OPENING VALIDITY HEARING

1. Minor Children not represented by counsel and Rose claims Eliot is conflicted with his children and where Rose further would not voluntarily Stay this proceeding while counsel advised him that she was entering the case on behalf of Eliot and the minor children and would be filing a Pro Hac Vice and once retained filing a Notice of Appearance. Therefore, 3 minor children are alleged defendants who have no counsel and cannot be represented by Eliot.
2. Eliot Bernstein was served as a Trustee acting on behalf of his minor children through 3 alleged trusts that Eliot has never seen, possessed or been given as part of production from the former fiduciaries and counsel or the current ones and thus Eliot cannot represent in a capacity he is unaware he has. These alleged trusts are through the Simon Bernstein Trust and should have been made part of the dispositive document but have not been.
3. Alan Rose was ordered by the Court to serve all possible beneficiaries to be heard at this validity trial and certain beneficiaries of the dispositive documents have not been served and are not present at this trial.
	1. Shirley Bernstein Family Trust and Shirley Bernstein Marital Trust.
	2. Eliot Bernstein Family Trust a beneficiary under Shirley and Simon’s 2008 documents.
	3. Lisa Friedstein Family Trust a beneficiary under Shirley and Simon’s 2008 documents.
	4. Jill Iantoni Family Trust a beneficiary under Shirley and Simon’s 2008 documents.
4. That this hearing was scheduled at a status conference for Simon Bernstein’s estate and Alan Rose misled the Court in the last hearing stating that the status conference was scheduled for all the cases of Simon and Shirley, which it was not. This ruling for a Shirley Trust Construction hearing in the Shirley Trust case in a case management for Simon’s estate may violate the Florida Rules of Civil Procedure and should have been corrected by the Court and Rose once they were aware of the problems and this hearing should have been properly set.
5. That production requests are still outstanding in the Simon and Shirley Estate cases which is highly relevant to this trial and those requests to the PR of Simon’s Estate and Ted Bernstein as a fiduciary were not yet decided by the Court since opposition was filed against both requests and I feel that due process is denied when I am left without necessary production documents. Again, at the status conference in Simon that led to the scheduling of the trial in Shirley Alan Rose did not discuss the outstanding production or interrogatories that need to be heard by the Court first and instead led the Court to believe that the parties were ready for trial.
6. That necessary witnesses to validate the dispositive documents have not been called as witnesses, including signors of the documents and witnesses, including Traci Kratish, Diana Banks, Lindsay Baxley and an unknown witness in Simon’s documents. That the two witnesses and signors listed as witness for the Plaintiff are two convicted felons who have both already been found committing fraud and more in this case against beneficiaries and have admitted to fraud upon the court.
7. That there were outstanding requests for Eliot and his children to have counsel paid for and representing them in these hearings and matters and those too remain unheard by the Court and where again Rose failed to notify the Court of these outstanding requests and at the last hearing this court refused to let me explain why the Trial could not proceed.
8. That the court assured me at the last hearing that nothing was being decided, just a status conference and then it was decided a trial would be set for today, again without doing any proper case management prior to the trial as required by law.

We are here today to make a grandstand last ditch effort to make trusts and wills fit and resolve crimes committed already in the Estates and Trusts of Simon and Shirley Bernstein by the Fiduciaries and Attorneys at Law involved.

There has been proven fraud on the court, fraud on the beneficiaries and there remains ongoing investigations both state and federal into felony misconduct by the Fiduciaries and Attorneys at Law and others involved.

There have been arrests made and admissions of felony crimes committed by the Fiduciaries and Attorneys at Law involved, including admission of fraud in the Shirley Trust that this hearing is being held in.

That upon learning of the Fraudulent Documents and other crimes admitted to that effect the dispositions and distributions already made, the Fiduciary Ted Bernstein has done nothing to remedy or investigate further the validity or construction of the dispositive documents before the Court and where Ted’s retained counsel as fiduciary, Tescher and Spallina through their law office have disseminated fraudulent documents to this court and beneficiaries in efforts to make changes to the documents that benefited Ted and his sister directly to the detriment of other beneficiaries.

That Ted Bernstein who has a duty to protect the beneficiaries now is adverse to the beneficiaries and works to protect himself and his former counsel that was removed from the proceedings and if he fails they may all go to prison for a very long time to come and lose all of their personal properties in damages for their acts as fiduciaries and attorneys.

That one must ask, since discovering absolutely on or about May 2013 that there was fraud in the dispositive documents and then again after Spallina’s admissions to this Court and the Palm Beach County Sheriff of committing fraud in the Shirley Trust to change the document illegally Post Mortem what have the Attorneys and Fiduciaries done to protect the beneficiaries and the answer is NOTHING.

That the Court must determine why if there are questions of Validity of the Dispositive documents since at least May 2013 and then January of 2014 what has taken the Fiduciary Ted and his counsel Alan Rose over two years to come before the Court and determine if the documents are valid.

That the Court must determine why if the Validity of the dispositive documents the Fiduciaries and counsel are operating under are in question then how did they continue to act under them and make dispositions and distributions without first gaining an Order from the Court to determine if they were operating under legally binding valid documents.

That the Court must determine why if the documents Validity is in question due to fraudulent activity by Ted’s former counsel acting on behalf and to the benefit of their client Ted has Ted and his counsel not hired the very best forensic document analysts to analyze and determine the validity of every single document tendered by the parties involved in the fraud (including Ted) and submitted to the Court and Beneficiaries.

