

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

CASE NO. 502012CP004391XXXXSB  
CP - Probate

IN RE:

ESTATE OF SIMON L. BERNSTEIN,

\_\_\_\_\_ /

**ORDER ON MOVANT'S, TED S. BERNSTEIN, AS SUCCESSOR TRUSTEE OF THE  
SIMON BERNSTEIN TRUST, MOTION TO HOLD ELIOT BERNSTEIN IN  
CONTEMPT OF COURT AND FOR SANCTIONS, AND TO COMPEL COMPLIANCE  
WITH PRIOR ORDERS AND SERVICE RULES**

THIS CAUSE having come before the Court on September 15, 2014, upon Movant's, Ted S. Bernstein, as Successor Trustee of the Simon Bernstein Trust, Motion to Hold Eliot Bernstein in Contempt of Court and for Sanctions, and to Compel Compliance with Prior Orders and Service Rules ("The Motion"), the Court, having heard argument on the Motion and being fully advised in the premises hereby ORDERS AND ADJUDGES that as to the four issues raised:

1. The Court is not holding Eliot Bernstein in contempt for violating the July 18th Order, but is deferring ruling until a later hearing whether to strike those allegations that the Trustee claims violate the intent of the privileged communication law. The Court will consider at the separate hearing whether to strike references to the privileged e-mail in any court filings or pleadings.
2. The Court has entered a separate order compelling the deposition of Eliot Bernstein.
3. The Court defers ruling on the motion to compel production of documents, which may be renoticed for a later hearing.

4. The Court has stated a ruling on the record addressing the service of pleadings by e-mail in this case.

DONE AND ORDERED in Chambers, in Palm Beach County, Florida, this \_\_\_ day of September, 2014.

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Martin H. Colin  
CIRCUIT COURT JUDGE

cc: All parties on the attached service list

## SERVICE LIST

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and Eliot and Candice Bernstein,  
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1           **THE COURT:** Because if you'll listen to me,  
2 you'll hear it.

3           **MR. BERNSTEIN:** Okay.

4           **THE COURT:** So here's the problem: The e-mail  
5 from Eliot seems like he did what 9A, B, and C did.  
6 What I see he's done also is he puts reference to  
7 that e-mail in the pleadings, correct?

8           **MR. ROSE:** Correct.

9           **THE COURT:** And that's what I want to be able  
10 to see because here's the -- so technically, Eliot,  
11 you're correct that I didn't put in my e-mail not  
12 to publish anything about that communication in  
13 other media --

14           **MR. BERNSTEIN:** I didn't publish that.

15           **THE COURT:** No, no. Publishing meaning  
16 referred to it in your pleadings, which you did. I  
17 read it.

18           **MR. BERNSTEIN:** No, that I agree, right.

19           **THE COURT:** So I didn't -- because it's not  
20 always easy to think about, when I style an order  
21 like this, every possible way someone might stretch  
22 this rule.

23           So I'm going to -- here's my ruling: I'm  
24 deferring on the contempt ruling on violation of  
25 the July 18th order. But I'm going to take up

1 through what would be at the next hearing that we  
2 have on this matter, a consideration of a motion to  
3 strike those allegations that you say violate the  
4 intent of the privileged communication law. And I  
5 may have to remove them, okay? And that's the idea  
6 here. So we're going to have to kind of cleanse  
7 it, okay, a little bit to do this the right way.

8 But now, Eliot, one final word. That's my  
9 ruling. I don't need any other evidence. You can  
10 have a seat. Go ahead.

11 **MR. ROSE:** Your Honor --

12 **MR. BERNSTEIN:** Do I get --

13 **THE COURT:** No, because I'm done.

14 **MR. BERNSTEIN:** But I've got a side that  
15 hasn't been --

16 **THE COURT:** I didn't hold you in contempt. Do  
17 you want me to consider your side and reconsider?

18 **MR. BERNSTEIN:** Yeah.

19 **THE COURT:** I didn't hold you in contempt.

20 **MR. BERNSTEIN:** No, I know, but I've got a  
21 counter to this that I want to ask him some  
22 questions. I just want to put him on the stand.

23 **THE COURT:** A counter to what?

24 **MR. BERNSTEIN:** Well, I don't think this  
25 was -- this filing was contempt. I think it was

1 filed. File the motion to strike and remove, and  
2 I'll put it into perspective there. But nothing  
3 else filed in the form of pleadings. Don't --

4 **MR. BERNSTEIN:** I have to --

5 **THE COURT:** -- until you come before me. I  
6 have time. You need to do it. I'll get you in  
7 right away. Okay, bye.

8 **MR. BERNSTEIN:** Wait, wait. I filed things in  
9 response to these lawsuits.

10 **THE COURT:** I'm not undoing what's been filed,  
11 but no more action on them. I've stayed  
12 everything.

13 **MR. BERNSTEIN:** Even in Oppenheimer?

14 **THE COURT:** Even the Oppenheimer.

15 **MR. BERNSTEIN:** Everything?

16 **THE COURT:** I'm staying --

17 **MR. BERNSTEIN:** So should we notify that guy?

18 **THE COURT:** Notify what you want. Yeah,  
19 notify everybody on that stuff.

20 **MR. BERNSTEIN:** That everything is stayed?

21 **THE COURT:** Everything is stayed. We can look  
22 more carefully at the pleadings in the case.

23 **MR. ROSE:** Is he prohibited from e-mailing  
24 everyone in my firm?

25 **THE COURT:** Yeah, yeah. No more e-mailing.