

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

TED BERNSTEIN, as Trustee  
of the Shirley Bernstein Trust Agreement  
dated May 20, 2008, as amended,

Probate Division  
Case No.: 502014CP003698XXXXNBIJ

Plaintiff,

v.

ALEXANDRA BERNSTEIN; ERIC BERNSTEIN;  
MICHAEL BERNSTEIN; MOLLY SIMON;  
PAMELA B. SIMON, Individually and as Trustee  
f/b/o Molly Simon under the Simon L. Bernstein  
Trust Dtd 9/13/12; ELIOT BERNSTEIN, individually,  
as Trustee f/b/o D.B., Ja. B. and Jo. B. under the  
Simon L. Bernstein Trust Dtd 9/13/12, and on  
behalf of his minor children D.B., Ja. B. and Jo. B.;  
JILL IANTONI, Individually, as Trustee f/b/o J.I.  
under the Simon L. Bernstein Trust Dtd 9/13/12, and  
on behalf of her Minor child J.I.; MAX FRIEDSTEIN;  
LISA FRIEDSTEIN, Individually, as Trustee f/b/o  
Max Friedstein and C.F., under the Simon L.  
Bernstein Trust Dtd 9/13/12, and on behalf of her  
minor child, C.F.,

Defendants.

Click here to see Alan Rose email stating that the trusts Eliot and his children are sued under DO NOT EXIST. There is no Simon L. Bernstein Trust Dtd 9/13/12 and Eliot is not Trustee of any Simon L. Bernstein Trust Dtd 9/13/12 or any date. This is a Shirley Trust Validity hearing but Rose instead sues alleged Simon Bernstein Trust beneficiaries that DO NOT EXIST.

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**FINAL JUDGMENT ON COUNT II OF THE AMENDED COMPLAINT**

This cause came before the Court for trial on December 15, 2015, pursuant to the Court's *ORDER SETTING TRIAL on AMENDED COMPLAINT (DE 26) COUNT II* dated September 24, 2015. The Court, having received evidence in the form of documents and testimony of witnesses,

Click here to see Pro Hac Vice filing. Phillips did not hear testimony of those wishing to argue as he blocked counsel from coming in Pro Hac Vice on behalf of Eliot's children who as the transcript reflects were not represented by counsel despite two of them being minors at the time. Parties to the lawsuit do not legally exist so not sure who he heard.

Click here to see Rose deny children counsel documents that he later admits do not exist.

Click here to see Motion to Stay that Phillips denied to get counsel for minor children.

having heard argument of counsel and *pro se* parties who wished to argue, and being otherwise fully advised of the premises, hereby enters a Final Judgment as to Count II of the Amended Complaint:

1. This is an action 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 to the Amended Complaint as Exhibit A~~3~~, *EX. P2 AT TRIAL*) *JB*
- B. First Amendment to Shirley Bernstein Trust Agreement dated November 18, 2008 ("Shirley First Amendment", attached to the Amended Complaint as Exhibit B~~3~~, *EX. P3 AT TRIAL*) *JB*
- C. Will of Simon L. Bernstein dated July 25, 2012 ("Simon Will", attached to the Amended Complaint as Exhibit C~~3~~, *EX. P4 AT TRIAL*) *JB*
- D. Simon L. Bernstein Amended and Restated Trust Agreement dated July 25, 2012 ("Simon Trust", attached to the Amended Complaint as Exhibit D~~3~~, *EX. P5 AT TRIAL*), *and* *JB*
- E. Will of Shirley Bernstein dated May 20, 2008 ("Shirley Will", attached to the Amended Complaint as Exhibit E~~3~~, *EX. P1 AT TRIAL*) *JB*

(collectively, the "Testamentary Documents").

2. Based upon the evidence presented during the trial, the Court finds that the Testamentary Documents, as offered in evidence by Plaintiff, are genuine and authentic, and are valid and enforceable according to their terms.

No Original documents were presented to the Court or parties at trial or prior and at trial it was learned that Trustee Ted had never seen Originals and did not know where they were despite court order of Tescher and Spallina to turn them over.

