROBATE/GUARDIANSHIP DIVISION IY
3. CASE NO.: 502011CP000653XXXXSB IN RE: THE ESTATE OF:
4. SHIRLEY BERNSTEIN,

Deceased

5 / ELIOT IVAN BERNSTEIN, PRO SE,

6 Petitioner,

vs.

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TESCHER & SPALLINA, P.A., (AND ALL PARTNERS,

1. ASSOCIATES AND OF COUNSEL); ROBERT L. SPALLINA (BOTH PERSONALLY & PROFESSIONALLY); DONALD
2. R. TESCHER (BOTH PERSONALLY & PROFESSIONALLY); THEODORE STUART BERNSTEIN (AS ALLEGED PERSONAL
3. REPRESENTATIVE, TRUSTEE, SUCCESSOR TRUSTEE) (BOTH PERSONALLY & PROFESSIONALLY); AND JOHN AND JANE

11 DOE'S (1‐5000),

Respondents.

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1. TRANSCRIPT OF PROCEEDINGS
2. BEFORE
3. THE HONORABLE MARTIN H. COLIN 16
4. South County Courthouse

200 West Atlantic Avenue, Courtroom 8

1. Delray Beach, Florida 33344 19

20 Friday, September 13, 2013 1:30 p.m. ‐ 2:15 p.m.

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24 Stenographically Reported By: JESSICA THIBAULT

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1 APPEARANCES

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1. On Behalf of the Petitioner:
2. ELIOT IVAN BERNSTEIN, PRO SE 2753 NW 34th Street
3. Boca Raton, Florida 33434 6

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1. On Behalf of the Defendants:
2. LAW OFFICE OF MARK MANCERI, P.A. 2929 East Commercial Blvd., Ste. 702
3. Fort Lauderdale, Florida 33308 (954) 491‐7099
4. [mrmlaw@comcast.net](mailto:mrmlaw@comcast.net)

BY: MARK MANCERI, ESQ.

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1. Also present:
2. Robert Spallina, Esq.
3. Theodore Bernstein
4. Mrs. Bernstein, Petitioner's wife 25

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* 1. P R O C E E D I N G S
  2. THE COURT: All right, we're here on the

No one is representing as the Personal Representative, Manceri is representing them as estate counsel, their other role. No Personal Rep because when Si died no one notified the Court and a successor PR or Trustee was never elected.

* 1. Shirley Bernstein estate, 2011CP000653.
  2. Counsel, make your appearances.
  3. MR. MANCERI: Good afternoon, your Honor,
  4. Mark Manceri. I'm here on behalf of Robert
  5. Spallina and Donald Tescher, named respondents.
  6. MR. ELIOT BERNSTEIN: Good afternoon, your
  7. Honor, my name is Eliot Bernstein, and I'm
  8. representing myself pro se.
  9. MR. THEODORE BERNSTEIN: Your Honor, Ted
  10. Bernstein, trustee of the estate, and I'm here
  11. representing myself today.
  12. THE COURT: Okay, thanks.
  13. Let me just get the case up on the
  14. computer, please.
  15. All right, so I set oral argument based
  16. upon Mr. Bernstein's emergency motions, and I
  17. did so with the cautionary language in the
  18. notice of hearing that I assume both of you
  19. have, that indicates that I first want to hear

Ted is not "trustee" of the estate as their was no papers approved by court because they never closed estate while Simon was alive.

* 1. what makes this matter emergency as defined by
  2. our law, so, because you're pro se,
  3. Mr. Bernstein, I want to make sure you're aware

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* 1. of that particular aspect of what I just said.

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1. Counsel knows. This is not an emergency in
2. your mind. It's an emergency as the law calls
3. it an emergency. You're probably going to show
4. me a case or an administrative order and tell
5. me how this is an emergency.
6. The second part of it is what type of
7. evidentiary hearing we need to have, so you're
8. up first.
9. MR. ELIOT BERNSTEIN: Okay, you want me to
10. step up or?
11. THE COURT: You could do it right from
12. there.
13. MR. ELIOT BERNSTEIN: It's an emergency
14. because three of the beneficiaries ‐‐
15. THE COURT: Say again? I couldn't ‐‐ you
16. mumbled, I couldn't hear you.
17. MR. ELIOT BERNSTEIN: It's an emergency
18. because three of the beneficiaries of the
19. estates lives have been put in danger.
20. THE COURT: Okay, so they're about to be
21. killed?
22. MR. ELIOT BERNSTEIN: They're about to be
23. cut off of school, insurance, the necessary
24. care that was set aside in the estates.
25. THE COURT: So it's not physical harm?

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1. MR. ELIOT BERNSTEIN: No.
2. THE COURT: So it's financial harm?
3. MR. ELIOT BERNSTEIN: Correct.
4. THE COURT: Educational harm?
5. MR. ELIOT BERNSTEIN: Correct.
6. THE COURT: Show me in either the law or
7. the administrative order where that is defined
8. as an emergency.
9. MR. ELIOT BERNSTEIN: If it's not then I
10. made a mistake.
11. THE COURT: You're supposed to know that.
12. That's why we're having this hearing.
13. MR. ELIOT BERNSTEIN: Well, I'm pro se.
14. THE COURT: I know. We brought all this
15. judicial effort here. No, sir, this is not a
16. free shot for you.
17. MR. ELIOT BERNSTEIN: I thought that it
18. was an emergency.
19. THE COURT: No, it's not your thought.
20. MR. ELIOT BERNSTEIN: Okay.
21. THE COURT: I cautioned you in the notice
22. of hearing you so came today ‐‐ I kind of
23. cautioned you whether this is an emergency,
24. okay? So you need to demonstrate to me where
25. under our laws this situation that you say the

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1. evidence would show is imminently happening,
2. imminent means today, okay, where an emergency
3. exists.
4. The last two emergencies I did, someone
5. was on the way to the airport waiting to be
6. taken illegally to Iran, a non‐hate convention
7. country. We had to get an order out so that
8. Homeland Security would rush down with armed
9. guards and protect a child from going overseas
10. and never coming back to the U.S.
11. The other one was we had to get an order
12. so police could break down the door to prevent
13. someone from being physically killed or harmed
14. physically.
15. Those two were emergencies. Is this an
16. emergency like that?
17. MR. ELIOT BERNSTEIN: I believe so.
18. THE COURT: Okay, all right, so let me
19. tell you, I'm going to let you go forward. If
20. I do not believe so, get your checkbook out.
21. MR. ELIOT BERNSTEIN: Okay.
22. THE COURT: You're going to personally pay
23. for the cost of this.
24. MR. ELIOT BERNSTEIN: Okay.
25. THE COURT: It doesn't seem so based upon

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* 1. what you've told me, but you have this belief
  2. that it is. Remember, show me that it's a
  3. legal emergency like I gave the example of it.
  4. Someone is going to die, be taken out of the
  5. jurisdiction, someone's wellbeing today is
  6. going to be ‐‐ you know, they're going to be
  7. without food, they'll be on the street
  8. tomorrow.
  9. MR. ELIOT BERNSTEIN: Okay.
  10. THE COURT: So is that the type of hearing
  11. I need?
  12. MR. ELIOT BERNSTEIN: Yes.
  13. THE COURT: Okay. So tell me how that ‐‐
  14. what evidence is there that this is an
  15. emergency along those lines?
  16. MR. ELIOT BERNSTEIN: Okay, the estate
  17. representatives when my parents died told us
  18. that they were understanding the special
  19. circumstances me and my three children are in,
  20. and that funds had been set aside and not to
  21. worry, there would be no delay of paying their
  22. living costs and everything that my father and
  23. mother had been paying for years to take care
  24. of them, and then they were paying that out of
  25. a bank account at Legacy Bank.

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* + 1. THE COURT: Who is they?
    2. MR. ELIOT BERNSTEIN: Mr. Spallina had
    3. directed Rachel Walker to pay the expenses of a
    4. Legacy bank account. It was being paid. And
    5. then Mr. Spallina stated that I should or that
    6. Rachel should ‐‐ she was fired, she should now
    7. turn the accounts over to my wife to start
    8. writing checks out of an account we've never
    9. seen.
    10. So I said I didn't feel comfortable
    11. writing checks out of an account, especially
    12. where it appeared my dad was the signer, so I
    13. called Legacy Bank with Rachel and they were
    14. completely blown away that checks had been
    15. being written out of a dead person's account.
    16. Nobody had notified them that Simon had
    17. deceased. And that no ‐‐ by under no means
    18. shall I write checks out of that account, and
    19. so then Mr. Spallina told me to turn the
    20. accounts over to Janet Craig of Oppenheimer,
    21. and Oppenheimer was going to pay the bills as
    22. it had been done by Rachel in the past. And so
    23. we sent her the Legacy account. We thought all
    24. that was how things were being done and, you
    25. know, he doesn't give us any documents

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1. whatsoever in the estate, so we don't know, you
2. know, what he's operating out of, but
3. Oppenheimer then started to pay the things ‐‐
4. first they said, wait a minute, these are
5. school trust funds ‐‐ well, they actually said
6. that after they started paying, and they were a
7. little hesitant that these funds were being
8. used for personal living expenses of everybody,
9. which the other Legacy account had been paying
10. for through an agreement between and my
11. parents. And then what happened was
12. Mr. Spallina directed them to continue, stating
13. he would replenish and replace the funds if he
14. didn't get these other trusts he was in the
15. process of creating for my children in place
16. and use that money he would replenish and
17. replace it.
18. So the other week or two weeks or a few
19. week ago Janet Craig said that funds are
20. running low and she contacted Mr. Spallina who
21. told her that he's not putting any money into
22. those trusts and that there's nothing there for
23. me, and that basically when that money runs out
24. the kids' insurance, school, their home
25. electricity and everything else I would