That the Court must determine why the Fiduciaries and Attorneys involved have not rushed to the Court as obligated to determine the Validity and Construction and given beneficiaries full disclosure and access to the records and instead proceeded as if nothing was wrong and no fraud has occurred that calls into question not only the validity but their every action since learning that the dispositive documents may be further invalidated for fraud. Why have they done anything else first that subjects them to further criminal and civil liabilities and fought my efforts to bring validity hearing since May 2013? These failures show total incompetence and possible further criminal acts by the Fiduciaries and their counsel, which is cause for this Court to immediately here and now remove Ted from ANY further acts.

The Court must address how ANY of the fiduciaries or counsel in these matters have acted on dispositive documents to sell properties, settle matters and act under the language in anyway after they clearly and unequivocally knew that there had been fraud in the creation of certain of them and that the validity would have to be proven at some time to protect not only themselves from liabilities but more importantly the beneficiaries and to PROPERLY ADMINISTER THE ESTATES AND TRUSTS competently and legally.

Section 736.0706(1), (2)(c), Florida Statutes (2010), provides that “a trustee may be removed by the court on the court’s own initiative … if … [d]ue to the unfitness, unwillingness, or persistent failure of the trustee to administer the trust effectively, the court determines that removal of the trustee best serves the interests of the beneficiaries.” The statute therefore suggests that a factual finding must be made by the trial court as to the trustee’s unfitness, unwillingness, and persistent failure to administer the trust effectively.

That the allegations against the fiduciaries and their counsel is that the dispositive documents were fraudulently altered so as to insert Ted, Spallina and Tescher into the fiduciary and counsel positions to seize Dominion and Control of the Estates and Trusts of Simon and Shirley and not only change beneficiaries to the benefit of Ted and others to the detriment of other beneficiaries but to then begin to loot the estate (ie the TPP thefts), lose dispositive trust documents (ie the federal court ins case), to lose beneficiary forms (ie JP Morgan IRA account), to deny records and access to records to beneficiaries and interested parties, to fail to account for several years now and basically violate the entire Probate Code and Statutes relating to their fiducial obligations.

That even given that the documents today are validated by this Court the next hurdle for the Fiduciaries would be construction of the language that has already been challenged, for example, language in the Shirley Trust that states that Ted Bernstein, his sister Pam and their lineal descendants are not only PREDECEASED as beneficiaries but further are considered PREDECEASED for all purposes of DISPOSITIONS of the Shirley Trust.

The Court must ask how if Ted is considered dead for all purposes of Dispositions of which is argued includes hearings on validity, construction, distributions and virtually everything and anything that has to do with the transfer of the Trust Corpus or determinations of the language to dispose of the Trust Corpus under the Shirley Trust.

DEFINITIONS OF DISPOSITION

**Nolo Legal**

2) The act of transferring care, possession, or ownership to another, such as by deed or will.

**Free Dictionary**

disposition(Transfer of property), noun alienation, arrangement for disposal, assignment, conveyance, deliverance, delivery, dispensation, disposal, distribution, giving, manner of disposal, release, relinquishment by gift, sale, surrender, transfer, vouchsafement, yielding

**Testamentary disposition**

n. how the terms of a will divide the testator's (will writer's) estate, including specific gifts to named beneficiaries. (See: will)

**Black’s**

To alienate or direct the ownership of property, as disposition by will.Used also of the determination of suits. Called a word of large extent. Koerner v.Wilkinson, 96 Mo. App. 510, 70 S. W. 509; Love v. Pamplin (C. C.) 21 Fed. 760; U. S. v.Hacker (D. C.) 73 Fed. 294; Benz v. Fabian, 54 N. J. Eq. 615, 35 Atl. 760; El- ston v.Schilling, 42 N. Y. 79; Beard v. Knox, 5 Cal. 256, 63 Am. Dec. 125.

<http://legal-dictionary.thefreedictionary.com/alienation>

ALIENATION, estates. Alienation is an act whereby one man transfers the property and possession of lands, tenements, or other things, to another. It is commonly applied to lands or tenements, as to alien (that is, to convey) land in fee, in mortmain. Termes de la ley. See Co. Litt. 118 b; Cruise Dig. tit. 32, c. 1, Sec. 1-8.

 2. Alienations may be made by deed; by matter of record; and by devise.

 3. Alienations by deed may be made by original or primary conveyances, which are those by means of which the benefit or estate is created or first arises; by derivative or secondary conveyances, by which the benefit or estate originally created, is enlarged, restrained, transferred, or extinguished. These are conveyances by the common law. To these may be added some conveyances which derive their force and operation from the statute of uses. The original conveyances are the following: 1. Feoffment; 2. Gift; 3. Grant; 4. Lease; 6. Exchange; 6. Partition. The derivative are, 7. Release; 8. Confirmation; 9. Surrender; 10. Assignment; 11. Defeasance. Those deriving their force from the statute of uses, are, 12. Covenants to stand seised to uses; 13. Bargains and sales; 14. Lease and release; 15. Deeds to lend or declare the uses of other more direct conveyances; 16. Deeds of revocation of uses. 2 Bl. Com. ch. 20. Vide Conveyance; Deed. Alienations by matter of record may be, 1. By private acts of the legislature; 2. By grants, as by patents of lands; 3. By fines; 4. By common recovery. Alienations may also be made by devise (q.v.)

Law Dictionary: What is DISPOSE? definition of DISPOSE (Black's Law Dictionary)