In THE CIRCUiT COURT OF THE FIFTEEN JUDICIAL CIRCUIT

IN AND FOR PALM BEACH COUNTY, FLORIDA

IN RE: THE ESTATE OF CASE no. 502012CP004391xxxxsb

SIMON LEON BERNSTEIN,

Deceased HON. JUDGE MARTIN H. COLIN

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Eliot ivan bernstein, PRO SE

Petitioner,

v.

TESCHER & SPALLINA, P.A., (AND ALL PARTNERS, ASSOCIATES AND OF COUNSEL);

ROBERT L. SPALLINA, ESQ., PERSONALLY;

ROBERT L. SPALLINA, ESQ., PROFESSIONALLY;

DONALD R. TESCHER, ESQ., PERSONALLY;

DONALD R. TESCHER, ESQ., PROFESSIONALLY;

THEODORE STUART BERNSTEIN, INDIVIDUALLY;

THEODORE STUART BERNSTEIN, AS ALLEGED PERSONAL REPRESENTATIVe;

THEODORE STUART BERNSTEIN, AS ALLEGED TRUSTEE AND SUCCESSOR TRUSTEE PERSONALLY;

THEODORE STUART BERNSTEIN, AS ALLEGED TRUSTEE AND SUCCESSOR TRUSTEE, PROFESSIONALLY;

THEODORE STUART BERNSTEIN, AS TRUSTEE FOR HIS CHILDREN;

LISA SUE FRIEDSTEIN, INDIVIDUALLY AS A BENEFICIARY;

LISA SUE FRIEDSTEIN, AS TRUSTEE FOR HER CHILDREN;

JILL MARLA IANTONI, INDIVIDUALLY AS A BENEFICIARY;

JILL MARLA IANTONI, AS TRUSTEE FOR HER CHILDREN;

PAMELA BETH SIMON, INDIVIDUALLY;

PAMELA BETH SIMON, AS TRUSTEE FOR HER CHILDREN;

MARK MANCERI, ESQ., PERSONALLY;

MARK MANCERI, ESQ., PROFESSIONALLY;

MARK R. MANCERI, P.A. (AND ALL PARTNERS, ASSOCIATES AND OF COUNSEL);

JOshua ennio zander bernstein (ELIOT MINOR CHILD);  
Jacob noah archie Bernstein (ELIOT MINOR CHILD);  
Daniel Elijsha Abe Ottomo Bernstein (ELIOT MINOR CHILD);  
ALEXANDRA bernstein (TED ADULT CHILD);  
ERIC BERNSTEIN (TED ADULT CHILD);  
Michael bernstein (TED ADULT CHILD);  
MATTHEW LOGAN (TED’S SPOUSE ADULT CHILD);  
Molly norah simon (pamela adult child);  
Julia iantoni – jill minor child;  
Max FRIEDSTEIN – lisa minor child;  
CARLY FRIEDSTEIN – lisa minor child;

Page, Mrachek, Fitzgerald & Rose, P.A. (AND ALL PARTNERS, ASSOCIATES AND OF COUNSEL);

Alan b. rose, esq. – personally;

alan b. rose, esq. – professionally;

Pankauski Law Firm PLLC, (AND ALL PARTNERS, ASSOCIATES AND OF COUNSEL);

John J. Pankauski, Esq. – Personally;

John J. Pankauski, Esq. – Professionally;

kimberly francis moran – personally;

Kimberly Francis Moran – professionally;

lindsay baxley aka lindsay giles – personally;

LINDSAY BAXLEY AKA LINDSAY GILES – professionally;

the alleged “Simon l. bernstein amended and restated trust agreement” dated july 25, 2012;

JOHN AND JANE DOE’S (1-5000).

