

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

File No. 50 2012 CP004391XXXXSB  
Probate Division

IN RE: ESTATE OF SIMON L. BERNSTEIN  
\_\_\_\_\_ /

CURATOR'S MOTION FOR INSTRUCTIONS REGARDING  
AUTHORITY TO LIQUIDATE IRA

CURATOR'S MOTION TO INSPECT AND TAKE POSSESSION  
OF ESTATE TANGIBLE PERSONAL PROPERTY

DATE TAKEN: Thursday, June 19, 2014

TIME: 8:45 a.m. - 9:45 a.m.

PLACE: PALM BEACH SOUTH COUNTY COURTHOUSE  
200 West Atlantic Avenue  
Delray Beach, Florida 33444

BEFORE: HONORABLE MARTIN COLIN, CIRCUIT JUDGE

HEARING TAKEN BEFORE:

LISA GREENWELL, Court Reporter

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APPEARANCE ON BEHALF OF THE CURATOR

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ALSO PRESENT

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1                   (Thereupon, the following proceedings were  
2                   had:)

3                   MR. ROSE:   Morning, Your Honor.

4                   THE COURT:   Hi.   What do you have?

5                   MR. ROSE:   We have three orders from last  
6                   weeks hearings that I submitted to all counsel.  
7                   Mr. Eliot Bernstein has an objection to all three  
8                   orders.

9                   If I may, these were Motions to Compel,  
10                  fairly simple -- may I approach with the orders.

11                  MR. ROYER:   Mr. Bernstein has some  
12                  objection, I believe.

13                  THE COURT:   Okay.

14                  MR. ROSE:   Just three different orders.

15                  THE COURT:   So I ruled on these matters,  
16                  right?

17                  MR. ROSE:   You ruled on the matters and no  
18                  other counsel has objected to the form  
19                  of the orders.

20                  Mr. Eliot Bernstein has some objections that  
21                  he's e-mailed to me in a lengthy e-mail.

22                  THE COURT:   So here's the way this works  
23                  everyone; I enter an order, someone becomes a  
24                  scrivener and writes out what an I ruled.  It's  
25                  not a chance to change it, not a chance to argue

1 with it, it's just putting into writing what my  
2 rulings is.

3 If I find that anyone tries to argue to  
4 rework the order, the merits of the order, the  
5 subject, today, this morning, there will be  
6 sanctions granted, okay.

7 So you say on behalf of your side that these  
8 orders represent what I ruled?

9 MR. ROSE: I submit -- yes.

10 THE COURT: And everyone else agrees it's  
11 what I ruled except for Mr. Eliot Bernstein?

12 MR. ELIOT BERNSTEIN: Correct.

13 THE COURT: And you say I ruled this?

14 MR. ELIOT BERNSTEIN: I said that I was --  
15 we were tricked by Mr. Rose on some of that stuff  
16 that needs to be reheard. I put in an objection  
17 to --

18 THE COURT: That's not what I'm asking.  
19 That's not the purpose of this exercise.

20 I gave --

21 MR. ELIOT BERNSTEIN: The order --

22 THE COURT: I announced what the purpose of  
23 this was. If you proceed and try to do anything  
24 other than tell me that this is not what  
25 I ruled --

1                   MR. ELIOT BERNSTEIN: I have an order on it.  
2                   I don't mind --

3                   THE COURT: You're not doing me a favor by  
4                   telling me that.

5                   MR. ELIOT BERNSTEIN: Listen, I'm putting in  
6                   the objection the minute you sign that, that it  
7                   was -- so use it for my objection right here.

8                   THE COURT: Well, I have to have -- if you  
9                   want to have something reheard --

10                  MR. ELIOT BERNSTEIN: Here's the problem --

11                  THE COURT: -- you have to enter an order.  
12                  Listen to me.

13                  MR. ELIOT BERNSTEIN: Okay.

14                  THE COURT: Okay. You have to have an order  
15                  entered to have an rehearing on it.

16                  MR. ELIOT BERNSTEIN: Okay. I get that.  
17                  But here's my problem, he is submitting orders  
18                  and he's got adverse interest in this case that  
19                  legally preclude him from acting in these  
20                  capacities --

21                  THE COURT: No, that's not true because if I  
22                  ask him to be a scrivener and write an order on  
23                  that I order, that's not task that's here.

24                  MR. ELIOT BERNSTEIN: But he's legally  
25                  barred from representing when he has adverse

1 interest.

