

Eliot Ivan Bernstein

From: candice@schwagerfirm.com
Sent: Wednesday, January 6, 2016 7:45 PM
To: arose@mrachek-law.com
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Subject: Eliot Bernstein Reschedule Tomorrow Hearing and Jan 14, 2016

Alan B. Rose, Esq.
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Alan,

As you are aware, I provided you a Letter request prior to the alleged validity Trial before Probate Judge John L. Phillips of the North Branch in Palm Beach County seeking a voluntary continuance of the Trial which appears in all respects to have been improperly if not in fact illegally scheduled for Dec. 15, 2015 as I sought to be admitted Pro Hac Vice to represent the minor children of Eliot Bernstein and to the extent not conflicted, Eliot Bernstein as well.
A copy of the letter which also included a Notice of Abatement filed with the Florida Court is attached.

See,
<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20151212%20Candice%20Schwager%20Pro%20Hac%20Vice%20ECF%20Filing%20Stamped%20Copy.pdf>

As you are further aware, I was on a Conference call with your office just yesterday, Jan. 5, 2016 and others purporting to be a Meeting of the Members of Bernstein Holdings, LLC and yet, not only did you appear to speak over the Objections I was raising generally to the Meeting and actions being taken by Ted Bernstein based upon my information review to date, at no time did you raise or attempt to raise any issue after the Meeting with respect to any imminent concern for the minor children in this case.

Nor did you attempt to email or contact me after the Meeting of yesterday, Jan. 5, 2016 in reference to the minor children and yet are now seeking some hearing on an emergency basis scheduled for tomorrow Jan. 7, 2016 and I must now again voluntarily request that you immediately move to reschedule your Motion as improperly noticed upon Eliot Bernstein with knowledge that I am seeking pro hac vice admission.

Please respond immediately about withdrawing and/or re-scheduling your improperly Noticed Hearing for tomorrow and the other improperly scheduled hearing on January 14, 2016 since as you know Eliot filed a motion for unavailability for the month of January and will not be able to attend. Also your service notice states that you made efforts to resolve the matters with Eliot acting Pro Se before scheduling and this was also never done.

I also note that the case you cited in your Motion of Florida Freedom Newspapers v. Sirmons District Court of Appeal of Florida, First District, 508 So.2d 462 (Fla. Dist. Ct. App. 1987) actually reversed the Trial Court's closing of Trial information from the public, noting as follows:

"The orders of the trial court sealing the file and closing the proceedings are REVERSED. The public shall be permitted access to the court file and the transcript or reporter's notes of any proceedings in the trial court.

ERVIN, J., concurs.

NIMMONS, J., concurs, with written opinion."

<https://casetext.com/case/florida-freedom-newspapers-v-sirmons>

As you are aware and most definitely should be aware since your client Ted Bernstein is the central involved party, there is inter-related litigation in the US District Court for the Northern District of Illinois and being admitted in the federal courts I am aware that it is only the names of minor children which are not redacted, nor withheld under federal pleading standards but simply abbreviated. Example, J.B. or D.B. for Eliot's minor children as I am sure you are aware.

I do not believe even this, however, provides any authority or basis for the Transcripts ("records") of a Trial to be altered and tampered with and highly object to any altering of any Transcript since neither I, nor Eliot Bernstein nor other parties have even reviewed the Transcript in the first instance.

I understand from Eliot Bernstein that any reference to minor children in the Transcripts should be minimal.

Thus, it truly appears that your motion is more of a "smoke-screen" and "sharp practices" which are more designed to further delay, obstruct and hinder the due process rights of Eliot Bernstein and his minor children and perhaps others in the truth seeking processes by this motion which must be withdrawn.

After all, Mr. Rose, neither you nor your client Ted Bernstein, nor even Judge Phillips himself apparently were concerned about the rights and welfare of minor children such as having Counsel for important evidentiary hearings and trials as evidenced by your improper refusal to voluntarily remove the action from the Trial calendar on Dec. 15, 2015. It appears more that you and your client Ted Bernstein may be more concerned about the subject of Ted Bernstein's business partner and/or former business partner Robert Spallina's testimony.

A history of fraud in the courts of the Florida probate court from this case is not itself any basis for confidentiality and in fact the public interest is greater served by transparency and certainly this is not an "emergency" justifying your improper notice and practices.

As you may recall from my prior Letter, it appears that your office must mandatorily disqualify anyhow as being a material fact witness and this appears to be further strengthened by the documents you recently disseminated as part of the Notice of Meeting of Members of the Bernstein Holdings, LLC.

Moreover, I understand upon information and belief that your client Ted Bernstein is the subject of a federal investigation by the US Dept of Labor in relation to his Plan Administrator / Trustee / Fiduciary role in the Arbitrage International pension matters, a material fact that I have not seen disclosed in either your Notice of Meeting, during the Meeting or in prior disclosures.

The minor children will be better served by having full and proper Disclosures and productions from your office and client Ted Bernstein.

I will be supplementing my written requests to you about yesterday's "Meeting" of the Members of Bernstein Holdings, LLC, however, please respond first to re-scheduling this improperly noticed hearing on your motion.

Regards,

Candice Schwager

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