

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

IN RE: PROBATE DIVISION  
ESTATE OF SIMON L. BERNSTEIN CASE NO. 502012CP004391XXXXSB

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**CURATOR'S AMENDED PETITION FOR INSTRUCTIONS**  
**REGARDING KIA AUTOMOBILE**

COMES NOW, Curator, Benjamin P. Brown ("Curator"), by and through undersigned counsel, files this Amended Motion for Instructions Regarding Kia Automobile, and states as follows:

1. On February 25, 2014, this Court entered an Order on "Interested Person" William Stansbury's Motion For the Appointment of a Curator or Successor Personal Representative ("Order Appointing Curator"), appointing Benjamin P. Brown as Curator. On March 11, 2014, this court entered Letters of Curatorship in Favor of Benjamin Brown ("Letters of Curatorship").

2. The Letters of Curatorship authorize the Curator to collect and preserve assets of the Estate and to administer the Estate.

3. There is a dispute among the beneficiaries of the Estate regarding ownership of an automobile, more particularly described as a 2013 Kia Soul, bearing the VIN# KNDJT2A50D7497193 (the "Kia").

4. The Kia is the subject of Eliot Ivan Bernstein's (the decedent's son, hereinafter "Eliot"), Petition to Determine and Release Title of Exempt Property ("Petition to Determine Exempt Property"), which Eliot filed on October 10, 2013. Therein, Eliot alleges the Decedent, before his death, gifted the Kia to Eliot's son, Joshua Bernstein. A copy of the Petition to Determine Exempt Property is attached hereto as Exhibit A.

5. On October 24, 2013, the former Co-Personal Representatives filed a Motion to Strike the Petition to Determine Exempt Property, therein denying that the Decedent ever gifted the Kia to Eliot's son and alleging the Kia to be property of the Estate.

6. However, on December 21, 2013 the former Co-Personal Representatives filed the Estate's Amended Inventory and did not list the Kia as an asset of the Estate. A copy of the Amended Inventory is attached hereto as Exhibit B.

7. The Curator does not have possession of the Kia. Upon information and belief, the Kia is currently located at Eliot's residence. According to the website [www.kbb.com](http://www.kbb.com), a used base model 2013 Kia Soul in very good condition in a private party sale has a value of \$12,245.00. The print out from the website is attached hereto as Exhibit C.

8. Upon information and belief, the Kia is still titled in the name of the Decedent, is uninsured and is thus a potential liability to the Estate.

9. Accordingly, the Curator seeks an Order authorizing the Curator to either a) complete the gift of the Kia to Joshua Bernstein by transferring title to him; or b) to take possession of or otherwise secure the Kia.

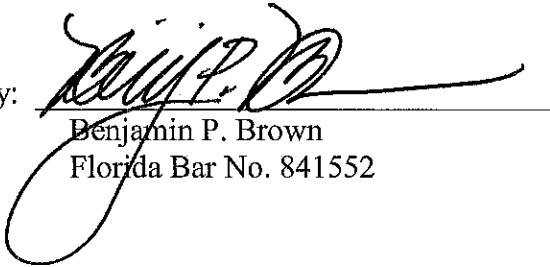
WHEREFORE, the Curator respectfully requests that this Court enter an Order providing instructions authorizing the Curator to proceed in a manner consistent with the matters described above, and awarding such other relief as this Court deems just and proper.

**I HEREBY CERTIFY** that a true and correct copy of the foregoing was served by e-mail upon Alan Rose, Esq., Page Mrachek, 505 S. Flagler Drive, Suite 600, West Palm Beach, FL 33401, [arose@pm-law.com](mailto:arose@pm-law.com) and [mchandler@pm-law.com](mailto:mchandler@pm-law.com); John Pankauski, Esq, Pankauski Law Firm, 120 S. Olive Ave., Suite 701, West Palm Beach,

FL 33401, courtfilings@pankauskilawfirm.com, Peter M. Feaman, Esq., Peter M. Feaman, P.A., 3615 W. Boynton Beach Blvd., Boynton Beach, FL 33436, service@feamanlaw.com; Eliot Bernstein, 2753 NW 34<sup>th</sup> Street, Boca Raton, FL 33434, iviewit@iviewit.tv; William H. Glasko, Esq., Golden Cowan, Palm Palmetto Bay Law Center, 17345 S. Dixie Highway, Palmetto Bay FL 33157, bill@palmettobaylaw.com, on this 14 day of March, 2014.

MATWICZYK & BROWN LLP  
Attorney for Curator  
625 N. Flagler Drive, Suite 401  
West Palm Beach, FL 33401  
Telephone: (561) 651-4004  
Fax: (561) 651-4003

By:

  
Benjamin P. Brown  
Florida Bar No. 841552

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IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL

IN RE: ESTATE OF

PROBATE DIVISION

SIMON L. BERNSTEIN

FILE NO. 502012CP004391XXXXSB

DECEASED

DIVISION: FRENCH

PETITIONER

ELIOT BERNSTEIN

PRO SE

PETITION TO DETERMINE AND RELEASE TITLE OF EXEMPT PROPERTY

Petitioner, Eliot Ivan Bernstein alleges:

1. Petitioner, whose address is 2753 NW 34<sup>th</sup> Street, Boca Raton, FL 33434, is the son of the decedent who, on the date of death, was domiciled in Florida.
2. That Petitioner is the father of the minor who is entitled by law to the exempt property is:

Joshua Bernstein, whose address is 2753 NW 34<sup>th</sup> Street, Boca Raton, FL 33434, and the grandson of Simon L. Bernstein, whose birthday is August 27, 1997 and is a minor.