2 THE COURT: That's your position on that.

3 MR. ELIOT BERNSTEIN: No, that's the Bar  
4 rules, that's the law.

5 THE COURT: But I told him to write  
6 an order -- I told him write an order on what  
7 I've done.

8 MR. ELIOT BERNSTEIN: I know, but he's  
9 acting out of his capacities --

10 THE COURT: Okay. That's your version of  
11 it.

12 MR. ELIOT BERNSTEIN: No, that's --

13 THE COURT: I don't deal with bar things  
14 here, I'm dealing --

15 MR. ELIOT BERNSTEIN: It's law. He's not  
16 qualified.

17 THE COURT: Mr. Bernstein, you're not  
18 listening, okay. If I ask a lawyer to put into  
19 writing that which I order and they do that, then  
20 they're doing the right thing because that's what  
21 I've asked them to do.

22 We don't the have here in State Court clerks  
23 to write out my order, so I need the lawyers to  
24 write what I announce. I asked him to do it.

25 MR. ELIOT BERNSTEIN: Well, I've also asked

1           that you have adverse interest in these matters  
2           and you shouldn't be ruling on the case under  
3           law.

4           THE COURT:   Okay.  I am not sure what you're  
5           getting at.  You can put whatever you want in  
6           writing.

7           Your participation in this hearing this  
8           morning, listen to me, it's over with.  If you  
9           speak again because you're now -- you're pro se  
10          but you are violating some rules of decency and  
11          civility.

12          Don't speak again unless I speak to you.  If  
13          you speak again, I'm going to take action against  
14          you that will be adverse to you immediately by my  
15          bailiff.  Understand what I said, yes or no, it's  
16          all you can say?

17          MR. ELIOT BERNSTEIN:  Yes.

18          THE COURT:  Okay, that's one.

19          Okay.  Come on up.  All three are right  
20          here.

21          What else in this case, anything else?

22          MR. ROSE:  We have a Motion to Continue this  
23          hearing is set for July the 11th.

24          MR. BROWN:  Judge, I noticed mine first.

25          THE COURT:  Okay.  Whoever noticed things

1 first.

2 MR. ROSE: Sorry.

3 MR. BROWN: I have two motions, Your Honor.  
4 One is a Motion For Instructions Regarding  
5 Authority to Liquidate an IRA. The Estate,  
6 through a series of occurrences, ended up with  
7 the Decedent's IRA. It's at about 541,000. It  
8 holds equity. Although it is performing very  
9 well, it should be converted to cash.

10 It's not appropriate for the Estate to hold  
11 an IRA -- I don't believe it's appropriate for  
12 the Estate to hold an IRA that's holding equities  
13 that could --

14 THE COURT: Okay. Let's me hear from anyone  
15 else your position on this starting from my left  
16 to right, I'll catch everybody.

17 MR. ROYER: Jeff Royer, counsel for William  
18 Stansbury. We have no objection for.

19 MR. ROSE: We have no objection to  
20 liquidating the IRA.

21 MR. ELIOT BERNSTEIN: I do have an  
22 objection.

23 THE COURT: Okay. What is it?

24 MR. ELIOT BERNSTEIN: Well, Ben was going to  
25 get some information that appears that the



1 beneficiary is lost, it's bizarre. Again, we have  
2 another missing beneficiary on behalf of the  
3 Estates that could be a part of the furtherance  
4 of fraud.

5 We're waiting for the JP Morgan statements  
6 Ben was going to get. We haven't got 'em yet.

7 Until all that's decided, this IRA might be  
8 to a beneficiary and the covering up of the  
9 beneficiary might be part of the furtherance of a  
10 frauds that have already occurred to try to  
11 change beneficiaries in this case in this court  
12 before Your Honor by the same people, I believe.

13 THE COURT: Okay. So is this -- is there a  
14 beneficiary on the IRA form?

15 MR. BROWN: We're not able to locate,  
16 apparently, a beneficiary form. That's why the  
17 Estate ended up with the IRA. But this has --  
18 this is --

19 THE COURT: So who --

20 MR. BROWN: -- this is not a distribution --

21 THE COURT: No, I understand that.

22 MR. BROWN: -- this is just to divert cash.

23 THE COURT: All right. But are you going to  
24 keep the cash segregated in the Estate account  
25 and not be used for any other purpose without

1           order of the Court so in case a beneficiary of  
2           this IRA can be found, then the beneficiary would  
3           be entitled to the IRA as opposed to the Estate?