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1. consider an emergency for three minor children
2. will be cut off, and that was not ‐‐
3. THE COURT: Let me ask you a question.
4. MR. ELIOT BERNSTEIN: Yes, sir.
5. THE COURT: At the time when you say
6. things were as they should be, your parents
7. were alive and they were paying bills of you
8. and your children?
9. MR. ELIOT BERNSTEIN: Correct,
10. 100‐percent, through an agreement.
11. THE COURT: An agreement with them?
12. MR. ELIOT BERNSTEIN: Yes.
13. THE COURT: Okay. Then who died first?
14. MR. ELIOT BERNSTEIN: My mom.
15. THE COURT: Because this is what ‐‐ you
16. filed it under your mom's estate.
17. MR. ELIOT BERNSTEIN: Okay.
18. THE COURT: Is your father alive or dead?
19. MR. ELIOT BERNSTEIN: My father is
20. deceased today a year ago.
21. THE COURT: All right. So you're saying
22. that after your father died, however it
23. happened, bills for you and your children
24. continued to be paid somehow?
25. MR. ELIOT BERNSTEIN: First out of an

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* 1. account that they shouldn't have been being
  2. paid out of.
  3. THE COURT: And then it stopped?
  4. MR. ELIOT BERNSTEIN: It stopped. Then it
  5. was transferred to Oppenheimer.
  6. THE COURT: And they paid for a little
  7. while?
  8. MR. ELIOT BERNSTEIN: Correct.
  9. THE COURT: And when did that stop?
  10. MR. ELIOT BERNSTEIN: Correct, just on
  11. August 28th, with one‐day's notice.
  12. THE COURT: Okay. So the bills that they
  13. were paying for you were what bills?
  14. MR. ELIOT BERNSTEIN: All of them.
  15. THE COURT: All the bills.
  16. MR. ELIOT BERNSTEIN: Health insurance,
  17. electricity, water, food, clothing, everything,
  18. 100‐percent.
  19. THE COURT: When did the emergency take
  20. place?
  21. MR. ELIOT BERNSTEIN: On August 28th.
  22. They told me if I didn't sign releases that
  23. Robert wanted me to sign and turn the money
  24. over to my brother, the remaining corpus of the
  25. trust, that they were going to shut the funds

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1. off as of that day.
2. THE COURT: And they did?
3. MR. ELIOT BERNSTEIN: I'm not 100‐percent
4. sure, because then I asked them for their
5. operating documents that Mr. Spallina had sent
6. them, and once again we've got un‐notarized
7. documents ‐‐
8. THE COURT: We'll talk about the notary
9. thing in a second.
10. MR. ELIOT BERNSTEIN: Okay. Then we have
11. new improperly notarized documents authorizing
12. the trust to operate, and they sent me
13. incomplete documents which are unsigned on
14. every page of the trust agreement, so they're
15. telling me and I've asked them three times if
16. they have signed copies and three times they've
17. sent me unsigned copies.
18. THE COURT: Okay, but what bills today ‐‐
19. MR. ELIOT BERNSTEIN: All of them.
20. THE COURT: What bills are unpaid as
21. overdo today?
22. MR. ELIOT BERNSTEIN: Health insurance is
23. one.
24. THE COURT: What's overdue today?
25. MR. ELIOT BERNSTEIN: Health insurance is

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* 1. one.
  2. THE COURT: All right, name the health
  3. insurance company.
  4. MR. ELIOT BERNSTEIN: It's COBRA.
  5. THE COURT: COBRA is not a company.
  6. MR. ELIOT BERNSTEIN: Blue Cross.
  7. THE COURT: Blue Cross, okay. How much is
  8. overdue to Blue Cross today?
  9. MR. ELIOT BERNSTEIN: $2,000 or so.
  10. THE COURT: It's not $2,000 a day.
  11. MR. ELIOT BERNSTEIN: A month.
  12. THE COURT: $2,000 a month is the health
  13. insurance bill?
  14. MR. ELIOT BERNSTEIN: Correct.
  15. THE COURT: When was that bill due?
  16. MR. ELIOT BERNSTEIN: Well, this is the
  17. problem. All of the bills are going to them
  18. and they don't share with me any of that.
  19. THE COURT: So how do you know that you
  20. don't have health insurance coverage?
  21. MR. ELIOT BERNSTEIN: Only because it's
  22. paid by them on that date. Usually on the
  23. first.
  24. THE COURT: September 1st?
  25. MR. ELIOT BERNSTEIN: Yes. As of

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* + 1. September 1st I don't believe they have ‐‐
    2. THE COURT: Is the coverage in effect
    3. today?
    4. MR. ELIOT BERNSTEIN: I don't know.
    5. THE COURT: If you don't know, how do you
    6. know that it's an emergency?
    7. MR. ELIOT BERNSTEIN: I just know they
    8. haven't paid it.
    9. THE COURT: Okay, so ‐‐
    10. MR. ELIOT BERNSTEIN: I don't have ‐‐
    11. THE COURT: So you have coverage you said
    12. as of August 31st you had coverage?
    13. MR. ELIOT BERNSTEIN: We don't know. We
    14. don't have an accounting if she stated that,
    15. I'm sorry.

In Re\_ The Estate of Shirley Bernstein.txt

* + 1. THE COURT: Okay, so you may be covered,
    2. you may not be covered?
    3. MR. ELIOT BERNSTEIN: Correct.
    4. THE COURT: What other bill is unpaid as
    5. of today.
    6. MR. ELIOT BERNSTEIN: And that's my wife
    7. and my children too.
    8. THE COURT: Okay.
    9. MR. ELIOT BERNSTEIN: Again, they have all
    10. the bills, so when they're due, like the

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1. electric was due on the 28th, then they usually
2. pay it. I don't even get the bills. So the
3. bills are going straight to Oppenheimer.
4. THE COURT: How do you know
5. authoritatively that they're not being paid?
6. Ma'am, you can't speak. You're not a
7. lawyer, right?
8. MRS. BERNSTEIN: No.
9. THE COURT: Up, move to the back.
10. MR. ELIOT BERNSTEIN: You want her to go
11. back?
12. THE COURT: Yes, because she's disruptive.
13. I can't speak to you and hear her.
14. MR. ELIOT BERNSTEIN: Okay.
15. THE COURT: So stay there in absolute
16. silence. You could write something if you
17. want, is that agreed?
18. MRS. BERNSTEIN: Yes.
19. THE COURT: Okay, go ahead. How do you
20. know these monthly bills are not being paid?
21. How do you know the way you know today is
22. Friday, you know what your name is, know
23. meaning indisputable knowledge.
24. MR. ELIOT BERNSTEIN: I can't say for
25. certainty since I don't receive it and manage

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1. and pay the bills.
2. THE COURT: Well then how is it an
3. emergency if you don't know?
4. MR. ELIOT BERNSTEIN: Well, because we
5. know that within this next month if electricity
6. isn't paid and there's no money to pay it and
7. he doesn't reimburse the trusts that all those
8. bills on whatever date they were due were
9. lapsing in the next few hours.
10. THE COURT: From today?
11. MR. ELIOT BERNSTEIN: From the 28th.
12. THE COURT: The 28th of August?
13. MR. ELIOT BERNSTEIN: Correct, sir.
14. THE COURT: All right. So you don't know
15. if they've been paid or not. You still have
16. your electric on?
17. MR. ELIOT BERNSTEIN: Yes.
18. THE COURT: Are any services shut off?
19. MR. ELIOT BERNSTEIN: No.
20. MR. ROTHMAN: Maybe like things like lawn
21. and stuff, the lawn guys have been coming, said
22. we owe them money, which we've never heard that
23. from this guy knocking on the door.
24. THE COURT: All right. Is the lawn an
25. emergency situation?

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* 1. MR. ELIOT BERNSTEIN: No. You just asked
  2. if any bills ‐‐
  3. THE COURT: These are not emergencies
  4. then.
  5. MR. ELIOT BERNSTEIN: Okay.
  6. THE COURT: Remember, you filed a motion
  7. that stopped the courthouse from working.
  8. MR. ELIOT BERNSTEIN: I'm very sorry.
  9. THE COURT: We thought you were ready to
  10. die on the day you filed the motion.
  11. MR. ELIOT BERNSTEIN: I'm very sorry.
  12. THE COURT: Okay.
  13. MR. ELIOT BERNSTEIN: I believed it was an
  14. emergency. The minor children are in there.
  15. THE COURT: Let me ask, how old are you?
  16. MR. ELIOT BERNSTEIN: I'm 50.
  17. THE COURT: Can you pay an electric bill?
  18. MR. ELIOT BERNSTEIN: No.
  19. THE COURT: Why not?
  20. MR. ELIOT BERNSTEIN: I don't have any
  21. employment.
  22. THE COURT: Why not? If there's an
  23. emergency and you're not eating and you have
  24. children ‐‐
  25. MR. ELIOT BERNSTEIN: It's very

