

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

Case No. 502014CP003698XXXXSB
Honorable Judge Martin Colin

In Re:
SHIRLEY BERNSTEIN TRUST
AGREEMENT, dated, May 20, 2008,

Deceased.

ELIOT IVAN BERNSTEIN, Individually;
ELIOT IVAN BERNSTEIN in his capacity as
Natural Guardian of his
minor children, JOSHUA, JACOB and DANIEL;
and as beneficiary of the SHIRLEY
BERNSTEIN TRUST dated May 20, 2008, as
amended and ELIOT IVAN BERNSTEIN
as Trustee of the ELIOT BERNSTEIN FAMILY
TRUST dated May 20, 2008,

Counter Plaintiffs,

v.

TESCHER & SPALLINA, P.A., and all Partners,
Associates and of Counsel;
et al.

Counter Defendants.

I

ANSWER AMENDED COMPLAINT COUNT II

COMES NOW, Eliot Ivan Bernstein ("Eliot" or "Plaintiff"), beneficiary of the Shirley
Bernstein Trust Agreement, dated May 20, 2008 ("Shirley Trust" or "Trust") and Eliot Bernstein as

Legal Guardian of his three minor children and files this “Answer Amended Complaint Count II,” and in support, on information and belief, states as follows:

COUNT II – DECLARATORY JUDGMENT AS TO VALIDITY OF TESTAMENTARY DOCUMENTS

1. 79. Trustee restates the allegations contained in paragraphs 1-65 and 70-78.

ANSWER: See Answer to Count I filed with the Court.

2. 80. This is an action, filed at the direction of the Court, for declaratory judgment to determine the validity, authenticity and enforceability of certain wills and trusts executed by Simon Bernstein and Shirley Bernstein, as follows:

- a. Shirley Bernstein Trust Agreement dated May 20, 2008 (“Shirley Trust”, attached as Exhibit “A”);

- b. First Amendment to Shirley Bernstein Trust Agreement dated November 18, 2008 (“Shirley First Amendment”, Exhibit “B”);

- c. Will of Simon L. Bernstein dated July 25, 2012 (“Simon Will”, Exhibit “C”);

- d. Simon L. Bernstein Amended and Restated Trust Agreement dated July 25, 2012 (“Simon Trust”, Exhibit “D”);

- e. Will of Shirley Bernstein dated May 20, 2008 (“Shirley Will”, Exhibit “E”).

(collectively, the “Testamentary Documents”).

ANSWER: Deny. Eliot lacks sufficient information, documents and knowledge, in order to form a belief as to the truth of the allegations of this paragraph and therefore denies the same.

Counter Plaintiff states that it cannot be stated at this time that a-e above are valid legally binding documents due to the fact that there has been fraud upon the Court and the Beneficiaries

COMMITTED by Officers of this Court Robert L. Spallina, Esq., Donald R. Tescher, Esq.,

Theodore Stuart Bernstein, Kimberly Moran and others, acting as counsel and/or Fiduciaries of

the Simon and Shirley Bernstein Estates and Trusts, including but not limited to, proven, Forgery, Fraudulent Notarizations, Fraud on the Court, Altercation of Trust Documents and thus until each dispositive document is presented for forensic inspection with original signatures and all attachments, codicils, amendments, etc. to the beneficiaries, these exhibited COPIES of the alleged dispositive documents are not presumed valid.

3. 81. Certain of the potential beneficiaries named herein have raised questions concerning the validity, authenticity and enforceability of the Testamentary Documents, including issues relating to the authenticity and genuineness of the signatures; the formalities of execution; and other issues.

ANSWER: Deny. Eliot lacks sufficient information, documents and knowledge, in order to form a belief as to the truth of the allegations of this paragraph and therefore denies the same. Not only have potential beneficiaries raised questions to the legal validity of these documents in whole but there are also admissions from and prosecutions of, fiduciaries and others, of FELONY misconduct with the alleged Testamentary Documents.