4           MR. BROWN: That's correct. And Your Honor,  
5           it would actually stay in the IRA because once  
6           it's converted to cash, if it starts getting  
7           distributed then it's taxed. So that's why it's  
8           only to convert to cash.

9           THE COURT: Okay. But stay there, not used  
10          without court order.

11          MR. BROWN: Correct.

12          THE COURT: Is that --

13          MR. ELIOT BERNSTEIN: If you're good with  
14          it, I'm good with that.

15          THE COURT: Okay, that's fine. As long as  
16          it stays that way.

17          MR. BROWN: I'll just need to write on the  
18          easel that.

19          THE COURT: I'm all right with that as long  
20          as it's -- so you folks do your due diligence.  
21          If you find a beneficiary, then the beneficiary  
22          will make a claim to it, but it will be held  
23          intact.

24          MR. ELIOT BERNSTEIN: By the way, Your  
25          Honor, that aspect was also not put into the

1           inventory of the Estate till after Tescher &  
2           Spallina were being, you know, investigated and  
3           their notary arrested for forgery and fraudulent  
4           notarizations and all that nonsense, and so it  
5           appears that this is might, also, be part of a  
6           fraud, not just a missing beneficiary.

7           THE COURT: Well, it is what it is --

8           MR. ELIOT BERNSTEIN: Okay.

9           THE COURT: -- and anyone can do what they  
10          think they need to do with it.

11          MR. ELIOT BERNSTEIN: Okay. So it's stated  
12          for the record.

13          THE COURT: Okay.

14          MR. BROWN: So I'll include in the order  
15          it's to stay intact in the IRA until further  
16          order of the Court.

17          THE COURT: Okay.

18          MR. BROWN: My other motion is to inspect  
19          and take possession. This is mostly an appraisal  
20          so don't worry.

21          THE COURT: Okay.

22          MR. BROWN: There's tangible personal  
23          property that belongs to the Estate. It's  
24          located now in the Decedent's residence which is  
25          owned by the Decedent's Irrevocable Trust.

1           There have been questions raised as to  
2           whether or not some of the tangible personal  
3           property when the Decedent died was located in a  
4           condominium that was then sold and the  
5           property was purportedly sent to the residence,  
6           so there's some question as to whether or not all  
7           that property that's on the appraisal is now  
8           located in the residence which is in St. Andrews  
9           Country Club.

10           So we called the appraiser and asked how  
11           much would it be for you to go into the residence  
12           at St. Andrews Country Club and simply do an  
13           inventory of your appraised items. And he said  
14           about \$500 unless things are boxed up and very  
15           inaccessible.

16           THE COURT: So he's appraised the items  
17           already?

18           MR. BROWN: This is Robert Hittle is his  
19           name. He said about \$500 if everything is  
20           accessible.

21           THE COURT: Well, what I'm getting at is,  
22           this which you've attached to your motion is the  
23           appraisal?

24           MR. BROWN: Correct. Which list all the  
25           items.

1           THE COURT:   So the question is, did you  
2           inventory of where those items are now?

3           MR. BROWN:   To do an inventory to make sure  
4           they're there at the residence.   And then once we  
5           make that determination, then what I would  
6           envision the Court doing is just entering an  
7           order requiring whoever the trustee is, make sure  
8           those items stay there pending further order of  
9           the Court because storing them to be expensive.

10          THE COURT:   Are all the items -- so you are  
11          no the sure whether all the items that are on  
12          this appraisal are in the St. Andrews home or  
13          not?

14          MR. BROWN:   I'm absolutely not sure and I am  
15          not qualified to walk in there and try to figure  
16          it out.

17          THE COURT:   So where -- But here it says,  
18          I'm looking quickly at the appraisal, where the  
19          items were when he did the appraisal.

20          MR. BROWN:   Right.

21          THE COURT:   So they're not there any longer?

22          MR. BROWN:   Some of them -- the Decedent had  
23          a condo on the beach, I believe, and had the  
24          house in St. Andrews.   Some of them were in the  
25          condo, some of them were in the house.

1                   When the condo was sold --

2                   THE COURT:   Okay.

3                   MR. BROWN:   -- during the --

4                   THE COURT:   So they either got moved to the  
5 house or they're somewhere else?

6                   MR. BROWN:   Correct.

7                   THE COURT:   Okay.   All right.   Left to  
8 right, what do you say about the motion?

9                   MR. ROYER:   No objection.

10                  MR. ROSE:   We have some objection to this.

11                  THE COURT:   Okay.

12                  MR. ROSE:   Okay.   The first thing is, this  
13 is an Eliot Bernstein motivated motion.   All this  
14 stuff was inventoried in both properties.