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* + 1. complicated, but ‐‐
    2. THE COURT: Well, could you work to pay
    3. your electric bill? If that made a difference?
    4. MR. ELIOT BERNSTEIN: No, I haven't been
    5. able to gain employment due to
    6. Ricco‐related‐type crimes that have been
    7. committed against me and my family.
    8. THE COURT: So your kids are without food,
    9. you would have them starve rather then go over
    10. to Burger King or Dunkin Donuts and get a job
    11. doing ‐‐
    12. MR. ELIOT BERNSTEIN: I've tried all those
    13. things.
    14. THE COURT: And they won't hire you?
    15. MR. ELIOT BERNSTEIN: Let me explain.
    16. THE COURT: Will they hire you to make
    17. enough money?
    18. MR. ELIOT BERNSTEIN: No. And that's why
    19. my father and mother had set aside these funds
    20. to pay those bills because they understood the
    21. gravity ‐‐
    22. THE COURT: So here's what we'll do, we're
    23. going to have a hearing, tell me if you're
    24. comfortable, whether there's any employment you
    25. could get, so I'm going to bring the people

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1. from Florida State Employment who tell me
2. there's hundreds of jobs today that you could
3. work.
4. MR. ELIOT BERNSTEIN: Okay.
5. THE COURT: You could start today as a
6. laborer right outside this courthouse. Why
7. don't you do that?
8. MR. ELIOT BERNSTEIN: Well, because if I
9. do that I have tax liens that are ‐‐
10. THE COURT: Who cares? You want to feed
11. your children. They're going to pay you money
12. to feed your children.
13. MR. ELIOT BERNSTEIN: Okay, I'll explain.
14. I have tax liens which are under investigation
15. by the inspector general of the tax
16. administration department, currently ongoing,
17. that were put on me as part of the efforts in a
18. Ricco‐related lawsuit that I'm involved in.
19. These are just the facts, I'm just telling
20. you ‐‐
21. THE COURT: What's to stop you from
22. working as a laborer?
23. MR. ELIOT BERNSTEIN: Because they then
24. attach my wages ‐‐
25. THE COURT: They don't even know that

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* 1. you're working, and you have an emergency, you
  2. could feed your children.
  3. MR. ELIOT BERNSTEIN: They know I'm
  4. working.
  5. THE COURT: How do they know you're
  6. working?
  7. MR. ELIOT BERNSTEIN: Well, actually, if
  8. you read the last articles I put in the
  9. petition six or five, one of those two, I put
  10. in the articles that have been released in the
  11. press that say that they were misusing joint
  12. terrorism task force funds and resources to
  13. monitor and violate our rights through the
  14. Patriot Act violations, and that they have done
  15. that to me in the related cases in the federal
  16. court.
  17. THE COURT: All right, whatever you say.
  18. I don't think you want ‐‐ if you want a hearing
  19. on whether you could go to work today,
  20. physically go to work and pay, I'll give you
  21. that hearing right now and I'll get someone
  22. from Florida Employment. Here's the deal, you
  23. lose all your motions as soon as they tell you
  24. that you could go outside and work.
  25. Do you want that hearing or not? You

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* + 1. could physically earn enough money to pay for
    2. food for your children today, you tell me you
    3. can't do ‐‐ that someone is going to tackle you
    4. and stop you from working outside as a laborer
    5. to get enough money to feed your children?
    6. That's the emergency, your children are
    7. starving. You're a parent. You're going to
    8. tell me you're going to let your children
    9. starve and not work to earn enough money to
    10. feed them, that's what you're telling me,
    11. correct?
    12. MR. ELIOT BERNSTEIN: No. Well, I won't
    13. tell you that because, I guess, if you say
    14. there's some job that you could get me I'll get
    15. it.
    16. THE COURT: There's tons of jobs.
    17. MR. ELIOT BERNSTEIN: I know, I've applied
    18. for so many over the years ‐‐

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* + 1. THE COURT: I mean maybe not as a CEO of a
    2. company. $10, $9.00 an hour jobs ‐‐
    3. MR. ELIOT BERNSTEIN: I've applied for
    4. minimum wage and had trouble, believe me.
    5. THE COURT: I'm talking about getting work
    6. today ‐‐ if you tell me you can't work today
    7. I'll have a hearing on that.

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* + - 1. MR. ELIOT BERNSTEIN: I can work today.
      2. THE COURT: Well, then you could feed your
      3. children today.
      4. MR. ELIOT BERNSTEIN: Okay, if I could get
      5. a job ‐‐
      6. THE COURT: That's not an emergency. You
      7. might have a hearing on it down the line, but
      8. it's not an emergency.
      9. MR. ELIOT BERNSTEIN: Okay.
      10. THE COURT: An emergency means my kids are
      11. starving, they haven't eaten, there's no food,
      12. and I can't legally get them food because I
      13. can't work. I have people who are blind, who
      14. have no arms and legs, and they can't work.
      15. MR. ELIOT BERNSTEIN: Okay.
      16. THE COURT: That's different, that's not
      17. you.
      18. MR. ELIOT BERNSTEIN: Okay.
      19. THE COURT: Okay. Can't work and don't
      20. want to work, think they're reasons not to work
      21. are two different things.
      22. MR. ELIOT BERNSTEIN: Okay.
      23. THE COURT: Okay. What's your position on
      24. the emergency before we go to some of these
      25. others issues which concern me about what he

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1. said.
2. MR. MANCERI: Good afternoon, your Honor.
3. As I stated in my opening, I represent Robert
4. Spallina and Mr. Tescher. I would like to
5. apologize ‐‐
6. THE COURT: So their roles are what in
7. this case?
8. MR. MANCERI: They were counsel or are
9. counsel for the estate of Shirley Bernstein, as
10. well as counsel for the estate of Simon
11. Bernstein, who is in front of Judge French.
12. THE COURT: Okay.
13. MR. MANCERI: But before I make my
14. presentation, I would just like to apologize
15. for Mr. Tescher's absence. He's out of town
16. for the holiday.
17. THE COURT: Okay. Who are the PR's that
18. you represent?
19. MR. MANCERI: Well, Shirley Bernstein
20. there is no technically any PR because we had
21. the estate closed.
22. THE COURT: Okay.
23. MR. MANCERI: And what emanated from
24. Mr. Bernstein's 57‐page filing, which falls
25. lawfully short of any emergency, was a petition

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1. to reopen the estate, so technically nobody has
2. letters right now.
3. Simon Bernstein, your Honor, who died a
4. year ago today as you heard, survived his wife,
5. Shirley Bernstein, who died December 10, 2010.
6. Simon Bernstein was the PR of his wife's
7. estate.
8. As a result of his passing, and in attempt
9. to reopen the estate we're looking to have the
10. estate reopened. So nobody has letters right
11. now, Judge. The estate was closed.
12. THE COURT: So you agree that in Shirley's
13. estate it was closed January of this year,
14. there was an order of discharge, I see that.
15. Is that true?
16. MR. ELIOT BERNSTEIN: I don't know.
17. THE COURT: Do you know that that's true?
18. MR. ELIOT BERNSTEIN: Yes, I believe.
19. THE COURT: So final disposition and the
20. order got entered that Simon, your father ‐‐
21. MR. ELIOT BERNSTEIN: Yes, sir.
22. THE COURT: ‐‐ he came to court and said I
23. want to be discharged, my wife's estate is
24. closed and fully administered.
25. MR. ELIOT BERNSTEIN: No. I think it

00025

* 1. happened after ‐‐
  2. THE COURT: No, I'm looking at it.
  3. MR. ELIOT BERNSTEIN: What date did that
  4. happen?
  5. THE COURT: January 3, 2013.
  6. MR. ELIOT BERNSTEIN: He was dead.
  7. MR. MANCERI: That's when the order was
  8. signed, yes, your Honor.
  9. THE COURT: He filed it, physically came
  10. to court.
  11. MR. ELIOT BERNSTEIN: Oh.
  12. THE COURT: So let me see when he actually
  13. filed it and signed the paperwork. November.
  14. What date did your dad die?
  15. MR. ELIOT BERNSTEIN: September. It's
  16. hard to get through. He does a lot of things
  17. when he's dead.
  18. THE COURT: I have all of these waivers by
  19. Simon in November. He tells me Simon was dead
  20. at the time.
  21. MR. MANCERI: Simon was dead at the time,
  22. your Honor. The waivers that you're talking
  23. about are waivers from the beneficiaries, I
  24. believe.
  25. THE COURT: No, it's waivers of

00026

* + 1. accountings.
    2. MR. MANCERI: Right, by the beneficiaries.
    3. THE COURT: Discharge waiver of service of
    4. discharge by Simon, Simon asked that he not
    5. have to serve the petition for discharge.
    6. MR. MANCERI: Right, that was in his
    7. petition. When was the petition served?
    8. THE COURT: November 21st.
    9. MR. SPALLINA: Yeah, it was after his date
    10. of death.
    11. THE COURT: Well, how could that happen
    12. legally? How could Simon ‐‐
    13. MR. MANCERI: Who signed that?
    14. THE COURT: ‐‐ ask to close and not serve
    15. a petition after he's dead?
    16. MR. MANCERI: Your Honor, what happened
    17. was is the documents were submitted with the
    18. waivers originally, and this goes to
    19. Mr. Bernstein's fraud allegation. As you know,
    20. your Honor, you have a rule that you have to
    21. have your waivers notarized. And the original
    22. waivers that were submitted were not notarized,
    23. so they were kicked back by the clerk. They
    24. were then notarized by a staff person from
    25. Tescher and Spallina admittedly in error. They