3. This petition is filed within the time permitted by Section 732.402(6) of the Florida Probate Court.
4. Petitioner alleges the exempt property and the basis on which it is claimed to be exempt are as follows:

That on August 25, 2012, Simon Bernstein purchased, titled, insured and registered an automobile, in his name, from Delray Kia, 2255 S. Federal Hwy, in Delray Beach FL, for the benefit of his grandson, Joshua Bernstein and paid for the car, title and tags in full. The car is described as:

Silver, 2013 Kia Soul, VIN # KNDJT2A50D7497193, license plate # BGFC36

That on August 26, 2012, after Sunday Brunch together, Simon Bernstein, dressed the car in balloons, and gave the car to his grandson Joshua for his birthday as a surprise, of which, there are several witnesses, pictures and a birthday video. The car was then driven home to Joshua and Petitioner's place of residence and driven for the benefit of Joshua thereafter. This was the last time Joshua saw his grandfather alive and will always be a special memory in his heart forever.

4



That Simon's Intentions were to transfer the title of ownership to Joshua when he received the car title via US Postal mail. That on September 13, 2012, Simon Bernstein passed away. Given the short time (2 weeks) in between the two events and the original title to the car not being received in the mail yet, on the date of Simon's death the car was still in his Simon's name and not transferred to Joshua.

Petitioner notified Robert Spallina, the alleged Personal Representative of the Estate of Simon Bernstein, the circumstances and was guaranteed the issue would be resolved.

That at midnight on December 2, 2012 the issue was still not resolved and the registration for the vehicle expired. Petitioner again contacted Robert Spallina and was informed that for no specified reason the postal mail belonging to Simon Bernstein was being forwarded to Joshua's uncle, Ted Bernstein at 880 Berkeley Street in Boca Raton, Florida and to contact him regarding the title and the expired registration notices that were sent in the mail. Immediately after Simon's death, Ted Bernstein took control and possession of all Simon Bernstein's mail, took control and possession of all Simon Bernstein's files, including personal and business related files, including those related to the purchase of the car and is tampering, suppressing and denying them the same. Ted Bernstein refuses to forward the above information to Petitioner after several requests and is in control, refusing to forward, tampering and suppressing the above information to the alleged Personal Representatives, Robert Spallina and Donald Tescher and their law firm Tescher & Spallina, P.A.

That as of this date, October 10, 2013, and beginning on December 2, 2012, the above mentioned gifted automobile has been sitting on the street at 2753 NW 34<sup>th</sup> Street, Boca Raton, Florida, unregistered, uninsured (at risk to the estate of the Simon Bernstein) and un-drivable by the rightful owner Joshua Bernstein against the wishes of his grandfather, the decedent, Simon Bernstein. That a sixteen year old boy, Joshua Bernstein, has to walk by his automobile every day and be remembered of his grandfather's special gift and those responsible for preventing him from having it, namely his uncle, Ted Bernstein, who ironically shares the same birthday as Joshua, and Robert Spallina and Donald Tescher.

That Robert Spallina, as Personal Representative and counsel for the estate, has refused to resolve this issue and continues to put the estate at risk and breach their fiduciary duties. Due to the Personal Representatives lack of duty and care and abuse of powers that allow Ted Bernstein control and tampering of Simon Bernstein's mail and documents and therefore aiding in suppression, tampering and mis-handling of original documents and titles is causing severe damages and injury to the beneficiaries of the decedent. This seems to be a conspired effort by Ted Bernstein and the Personal Representatives to interfere with the administration of the estate, create disputes among the beneficiaries, generate more legal fees, and cause harm to all involved as other documents are missing as well, including a Life Insurance Trust that is a beneficiary of a life insurance policy currently in litigation in the State of Illinois where Ted Bernstein is trying to convert the proceeds to himself against the Insurers request to get a court order from this court. Other documents have been admittedly forged and fraudulent in the administration of the estate of Shirley Bernstein and Fraud on the Court before Hon Judge Martin H. Colin and continues by these same named fiduciary conspirators. From all these actions, Petitioner has lost all trust and faith and comes to this court to remedy these wrong-doings as no other option is available.



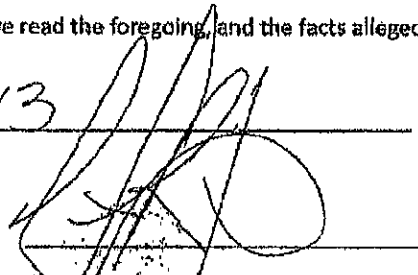
Petitioner prays that this Court can rectify the above matter and resolve this issue and demand the original car title be transferred to Joshua Bernstein so that the automobile can be properly titled, registered, insured and drivable by the rightful owner, Joshua Bernstein and stop the anguish and harm these actions are causing, again to a sixteen year old boy.