3. The Court finds that Simon's Testamentary Documents were signed by Simon and Shirley's Testamentary Documents were signed by Shirley, in the presence of two attesting witnesses who signed in the presence of the testator and in the presence of each other. § 732.502, Fla. Stat.; § 736.0403(2)(b), Fla. Stat.

Only one witness attested to documents, Spallina, who at trial admitted to creating a fraudulent Shirley Trust and thus was conflicted and adverse to parties as his life depends on outcome.

4. The Court finds the Testamentary Documents meet the requirements for self-proof, as specified in §732.503, Fla. Stat. Alternatively, the Testamentary Documents were properly admitted based upon the testimony of at least one of the attesting witnesses, which occurred. §733.201, Fla. Stat.

For Simon's 2012 Will for example, the two attesting witnesses to the Will have already ADMITTED that they committed FRAUD in these matters, including Fraudulently Notarizing Documents, Fraudulently FORGING documents, including for Post Mortem Simon and in hearing Phillips does not want to hear any of this.

Phillips claims that Ted played no role and Tescher and Spallina were Simon & Shirley counsel but truth is Ted filed fraudulent documents as the Personal Representative of Shirley's Estate through HIS counsel Tescher and Spallina. Ted therefore was and is directly involved.

5. Based on the evidence presented, the Court finds that Plaintiff, Ted S. Bernstein, Trustee, was not involved in the preparation or creation of the Testamentary Documents. ~~Indeed,~~ Ted S. Bernstein had never seen the documents before his father's death. ~~Moreover,~~ Ted S. Bernstein played no role in any questioned activities of the law firm Tescher & Spallina, PA, who represented Simon and Shirley while they were alive. There is no evidence to support the assertions that Ted Bernstein forged or fabricated any of the Testamentary Documents, or aided and abetted others in forging or fabricating documents. ~~Thus,~~ Ted Bernstein played no role in the preparation of any improper documents; **the presentation of any improper documents to the Court;** or any other improper act, contrary to the allegations of Eliot Bernstein, ~~made in the pleadings in this case or in various blogs and websites in which Eliot Bernstein has attacked the actions of Ted Bernstein.~~

*Handwritten notes:*  
jw  
jw  
of ELIOT BERNSTEIN  
jw  
None of this was heard!  
jw

6. Based on the evidence presented, the Court finds that an unauthorized version of the First Amendment to Shirley Bernstein Trust Agreement was prepared sometime after Simon died. This document (Pl. Ex. 6) was not signed by Shirley Bernstein and, therefore, is not an operative document.

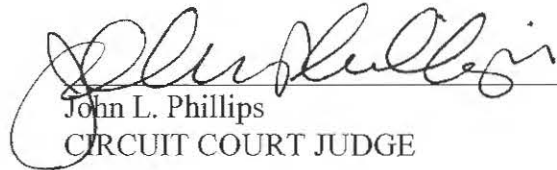
The document WAS signed by Shirley Bernstein.

7. This ruling is intended to be a Final Judgment under Rule 9.170 of the Florida Rules of Appellate Procedure, determining the validity of Testamentary Documents, denying any objection to the probate of Shirley's and Simon's Wills or the validity of the Trust Agreements, and determining which persons are entitled to receive distributions from these trusts and estates.

There was no Construction hearing regarding what persons are entitled to receive distributions and this attempts to cover for the fraudulent distributions made from Shirley's trust. See Transcript where Rose states construction issues and bene's are for a future part 2 hearing and this hearing was limited to Validity only. Yet, Phillips go for it as he must cover for his "love" Martin Colin.

8. Based upon the rulings made by the Court in this trial of Count II, the Court reserves jurisdiction to determine the remaining issues in this action.

DONE AND ORDERED in Chambers, in Palm Beach County, Florida, this 16 day of December, 2015.