00027

1. should not have been notarized in the absentia
2. of the people who purportedly signed them. And
3. I'll give you the names of the other siblings,
4. that would be Pamela, Lisa, Jill, and Ted
5. Bernstein.
6. THE COURT: So let me tell you because I'm
7. going to stop all of you folks because I think
8. you need to be read your Miranda warnings.
9. MR. MANCERI: I need to be read my Miranda
10. warnings?
11. THE COURT: Everyone of you might have to
12. be.
13. MR. MANCERI: Okay.
14. THE COURT: Because I'm looking at a
15. formal document filed here April 9, 2012,
16. signed by Simon Bernstein, a signature for him.
17. MR. MANCERI: April 9th, right.
18. THE COURT: April 9th, signed by him, and
19. notarized on that same date by Kimberly. It's
20. a waiver and it's not filed with The Court
21. until November 19th, so the filing of it, and
22. it says to The Court on November 19th, the
23. undersigned, Simon Bernstein, does this, this,
24. and this. Signed and notarized on April 9,
25. 2012. The notary said that she witnessed Simon

00028

1. sign it then, and then for some reason it's not
2. filed with The Court until after his date of
3. death with no notice that he was dead at the
4. time that this was filed.
5. MR. MANCERI: Okay.
6. THE COURT: All right, so stop, that's
7. enough to give you Miranda warnings. Not you
8. personally ‐‐
9. MR. MANCERI: Okay.
10. THE COURT: Are you involved? Just tell
11. me yes or no.
12. MR. SPALLINA: I'm sorry?
13. THE COURT: Are you involved in the
14. transaction?
15. MR. SPALLINA: I was involved as the
16. lawyer for the estate, yes. It did not come to
17. my attention until Kimberly Moran came to me
18. after she received a letter from the Governor's
19. Office stating that they were investigating
20. some fraudulent signatures on some waivers that
21. were signed in connection with the closing of
22. the estate.
23. THE COURT: What about the fact, counsel,
24. let me see who signed this. Okay, they're all
25. the same as to ‐‐ so let me ask this, I have a

00029

1. document where Eliot, you're Eliot, right?
2. MR. ELIOT BERNSTEIN: Yes, sir.
3. THE COURT: Where you purportedly waived
4. accounting, agreed to a petition to discharge
5. on May 15th, and you signed that. Do you
6. remember doing that? Do you remember that or
7. not? I'm looking at it.
8. MR. ELIOT BERNSTEIN: I remember signing
9. it and sending it with a disclaimer that I was
10. signing it because my father was under duress
11. and only to relieve this stress that he was
12. being ‐‐
13. THE COURT: Well, I don't care ‐‐ I'm not
14. asking you why you signed it.
15. MR. ELIOT BERNSTEIN: I also signed it
16. with the expressed ‐‐ when I signed it I was
17. coned by Mr. Spallina that he was going to send
18. me all the documents of the estate to review.
19. I would have never lied on this form when I
20. signed it. It's saying that I saw and I never
21. saw ‐‐
22. THE COURT: Let me ask you ‐‐
23. MR. ELIOT BERNSTEIN: I lied.
24. THE COURT: Did you have your signature
25. notarized?

00030

* 1. MR. ELIOT BERNSTEIN: No.
  2. THE COURT: Kimberly Moran never signed or
  3. notarized his signature?
  4. MR. MANCERI: Yes, your Honor, and that's
  5. been addressed with the Governor's office.
  6. THE COURT: You need to address this with
  7. me.
  8. MR. MANCERI: I am going to address it
  9. with you.
  10. THE COURT: Here's what I don't understand
  11. because this is part of the problem here, is
  12. that Shirley has an estate that's being
  13. administered by Simon.
  14. MR. MANCERI: Correct.
  15. THE COURT: There comes a time where they

In Re\_ The Estate of Shirley Bernstein.txt

* 1. think it's time to close out the estate.
  2. MR. MANCERI: Correct.
  3. THE COURT: Waivers are sent out, that's
  4. kind of SOP, and people sign off on that.
  5. MR. MANCERI: Right.
  6. THE COURT: And why are they held up for
  7. six months, and when they're filed it's after
  8. Simon is already deceased?
  9. MR. MANCERI: They were originally filed
  10. away, your Honor, under the signature of the

00031

1. people.
2. THE COURT: No, they weren't filed, that's
3. the whole thing. I'm looking at the file date,
4. filed with The Court.
5. MR. MANCERI: No, they were returned by
6. the clerk because they didn't have
7. notarization. We have affidavits from all
8. those people, Judge.
9. THE COURT: Well you may have that they
10. got sent up here.
11. MR. MANCERI: We have affidavits from all
12. of those people.
13. MR. ELIOT BERNSTEIN: Including Simon?
14. THE COURT: Slow down. You know how we
15. know something is filed? We see a stamp.
16. MR. MANCERI: It's on the docket sheet, I
17. understand.
18. THE COURT: So it's stamped in as filed in
19. November. The clerk doesn't have ‐‐ now, they
20. may have rejected it because it wasn't
21. notarized, and that's perhaps what happened,
22. but if in the meantime waiting cured the
23. deficiency of the document, two things happen
24. you're telling me, one, Simon dies.
25. MR. MANCERI: Correct.

00032

1. THE COURT: And when those documents are
2. filed with the clerk eventually in November
3. they're filed and one of the documents says, I,
4. Simon, in the present.
5. MR. MANCERI: Of Ms. Moran.
6. THE COURT: No, not physically present, I
7. Simon, I would read this in November Simon
8. saying I waive ‐‐ I ask that I not have to have
9. an accounting and I want to discharge, that
10. request is being made in November.
11. MR. MANCERI: Okay.
12. THE COURT: He's dead.
13. MR. MANCERI: I agree, your Honor.
14. THE COURT: Who filed that document?
15. MR. MANCERI: Robert, do you know who
16. filed that document in your office?
17. MR. SPALLINA: I would assume Kimberly
18. did.
19. MR. MANCERI: Ms. Moran.
20. THE COURT: Who is she?
21. MR. MANCERI: She's a staff person at
22. Tescher and Spallina.
23. THE COURT: When she filed these, and one
24. would think when she filed these the person who
25. purports to be the requesting party is at least

00033

1. alive.
2. MR. MANCERI: Understood, Judge.
3. THE COURT: Not alive. So, well ‐‐ we're
4. going to come back to the notary problem in a
5. second.
6. MR. MANCERI: Okay.
7. THE COURT: In the meantime, based upon
8. all that I discharge the estate, it's closed.
9. Here's what I don't understand on your
10. side, you're representing yourself, but the
11. rules still apply. You then file, Eliot
12. Bernstein, emergency petitions in this closed
13. estate, it's closed.
14. MR. ELIOT BERNSTEIN: You reopened it.
15. THE COURT: When did I reopen it?
16. MR. MANCERI: No, it hasn't been reopened,
17. your Honor.
18. THE COURT: There's an order that I
19. entered in May of 2013 denying an emergency
20. petition to freeze assets. You filed this one
21. in May. Do you remember doing that?
22. MR. ELIOT BERNSTEIN: I believe so.
23. THE COURT: And what you said was there's
24. an emergency in May, you want to freeze the
25. estate assets appointing you PR, investigate

00034

1. the fraud documents, and do a whole host of
2. other things, and the estate had been closed.
3. The reason why it was denied among other
4. things, one, it may not have been an emergency,
5. but, two, the case was not reopened. There's
6. no reopen order.
7. MR. ELIOT BERNSTEIN: I paid $50 to
8. someone.
9. THE COURT: You may have paid to file what
10. you filed, but there's no order reopening the
11. estate.
12. MR. ELIOT BERNSTEIN: Okay, that's my
13. mistake.
14. THE COURT: It's closed, the PR is
15. discharged, they all went home.
16. MR. ELIOT BERNSTEIN: And I filed to
17. reopen because we discovered the fraudulent
18. documents.
19. THE COURT: But then you still had to ask
20. to reopen ‐‐
21. MR. ELIOT BERNSTEIN: And notice, your
22. Honor, that they haven't come to you in all of
23. that time, he said he just got notified from
24. the governor the other day about this fraud, I
25. put it in your court and served him months ago

00035

1. and he never came to me or you or anybody else
2. to know that the police are calling him, the
3. sheriff and the governor's Office.
4. THE COURT: Then you filed another
5. emergency similarly, served you folks, Tescher
6. and Spallina. I denied it because it wasn't an
7. emergency because nothing was happening I
8. thought had to happen on the day or two after.
9. MR. ELIOT BERNSTEIN: Well, now that I
10. understand emergency ‐‐
11. THE COURT: The estate wasn't open and it
12. really wasn't an emergency at the time. And
13. then you filed a motion in the ordinary course
14. to have things heard, and a motion to ‐‐ bunch
15. of other motions, to remove PR.
16. MR. ELIOT BERNSTEIN: Well, with each
17. successive crime we found ‐‐ by the way, that's
18. kind of why this is an emergency because with
19. the use of these fraudulent documents a bunch
20. of other crimes are taking place.
21. THE COURT: Okay. Representing yourself
22. is probably not the easiest thing.
23. MR. ELIOT BERNSTEIN: I had counsel, your
24. Honor, but Mr. Spallina abused her so much and
25. she ran up a $10,000 bill.

00036

* 1. THE COURT: Doesn't help me.
  2. MR. ELIOT BERNSTEIN: Doesn't help you,
  3. okay.
  4. THE COURT: Then in August you started
  5. again, September you started again, and at
  6. least I set the hearing because it's kind of
  7. hard when I read your allegations I couldn't
  8. figure it out. Now I think, okay ‐‐ so now let
  9. me ask you this, counsel.
  10. MR. MANCERI: Yes, sir.
  11. THE COURT: So the pleadings get filed,
  12. the estate gets closed.
  13. MR. MANCERI: Correct.
  14. THE COURT: Simon dies. So what happened
  15. with Shirley's estate?
  16. MR. MANCERI: Shirley's estate is closed,
  17. as you said.
  18. THE COURT: I know the administration is
  19. closed. What happened with her estate? Where
  20. did that go? Did she have a will?
  21. MR. MANCERI: Her assets went into trusts,
  22. and her husband had a power of appointment
  23. which he exercised in favor of Mr. Bernstein's
  24. children.
  25. THE COURT: Okay.

