

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

Case No. 502014CP003698XXXXSB
Hon. 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;
Robert L. Spallina, Esq., Personally;
Robert L. Spallina, Esq., Professionally;
Donald R. Tescher, Esq., Personally;
Donald R. Tescher, Esq., Professionally;
Gutter Chaves Josepher Rubin Forman Fleisher Miller, P.A.;
Theodore Stuart Bernstein, Individually;
Theodore Stuart Bernstein, as alleged Trustee of the Shirley Trust;
Theodore Bernstein as Personal Representative of the Shirley Estate;
Lisa Sue Friedstein, Individually;
Jill Marla Iantoni, Individually;
Pamela Beth Simon, Individually;
Mark Manceri, Esq., Personally;
Mark Manceri, Esq., Professionally;
Mark R. Manceri, P.A., and all Partners, Associates and of Counsel;
Page, Mrachek, Fitzgerald & Rose, P.A., and all Partners Associates and of Counsel;
Alan B. Rose, Esq. – Personally;
Alan B. Rose, Esq. – Professionally;

Friday, February 27, 2015

Page 1 of 5

MOTION TO STRIKE...

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;
“Simon L. Bernstein Amended and Restated Trust Agreement” Dated July 25, 2012;
Simon Bernstein Trust Agreement Dated May 20th 2008;
Shirley Bernstein Trust Agreement Dated May 20th 2008;
The Estate of Simon Bernstein;
The Estate of Shirley Bernstein;
SIMON L. BERNSTEIN IRREVOCABLE TRUST AGREEMENT (2008);
SIMON BERNSTEIN IRREVOCABLE TRUST U/A 9/7/06;
SHIRLEY BERNSTEIN IRREVOCABLE TRUST U/A 9/7/06;
SHIRLEY BERNSTEIN IRREVOCABLE TRUST AGREEMENT (2008);
SIMON BERNSTEIN IRREVOCABLE INSURANCE TRUST DATED 6/21/1995;
SIMON BERNSTEIN 2000 INSURANCE TRUST (dated August 15, 2000);
SHIRLEY BERNSTEIN 2000 INSURANCE TRUST (DATED AUGUST 15, 2000);
Trust f/b/o Joshua Bernstein under the Simon L. Bernstein Trust dtd 9/13/2012;
Trust f/b/o Daniel Bernstein under the Simon L. Bernstein Trust dtd 9/13/2012;
Trust f/b/o Jake Bernstein under the Simon L. Bernstein Trust dtd 9/13/2012;
ELIOT BERNSTEIN FAMILY TRUST DATED MAY 20, 2008;
DANIEL BERNSTEIN IRREVOCABLE TRUST DATED SEPTEMBER 7, 2006;
JAKE BERNSTEIN IRREVOCABLE TRUST DATED SEPTEMBER 7, 2006;
JOSHUA Z. BERNSTEIN IRREVOCABLE TRUST DATED SEPTEMBER 7, 2006;
DANIEL BERNSTEIN IRREVOCABLE TRUST 07-JUL-10 049738;
JAKE BERNSTEIN IRREVOCABLE TRUST 07-JUL-10 0497381;
JOSHUA Z BERNSTEIN IRREVOCABLE TRUST 07-JUL-10 0497381;
John and Jane Doe’s (1-5000),

Counter Defendants.

I

**MOTION TO STRIKE “MOTION FOR INSTRUCTIONS AND/OR MOTION
TO COMPEL COMPLIANCE WITH COURT’S ORDER DATED
SEPTEMBER 18, 2014; MOTION TO EXTEND TIME TO COMPEL TRUST
ACCOUNTING UNDER FLORIDA STATUTE 736.0813 AND 736.08135”**

COMES NOW, Eliot Ivan Bernstein (“Eliot” or “Counter Plaintiff), individually and as
a beneficiary of the “SHIRLEY BERNSTEIN TRUST dated May 20, 2008, as amended” and

Friday, February 27, 2015
Page 2 of 5
MOTION TO STRIKE...

ELIOT IVAN BERNSTEIN as Trustee of the “ELIOT BERNSTEIN FAMILY TRUST dated May 20, 2008”, PRO SE, and Eliot as Guardians for his three minor children, as alleged beneficiaries of the “SHIRLEY BERNSTEIN TRUST dated May 20, 2008, as amended” and hereby files this “MOTION TO STRIKE “MOTION FOR INSTRUCTIONS AND/OR MOTION TO COMPEL COMPLIANCE WITH COURT'S ORDER DATED SEPTEMBER 18, 2014; MOTION TO EXTEND TIME TO COMPEL TRUST ACCOUNTING UNDER FLORIDA STATUTE 736.0813 AND 736.08135” filed by the Personal Representative of Simon Bernstein’s Estate, Brian O’Connell, Esq. and in support thereof states, as follows:

1. That Brian O’Connell, Esq. **is not** the PR or Trustee of Shirley Bernstein’s Estate or Trusts and therefore has no standing to object to the Motion to Compel Trust Accounting filed by Eliot in the Shirley Bernstein Trust case, as Personal Representative of the Simon Bernstein Estate.
2. That no request for accounting was made by Eliot to compel the Simon Bernstein Estate to produce an accounting, the request is for accounting in the Shirley Bernstein Trust and thus believes the PR of Simon’s Estate may have filed this request in error.
3. That a request for accounting under Florida Probate Codes is not an adversarial proceeding and is part of the normal administration of the trust.
4. That if O’Connell believes an accounting request was made for the Estate of Simon Bernstein in the filing in Shirley’s Trust case, it was not, the request was made only on the alleged Trustee of the Shirley Trust, Ted Bernstein. There appears no request for the Simon Bernstein Estate to produce an accounting in the Trust filing and therefore O’Connell has no standing to attempt to interfere or object in the proceeding in Shirley’s Trust where he has no fiduciary role.
5. That Eliot believes this filing by O’Connell may be in error as such and should therefore be stricken.