15                  It's an issue that the prior personal  
16 representatives had looked into and in one sense,  
17 if Eliot wants to pay the \$500 for another  
18 appraisal, that's fine, but --

19                  THE COURT:   No.   But he doesn't want an  
20 appraisal.

21                  MR. ROSE:   I mean, he wants the appraiser to  
22 go out and inventory it at a cost of, at a  
23 minimum, of \$500 which we think if Eliot wants to  
24 have an inventory, he should bear the expense of  
25 it.

1           This is all -- the items were in two  
2           different residences, the residence --

3           THE COURT: So the items that were in the  
4           home are purportedly still there. The items that  
5           are in the condominium, is that the issue, now  
6           that the condo's been sold, where are those  
7           items?

8           MR. ROSE: Some of the items, some furniture  
9           was left at the condo when it was sold. There  
10          may be some allocation issue at some point to do  
11          between the money that should go to the Estate  
12          and the money should go to the Trust.

13          It may not matter at the end of the day  
14          because the ten beneficiaries are the same in  
15          both. I think the prior PR's decided to table  
16          the issue 'til a later date. We will get a new  
17          PR at some point. Maybe the new PR should take  
18          this up.

19          You know, my client has --

20          THE COURT: Okay. I understand your  
21          position.

22          MR. ROSE: Okay.

23          THE COURT: Okay. Eliot, what do you say?

24          MR. ELIOT BERNSTEIN: Well, first that his  
25          position is argued improperly because he's

1           adverse.

2                   And second, we need a new appraiser. I saw  
3           that --

4           THE COURT: That's not the motion, though.

5           MR. ELIOT BERNSTEIN: No, I know, but in --  
6           just for record.

7           THE COURT: Well, no, but I don't want to  
8           deal with an item that's not before of me.

9           MR. ELIOT BERNSTEIN: I don't want you to  
10          rule on an appraiser going back there of the same  
11          guy.

12          THE COURT: Okay, that's the motion. So I'm  
13          asking what your position is.

14          MR. ELIOT BERNSTEIN: I'm telling you why  
15          we're objecting to that.

16          THE COURT: Okay.

17          MR. ELIOT BERNSTEIN: Stansbury's attorneys  
18          had put in that they question the appraisals on  
19          these items and I do to.

20                 We believe we found some evidence that there  
21          might be fencing of jewels in some of the  
22          appraisals done by the former PR's who are  
23          involved in frauding documents, forging  
24          documents, all that good stuff.

25                 And so now we found out, reported it to the



1           police, they have condo investigations of this  
2           stuff, and so Ben Brown, you know, didn't  
3           know -- when we looked at the record they  
4           submitted, which is shotty, there's not a single  
5           thing that says they paid for moving costs of any  
6           furniture to the St. Andrews home and Ben  
7           couldn't find it either. And, you know, we -- I  
8           said we do and this is what he did.

9           So you know, I support that it be done but  
10          by a different appraiser that's qualified.

11          THE COURT: Well, I don't know that you need  
12          an appraiser to do an inventory.

13          MR. ELIOT BERNSTEIN: Okay, the inventory,  
14          correct.

15          THE COURT: Because it's not going to be  
16          appraised. Basically what you're saying is,  
17          here's the appraisal. They have, you know, a  
18          bunch of items --

19          MR. ELIOT BERNSTEIN: But anything involved  
20          in the past.

21          THE COURT: Where are those items, that's  
22          the question, Mr. Brown?

23          MR. BROWN: The question is, whether the  
24          items are there at 77020 Lyons Head and whether  
25          or not they're the same items that appear on the

1 appraisal.

2 The reason we called Mr. Hittle is because  
3 he's the one who actually looked at them,  
4 photographed them and described the items on the  
5 appraisal.

6 THE COURT: If he'll do it for a maximum, a  
7 maximum not a minimum, a maximum of \$500 I'll  
8 allow it.

9 MR. ELIOT BERNSTEIN: Can we get someone  
10 else --

11 THE COURT: No, he can do it because he's  
12 the one who can identify --

13 MR. ELIOT BERNSTEIN: But he's involved with  
14 the prior guys --

15 THE COURT: But here's the thing, it's going  
16 to cost more to have some one clean and I rather,  
17 you know, use the money more wisely and allow him  
18 just to identify.