00037

1. MR. MANCERI: And that leads to the trust
2. that he mentioned at Oppenheimer which he
3. mislead The Court as to what's happening with
4. that.
5. THE COURT: Let me slow you down.
6. MR. MANCERI: Okay.
7. THE COURT: So her estate assets went into
8. a trust?
9. MR. MANCERI: Correct.
10. THE COURT: And that trust is ‐‐
11. MR. MANCERI: And Ted Bernstein, I
12. believe, is the trustee of that trust.
13. THE COURT: And you're brothers?
14. MR. THEODORE BERNSTEIN: That's correct.
15. THE COURT: All right. So then ‐‐ so
16. Simon really wasn't alive long when he died as
17. trustee?
18. MR. MANCERI: Not terribly long. Page 21
19. THE COURT: All right. So he was a
20. trustee. Was she a trustee as well?
21. MR. MANCERI: He died, your Honor. Again
22. she died December 10, 2010. He died September 23 of 2012.
23. THE COURT: Right, but was he a trustee
24. also of Shirley's trust?

00038

* 1. MR. MANCERI: Yes.
  2. THE COURT: So she dies, the estate is
  3. closed, her assets are in a trust. Simon then
  4. dies. What happened with his estate? Judge
  5. French is hearing it, but tell me what
  6. happened.
  7. MR. MANCERI: My understanding is that
  8. money went into a trust for the grandchildren.
  9. THE COURT: Grandchildren of Eliot?
  10. MR. MANCERI: Well there's actually ten of
  11. them, ten grandchildren, which he has three.
  12. THE COURT: So the beneficiary level for
  13. Simon was he skipped over his children and gave
  14. everything to the grandchildren?
  15. MR. MANCERI: That's correct.
  16. MR. ELIOT BERNSTEIN: No.
  17. THE COURT: That's not what happened with
  18. your father's estate?
  19. MR. ELIOT BERNSTEIN: No.
  20. THE COURT: That's not what the rule says
  21. to do?
  22. MR. ELIOT BERNSTEIN: No.
  23. THE COURT: What does the rule say to do?
  24. MR. ELIOT BERNSTEIN: The rule is not
  25. properly notarized. He didn't appear ‐‐

00039

* + 1. THE COURT: What did the will say that The
    2. Court used?
    3. MR. ELIOT BERNSTEIN: The Court filed a
    4. will and amended trust, both improperly
    5. notarized.
    6. THE COURT: You didn't answer my question,
    7. so stop speaking.
    8. MR. ELIOT BERNSTEIN: Okay.
    9. THE COURT: If you don't answer me you
    10. give up your right to participate. Stop, don't
    11. speak, all right, because you waived your right
    12. because you refused to answer my question,
    13. okay. So I'll let you answer it.
    14. MR. MANCERI: If I can, your Honor.
    15. THE COURT: Go ahead.
    16. MR. MANCERI: The ten grandchildren shares
    17. ‐‐ and I want to be clear on this, this
    18. gentleman is only a tangible personal property
    19. beneficiary. He and his own proper person.
    20. And the mother. That's all he's entitled to.
    21. No cash request, nothing directly to him,
    22. because of his financial problems among other
    23. issues.
    24. THE COURT: Okay.
    25. MR. MANCERI: He has been asked to

00040

* + - 1. establish accounts for the benefit of his
      2. children and he refused to do it.
      3. THE COURT: I'm not interested in that,
      4. here's what I'm interested in.
      5. MR. MANCERI: All right.
      6. THE COURT: So before this latest realm of
      7. pleadings were filed, both parents are
      8. deceased?
      9. MR. MANCERI: Yes.
      10. THE COURT: They both have trusts?
      11. MR. MANCERI: Right.
      12. THE COURT: Simon's trusts are for the
      13. benefit of the grandchildren?
      14. MR. MANCERI: Correct.
      15. THE COURT: And Shirley's trust is for the
      16. benefit of who?
      17. MR. MANCERI: The grandchildren now
      18. because Simon died.
      19. THE COURT: So children‐level, Eliot, Ted
      20. were skipped over as beneficiaries?
      21. MR. MANCERI: That's correct, your Honor.
      22. THE COURT: Now, tell me the best you can
      23. the way Eliot described that there was some
      24. deal that had been in effect with Shirley and
      25. Simon while they were alive that kept on going

00041

1. after Shirley died to help support his
2. children.
3. MR. MANCERI: That I can't comment on
4. personally, your Honor, because I never met
5. either one of them.
6. THE COURT: Do you know anything about
7. that?
8. MR. MANCERI: He was the draftsman. His
9. firm was the draftsman.
10. THE COURT: So did Shirley and ‐‐
11. MR. ELIOT BERNSTEIN: They didn't draft ‐‐
12. THE COURT: Stop. Next time you speak out
13. of turn you will be held in contempt of court.
14. MR. ELIOT BERNSTEIN: Sorry.
15. THE COURT: Why get yourself in trouble?
16. You're being rude.
17. MR. ELIOT BERNSTEIN: Sorry.
18. THE COURT: So is it true that when they
19. were alive they were helping to support Eliot's
20. family?
21. MR. SPALLINA: To the best of my
22. knowledge, yes, sir.
23. THE COURT: So after Shirley died, did
24. that continue?
25. MR. SPALLINA: Yes, I assume so, that Si

00042

* 1. was paying bills.
  2. THE COURT: And when he died in September
  3. of last year, what happened, if anything?
  4. MR. SPALLINA: There was an account that
  5. we set up in the name of Bernstein Family
  6. Reality. That was owned by three old trusts
  7. not that we created, but were created by
  8. Mr. Bernstein in 2006 that owned the house that
  9. the family lives in, so there was an LLC that
  10. was set up, Bernstein Family Realty, LLC,
  11. there's the three children's trust that own the
  12. membership interest in that, and there was a
  13. bank account at Legacy Bank that had a small
  14. amount of money that Si's assistant Rachel had
  15. been paying the bills out of on behalf of the
  16. trusts.
  17. When Mr. Bernstein died, Oppenheimer, as
  18. trustee of the three trusts and in control of
  19. the operations of that entity, assigned
  20. themselves as manager, had the account moved
  21. from Legacy to Oppenheimer, and continued to
  22. pay the bills they could with the small amount
  23. of money that was in the Legacy account.
  24. At this time, the Legacy account was
  25. terminated because there were no funds left,

00043

1. they started using the funds inside the three
2. trusts at Oppenheimer to pay for health,
3. education, maintenance and support ‐‐
4. THE COURT: Of the grandchildren?
5. MR. SPALLINA: Of the grandchildren. And
6. it was probably at the time that Mr. Bernstein
7. died about $80,000 in each of those trusts last
8. September.
9. THE COURT: Okay, so then what happened?
10. MR. SPALLINA: So over the course of the
11. last year ‐‐ the kids go to private school,
12. that's an expensive bill that they pay, think
13. it's approximately $65,000. There were other
14. expenses throughout the year. The trust assets
15. as of this week I spoke to Janet Craig, have
16. depleted down collectively across the three
17. trusts for about $25,000.
18. THE COURT: Total left?
19. MR. SPALLINA: Total left in the three
20. trusts.
21. THE COURT: Any other trusts?
22. MR. SPALLINA: Again, this is not part of
23. the estate right now, so let's leave the estate
24. of Shirley and Si completely separate. Just
25. trying to get to the issue that Mr. Bernstein

00044

1. spoke about first.
2. THE COURT: Right.
3. MR. ELIOT BERNSTEIN: Oppenheimer called
4. me and said that the trusts are coming to the
5. end of their useful life, it doesn't pay to
6. administer them anymore. They're going to make
7. final distribution to Mr. Bernstein and his
8. wife as the guardians of their children.
9. They sent out standard waivers and
10. releases for him to sign in exchange for the
11. remaining money that was there. There was a
12. disagreement that ensued and I have the e‐mail
13. correspondence between Eliot and Janet Craig at
14. Oppenheimer that this is extortion and that
15. Mr. Spallina and you have devised a plan not to
16. give us the rest of the money. That's not the
17. case at all. In fact, we told them to
18. distribute the rest of the money, there's been
19. $12,000 in bills submitted to them that they
20. are either paying today or on Monday, and the
21. $14,000 or some‐odd dollars that would be left
22. are in securities that they have to liquidate,
23. supposedly they would have good funds today,
24. but there was some threats of litigation and so
25. they said that it might be prudent to hold onto

00045

1. this. There's also some expenses outstanding
2. on accounting fees and tax preparation fees.
3. THE COURT: Let me ask you this, what's
4. the other part of the estate planning that
5. Shirley or Simon had, another trust?
6. MR. SPALLINA: Both of their estates say
7. that at the death of the second of us to die,
8. pursuant to Si's exercise over his wife's
9. assets, that all of those assets would go down
10. to ten grandchildren's trust created under
11. their dockets.
12. Mr. Bernstein was on a call while his
13. father was alive with his other four siblings
14. where he had called me and said, Robert, I
15. think we need to do a phone call with my
16. children to explain to them that I'm going to
17. give this to the ten grandchildren.
18. THE COURT: And that happened?
19. MR. SPALLINA: And that happened.
20. THE COURT: So right now the status,
21. there's a trust that deals with that, or more
22. than one trust.
23. MR. SPALLINA: There's both Si's estates
24. and Shirley's estates basically say after and
25. again there is some litigation.