Petitioner requests that all current fiduciaries including but not limited to Personal Representatives, Estate Counsel and Trustees be removed for this willful, wanton, reckless, and gross negligent behavior and disregard of law by the alleged fiduciaries of the estate and estate counsel.

Petitioner requests that a court order be entered determining the persons entitled to the above-described property as exempt property under Section 732.402 of the Florida Probate Code and authorizing and directing the Personal Representatives to deliver and transfer the title of ownership.

Under penalties of perjury, I declare that I have read the foregoing, and the facts alleged are true, to the best of my knowledge and belief.

Signed on October 10, 2013



Petitioner  
Elliot Bernstein

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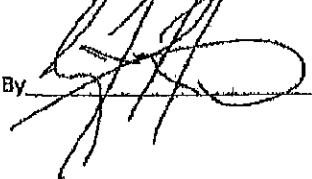
I CERTIFY that a copy hereof has been furnished to:

Ted Bernstein

Donald Tescher Co-Personal Representative of the Estate of Simon Bernstein

Robert Spallina, Co-Personal Representative of the Estate of Simon Bernstein

Robert Spallina c/o Tescher & Spallina, P.A. counsel for the Estate of Simon Bernstein

By  on October 10, 2013

IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL  
IN RE: ESTATE OF PROBATE DIVISION  
SIMON BERNSTEIN File No. 502012CP004391IZXXXXSB  
Deceased.

AMENDED INVENTORY

The undersigned co-personal representatives of the estate of SIMON BERNSTEIN, deceased, who died on September 13, 2012, and whose social security number is XXX-XX-5211, submits this Amended Inventory of all the property of the estate, that has come into the hands, possession, control, or knowledge of these personal representatives:

REAL ESTATE IN FLORIDA – Exempt (Protected) Homestead:

Description

NONE

REAL ESTATE IN FLORIDA – Non-Exempt Homestead:

Description

Estimated Fair Market Value

NONE

*(Whether homestead property is exempt from the claims of creditors, whether it is properly devised and whether it is a probate asset may have to be determined by appropriate proceedings.)*

OTHER REAL ESTATE IN FLORIDA:

Description

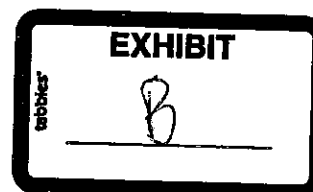
Estimated Fair Market Value

NONE

\$

Total Real Estate in Florida – Except Exempt (Protected) Homestead

\$



Estate of Simon Bernstein  
File No. 502012CP004391IZXXXX SB  
AMENDED INVENTORY

PERSONAL PROPERTY WHEREVER LOCATED:

<u>Description</u>	<u>Estimated Fair Market Value</u>
Legacy Bank of Florida - Acct. Ending 2587	\$384.25
Wells Fargo - Acct. Ending 1945	1,599.49
Sabadell Bank - Acct. Ending 9414	15,153.18
JP Morgan (4788015220)	77,491.27
JP Morgan (W32585007)	519,266.37
LIC Holdings, Inc. (33% ownership)	UNDETERMINED
Furniture, furnishings, household goods and personal effects	51,135.00
Jewelry	63,205.00
US Life Proceeds	50,800.08
Monarch Life Proceeds	4,000.00
Cincinnati Life Proceeds	7,685.00
Promissory Note from Bernstein Family Realty, LLC (not including accrued interest)	365,000.00
TOTAL OF ALL PERSONAL PROPERTY AND FLORIDA REAL ESTATE \$ <u>1,155,719.40</u>	

All real estate located outside the State of Florida owned by the decedent of which the personal representative is aware, if any, is described on a schedule attached hereto. [If none, so indicate]

NONE

*NOTICE: Each residuary beneficiary in a testate estate or heir in an intestate estate has the right to request a written explanation of how the inventory value of any asset was determined, including whether the personal representative obtained an independent appraisal for that asset and from whom the appraisal was obtained. Any other beneficiary may request this information regarding all assets distributed to or proposed to be distributed to that beneficiary.*





Estate of Simon Bernstein  
File No. 502012CP0043911ZXXXX SB  
AMENDED INVENTORY

Under penalties of perjury, I declare that I have read the foregoing, and the facts alleged are true to the best of my knowledge and belief,

Signed on this 28<sup>th</sup> day of Dec, 2013.



ROBERT L. SPALLINA, Esq.  
Attorney for Personal Representative  
Florida Bar No. 497381  
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ROBERT L. SPALLINA, Co-Personal Representative



DONALD R. TESCHER, Co-Personal Representative



8+1

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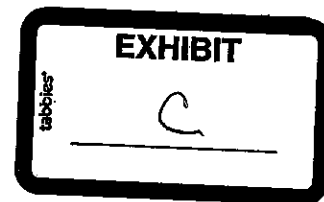
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