19 So he can do this, but Mr. Brown, someone  
20 else has to be present when he does this.

21 MR. ELIOT BERNSTEIN: Can I be there?

22 THE COURT: Okay. Well --

23 MR. ELIOT BERNSTEIN: I haven't been to my  
24 parent's home since they locked me out.

25 MR. BROWN: If I'm there it's \$350 an hour,

1           so it defeats the purpose.

2           THE COURT:   Okay.

3           MR. ROSE:   We object to the

4           Eliot Bernstein --

5           THE COURT:   Yeah, I rather not have an  
6           active party there.

7           MR. ELIOT BERNSTEIN:   Can I be there as a  
8           witness?

9           THE COURT:   But here's the thing, if you're  
10          there, then they're going to want someone to be  
11          there and all of sudden, it's going to be a show.

12          MR. ELIOT BERNSTEIN:   I don't mind.

13          THE COURT:   I'm trying to avoid that from  
14          happening.

15          MR. ELIOT BERNSTEIN:   I know, but I'm trying  
16          to avoid further fraud.

17          MR. ROSE:   Your Honor, may I?

18          Mr. Bernstein, Ted Bernstein who's the Trustee of  
19          the trust that owns the house will unlock the  
20          door and stay outside.

21                 And this gentleman's a professional.   I  
22          think we could trust him to go inventory it last  
23          time and I think if we let him in by himself, I  
24          don't think he's going to it steal anything.

25          MR. ELIOT BERNSTEIN:   He's directly involved

1           in the prior frauds in advancing these schemes on  
2           the court and everybody else to get  
3           beneficiaries --

4           THE COURT:   Okay, here's what I will allow.  
5           So, on the date of the appointment for this  
6           fellow to go to the house, the house, I assume,  
7           is locked.  Ted Bernstein has the key?

8           MR. ROSE:    Yes.

9           THE COURT:   Okay.  All right.  So Eliot, you  
10          can be there as well.

11          MR. ELIOT BERNSTEIN:  Thank you.

12          THE COURT:   But not to go in the house,  
13          okay.  So you can watch the appraiser go in  
14          there --

15          MR. ELIOT BERNSTEIN:  Okay.

16          THE COURT:   -- he'll do his thing, he'll  
17          come out.  And assuming he's not carrying boxes  
18          of items, it's probably a good idea he's not  
19          stealing anything from inside, okay, because  
20          that's the question.  I mean, but he can do --

21          Okay.  You can write that in the order.  You  
22          both can watch to make sure he doesn't prolong  
23          any items in there.

24          MR. BROWN:   I'll write that.

25          THE COURT:   Yeah, write that in.  Have fun.

1                   What else?

2                   MR. ROSE: We have a Motion to Continue.  
3                   There's some hearings set for July 11th. I  
4                   addressed it at the prior hearing. There was  
5                   some confusion, so I withdraw the order I was  
6                   going to submit and start from scratch.

7                   There's two hearings on July 11th. One is  
8                   Eliot's Motion For Trust Construction in the  
9                   Shirley Trust and one is his objections to the  
10                  accountings of Tescher & Spallina.

11                  THE COURT: In the Simon Trust?

12                  MR. ROSE: In the Simon Trust -- in the  
13                  Simon Estate.

14                  Tescher & Spallina are unavailable for those  
15                  days. I've obtained on behalf of Ted as the  
16                  Trustee of his father's trust an extension to  
17                  obtain -- to make objections until time after  
18                  the -- sometime after the PR is appointed because  
19                  the PR is the one who really should prosecute the  
20                  objections. So we've asked to continue those  
21                  hearings.

22                  Everyone was in agreement. And I did bring  
23                  it last week, thought it was an agreement.  
24                  Mr. Bernstein objected. So I withdraw what we  
25                  did last week and now we're just formally asking

1           you to continue those hearings for a variety of  
2           reasons.

3           One is, we have two hours set aside. We  
4           have to have, maybe, half a day or a day trial on  
5           a Trust Instruction Action or maybe more, there's  
6           other parties involved and the objections to the  
7           accounting are going to take a long time.

8           What we've asked you to do because there's a  
9           myriad of --

10          THE COURT: Let me just --

11          MR. ROSE: We have to have status  
12          conference --

13          THE COURT: One of the problems is that  
14          Eliot says he can't get hearing dates. And so,  
15          at least, what you're telling me is set on July  
16          11th, one of those matters is his Motion For  
17          Trust Construction, so why can't that be heard?