00046

1 THE COURT: And that's different than this 2 $14,000 ‐‐

1. MR. SPALLINA: Yeah, those are three
2. trusts that were just designed to hold.
3. THE COURT: Who's administering those
4. trusts?
5. MR. SPALLINA: Those trusts, Ted Bernstein
6. is the trustee of his mother's trust and holds
7. three assets.
8. THE COURT: Who is the trustee of the
9. father's trust?
10. MR. SPALLINA: Don Tescher and myself.
11. THE COURT: And what are those trusts
12. doing with trust assets?
13. MR. SPALLINA: On the estate side there

In Re\_ The Estate of Shirley Bernstein.txt

1. was a claim filed by a former employee of
2. Mr. Bernstein for $2.5 million‐plus, so there's
3. litigation that's been pending in the estate
4. now for basically since this date, and those
5. funds are just sitting in a partnership account
6. at JP Morgan with no distributions that have
7. been made at all.
8. THE COURT: So what's the total corpus of
9. the what I'll call the ten grandchildren's
10. trust of both grandparents?

00047

* 1. MR. SPALLINA: Not taking into account the
  2. litigation?
  3. THE COURT: Well, no, you haven't paid
  4. anything out yet.
  5. MR. SPALLINA: I would say it's
  6. approximately $4 million.
  7. THE COURT: So there's litigation going on
  8. in Simon's ‐‐
  9. MR. SPALLINA: Estate.
  10. THE COURT: And at some point when that
  11. claim is resolved the trust will then be
  12. administered by your firm and...
  13. MR. SPALLINA: No, that's not the case.
  14. Each of the adult children for their own
  15. children are designated to serve as trustee of
  16. their children's trust.
  17. THE COURT: So a distribution takes place
  18. then once the money gets to the trust age?
  19. MR. SPALLINA: Correct, and today again
  20. the Shirley Bernstein trust does have liquid
  21. assets in it. There was two properties, real
  22. estate properties, the residential home and a
  23. condo on the beach. The condo on the beach
  24. sold back in April or May. There were funds
  25. that came into the account at that time. Ted

00048

1. was going to make partial distribution. He
2. sent out an e‐mail with tax I.D. numbers and
3. the naming of the trust to the five children
4. for the purposes of them opening up the
5. accounts.
6. THE COURT: Okay, what happened?
7. MR. SPALLINA: Seven of ten accounts were
8. opened and were actually funded this week with 9 $80,000.
9. THE COURT: Total or each?
10. MR. SPALLINA: Each.
11. THE COURT: Three of Eliot's ‐‐
12. MR. SPALLINA: Are not open. And we've
13. asked multiple ‐‐
14. THE COURT: And he executed documents to
15. open $240,000 immediately or very quickly go
16. into those accounts?
17. MR. SPALLINA: Yes, sir.
18. THE COURT: Go ahead.
19. MR. SPALLINA: Now, there was a question
20. from our client as trustee of his mother's
21. trust because he has apprehension as do the
22. other siblings as to whether or not
23. Mr. Bernstein is the proper trustee for that
24. trust.

00049

* 1. THE COURT: Okay, all right.
  2. MR. SPALLINA: We had discussions about
  3. possibly making emergency distributions to pay
  4. the expenses, but not necessarily ‐‐
  5. THE COURT: Not giving the money directly
  6. to him.
  7. MR. SPALLINA: Not necessarily put in all
  8. $80,000 in all three of those trusts.
  9. THE COURT: Does the trust pay expenses
  10. directly or give money to the parent who pays
  11. the expenses? Do you pay the electric bill or
  12. do you give money to Eliot to pay the electric
  13. bill?
  14. MR. SPALLINA: Today?
  15. THE COURT: Now, how does that work with
  16. the others kids?
  17. MR. SPALLINA: They were just funded, but
  18. normally the trustee of the trust would pay for
  19. expenses on behalf of the beneficiary if
  20. they're minor children. Some of the children
  21. here are adults. So to the extent they're
  22. adults they would make distribution.
  23. THE COURT: So what's the resolution of
  24. the notary problem? Has that been resolved?
  25. MR. SPALLINA: I can speak to it.

00050

1. MR. MANCERI: Please, Robert, go ahead.
2. The Judge is addressing you, be my guest.
3. MR. SPALLINA: In April of last year we
4. met with Mr. Bernstein in April of 2012 to
5. close his wife's estate.
6. THE COURT: No, I know that part.
7. MR. SPALLINA: Okay.
8. THE COURT: I mean everyone can see he
9. signed these not notarized. When they were
10. sent back to be notarized, the notary notarized
11. them without him re‐signing it, is that what
12. happened?
13. MR. SPALLINA: Yes, sir.
14. THE COURT: So whatever issues arose with
15. that, where are they today?
16. MR. SPALLINA: Today we have a signed
17. affidavit from each of the children other than
18. Mr. Bernstein that the original documents that
19. were filed with The Court were in fact their
20. original signatures which you have in the file
21. attached as Exhibit A was the original document
22. that was signed by them.
23. THE COURT: It was wrong for Moran to
24. notarize ‐‐ so whatever Moran did, the
25. documents that she notarized, everyone but

00051

1. Eliot's side of the case have admitted that
2. those are still the original signatures of
3. either themselves or their father?
4. MR. SPALLINA: Yes, sir.
5. THE COURT: I got it.
6. MR. MANCERI: And we can file those
7. affidavits, Judge, at any time.
8. THE COURT: So now I'm trying to deal with
9. the oral argument for today.
10. So I only have in front of me Shirley's
11. estate. Shirley's estate is closed.
12. MR. MANCERI: Your Honor, could I bring
13. you up to speed on one thing maybe you're not
14. seeing on your docket.
15. THE COURT: Yes.
16. MR. MANCERI: We actually filed a motion
17. to actually reopen the estate when we learned
18. about the deficiency in the affidavit issue.
19. THE COURT: Okay.
20. MR. MANCERI: And that was signed
21. August 28th of this year. Do you have a copy
22. of that, Judge, can I approach?
23. THE COURT: Hold on, it should be here,
24. but let's see. Because I have an August 28th
25. file, I have that.

00052

* 1. MR. MANCERI: You have that.
  2. THE COURT: Motion to reopen the estate.
  3. MR. MANCERI: Right, your Honor. We set
  4. it for an evidentiary hearing.
  5. THE COURT: When is it set?
  6. MR. MANCERI: It's set for October 28th,
  7. your Honor, for an hour at 11:00 a.m.
  8. THE COURT: I'm going to decide on
  9. Shirley's case whether to open it and how to
  10. deal with whatever issues pertain to this, but,
  11. Eliot, on your side you have an emergency
  12. motion to freeze assets of the estate, so I
  13. would say to you with a closed estate where the
  14. PR, Simon, has been already discharged, and a
  15. petition for discharge approved, what assets
  16. are there in a closed estate where the estate
  17. assets have already been distributed that I can
  18. now in your motion freeze?
  19. MR. ELIOT BERNSTEIN: The petition ‐‐
  20. THE COURT: Listen to my question. It's
  21. artful. What assets now that the estate's been
  22. closed, that the estate's been fully
  23. administered, and the estate has been
  24. discharged, can I freeze that I could identify
  25. still belong to Shirley's estate?

00053

* + 1. MR. ELIOT BERNSTEIN: I can't tell you
    2. because I never got a document regarding the
    3. assets.
    4. THE COURT: But when you say it's an
    5. emergency hearing ‐‐
    6. MR. ELIOT BERNSTEIN: But I was supposed
    7. to get those documents, correct?
    8. THE COURT: Well, I don't know what
    9. documents ‐‐
    10. MR. ELIOT BERNSTEIN: I was a beneficiary,
    11. unlike they said, me, my brother was cut out of
    12. my mother's estate and my older sister.
    13. THE COURT: They said you were a
    14. beneficiary of personal property.
    15. MR. ELIOT BERNSTEIN: No, I was the third
    16. beneficiary to the entire estate.
    17. THE COURT: All right, I don't know.
    18. MR. SPALLINA: At one point he was. Page 30
    19. MR. MANCERI: Early on, your Honor.
    20. THE COURT: But on the will that was
    21. probated?
    22. MR. MANCERI: No.
    23. THE COURT: Okay, so maybe you don't know
    24. then, your mother changed her will, they say.
    25. MR. ELIOT BERNSTEIN: Did my mother change

00054

* + - 1. her will?
      2. MR. SPALLINA: You know that your father
      3. did.
      4. MR. ELIOT BERNSTEIN: No, he asked if my
      5. mother did.
      6. MR. SPALLINA: Oh, yes.
      7. THE COURT: Okay, all right ‐‐
      8. MR. ELIOT BERNSTEIN: After she was dead
      9. using alleged ‐‐
      10. THE COURT: Not after she was dead.
      11. MR. ELIOT BERNSTEIN: No, your Honor, my
      12. father went back into my mother's estate and
      13. made changes after we believe he was dead using
      14. documents that are signed forged, by the way
      15. those documents you're looking at ‐‐
      16. THE COURT: Here's the thing.
      17. MR. ELIOT BERNSTEIN: Yes.
      18. THE COURT: You want me to freeze assets
      19. of an estate that's already been fully
      20. probated. I can't freeze something that
      21. doesn't exist.
      22. MR. ELIOT BERNSTEIN: Can you reopen it
      23. because it was closed on fraudulent documents?
      24. THE COURT: They asked for the estate to
      25. be reopened. They want to have a hearing on

00055

1. that.
2. MR. ELIOT BERNSTEIN: Okay.
3. THE COURT: Do you have responses to your
4. motion?
5. MR. MANCERI: Mr. Spallina filed it, but I
6. don't believe so yet, your Honor.
7. THE COURT: So we know one person wants to
8. reopen it, Eliot, correct? Who did you notice
9. of that motion?
10. MR. MANCERI: This motion was served on
11. Ted Bernstein, Pamela ‐‐
12. THE COURT: Ted, do you want the estate
13. reopened, Shirley's estate reopened?
14. MR. THEODORE BERNSTEIN: I think you're
15. asking me a legal question, your Honor.
16. THE COURT: Does anyone represent you?
17. MR. MANCERI: Not at the moment, your
18. Honor. I may depending on how far this goes.
19. THE COURT: All right, well, what I'm
20. getting at is, is anyone opposing the reopening
21. of the estate?
22. MR. MANCERI: No, your Honor. We want to
23. open it to cure what his allegation is.
24. THE COURT: First step, one, is reopen.
25. MR. MANCERI: Correct.