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**MOTION FOR emergency INTERIM DISTRIBUTIONS DUE TO A CONTINUED PATTERN AND PRACTICE OF FRAUD AND EXTORTION BY FIDUCIARY THEODORE BERNSTEIN AND OFFICER OF THIS COURT ALAN B. ROSE, ESQ. THREATENING THREE MINOR CHILDRENS EDUCATIONS**

COMES NOW, Eliot Ivan Bernstein (“Eliot”), PRO SE, as Beneficiary and Interested Party both for himself personally and Guardian for his three minor children (who may also be Beneficiaries and Interested Parties of the Estates and Trusts of Simon Bernstein (“Simon”) and Shirley Bernstein (“Shirley”)), and hereby files this “MOTION FOR emergency INTERIM DISTRIBUTIONS DUE TO A CONTINUED PATTERN AND PRACTICE OF FRAUD AND EXTORTION BY FIDUCIARY THEODORE BERNSTEIN AND OFFICER OF THIS COURT ALAN B. ROSE, ESQ. THREATENING THREE MINOR CHILDRENS EDUCATIONS” and in support thereof states, on information and belief, as follows:

1. That Emergency Interim Distributions must be made by August 8, 2014 in order to keep Petitioner’s three children in the school they have attended for almost their whole lives. This matter needs emergency actions due to an impeding deadline and continued damage to three minor children caused by the ALLEGED Fiduciary of the Trusts of Simon and Shirley. Petitioner has no other remedy at law. Three minor children, including one child in his graduation year risk being removed from school, achieved placements lost, loss of college guidance process for college placement and removal in their final graduating year for non-payment of tuition.
2. That St Andrews school has been more than cooperative since payments have ceased to them on months ago due to the delays in the inheritances of Eliot and his family, caused INTENTIONALLY by a series of frauds and more committed by the former fiduciaries and counsel in the Estates and Trusts, Spallina and Tescher and their former legal client and current fiduciary Theodore.
3. That Theodore refuses to make payments in the best interests of the Trust beneficiaries violating standard rules and conduct according to established Rules regarding Trustee’s being held to a higher level of ethics and law requiring them to only act in the best interest of the beneficiaries.
4. Petitioner brings forward this action as Beneficiary of the Trusts of Simon and Shirley, Trustee of Eliot Bernstein Family Trust and Trustee of his three minor children’s trusts and potential interests as Beneficiaries, all of who are ultimate beneficiaries of the Shirley Trust and Simon Trust.
5. That several frauds have taken place by Officers of this Court and Fiduciaries, both in and upon this Court, the Beneficiaries, Creditors and Interested Parties. Most of the guilty have resigned and have been removed from the estate and trust proceedings and remain under ongoing investigations with the Palm Beach County Sheriff Office and others.
6. That two of the alleged participants in these fraudulent activities, Theodore and Alan, remain acting in these matters with legal capacities while both are centrally involved and benefited directly from the prior fraudulent activities and continue to commit fraud and other torts and harm true and proper beneficiaries, especially those pursuing them both civilly and criminally.
7. That there is a long list of Petitions lined up to remove Theodore in all fiduciary capacities and a hearing scheduled for August 19, 2014 to hear these matters for a number of valid legal reasons that instantly prohibit Theodore and Alan’s continued alleged fiduciary and legal capacities forward in Simon and Shirley’s Estates and Trusts.
8. An Emergency Order or Hearing is necessary at this time due to impending due date for tuition approaching prior to those hearings for Trustee removal and sanctioning on August 19, 2014 due to the continued breaches of fiduciary duties and more by Theodore.
9. That the Court recently urged Theodore to drop his Petition to become the Successor Personal Representative, as it rejected his bid to become the Curator, due to valid legal reasons that make his continued actions as a fiduciary legally prohibited. That to comply with the Court’s wishes, Theodore, after a long protracted and costly endeavor finally at the last minute prior to the Court hearing his Petition, withdraw his Petition and Brian O’Connell was then implemented as the new Successor Personal Representative by this Court.
10. That Petitioner requested Interim Distributions/Welfare Payment from Theodore due to the pressing timeline for past due and current tuition to be paid, pursuant to the trusts language under the Trust agreements of Shirley and Simon, requesting that the alleged Trustee Theodore abide by the Trusts and make necessary welfare distributions as provided for under the trust terms for educational funds of Eliot’s three minor children to keep them in the school their grandparents Simon and Shirley had enrolled them in, paid for them to go to while living and provided for continuation of education expenses through their estate plans and eventual inheritances. Exhibit 1 – Letter to Theodore (similar letters were sent for Simon and Shirley’s Trusts to Theodore).
11. Theodore’s counsel, Alan Rose, refused a simple yes or no answer and chose instead to force a meeting, see Exhibit 2, to discuss this request and stated that it had to be held under the terms of Rule 90.408, which states, “Compromise and offers to compromise.—Evidence of an offer to compromise a claim which was disputed as to validity or amount, as well as any relevant conduct or statements made in negotiations concerning a compromise, is inadmissible to prove liability or absence of liability for the claim or its value.”