18          MR. ROSE: Well, it's going to take a day or  
19          two to have that heard. We need discovery.

20          We'd asked for -- what I'd suggest is, if we  
21          have a status conference on that day, we can go  
22          through all the motions that are pending and  
23          figure out what actually needs to be heard,  
24          what's agreed upon and, you know, set the case to  
25          where it's manageable.

1           To have the Trust Construction, first of  
2           all, it's filed in the wrong case. I don't know  
3           if it's been properly noticed to everybody --

4           THE COURT: That, I don't know. I know you  
5           tell me there's a hearing date. Beyond that, I  
6           don't know whether it's done properly or not, but  
7           that's a matter in the Shirley's case.

8           MR. ROSE: That's in the -- Yeah, I filed it  
9           this Motion to Continue in both cases.

10          THE COURT: No. But Eliot's Trust  
11          Construction motion is in the Shirley Bernstein  
12          case?

13          MR. ROSE: Correct. In the Shirley  
14          Bernstein Estate, it's merely construed as the  
15          Shirley Bernstein Trust, it's not properly --

16          THE COURT: Do you have a copy of your  
17          motion that's set?

18          MR. ELIOT BERNSTEIN: No, but it's in Simon,  
19          you can look it up on the record. I have a  
20          docket here.

21          THE COURT: So is it in Simon's Trust case  
22          or -- Simon's Estate or Shirley's Estate?

23          MR. ROSE: The Trust Construction, I think,  
24          is in Shirley's Estate.

25          THE COURT: And they say no. So I kind of

1           would like to know that.

2           MR. BROWN:   Okay.  I probably have a copy of  
3           it.

4           MR. ROSE:   It is in the Simon Estate.  So  
5           we have in the Simon Estate, they's a document  
6           that wants to construe as the Shirley  
7           Bernstein Trust, it's

8           MR. ELIOT BERNSTEIN:  No.

9           THE COURT:  I just heard Eliot say this has  
10          nothing to do with the Shirley Bernstein Estate.  
11          This is Petition For Construction of Testament  
12          Trust of Removal of Trustee And Trust Accounting  
13          in the Simon case.  That's what it pertains to,  
14          all about Simon?

15          MR. ELIOT BERNSTEIN:  I thought so.

16          THE COURT:  Well, we have -- as far as the  
17          accounting goes, there's been an accounting,  
18          there are objections to the accounting, I have to  
19          hear that, so --

20          MR. ELIOT BERNSTEIN:  No trust accounting,  
21          neither Estate.  God knows how many rules that  
22          violated.

23          THE COURT:  I am not sure why I can't hear  
24          this motion.  I mean, assuming -- I mean, he  
25          obviously has to make sure everyone's served and



1           it has to be done pursuant to the rules.

2           Okay. I'm going to hear this motion.

3           MR. ROSE: There is --

4           THE COURT: But the hearing, at the same  
5           time on the objections to the accounting, we're  
6           not going to do that because we're never going to  
7           have time. This will take two hours in and of  
8           itself anyway and it's -- You know, it's just not  
9           helpful to try to squeeze things in.

10          Mr. Brown, what do you say?

11          MR. BROWN: Well, my suggestion is, Your  
12          Honor, I had tried to set the Motion to Appoint  
13          Personal Representative for July 16th.

14          THE COURT: Okay.

15          MR. BROWN: And I think that Mr. Glasko and  
16          Mr. Feaman have issues with July 16th, but  
17          July 11th would be clear.

18          And it makes sense to go ahead and have the  
19          Motion to Remove the Trustee, who's  
20          Ted Bernstein, and petition to appoint -- the  
21          competing petitions to appoint the personal  
22          representative --

23          THE COURT: All right. I like that idea  
24          because I think we need to get a PR in here if we  
25          can.

1 MR. BROWN: I agree.

2 THE COURT: Okay. Any reason we can't do  
3 both of those on that date?

4 MR. ELIOT BERNSTEIN: Well, Your Honor --

5 THE COURT: Well, because if I remove a  
6 trustee, I need someone to fill the blank there,  
7 I need a PR.

8 MR. ROSE: That's not going to be a two-hour  
9 trial, that's going to be an all day affair, at  
10 least.

11 THE COURT: Okay.

12 MR. ROSE: And --

13 THE COURT: All right.

14 MR. ROSE: This is my concern; we have --  
15 there was a block of time on July 16th. And I  
16 suggested that -- everyone agreed last week,  
17 other than Eliot, that it made sense to have a  
18 status conference.