WHEREFORE, Eliot requests that this Court enter an order;

- i. to strike the, "MOTION TO STRIKE "MOTION FOR INSTRUCTIONS AND/OR MOTION TO COMPEL COMPLIANCE WITH COURT'S ORDER DATED SEPTEMBER 18, 2014; MOTION TO EXTEND TIME TO COMPEL TRUST ACCOUNTING UNDER FLORIDA STATUTE 736.0813 AND 736.08135",
- ii. for legal fees of Eliot Bernstein Pro Se,
- iii. any other remedies, relief, damages and sanctions this Court finds apropos.

Filed on Friday, February 27, 2015

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

X

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,
February 27, 2015.

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

X

SERVICE LIST

Friday, February 27, 2015
Page 4 of 5
MOTION TO STRIKE...

<p>Donald Tescher, Esq., Tescher & Spallina, P.A. Boca Village Corporate Center I 4855 Technology Way Suite 720 Boca Raton, FL 33431 dtescher@tescherspallina.com dtescher@tescherspallina.com ddustin@tescherspallina.com kmoran@tescherspallina.com</p>	<p>Alan B. Rose, Esq. Page, Mrachek, Fitzgerald & Rose, P.A. 505 South Flagler Drive, Suite 600 West Palm Beach, Florida 33401 (561) 355-6991 arose@pm-law.com and arose@mrachek-law.com mchandler@mrachek-law.com lmrachek@mrachek-law.com</p>	<p>John J. Pankauski, Esq. Pankauski Law Firm PLLC 120 South Olive Avenue 7th Floor West Palm Beach, FL 33401 (561) 514-0900 courtfilings@pankauskilawfirm.com john@pankauskilawfirm.com</p>	<p>Robert L. Spallina, Esq., Tescher & Spallina, P.A. Boca Village Corporate Center I 4855 Technology Way Suite 720 Boca Raton, FL 33431 rspallina@tescherspallina.com kmoran@tescherspallina.com ddustin@tescherspallina.com</p>
<p>Pamela Beth Simon 950 N. Michigan Avenue Apartment 2603 Chicago, IL 60611 psimon@stpcorp.com</p>	<p>Theodore Stuart Bernstein Life Insurance Concepts 950 Peninsula Corporate Circle, Suite 3010 Boca Raton, Florida 33487 tbernstein@lifeinsuranceconcepts.com</p>	<p>Mark R. Manceri, Esq., and Mark R. Manceri, P.A., 2929 East Commercial Boulevard Suite 702 Fort Lauderdale, FL 33308 mrmlaw@comcast.net mrmlaw1@gmail.com</p>	<p>Irwin J. Block, Esq. The Law Office of Irwin J. Block PL 700 South Federal Highway Suite 200 Boca Raton, Florida 33432 ijb@ijblegal.com martin@kolawyers.com</p>
<p>Jill Iantoni 2101 Magnolia Lane Highland Park, IL 60035 jilliantoni@gmail.com Julia Iantoni, a Minor c/o Guy and Jill Iantoni, Her Parents and Natural Guardians jilliantoni@gmail.com</p>	<p>Lisa Friedstein 2142 Churchill Lane Highland Park, IL 60035 Lisa@friedsteins.com lisa.friedstein@gmail.com lisa@friedsteins.com Carley & Max Friedstein, Minors c/o Jeffrey and Lisa Friedstein Parents and Natural Guardians Lisa@friedsteins.com lisa.friedstein@gmail.com</p>	<p>Kimberly Moran Tescher & Spallina, P.A. Boca Village Corporate Center I 4855 Technology Way Suite 720 Boca Raton, FL 33431 kmoran@tescherspallina.com</p>	<p>John P Morrissey, Esq. John P. Morrissey, P.A. 330 Clematis Street Suite 213 West Palm Beach, FL 33401 john@jmorrisseylaw.com</p>
<p>Charles D. Rubin Managing Partner Gutter Chaves Josepher Rubin Forman Fleisher Miller PA Boca Corporate Center 2101 NW Corporate Blvd., Suite 107 Boca Raton, FL 33431-7343 crubin@floridatx.com</p>	<p>Joshua, Jacob and Daniel Bernstein, Minors c/o Eliot and Candice Bernstein, Parents and Natural Guardians 2753 NW 34th Street Boca Raton, FL 33434 iviewit@iviewit.tv</p>	<p>L. Louis Mrachek, Esq. PAGE, MRACHEK, FITZGERALD, ROSE, KONOPKA, THOMAS & WEISS, P.A. 505 South Flagler Drive, Suite 600 West Palm Beach, Florida 33401 lmrachek@mrachek-law.com</p>	
<p>Lindsay Baxley aka Lindsay Giles Life Insurance Concepts 950 Peninsula Corporate Circle, Suite 3010 Boca Raton, Florida 33487 lindsay@lifeinsuranceconcepts.com</p>			