12. That as Eliot was not planning on settling anything or negotiating with “terrorists,” especially those that are using his three minor children’s educations as leverage and merely was attempting to get the simple answer to if Theodore as ALLEGED Trustee would make the required educational payments for Eliot’s three minor children or Eliot would have to appeal this matter to Your Honor as another example of his Pattern and Practice of breach of fiduciary duties and seek relief through the Court, therefore Eliot agreed to this meeting.
13. That at that meeting with Alan, Eliot and Marc R. Garber, Esq. (a friend of Eliot’s not representing him in these matters), Alan proposed that Eliot could take distributions but only if Eliot were to open trust accounts for his children and bank accounts under those trusts to have the monies deposited in.
14. That Alan then stated that he believed Post Mortem trusts had been created by the prior PR’s and Trustees of Simon’s and Shirley’s Estate and Trusts, Spallina and Tescher, who were also simultaneously representing Theodore and who have now been removed from the proceedings and have admitted to Palm Beach County Sheriff Investigators to fraudulently altering Trust documents POST MORTEM in Shirley’s Trust, in order to change the Beneficiary Class, Post Mortem.
15. That further evidence now proven also has this scheme being aided by Kimberly Moran who was arrested acting as Tescher and Spallina’s Legal Assistant/Notary Public when found to have fraudulently NOTARIZED documents and admitted to FORGING six documents for six separate people, including Simon, POST MORTEM. Moran has since been arrested and charged for her actions while employed and under the direction of her employer Tescher and Spallina.
16. That this Court should recall stating it had enough evidence to read Miranda’s to Theodore, Spallina and Tescher in a September 13, 2013 hearing, upon learning that Shirley’s Estate was closed using a dead Personal Representative / Executor, Simon, through a further fraud on this Court and the Beneficiaries in efforts to change the Beneficiaries of Shirley’s Estate.
17. That Alan then claimed that all Eliot had to do was open a bank account under each trust for each child and the money could transfer distributing monies to improper beneficiaries in improper amounts with all sorts of conditions, including signing a refund and release document.
18. That Alan explained to Eliot and Marc that the beneficiaries of Shirley’s Trusts at this time are unknown and that three beneficiary possibilities exist (i) Eliot and his sisters Lisa and Jill and their lineal descendants, as Shirley had left it, (ii) Eliot and his sisters Lisa and Jill’s lineal descendants ONLY, as Theodore and Pamela were disinherited with their lineal descendants and considered PREDECEASED for all terms thereunder and this depends on if an alleged Power of Appointment allegedly exercised by Simon holds up, as it is claimed fraudulent as well and (iii) the ten grandchildren, which is a hopeless argument that relies on the alleged Power of Appointment giving Simon the right to change the Class of Beneficiaries in Shirley’s trust, by adding new beneficiaries Post Mortem of Shirley and where even if the Power of Appointment was upheld it would only apply to the Class of Beneficiaries specifically designated by Shirley, namely, Eliot, Lisa and Jill and their lineal descendants.
19. That the dispute over the beneficiaries is due to proven and admitted fraudulent activity, including but not limited to forged documents, tampering and fabrication of documents, using a deceased PR to the close the Estate of Shirley and more that has taken place by former fiduciaries and counsel Tescher and Spallina and Theodore.
20. That Eliot explained to Alan, as he did to this Court in a September 13, 2013 hearing that he could not open up trust bank accounts in his children’s name or his own until the Court determines the true and proper beneficiaries and that any distributions made to ANY party should only be made as Interim Distributions and then deducted from Eliot and/or his children’s inheritances or any other parties final amount, once the beneficiaries are legally resolved by the Court.
21. That interim welfare distributions have been made in this fashion for approximately a month to Eliot and his family by Theodore from Shirley’s trust and are to be deducted from the final distributions when they are determined by this Court but for some reason they are being refused to be made in this fashion, as according to Alan they can only be made to knowingly improper beneficiaries in improper distribution amounts under a series of proven fraudulent documents and acts that allow for such distributions to improper parties.
22. That Theodore and Alan continue to act to make distribution to improper beneficiaries using the known tampered and fabricated trust documents, which they have submitted to banks, law firms, trust companies and accounting firms, to induce them to facilitate the improper and illegal conversions of the monies.
23. That Theodore and Alan despite knowing of the improper distributions that have already been taken by other parties, continue to try and make Eliot take similar improper distributions to his children in desperation to keep them in school, if only he takes them illegally as Theodore and others did.
24. That in fact, Spallina admitted to Palm Beach County Sheriff that he altered trust documents of Shirley’s and forwarded them to Eliot’s former Counsel, Christine Yates of Tripp Scott law firm, in efforts to bamboozle her into believing that the ten grandchildren were beneficiaries of the Shirley Trust and to make distributions to them using the falsified documents as evidence of their scheme.