00056

1. THE COURT: So why do we have to wait
2. until the end of October to reopen the estate
3. when we could do that in mid‐September?
4. MR. MANCERI: No reason, your Honor.
5. THE COURT: Any reason why we need to
6. wait?
7. MR. ELIOT BERNSTEIN: No.
8. THE COURT: All right, so...
9. MR. MANCERI: You haven't heard any
10. objections to this from anybody else, have you
11. Robert?
12. MR. SPALLINA: No.
13. THE COURT: All right, so get me up an
14. agreed order that I could open up the estate.
15. MR. MANCERI: Okay, you'll take care of
16. that, Robert?
17. MR. SPALLINA: Uh‐Huh.
18. MR. MANCERI: We'll take the October
19. hearing off your docket.
20. THE COURT: You don't need an evidentiary
21. hearing to prove it, I'm going to do it, and
22. under these circumstances that makes sense.
23. Okay, so I'm going to have it reopen the
24. estate. So now the question is ‐‐
25. MR. MANCERI: Your Honor, just so I'm

00057

* 1. clear.
  2. THE COURT: Yes, Shirley's estate.
  3. MR. MANCERI: The reason we asked to
  4. reopen it is to cure or address this alleged
  5. fraud.
  6. THE COURT: But all I'm physically doing
  7. is saying, Rich, reopen.
  8. MR. MANCERI: Agreed. I just wanted to be
  9. clear.
  10. THE COURT: I don't want you to get rid of
  11. the hearing.
  12. MR. MANCERI: Oh, you don't, okay.
  13. THE COURT: So at the hearing whatever it
  14. is in relief that you want now that the estate
  15. is open, I'll hear that.
  16. MR. MANCERI: Okay.
  17. THE COURT: And, Mr. Bernstein, whatever
  18. you want relief‐wise to happen with respect to
  19. Shirley's estate, not Shirley's trust, but
  20. Shirley's estate, you could have a hearing on
  21. that. I'll combine everyone who has an
  22. interest in getting some relief.
  23. MR. MANCERI: Only thing I was going to
  24. say, your Honor, after this was noticed I got
  25. into this matter. I have a conflict on the

00058

1. 28th at that hour. If we could move it to the
2. afternoon I'd appreciate it.
3. THE COURT: I'll get my book and see.
4. Maybe I can, I don't know.
5. MR. MANCERI: That's my only issue on the 6 28th.
6. THE COURT: I don't know, I'll look.
7. So let me try to make some progress, all
8. right.
9. So today is whether in Shirley's estate
10. there's an emergency, here is my order, no.
11. Okay?
12. MR. MANCERI: Okay.
13. THE COURT: Next, whether ‐‐ what type of
14. evidentiary hearing, if any, needs to be held.
15. For Shirley's estate purposes I guess I have to
16. figure out the following: It appears that
17. there could be some problem in the documents
18. that took place to lead Shirley's estate to be
19. closed and distributed as it took place, okay
20. because ‐‐
21. MR. MANCERI: Right.
22. THE COURT: It took place pursuant to
23. documents that may have been improperly
24. notarized. Now. That doesn't mean that

00059

In Re\_ The Estate of Shirley Bernstein.txt

1. anything happened, it just means the documents
2. may have a taint to them themselves.
3. MR. MANCERI: Right.
4. THE COURT: But I'll take a look at it and
5. see whether there's anything that has to happen
6. differently than what already happened with
7. respect to that.
8. MR. MANCERI: Judge, in furtherance in
9. making that determination, would you like us to
10. submit these to you?
11. THE COURT: What are those?
12. MR. MANCERI: These are the original
13. affidavits. I haven't made copies.
14. THE COURT: File them.
15. MR. MANCERI: Just file them, okay. Very
16. good, we'll file them and serve them.
17. THE COURT: Mr. Bernstein, I want you to
18. understand something. Let's say you prove what
19. seems perhaps to be easy, that Moran notarized
20. your signature, your father's signature, other
21. people's signatures after you signed it, and
22. you signed it without the notary there and they
23. signed it afterwards. That may be a wrongdoing
24. on her part as far as her notary republic
25. ability, but the question is, unless someone

00060

1. claims and proves forgery, okay, forgery,
2. proves forgery, the document will purport to be
3. the document of the person who signs it, and
4. then the question is, will something different
5. happen in Shirley's estate then what was
6. originally intended? Originally intended they
7. say, the other side, was for Simon to close out
8. the estate. The estate they say was small.
9. The estate gave everything to the trust and
10. that's what it did, and that was the end of the
11. estate.
12. Remember, this is not everything about
13. your parents and their estate planning. This
14. is one small component, Shirley's estate alone,
15. not her trust, and nothing to do with what
16. happened with Simon, okay, because that's not
17. before me. Simon's case is before Judge
18. French.
19. Having said that, one of the other reasons
20. why I have to consider whether your matter is
21. an emergency, even if there was something that

In Re\_ The Estate of Shirley Bernstein.txt

1. I could enter an order on or have a hearing on
2. immediately that could free up money from
3. Shirley that you personally would be entitled
4. to, you tell me you don't even know that you

00061

1. were not a beneficiary of the estate, so
2. certainly you're not doing your groundwork to
3. tell me if it's an emergency or not because it
4. could be an emergency if you were a beneficiary
5. of her will that was probated, but you don't
6. even know one way or the other. So you could
7. be a stranger to the estate. She may have
8. disinherited you from the estate. She may have
9. chosen to only give you personal property. So
10. if you're not entitled to anything, you don't
11. have an emergency. You're not entitled to
12. anything. Go ahead.
13. MR. ELIOT BERNSTEIN: I never was
14. noticed ‐‐
15. THE COURT: It doesn't matter.
16. MR. ELIOT BERNSTEIN: ‐‐ by the estate
17. planner when she died.
18. THE COURT: Okay.
19. MR. ELIOT BERNSTEIN: So he's supposed to
20. notify the beneficiaries.
21. THE COURT: Who?
22. MR. ELIOT BERNSTEIN: Mr. Spallina.
23. THE COURT: Of what?
24. MR. ELIOT BERNSTEIN: That there are
25. beneficiaries of the estate.

00062

* 1. THE COURT: But what if you weren't a
  2. beneficiary?
  3. MR. ELIOT BERNSTEIN: I was at that time.
  4. My dad doesn't change that until a
  5. year‐and‐a‐half later. Are you following?
  6. THE COURT: This may be about it, but
  7. you're interested in some financial relief. If
  8. you don't want to go out and get a laborer job
  9. today to feed your children that's your choice.
  10. MR. ELIOT BERNSTEIN: I didn't say that.
  11. THE COURT: I'm not in charge of feeding
  12. your children or paying your electric bills,
  13. you are. You have to do what a parent does to
  14. take care of their children. It doesn't sound
  15. like you're doing everything that you can, but

In Re\_ The Estate of Shirley Bernstein.txt

* 1. that's technically not before me.
  2. But in the meantime not knowing a whole
  3. lot about this case, it's my first time I'm
  4. really having this type of dialogue. I heard
  5. some voice that said there's cash to feed your
  6. children that could become readily in your
  7. pocket or in someone's pocket to pay bills that
  8. could help your children. I heard that. They
  9. say the stumbling block to your children
  10. getting the benefit of that money is you. I

00063

1. don't know whether that's true or not, but if
2. you want your children to imminently get money
3. and they have imminent money to give your
4. children, maybe you want to sit with Ted and
5. that other side and see if there's some money
6. that could come to your children.
7. MR. ELIOT BERNSTEIN: Excuse me.
8. THE COURT: Sure.
9. MR. ELIOT BERNSTEIN: That's like asking
10. me to participate in what I allege is a fraud.
11. THE COURT: No, it doesn't ‐‐
12. MR. ELIOT BERNSTEIN: Listen, if the money
13. comes to my children and it was supposed to
14. have gone to me, and these documents that are
15. all shady and unsigned wills with ‐‐
16. un‐notarized wills and trusts don't stand. The
17. money comes to me personally, Eliot Bernstein.
18. MR. MANCERI: Your Honor ‐‐
19. THE COURT: Let me just say this to you.
20. Maybe two, three years from now as a result of
21. the same trust litigation you'll be right, but
22. in the meantime according to you there's money
23. that could feed your children that you don't
24. want to touch because you think the money
25. should go to you instead of your children that