19 THE COURT: Hold on. Let me take a look at  
20 my calendar and see that time because I want to  
21 make sure we have enough time to finish this.

22 Okay. I can give you three-and-a-half hours  
23 on that day.

24 MR. ROYER: Your Honor, if I may,  
25 Mr. Feaman is in mediation on that day.

1 THE COURT: On the 11th?

2 MR. ROYER: He was just on the calendar on  
3 the 11th.

4 THE COURT: But everybody -- You know, I'm  
5 not going to get a day where someone doesn't have  
6 something, that's the problem.

7 MR. BROWN: Your Honor, respectfully,  
8 Mr. Feaman, he has a dog in the fight in the form  
9 of Mr. Stansbury, but he's not asking  
10 to be -- Mr. Stansbury is not asking to be  
11 Trustee nor is he asking to be personal  
12 representative.

13 THE COURT: Yeah, I'm not too concerned  
14 about him in this hearing.

15 MR. ROSE: I think he has filed a motion to  
16 appoint Eliot Bernstein as personal  
17 representative.

18 MR. ROYER: It's Eliot's motion.

19 THE COURT: So I have scheduled now on the  
20 16th for half a day the Petition to Appoint PR.

21 MR. BROWN: Correct.

22 THE COURT: So why don't we do this, we're  
23 going to start these hearings on the 11th. I'll  
24 give you three-and-a-half hours.

25 If we don't finish, we move over to the 16th

1           which we have a half a day. We just have to  
2           bifurcate it that day.

3           MR. ROSE: Okay.

4           THE COURT: So I'm going to deal with this  
5           Petition For Construction and Removal. We're not  
6           doing accountings and then we're going to deal  
7           with the appointment of the PR in consecutive  
8           time, so those two matters will take care of  
9           those two days. Hold on one second, let me sign  
10          this.

11          Okay. What else? Anything else from you?

12          MR. ROSE: Well, we still have to have a  
13          status conference.

14          THE COURT: We'll discuss that. I mean,  
15          yeah, before you all leave, at some point we'll  
16          status.

17          Yes?

18          MR. ELIOT BERNSTEIN: Okay, I object.

19          THE COURT: To what part?

20          MR. ELIOT BERNSTEIN: To everything he said  
21          because he's adverse.

22          THE COURT: He didn't say anything to object  
23          to. He just said can we have a status  
24          conference.

25          MR. ELIOT BERNSTEIN: I object to some of

1 the stuff he put in the record.

2 THE COURT: Yeah. But now I'm giving you  
3 the hearing.

4 MR. ELIOT BERNSTEIN: Because it's false.

5 THE COURT: But this is UMC, I am not taking  
6 testimony.

7 MR. ELIOT BERNSTEIN: Okay, gotcha. The  
8 only thing I want that I think is important  
9 first, is that you hear if he is adverse --

10 THE COURT: I'm going to hear everything  
11 that the rules allow.

12 MR. ELIOT BERNSTEIN: Okay.

13 THE COURT: Someone will call a witness,  
14 we'll have a hearing.

15 MR. ELIOT BERNSTEIN: No, no. My question,  
16 I put in motions saying that his adverse interest  
17 and cannot represent it any party as counsel  
18 because he's a direct fact and material witness,  
19 is involved in the perpetration of the  
20 frauded (sic) document, he's been police  
21 investigations --

22 THE COURT: Is there a formal Motion to  
23 Disqualify?

24 MR. ELIOT BERNSTEIN: Yeah, it's all on  
25 there. It's the one I asked you to disqualify

1           for the same reasons.

2           THE COURT: I don't represent anybody, so it  
3           couldn't be for the same reasons.

4           MR. ELIOT BERNSTEIN: Well, under adverse  
5           interest.

6           THE COURT: Okay. Do you have a Motion to  
7           Disqualify from him?

8           MR. ROSE: I was going at that approach,  
9           without comment. This was filed --

10          THE COURT: Yeah. So let me review it for  
11          legal sufficiency, that's what I have to do. All  
12          right.

13          MR. ELIOT BERNSTEIN: Sir, I voluntarily ask  
14          you to disqualify because you have adverse  
15          interest if you're a material and fact witness,  
16          your name's on a bunch of documents --

17          THE COURT: Okay. I'll look at this motion  
18          when I get off the bench at some point and I'll  
19          either rule on it based upon its sufficiency or  
20          I'll set it for hearing.