25. That Theodore, while acting as ALLEGED Trustee for the Shirley Trust and simultaneously acting as Trustee on behalf of his children’s possible interest in Shirley’s Trust, made improper distributions from Shirley’s Trust for he and Pamela’s children and others, knowing at that time that the beneficiaries were improper and that the documents that allowed for these transfers were fraudulent and forged in their names and their deceased father’s name, yet continued to accept and convert the monies. Eliot did not take these ILLEGAL distributions and will not until the true and proper beneficiaries are determined as he will not participate in knowingly fraudulent activities.
26. That Spallina stated to PBSO investigators that Theodore had taken distributions against the advice of counsel.
27. That Theodore stated to PBSO investigators that he had never read the Trust documents that he was operating under and only followed the advice of his counsel.
28. That once Eliot explained to Alan that he would not participate in further fraudulent distributions and would only take the money as Interim Distributions / Welfare Payments and deducted from the to be determined beneficiaries, which in any scenario is Eliot and/or his children, Alan suddenly did an “about face” and stated that if Eliot was unwilling to do the distributions this way, that his client would then argue to the Court that there was not enough monies to make distributions for Eliot’s children schooling, that Eliot needed a guardian for his children and his children would be removed from their school they have attended throughout their childhoods in a few days.
29. That these THREATS to Eliot also failed to make Eliot partake in knowingly fraudulent activity, see Exhibit 3 – Eliot Meeting Summation to Alan.
30. That Theodore has refused to submit accountings for now two years in his alleged roles as Trustee for the Simon Trust, alleged Trustee of the Shirley Trust and for the Estate of Shirley as PR and continues to spend trust money as if it were his own and in secreted transactions, all in violation after violation of Probate Rules and Statutes and law.
31. That Eliot asked then asked Alan how under one scenario where Eliot takes the monies through fraud there could be enough monies to distribute to cover the education costs requested and under the other scenario where Eliot does not take the monies improperly until the proper beneficiaries are determined by this Court there was somehow not enough money.
32. That Eliot further explained to Alan that this was identical to the Extortionary tactics used by Theodore’s previous counsel, business partners and close friends Spallina and Tescher, prior to admitting their fraudulent scheme to change the beneficiaries and who are now under multiple ongoing investigations both in state and federal actions and who previously acted in efforts to force Eliot to take improper and illegal distributions to knowingly improper Beneficiaries (knowing of their fraudulent acts) thus gaining an implied consent to their fraudulent beneficiary scheme by forcing Eliot to partake in the knowingly fraudulent activity and release any claims against the parties involved in the fraud or watch his children suffer as monies would be withheld.
33. That Alan appears now to have picked up where Spallina and Tescher left off in this extortion attempt of Eliot and Eliot claims that this is the reason Alan tried to make the recent meeting private and confidential and not useable for any purposes by misstating with intent Rule 90.408.
34. That Alan asked Eliot to have the meeting with him and make it confidential by rewriting Section 90.408 to read as he wanted so that he could try and further Extort Eliot and then have the meeting secreted. Alan stated and misrepresented the law as follows, “The call will be subject to rule 90.408 making it a confidential settlement discussion which cannot be used for any purpose at any time, nor admitted in evidence at any hearing.” However, Rule 90.408 makes no reference to the fact that the meeting cannot be used “for any purpose at any time, nor admitted in evidence at any hearing” this language was made up by Alan and grossly misrepresented by Alan to Petitioner, a Pro Se litigant, to trick Petitioner to the meeting whereby he could threaten and extort Eliot further and then pray that Petitioner would keep the meeting confidential in fear of violating 90.408 (Alan’s version) and would be unable to use it to show others his continued extortion scheme. This shroud of secrecy Alan tried to create by creating his own version of the Statute was in hopes that in Petitioner’s layman understanding of law be convinced he was bound to secreting the meeting and what transpired from anyone.
35. That this continued play or pay extortionary threat to Eliot to participate in the fraudulent distribution scheme or else, is evidence of further criminal activity by Alan and Theodore, who both know the beneficiaries are now in dispute and this represents a gross violations of fiduciary duties, attorney conduct codes and law and as such would not be subject to any protection as confidential. One cannot ask someone to a meeting under Rule 90.408 and state it is confidential and can never be used for any purpose by misstating the Statute and then tell them if they don’t settle they will blow their brains out and then attempt to claim that this threat could not be used in court under 90.408 or given to authorities as further evidence of criminal misconduct, as this would pave the way for settlement negotiations to become a place of secreted threats.
36. That Alan however has nothing to lose by continuing this Pattern and Practice of Abusive Legal tactics and criminal acts since he is principal player in advancing the prior schemes and frauds to take illegal distributions based on fraudulent documents in order to benefit his client Theodore, even after knowing the distributions were fraudulently made he continues to try and have Eliot now take knowingly fraudulent distributions.