4. 82. The Trustee asserts that the Testamentary Documents are valid, genuine and enforceable, and requests that the Court enter a Final Judgment determining that the documents are valid, genuine and enforceable.

ANSWER: Deny. Eliot lacks sufficient information, documents and knowledge, in order to form a belief as to the truth of the allegations of this paragraph and therefore denies the same. The ALLEGED Trustee of the ALLEGED Testamentary Documents, Theodore Stuart Bernstein, has participated with his former counsel, TESCHER and SPALLINA et al. in fraud upon the court and fraud upon the beneficiaries through a series of document frauds that directly benefited TED's family to the detriment of other beneficiaries. There are ongoing actions to remove TED as a fiduciary for his involvement in fraud, breach of fiduciary duties and more. Therefore, since

TED's opinion may significantly affect his family personally so as they may get nothing from the Estates and Trusts of Simon and Shirley, TED's opinion should be stricken. TED also cannot be trusted to opine that the documents are not valid, since it is his FORMER COUNSEL as a fiduciary that committed FELONY crimes to benefit their client TED.

5. 83. Specifically, Exhibits "A" and "E" were properly signed and executed by Shirley Bernstein on May 20, 2008, in the presence of two subscribing witnesses and a notary.

ANSWER: Deny. Eliot lacks sufficient information, documents and knowledge, in order to form a belief as to the truth of the allegations of this paragraph and therefore denies the same.

6. 84. The Shirley Will has been admitted to probate.

ANSWER: Deny. Eliot lacks sufficient information, documents and knowledge, in order to form a belief as to the truth of the allegations of this paragraph and therefore denies the same.

7. 85. Exhibit "B" was properly signed and executed by Shirley Bernstein on November 18, 2008, in the presence of two subscribing witnesses and a notary.

ANSWER: Deny. Eliot lacks sufficient information, documents and knowledge, in order to form a belief as to the truth of the allegations of this paragraph and therefore denies the same.

8. 86. Exhibits "C" and "D" were properly signed and executed by Simon L. Bernstein on July 25, 2012, in the presence of two subscribing witnesses and a notary.

ANSWER: Deny. Eliot lacks sufficient information, documents and knowledge, in order to form a belief as to the truth of the allegations of this paragraph and therefore denies the same.

9. 87. The Simon Will has been admitted to probate.

ANSWER: Deny. Eliot lacks sufficient information, documents and knowledge, in order to form a belief as to the truth of the allegations of this paragraph and therefore denies the same.

10. 88. At the time of signing their respective Testamentary Documents, Shirley Bernstein and Simon L. Bernstein were competent and legally able to execute testamentary documents, and

were not acting under any such undue influence or other disability as could cause the documents to be unenforceable under Florida law.

ANSWER: Deny. Eliot lacks sufficient information, documents and knowledge, in order to form a belief as to the truth of the allegations of this paragraph and therefore denies the same. That 48+ days prior to his death and at the time of the alleged signing of the alleged Simon 2012 Testamentary documents, Simon was suffering from mental health issues caused by elder abuse by four of five of his children and compounded by severe and unexplained headaches that caused him to go for a brain scan weeks before his untimely death, claiming he felt that he had tumors in his brain. Simon weeks before his death and at the time of the alleged signing also underwent a battery of other medical tests with a host of medical professionals, including but not limited to mental health experts and was having vivid hallucinations, massive depression and loss of memory and thereby lost all decisional capacity and was incapable of understanding the nature and effect of all legal and financial transactions, including executing documents, gifting, investing, withdrawal of funds, transfer of funds between accounts, etc.

WHEREFORE, Counter Plaintiff requests that this Court;

- 1) Deny all relief sought by Counter Defendants,
- 2) Sanction TED for attempting to plead matters that he is conflicted in as a Trustee and thereby breaching his fiduciary duty under Florida Probate and Trust Rules and Statutes.

Dated: Thursday, November 20, 2014

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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, Thursday, November 20, 2014.

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SERVICE LIST

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