

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

IN RE: THE ESTATE OF
SIMON BERNSTEIN,
Deceased

CASE NO. 502012CP004391XXXXSB

HON. JUDGE MARTIN H. COLIN

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 ;



JACOB NOAH ARCHIE BERNSTEIN;
DANIEL ELIJSHA ABE OTTOMO BERNSTEIN;
ALEXANDRA BERNSTEIN;
ERIC BERNSTEIN;
MICHAEL BERNSTEIN;
MATTHEW LOGAN;
MOLLY NORAH SIMON;
JULIA IANTONI ;
MAX FRIEDSTEIN;
CARLY FRIEDSTEIN;
JOHN AND JANE DOE (1-5000).

MOTION IN OPPOSITION TO PERSONAL REPRESENTATIVES “MOTION FOR INSTRUCTIONS AND/OR MOTION TO COMPEL COMPLIANCE WITH COURT’S ORDER DATED SEPTEMBER 18, 2014; MOTION TO EXTEND TIME”

COMES NOW, ELIOT BERNSTEIN (“Eliot”) individually and on behalf of his three minor children, all alleged Beneficiaries of the Estate and Trusts of Simon L. Bernstein and files this MOTION IN OPPOSITION TO PERSONAL REPRESENTATIVES “MOTION FOR INSTRUCTIONS AND/OR MOTION TO COMPEL COMPLIANCE WITH COURT’S ORDER DATED SEPTEMBER 18, 2014; MOTION TO EXTEND TIME,” and states as follows on information and belief:

1. As the Court will note, Eliot in his request for production from the Estate put the following statement in the beginning of the pleading that stated to Successor PR, Brian O’Connell, Esq. (“O’Connell”), “You do not need to produce Tescher & Spallina, PA’s documents turned over to Benjamin Brown, Esq. (“Brown”) to the Estate by (T&S) that are Bates Numbered TS000001 through TS007421 but any and all records turned over by Brown not within the Bates range.
2. That when Eliot contacted the Curator for the Estate, Benjamin Brown, Esq. (“Brown”), for production of the records necessary for the Objections to the Final Accounting and other

items, Brown stated that all Eliot need to do to compel his production of the records was to simply file a production request with the Court and the Estate would comply. A production request was made and Brown simply complied with it and turned over the records and a privilege log as requested.

3. That Eliot claims that the information requested from O'Connell is not voluminous, as his motion states and is simply a request for any new materials that the Estate has come into possession of since the last production was turned over by Brown in May 2014 and the request is based on the information necessary for the Objections Eliot filed to the final accounting of the former PR's.
4. That Eliot filed this request for production as part of the normal administration of the Estate and not as an adversary proceeding, as production by the PR is part of the administration and typically does not require an adversarial proceeding. As such, the production request does not in any way violate the Court's Stay Order and did not require Court approval as it was not an adversarial proceeding.
5. Eliot's document and financial production request is for primarily items that have been suppressed and denied to beneficiaries for over two years due to the misconduct by the prior Fiduciaries and Counsel to Simon's Estate and this information is absolutely necessary for the upcoming hearings on objections to their Final Accounting, which cannot be completed until all this financial information is obtained and disclosed to beneficiaries by the PR. Therefore, the Court should Order timely compliance within reason for the PR to produce the materials requested.
6. As the Court can see the request for production is factually based on the Objection to the Final Accounting filed by Eliot, which is lengthy and the information is necessary due to the

fact that the Final Accounting had virtually no back up or supporting information attached, in gross violation of Generally Accepted Accounting Principles (GAAP) and Probate Accounting rules and statutes.

7. Due to the fact that the prior fiduciaries when removed by the Court and Ordered to produce all records to the Curator Brown, only turned over scant and incomplete records, NO ORIGINAL DOCUMENTS, account histories that started post mortem, missing beneficiaries on IRA's and Life Insurance Policies, missing insurance policies, missing records for financial accounts entirely, NO MAIL was produced for the decedent from the date of his death, no corporate records for the decedent were produced, no tax returns for the decedent and more. The fact that virtually nothing was turned over by the disgraced former counsel and fiduciaries exhibits their continued misconduct that is costing time and effort on everyone to recreate in efforts to further cover-up additional crimes and civil torts alleged against them in state and federal venues.
8. That for example, Brown had ordered a wealth of information pertinent to the hearings on the final accountings before turning over the reigns to O'Connell, such as tax returns that are missing from the records of the Estate that were ordered certified from the IRS over six months ago by Brown. If these documents have been received by Brown or O'Connell since the last production they must be produced as requested.
9. That another example, Brown also had ordered account information from JP Morgan regarding the IRA over six months ago and this also would need to be produced and requested information has still not been tendered making it so nothing can be done with the IRA, as the beneficiary forms are missing and all statements are missing other than post

mortem statements provided by Tescher and Spallina. Again this information is essential and the PR should be turning it over to beneficiaries almost as soon as it is received.

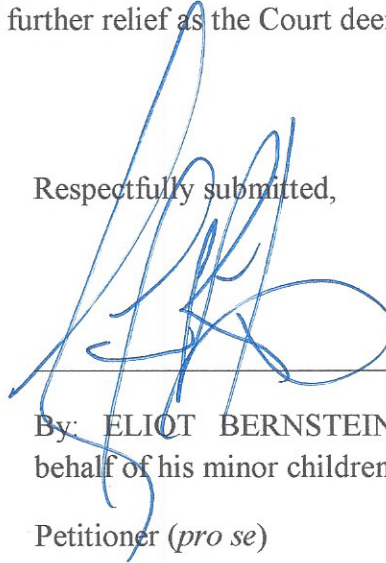
10. That any items requested for production that the Estate does not yet have information on at this time, or no additional information has been obtained must be at minimum addressed with a simple statement to such affect,
11. That any items requested that the Estate has and feels are privileged or confidential must be identified in a privileged log.
12. That this Court must keep open the transparency to beneficiaries started with Brown's appointment as Curator and keep the flow of information fluid between the new Estate PR, O'Connell and the Beneficiaries and Interested Parties, as there are also ongoing state and federal investigations and civil proceedings that also seek information regarding the requested production documents, including the missing assets, missing documents, missing beneficiaries, missing trusts and more we are waiting for. To deny production would be to hamper the rights of the beneficiaries to object to any accountings properly with so much missing information still being obtained by the Estate.
13. That Eliot and Candice spoke with Brian's office and Joielle "Joy" A. Foglietta Esq., several months ago and just several week ago, who stated that their offices were very appreciative of the long list of information requested in Eliot's accounting objections and in fact were working on an extensive production request for all of the missing information and accounts based upon it.
14. For all these reasons the requested information is well within a valid production request and unless the PR has received a mass of information in the short time since the last production this Court should order that it be tendered timely.

WHEREFORE, Counter Plaintiff's respectfully request that this Court enter an Order;

- i. compelling the PR to comply with the production request timely,
- ii. awarding legal fees and costs,
- iii. granting such other and further relief as the Court deems just and proper.

Signed on Friday, February 27, 2015.

Respectfully submitted,



By: ELIOT BERNSTEIN, individually and on behalf of his minor children

Petitioner (*pro se*)

2753 N.W. 34th St.
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Petition was served via electronic mail on Friday, February 27, 2015 to the parties listed in the attached Service List.

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