37. That Alan and Theodore are Respondents in these matters and Defendants in a newly filed Counter Complaint in a related case before this Court and both could face serious prison time and loss of their possessions when found guilty of the crimes already alleged against them, including but far from limited to extortion, fraud and more.
38. That Eliot questions how long will the Court allow this legal process abuse, criminal extortion and fraud to continue, where now Eliot’s three children who have been damaged for two long years while investigating and exposing these schemes and artifices to defraud that have interfered with their inheritance that are now proven and admitted to, which have directly caused delays in their inheritances and caused continued and ongoing damages to them.
39. That where the last time Eliot refused to play in their fraudulent beneficiary scheme by taking improper distributions in order to get funds for his family for life sustaining items, when Eliot refused to take them improperly, these life critical items were cut off by the fiduciaries Tescher, Spallina and Theodore, which has led to catastrophic damages to their lives as pled repeatedly to this Court in yet unheard Petitions and Motions filed by Eliot since May 2013.
40. That Petitioner and his family have been harassed and retaliated upon for their refusal to cooperate in their play or pay schemes in the past by various tactics to force them to take the monies improperly, including but not limited to; cutting of Electricity to their home without notice, cutting off the Homeowners insurance in the home the children own without notice, cutting off the children’s Health Insurance without notice, cutting off monthly income provided for by Simon and Shirley in their estate plans without notice, interfering with Eliot and Candice’s jobs at Telenet Systems, LLC with intent, cutting off payments to school and school related activities without notice and shutting off basic living expenses, all of these items Simon and Shirley had paid for many years prior to their death for Eliot and his children due to special circumstances involving death threats and car bombings against Eliot and his family.
41. That these items were further cut off through an elaborate fraud to take over a company, Bernstein Family Realty LLC (“BFR”) set up by Simon and Shirley that had been paying for these expenses and which was established to continue to pay for them many years into the future through their inheritances.
42. That this entity was designed to specifically protect Eliot and his family from these type of calamities but were instead sabotaged by the fiduciaries, Tescher, Spallina and Theodore, once they knew that arrests of their friends was happening and they too were under investigations in state and federal actions as more fully described in Eliot’s recent Counter Complaint filed in this Court in Case No. 502014CP002815XXXXSB.
43. That repeated demands for Eliot to KNOWINGLY take ILLEGAL IMPROPER DISTRIBUTIONS to UNKNOWN BENEFICIARIES or else watch his family suffer has been filed with this Court and the proper authorities as alleged EXTORTION, which has already caused irreparable damages to Eliot, his lovely wife Candice and especially their three minor children and now their educations are being used as ransom by Alan and Theodore.
44. That both Theodore and Alan now have irrefutable Adverse Interests and Conflicts of Interests in the Estates and Trusts of Simon and Shirley, including but not limited to, the Fact that they are UNDER INVESTIGATION for many felony offenses both state and federally, the fact that they participated directly in the fraudulent activities that have benefited them both directly, the Fact that they are Defendants and Respondents in these and related litigations, the fact that Theodore is the primary accused defendant in the Creditor action of Stansbury, all of these facts making Theodore and Alan UNFIT to act one second further as Fiduciaries or Counsel in these matters. Whereby this Court should take Judicial Notice of these facts and act on its own Motion to remove them both immediately as UNQUALIFIED at this time to act further and prevent further harms to the beneficiaries.
45. That due to these insurmountable reasons making Alan and Theodore unfit to act as fiduciaries and Officers of this Court, Eliot has asked for their voluntary disqualifications repeatedly to save this Court, Eliot, the Creditors and everyone involved from further fraud, waste and abuse of process occurring in and upon this Court, the Beneficiaries, Creditors and Interested Parties.
46. That there is a hearing is scheduled for August 19, 2014 to hear Petitions and Motions filed to remove Theodore in all fiduciary capacities relating to both the Estates and Trusts, yet this does not give Petitioner enough time to address the school tuition issue, as tuition payments need to be received by August 8, 2014 to guarantee placements in the school.
47. That it should be noted that Theodore has already made ILLEGAL distributions knowingly from Shirley’s Trust to his own children ($480,000.00) and those of Pamela ($160,000), Jill ($160,000) and Lisa ($320,000) and did this without holding any meetings under 90.408 and whereby no questions at all were asked when transferring those funds as to what they would be used for. Eliot and his three children have taken distributions of $0.00 due to their refusal to participate in the fraud. Yet, when Eliot asks for Interim Distributions they now begin questioning what Eliot is using them for (education) and further to attempt to harass Eliot by threatening a guardian over Eliot’s children for not taking the improper distributions and using the funds for his children’s education. See Exhibit 4 – Alan Letter Regarding Filing a Motion re Interim Distributions.