00064

1. they're willing to ‐‐
2. MR. ELIOT BERNSTEIN: Well, I think there
3. are other beneficiaries.
4. THE COURT: ‐‐ put in accounts to go for
5. the benefit of your children.
6. MR. ELIOT BERNSTEIN: I think there are
7. other beneficiaries that are also ‐‐
8. THE COURT: They signed off.
9. MR. ELIOT BERNSTEIN: No, just their
10. parents have. The children don't even know.
11. They're not even represented.
12. THE COURT: Well, the parents represent
13. the child.
14. MR. ELIOT BERNSTEIN: No, but they have
15. conflicting interests.
16. THE COURT: Well, you say that ‐‐
17. MR. ELIOT BERNSTEIN: Our attorney wrote a
18. subpoena and said it. I had to get two lawyers
19. because my attorney couldn't represent both
20. sides of this.
21. MR. MANCERI: I'm very concerned about
22. something Mr. Bernstein just told The Court.
23. He's the one objecting they're in conflict,
24. he's stating from what I'm piecing together
25. that he believes that his children are getting

00065

1. money that the parents really was supposed to
2. go to him personally. He's got the inherent
3. conflict with that mindset.
4. MR. ELIOT BERNSTEIN: I'm not saying I
5. don't.
6. THE COURT: Okay, here's the point, if
7. you're at a point where you're asking The Court
8. for an emergency because you can't feed
9. children, and there's someone around the corner
10. that's holding out a $20 bill and says you
11. could have it to feed your children, and you
12. go, you know, I'm not going to take that to
13. feed my children because I want to have a court
14. determine that it really was mine, then I don't
15. know that you're treating this as an emergency.
16. Emergencies mean you figure out a way of
17. getting the money to your children sooner than
18. later, and they say it's happening imminently,
19. cash that could pay bills for your children.
20. That's what they say. If it's an emergency and
21. your kids are starving, and you as the parent
22. say that might be my money and not my kids', so
23. I want to wait for two or three years and let
24. the money stay in a bank account until I could
25. figure it out, and not feed my children, I

00066

1. think you need to reflect upon some of your
2. decisions.
3. MR. MANCERI: Your Honor ‐‐
4. THE COURT: What?
5. MR. MANCERI: I'm not saying we're going
6. to do this, Judge, but this sounds like this
7. may need an ad litem for these kids.
8. THE COURT: Well, I don't know, let's not
9. add fuel to the fire.
10. MR. MANCERI: Because I'm troubled by what
11. he's saying.
12. THE COURT: All right, so ‐‐
13. MR. ELIOT BERNSTEIN: Here's why I have
14. not taken that money.
15. THE COURT: Why?
16. MR. ELIOT BERNSTEIN: Because if you told
17. me, your Honor, that you just murdered him, and
18. here's $20 from his pocket to feed your kids
19. from the crime ‐‐
20. THE COURT: If they were starving I would
21. take the $20.
22. MR. ELIOT BERNSTEIN: On that advice, I'll
23. take the money.
24. THE COURT: If they were starving ‐‐
25. MR. ELIOT BERNSTEIN: On that advice ‐‐

00067

1. THE COURT: Your kids are starving. I'm
2. not giving you advice.
3. MR. ELIOT BERNSTEIN: On that advice, I
4. will ‐‐
5. THE COURT: The $20 didn't murder anybody,
6. did it? Did the $20‐bill murder someone?
7. MR. ELIOT BERNSTEIN: It's stealing money
8. from people.
9. THE COURT: They're not ‐‐ this isn't
10. stolen money. This is your parents' money.
11. MR. ELIOT BERNSTEIN: If I take that money
12. and put it in my kids' accounts, it's actually
13. taking money from what we believe are the true
14. and proper beneficiaries ‐‐
15. THE COURT: Which is you.
16. MR. ELIOT BERNSTEIN: No, through ‐‐ one
17. of, through ‐‐
18. THE COURT: So meanwhile if your kids are
19. starving and you don't take the money, all I
20. could say to you, there's obviously ‐‐ if you
21. look at the documents I mean you're not going
22. to confess to killing Kennedy as part of
23. receiving the money, but if they want to give
24. you money for your children and you don't want
25. to take it because you think it's yours, and

00068

1. you want to wait years ‐‐
2. MR. ELIOT BERNSTEIN: That's not why I
3. want to dispute it.
4. THE COURT: You think that there's some ‐‐
5. MR. ELIOT BERNSTEIN: I think that it's
6. part of a fraud that forged documents were used 7 to ‐‐
7. THE COURT: But it's still your parents
8. money ‐‐
9. MR. ELIOT BERNSTEIN: ‐‐ convert estate
10. assets to the wrong beneficiary.
11. THE COURT: But they want to now get it to
12. you.
13. MR. ELIOT BERNSTEIN: No, not me.
14. THE COURT: To your children.
15. MR. ELIOT BERNSTEIN: Listen, I'll take
16. the money without explanation on it. I agree.
17. Listen, the only reason I didn't want to take
18. the money was so I wouldn't be part of a fraud.
19. THE COURT: You're not, obviously no one
20. is accusing you of fraud. If they give you
21. money to care for ‐‐
22. MR. ELIOT BERNSTEIN: But then I could
23. accuse them of fraud if I'm participating.
24. THE COURT: I mean all you're doing is

00069

* 1. signing a receipt. You don't know where the
  2. money came from. You're not signing off ‐‐
  3. you're not saying that you make a declaration
  4. that the money came from them, the other side
  5. to you in only legal means. You're just
  6. signing a receipt.
  7. MR. MANCERI: But he is signing off on
  8. that he's going to honor the terms of the
  9. trust. If he is signing off to that ‐‐
  10. THE COURT: If it comes to you as trustee
  11. for your children, you are ‐‐ you have a duty
  12. to only use it for the children, not yourself.
  13. Not you. You still have to work for you. Now,
  14. you don't have to work for your children,
  15. maybe. You still have to support yourself.
  16. MR. ELIOT BERNSTEIN: Yeah.
  17. THE COURT: The money has to get spent on
  18. your children if that's how you get it.

Page 39

* 1. MR. ELIOT BERNSTEIN: Right.
  2. THE COURT: That's all we're talking about
  3. is money to feed your children.
  4. MR. ELIOT BERNSTEIN: You see, if the
  5. money came to me, it's also for me and my wife
  6. and feeds our children.
  7. THE COURT: That's not what they said. It

00070

* + 1. does not go to support you and your wife.
    2. MR. ELIOT BERNSTEIN: If the money comes
    3. to me as a beneficiary, it does. If all these
    4. nonsense documents that are forged and ‐‐
    5. THE COURT: If they want to give it to you
    6. only under their condition this is because
    7. their version is it belongs to your children.
    8. MR. ELIOT BERNSTEIN: Right.
    9. THE COURT: Don't accept it, you don't get
    10. it. If you accept it, it goes to your
    11. children. You may not like that, but it only
    12. could be used for your children, because that's
    13. the deal that they make. You take that deal
    14. because you don't want your kids to starve.
    15. You may not like it, you want to be
    16. supported too, but they don't want to support
    17. you. They don't think it's your money, they
    18. think it's your children's money. So why turn
    19. that ‐‐ maybe you're entitled to it, but why
    20. turn down money that could help support your
    21. children in the meantime.
    22. MR. ELIOT BERNSTEIN: If your logic is
    23. correct, your Honor, I agree.
    24. THE COURT: Well, I don't know if my logic
    25. is correct.

00071

* + - 1. MR. ELIOT BERNSTEIN: Here's the legal
      2. problem ‐‐
      3. THE COURT: Stop, no, the hearing is over.
      4. I'm not giving more legal advice. Your hearing
      5. goes on, okay, see you.
      6. MR. MANCERI: Your Honor, any chance of
      7. resetting it?
      8. THE COURT: I'm going to ask my office to
      9. flip it around to the afternoon. I'll take
      10. care of that.
      11. MR. MANCERI: Thank you, your Honor.
      12. We'll submit an order to your Honor.
      13. THE COURT: Okay, clear it with him and
      14. see if you could actually get something that
      15. makes sense. It's really narrow.
      16. MR. MANCERI: It's very narrow. We've got
      17. the transcript, Judge.
      18. THE COURT: It's only really that there's
      19. no emergency here. Everything everyone raises
      20. on the 28th.
      21. MR. MANCERI: Very good, Judge. Do you
      22. think we can do it in an hour, Judge?
      23. THE COURT: We'll try.
      24. MR. MANCERI: Okay.
      25. MR. ELIOT BERNSTEIN: I'm sorry, your

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* + - * 1. Honor, for calling an emergency.
        2. THE COURT: All right. Just there's a lot
        3. of work when you call something an emergency.
        4. MR. ELIOT BERNSTEIN: I didn't understand
        5. what you go through.
        6. THE COURT: Okay, bye.
        7. MR. MANCERI: It's an evidentiary, Judge,
        8. we're going to call witnesses.
        9. THE COURT: Witnesses and evidence.
        10. MR. MANCERI: Very good. 11 ‐ ‐ ‐

12 (The proceeding was concluded at 2:15 p.m.) 13

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1 CERTIFICATE OF REPORTER 2

1. STATE OF FLORIDA )
2. COUNTY OF PALM BEACH ) 5

6 I, Jessica Thibault, a Court Reporter,

1. certify that I was authorized to and did
2. stenographically report the proceedings in the
3. above‐styled cause before the Honorable Martin H.
4. Colin, pages 1 through 72; and that the transcript
5. is a true record of my stenographic notes. 12
6. I further certify that I am not a
7. relative, employee, attorney, or counsel of any of
8. the parties, nor am I a relative or employee of any
9. of the parties' attorneys or counsel connected with
10. the action, nor am I financially interested in the
11. action. 19

20 Dated this 17th day of September, 2013. 21

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23 Jessica Thibault

Court Reporter

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