  
John L. Phillips  
CIRCUIT COURT JUDGE

cc: All parties on the attached service list

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and Eliot and Candice Bernstein,  
as Parents and Natural Guardians of  
D.B., Ja. B. and Jo. B, Minors

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JOHN L. PHILLIPS  
CIRCUIT JUDGE  
NORTH COUNTY COURTHOUSE  
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PALM BEACH GARDENS, FL 33410



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

PROBATE DIVISION IH  
CASE NO. 502014CP003698XXXXNB

TED BERNSTEIN, AS TRUSTEE  
OF THE SHIRLEY BERNSTEIN TRUST  
AGREEMENT DATED MAY 20, 2008  
AS AMENDED  
Plaintiff

v.  
ALEXANDRA BERNSTEIN; ET AL.  
Defendants

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**ORDER CONFIRMING DENIAL OF DISQUALIFICATION MOTION**

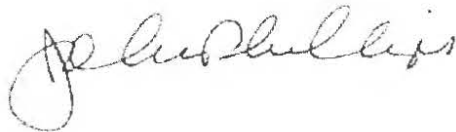
This matter came before the Court at the close of trial December 15, 2015, when defendant Elliott Bernstein orally moved for recusal of the undersigned. The Court adjourned for 5 minutes to allow Mr. Bernstein to put his motion into written form. Mr. Bernstein then presented the "Verified Sworn Emergency Petition and Affidavit for Immediate Mandatory Disqualification of Circuit Judge John L Phillips", and "Notice of Correction to Verified Sworn Emergency Petition and Affidavit for Immediate Mandatory Disqualification of Circuit Judge John Phillips", both dated December 4, 2015. These documents had previously been presented to the Court seeking disqualification of the undersigned (see Docket Entries 94 and 98) and were denied as legally insufficient by Order entered December 8, 2015 (Docket Entry 98).

In an abundance of caution, on December 15, 2015, the undersigned entered a handwritten Order denying this new presentation of the already-ruled-upon request for disqualification. Whereupon, it is **ORDERED AND ADJUDGED:**



1. The handwritten Order dated December 15, 2015, denying defendant Elliott Bernstein's previously-ruled-upon requests for disqualification, described above, is hereby **CONFIRMED**.
2. The above-described requests for disqualification are legally insufficient, and are properly **DENIED**.

DONE AND ORDERED in West Palm Beach, Palm Beach County, Florida, this 16th day of December, 2015.



Circuit Judge

**Copies furnished to:**

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

TED BERNSTEIN, AS TRUSTEE  
OF THE SHIRLEY BERNSTEIN TRUST  
AGREEMENT DATED MAY 20, 2008,  
AS AMENDED,

PROBATE DIVISION

CASE NO.: 502014CP003698XXXXSB

PLAINTIFF,

V.

ALEXANDRA BERNSTEIN; ET AL.

DEFENDANTS.

*Disqualification Motion is DENIED as legally insufficient - already ruled upon in Order of 12-8-15*

Other Applicable Related Cases this Disqualification of Circuit Judge John L. Phillips Should

Apply to:

- Case # 502012CP004391XXXXSB – Simon Bernstein Estate
- Case # 502011CP000653XXXXSB – Shirley Bernstein Estate
- Case # 502014CP002815XXXXSB – Oppenheimer v. Bernstein Minor Children
- Case # 502014CP003698XXXXSB – Shirley Trust Construction
- Case# 502015CP001162XXXXSB – Eliot Bernstein v. Trustee Simon Trust Case
- OLD CASE # 502014CA014637XXXXMB

*DE #98 - identical to motion filed by defendant on 12-4-2015 at DE's #94 & #98*  
*DONE & ORDERED*  
*12-15-15*

**VERIFIED SWORN EMERGENCY PETITION AND AFFIDAVIT FOR IMMEDIATE MANDATORY DISQUALIFICATION OF CIRCUIT JUDGE JOHN L. PHILLIPS**

COMES NOW Eliot Bernstein (“Eliot” or “Petitioner”) and files under information and belief this Verified Emergency Petition and Affidavit for Immediate Mandatory Disqualification of Judge John L. Phillips, pursuant to Fla R. Admin P. 2.330 and section 38.10, Florida Statutes, for the following grounds and reasons:

**Rule 2.330 (a) Application. This rule applies only to county and circuit judges in all matters in all divisions of court.**