48. That it should be noted that despite Alan’s claim in his letters that there is not enough money if Eliot refuses to take the distributions illegally, there has been no accountings to the Beneficiaries of Shirley’s Trust, Shirley’s Estate and Simon’s Trust to show how much money there actually was and Eliot has already reported to the proper authorities and this Court that the amounts they have claimed are far below what is now known and that they have further stolen and failed to report for tens of millions of dollars of assets already all under ongoing investigations, where again, Alan and Theodore are primary suspects.
49. That finally, Alan, in his attached herein letter in Exhibit 4 that he sent to others regarding the details of the meeting he alleges is a confidential meeting under 90.408, in violation of even his own made up language under that rule and attempted to recruit Pamela, Lisa and Jill to join in his proposed Motion to this Court. The problem with seeking support from them is the fact that Pamela, Lisa and Jill all took **knowingly** improper distributions having been informed of the frauds prior to the distributions and whereby they will all have to return those monies and face potential criminal charges and civil tort damages and so what worth is their strength in numbers strategy really worth in determining if this Court should grant the interim distributions for education and other emergency needs to Eliot and his family.
50. That Alan in Exhibit 4, claims, “Eliot is not a beneficiary of the Trust, but each of his three children would be beneficiaries under the Power of Appointment by Simon, and the Trustee was prepared to make an interim $80,000 distribution to each kid’s trust. Eliot rejected that distribution…” This evidences that Alan again was willing to make interim distributions to KNOWINGLY improper beneficiaries despite knowing that this transfer would be based on admitted fraudulent documents tendered to this Court and other fraudulent activity already proven to change the beneficiaries to Eliot’s three children and this stands as further irrefutable evidence of criminal acts still being commissioned by the Fiduciary Theodore and his Counsel Alan as Officers of this Court.
51. That Alan in Exhibit 4, claims, “As Trustee, Ted has no objection to making a payment from the Trust funds to St. Andrews School for each of Eliot’s three kids, so long as (i) the Court enters an order directing and authorizing such payment, with the approval of a guardian ad litem if the Court decides to appoint one, and also holding the Trustee harmless for complying with such order and requiring repayment if needed; (ii) the payment for each child will reduce the amount to be distributed to that child’s trust and with Eliot agreeing that if it is ultimately decided that the payments were to go to him and not his childrens’ trusts (which we believe is not the case), then these same payments would count against Eliot’s distribution; and (iii) each of you has the opportunity to he heard by responding to the email or by appearing in court.”
52. That Eliot claims that Alan is further attempting in the claim above to have this Court participate in further harassment of Eliot by threatening to have a Guardian for his children for failing to take improper distributions and Eliot claims that Theodore, Pamela, Jill and Lisa all need to have Guardian Ad Litems for taking knowingly improper distributions of Trust funds while acting as Trustees for their children and participating in knowingly fraudulent activities of the former Trustees and Counsel, Tescher and Spallina. That these improper distributions will now have to be returned to the Trust and have thereby damaged not only Eliot and his children but their very own children and this is cause for immediate Guardians for the children of Theodore, Pamela, Jill and Lisa.
53. That Alan also seeks the Court to force Eliot to sign a Hold Harmless type agreement for the Trustee in order to accept the funds and Eliot will not sign any such agreement, where this is not stipulated in the Trust agreement, nor was one signed by other parties where distributions were knowingly illegally taken.
54. That Alan also attempts in Exhibit 4 to claim that there is not enough funds in Simon’s Trusts and Estate to make distributions due to the Stansbury Creditor claim and where there is now evidence that there is more than enough monies in Simon’s Trusts and Estate to cover Stansbury in full if Settlement is not reached and he prevails on his claims and this is to further mislead the Court and Beneficiaries in efforts to force the distributions from Shirley’s Trust in efforts to extort Eliot to take the distributions illegally to improper parties in efforts to gain his so desired implied consent and complacency in fraud from Eliot. Again, Alan makes this claim that there are not enough funds and so may be the case due to theft and fraud alleged and under investigation and where no one knows what is in Simon’s Trust as the ALLEGED fiduciaries, Spallina, Tescher and their ALLEGED Successor Theodore have all failed to file timely accountings or provide any documents to the beneficiaries relating to their inheritances, in violation of Probate and Trust Rules and Statutes. Therefore, the Simon and Shirley Trusts and Estates can either separately or combined be used to make these distributions and not only the Shirley Trust if this Court so demands.
55. That as for Alan and Theodore they need possible Prison Guardians for their egregious acts of bad faith with unclean hands due to their reckless, wanton and grossly negligent criminal acts and civil torts committed thus far in these Estate and Trust matters, committed while acting as Fiduciaries and Officers of this Court. That as these are Fiduciaries and Officers of this Court, this Court should take further Judicial Notice of these bad acts and act on its own Motions to remove, remand and report them to all of the proper authorities.