21          MR. ELIOT BERNSTEIN: Okay. But then --  
22          okay.

23          THE COURT: But right now we have these  
24          hearings dates.

25          MR. ELIOT BERNSTEIN: Before any hearing

1           happen, we you need --

2           THE COURT: I'll rule on this before the  
3           11th?

4           MR. ELIOT BERNSTEIN: That's for you. It's  
5           got a little bit of him. You want me to file a  
6           separate motion --

7           THE COURT: This one is for -- hold on.

8           MR. ELIOT BERNSTEIN: In fact, Your Honor,  
9           this document they're trying to become privileged  
10          that's not between attorneys and clients is a  
11          threatening letter that talks about legal abusive  
12          strategies --

13          THE COURT: Okay. Slow down one second. I  
14          thought this motion had to do with Mr. Rose, it  
15          doesn't, this has to do with me.

16          MR. ELIOT BERNSTEIN: Yes.

17          THE COURT: Okay.

18          MR. ROSE: Right.

19          MR. ELIOT BERNSTEIN: But it does deal with  
20          him, Your Honor.

21          THE COURT: Is there another motion that  
22          deals separately with him?

23          MR. ELIOT BERNSTEIN: No, but if you want,  
24          I'll do it.

25          THE COURT: No. Sure -- no, I'm not inviting

1           that.   Okay.

2                   MR. ELIOT BERNSTEIN:   He should voluntarily  
3           leave.   I mean, he has bar rules and judicial --

4                   THE COURT:   Mr. Bernstein, this is UMC.   We  
5           have a big crowd here.

6                   MR. ELIOT BERNSTEIN:   Okay.

7                   THE COURT:   All right.   I'll rule on this  
8           and then -- was there a prior motion to  
9           disqualify me?

10                   MR. ELIOT BERNSTEIN:   No.

11                   THE COURT:   Okay.   So the rule is different  
12           when there's a successive motion.

13                   MR. ELIOT BERNSTEIN:   The bottom line is,  
14           that before we have those hearings on the 11th or  
15           16th, or whatever you just said, we have to hear  
16           if the counsel and the Judge are legally  
17           qualified --

18                   THE COURT:   I just told you I'm going to  
19           rule on this in the next day or two.

20                   MR. ELIOT BERNSTEIN:   You know they were  
21           involved.

22                   THE COURT:   Mr. Bernstein, you are starting  
23           to move past what the UMC allows me to do.

24                   MR. ELIOT BERNSTEIN:   Okay.

25                   THE COURT:   File something in writing and



1 I'll look at it.

2 MR. ELIOT BERNSTEIN: I will. You got it.

3 THE COURT: Okay. Let me have the orders.

4 Okay, bye. Next case.

5 Write out the orders to make room --

6 MR. ELIOT BERNSTEIN: By the way, Your  
7 Honor, part of this is my family's in danger.  
8 That privileged letter that he's trying to hide  
9 from your eyes and federal investigators and  
10 everybody else, is a letter that talks about  
11 using abusive legal strategies to harass me and  
12 my father's friends -- listen.

13 THE COURT: No, no, stop, stop.

14 MR. ELIOT BERNSTEIN: Okay.

15 THE COURT: You're beyond what UMC allows to  
16 you do.

17 MR. BROWN: That is an e-mail that Eliot  
18 wrote to me and I told him that I would give you,  
19 talks about Mr. Rose's duty to disqualify  
20 himself.

21 THE COURT: Okay.

22 MR. BROWN: That one I'm going to need the  
23 original to certify JP Morgan. And this is the  
24 other one, that I do not need back, just a copy.

25 Thank you, Judge.

1 THE COURT: Okay. Thanks.

2 (Thereupon, the hearing was concluded.)

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CERTIFICATE OF REPORTER

STATE OF FLORIDA )  
 ) SS:  
COUNTY OF WEST PALM BEACH )

I, LISA GREENWELL, Court Reporter, do hereby certify that I was authorized to and did stenographically report the HEARING before the Honorable Martin Colin, that a review of the transcript was requested; and that the foregoing transcript Pages 1 through 35 is a true record of my stenographic notes.

I FURTHER CERTIFY that I am not a relative, employee, or attorney, or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

Dated this 1st day of July, 2014

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LISA GREENWELL, Court Reporter  
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