

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.

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**PLAINTIFF'S MOTION TO SEAL TRIAL TRANSCRIPT AND RECORD,  
AND CHANGE THE STYLE OF THE CASE TO PROTECT PRIVACY**

Plaintiff, Ted Bernstein, as Trustee of the Shirley Bernstein Trust Agreement dated May 20, 2008, submits this Motion to seal the trial transcript and to change the style of the case to protect the privacy interests of the grandchildren who are beneficiaries of the Trust, and states:

1. On December 15, 2015 this Court held a one-day trial in the above styled matter.
2. The key witness at the trial was Robert Spallina, formerly trusts and estates counsel for Simon and Shirley Bernstein, and formerly counsel for the fiduciary in this case. The only other witness was Ted S. Bernstein, the Trustee in this case.
3. The primary Respondent, and the only one who participated in this case, was Eliot Bernstein. Eliot has a history of publishing on the internet court papers, motions, orders, transcripts and other materials and editorial about this case. The Trustee already has moved for entry of a confidentiality order, and now seeks a supplementary order sealing the trial transcript or limiting its use, dissemination or publication, particularly its publication on the internet by Eliot Bernstein.

4. The undersigned has learned that William Stansbury, who is suing the Estate of Simon Bernstein in a related matter but is otherwise a stranger to this case,<sup>1</sup> has ordered the trial transcript for the matter at hand (the "Trial Transcript").

5. The Trustee is concerned that Mr. Stansbury may share the Trial Transcript with Defendant Eliot Bernstein, who would be expected to publish the Trial Transcript on the internet and otherwise publicize and/or criticize what has occurred in this matter.<sup>2</sup> The Trustee believes that such publication potentially is harmful to the administration of this Trust; to the pursuit of potential claims by the fiduciaries against responsible third parties; and to the privacy and confidentiality interests of the minor grandchildren and young adult grandchildren who are the sole beneficiaries of this Trust. The Trustee has requested that Stansbury agree to hold off sharing the transcript until this matter can be set for hearing on normal notice, but Stansbury will not agree to anything and may moot this issue by distributing the transcript to Eliot to harm these trusts and estates for his own purposes.

6. The Trustee, because there are five minor children and several young children who have only recently achieved majority age, moves for an order sealing the Trial Transcript or, in the alternative, restricting the internet publication or dissemination of the Trial Transcript. While generally "both civil and criminal court proceedings in Florida are public events and adhere to the well established common law right of access to court proceedings and records," this Court has the

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<sup>1</sup> Stansbury is the sole plaintiff in Case No. 502102CA013933XXXXMB, in which his remaining claims are against the Estate of Simon L. Bernstein.

<sup>2</sup> Plaintiff's anticipation of the publication of this event is well founded. Eliot Bernstein has, on multiple occasions criticized the proceedings at hand and published numerous parts of these proceedings in an attempt to harm the fiduciaries and undermine the integrity of these proceedings.

discretion to seal the Trial Transcript if it determines that a minor child has been adversely affected by the litigation and that continued publicity would in all likelihood be "highly detrimental" to that child. *Barron v. Florida Freedom Newspapers, Inc.*, 531 So. 2d 113, 118 (Fla. 1988). *See also: Florida Freedom Newspapers, Inc. v. Sirmons*, 508 So. 2d 462, 463-64 (Fla. 1st DCA 1987) (information related to the welfare of children is a sufficiently compelling to justify closing the proceedings.).

7. In this case, the minor grandchildren of Simon Bernstein as well as the young adult grandchildren of Simon Bernstein were listed as defendants even though none of them participated in this case. By its Final Judgment, this Court determined that the grandchildren were the beneficiaries of the Trust. The details and facts of this case, including publicizing information concerning the size of their inheritances and the circumstances of their grandparents' estate planning, if publicized by the widespread dissemination of the trial transcript, could potentially be highly detrimental to the minor children and also interfere with the Trustee's efforts to properly administer the Trust, including pursuing claims against third parties.

8. In addition, the Trustee was required to individually name all of the potential beneficiaries of Simon and Shirley Bernstein, including all of their adult children and their ten grandchildren, a number of whom are minors and the rest of whom are young adults just now starting their college or professional lives. In light of the Final Judgment, which likely will be appealed by Eliot, the Trustee seeks an order altering the style of the case to reflect the following:

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

Plaintiff,

v.

CHILDREN AND GRANDCHILDREN OF  
SIMON L. BERNSTEIN,

Defendants.

The Trustee recognizes that this is an unusual request, but believes the granting of this relief is in the best interests of the beneficiaries of the Trust.

WHEREFORE, Plaintiff respectfully request that this Court order that the Trial Transcript be sealed or, alternatively, enter an appropriate order limiting the internet publication or dissemination of it; enter an Order re-styling the case to further protect the privacy of the grandchildren; and grant such other relief as this Court deems appropriate. At a minimum, Plaintiff requests that the Court enter a temporary order limiting the transcript use until the matter can be set for further hearing.

**CERTIFICATE OF SERVICE**

I CERTIFY that a copy of the foregoing has been furnished to parties listed on attached Service List by:  Facsimile **and**  U.S. Mail;  U.S. Mail;  Email Electronic Transmission;  FedEx;  Hand Delivery this 5th day of January, 2016.

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**SERVICE LIST Case No.: 502014CP003698XXXXNBIJ**

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