WHEREFORE, Eliot prays for an Order,

* 1. for this Court to demand Theodore, acting as the ALLEGED TRUSTEE, to submit payment to the school and deduct such amounts from final distributions to the true and proper beneficiaries,
  2. to STRIKE the pleadings of Theodore regarding Interim Distribution if filed as suggested by Alan in his letter, Exhibit 4, and replace Theodore instantly as a fiduciary with a non-conflicted, non-adverse fiduciary on its own Motion. Perhaps Mr. O’Connell can serve as a replacement if he will accept such positions,
  3. that allows any newly determined successor Trustee and Personal Representative to make immediate emergency distributions to Eliot and his family for school and other emergency needs and deduct such amounts from the final distributions made once the Court has determined who the Beneficiaries will be based on review and forensic investigations of the dispositive documents which have already been proven fraught with fraud, forgery and more,
  4. to enter an order for sanctions and attorney fees as these matters only harm the beneficiaries and offer no benefit to the trust or estates and have all been caused by further breaches of fiduciary duties and more, and,
  5. if this cannot be resolved before August 08, 2014 by Alan and Theodore and will take the Court additional time and resources to decide, Eliot requests this Court notify St. Andrews school of the conundrum created by Alan and Theodore and that there is enough money to pay for the education of the three minor children once the Court determines these matters herein and assure them payment will be made by whoever and however the money is ultimately distributed to in order to save the children’s enrollments for the 2014-2015 year.

Filed on Friday, August 15, 2014,

Eliot Bernstein, Pro Se, Individually and as legal guardian on behalf of his minor three children.

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**CERTIFICATE OF SERVICE**

I, ELIOT IVAN BERNSTEIN, HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by email to all parties on the following Service List, Friday, August 15, 2014.

Eliot Bernstein, Pro Se, Individually and as legal guardian on behalf of his minor three children

X\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**SERVICE LIST**

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EXHIBIT 1 – LETTER FROM ELIOT TO THEODORE REQUESTING INTERIM DISTRIBUTIONS

EXHIBIT 2 - ALAN ROSE LETTER TO ELIOT REQUESTING A MEETING UNDER 90.408

Exhibit 3 – Eliot Meeting Summation to Alan

Exhibit 4 – Alan Letter Regarding Filing a Motion re Interim Distributions