

## Eliot Ivan Bernstein

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**From:** Ashley Bourget <abourget@mrachek-law.com>  
**Sent:** Thursday, January 14, 2016 4:06 PM  
**To:** Eliot Ivan Bernstein; Brian M. O'Connell PA ~ Partner @ Ciklin Lubitz Martens & O'Connell ; Donald R. Tescher ~ Attorney at Law @ Tescher & Spallina, P.A.; Gary R. Shendell; John J. Pankauski; John P. Morrissey Esq. @ John P. Morrissey, P.A. ; Kenneth S. Pollock; Kenneth S. Pollock; Kenneth S. Pollock; Lisa S. Friedstein; Pamela Beth Simon; Peter Feaman; Peter Feaman, Esq. ~ Attorney at Law @ Peter M. Feaman, P.A.; Steven A. Lessne ~ Shareholder @ GrayRobinson, P.A. ; Steven A. Lessne Esq.; Steven A. Lessne Esq.; Steven A. Lessne Esq. @ Gunster, Yoakley & Stewart, P.A.; Jill Iantoni; Pamela Beth Simon; Joielle A. Foglietta, Esq.  
**Cc:** Alan Rose; Marie Chandler  
**Subject:** Bernstein v. Bernstein - Email to Judge Phillips Chambers  
**Attachments:** January 14, 2016 Email to Judge Phillips Chambers Re-Order Determining Eliot Bernstein Lacks Standing.pdf

Good Afternoon,  
Please see attached.

**Ashley Bourget** | *Paralegal*

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505 South Flagler Drive, Suite 600

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**From:** Alan Rose  
**Sent:** Thursday, January 14, 2016 12:12 PM  
**To:** 'Eliot Ivan Bernstein'  
**Cc:** 'Brian M. O'Connell PA ~ Partner @ Ciklin Lubitz Martens & O'Connell '; 'Donald R. Tescher ~ Attorney at Law @ Tescher & Spallina, P.A.'; 'Gary R. Shendell'; 'John J. Pankauski'; 'John P. Morrissey Esq. @ John P. Morrissey, P.A. '; 'Kenneth S. Pollock'; 'Kenneth S. Pollock'; 'Kenneth S. Pollock'; 'Lisa S. Friedstein'; 'Pamela Beth Simon'; 'Peter Feaman'; 'Peter Feaman, Esq. ~ Attorney at Law @ Peter M. Feaman, P.A.'; 'Steven A. Lessne ~ Shareholder @ GrayRobinson, P.A. '; 'Steven A. Lessne Esq.'; 'Steven A. Lessne Esq.'; 'Steven A. Lessne Esq. @ Gunster, Yoakley & Stewart, P.A.'; 'Jill Iantoni'; 'Pamela Beth Simon'; 'Joielle A. Foglietta, Esq.'  
**Subject:** Proposed Order and Scheduling of Evidentiary Hearing

Mr. Bernstein:

Attached is a proposed Order. I understand you disagree with and object to the Court's ruling, but the form of the Order is consistent with the Court's ruling and will be submitted by 3 pm today. If you have any comments on the form of the Order please advise by then. If you disagree, we will submit the Order and advise the Court that you did not agree to the form of the Order.

We have been given a date for the evidentiary hearing. The Court offered us **February 17, 2016, at 2:30 pm, for 1 hour.** Please advise by close of business today if you are unavailable that date and explain why you are unavailable with some back up proof (i.e. what you have already scheduled that prevents you from attending the hearing).

The alternate date is **February 25<sup>th</sup> at 315 pm, also for 1 hour.**

Please advise on both issues as soon as you can, but within the time periods set forth above.

Thanks

Alan Rose

Alan B. Rose, Esq.  
[arose@Mrachek-Law.com](mailto:arose@Mrachek-Law.com)  
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**TAX DISCLOSURE NOTE:** To ensure compliance with requirements imposed by the Internal Revenue Service (Circular 230), we inform and advise you that any tax advice contained in this communication (including any attachments), unless otherwise specifically stated, was not intended or written to be used, and cannot be used, by any taxpayer for the purpose of (1) avoiding penalties that may be imposed under the Internal Revenue Code or (2) promoting, marketing or recommending to another party any transactions or matters addressed herein.

If there any documents attached to this email with the suffix .pdf, those documents are in Adobe PDF format, If you have difficulty viewing these attachments, you may need to download the free version of Adobe Acrobat Reader, available at: <http://www.adobe.com>



**Subject:** ATTN: ALEX - CASE NUMBER: 2014CP003698XXXXNB IJ BERNSTEIN v. BERNSTEIN et al  
**Attachments:** January 14, 2016 Letter to Judge Phillips Re-Order Determining Eliot Bernstein Lacks Standing.pdf; Order (Proposed) Determining Eliot Bernstein Lacks Standing etc.doc; NOH SS Evidentiary Hearing Re-Motion to Appoint Guardian Ad Litem on February 26, 2016.pdf

**Importance:** High

Good Afternoon,  
Please see attached correspondence with referenced, proposed *Order Determining Eliot Bernstein Lacks Standing Individually and Striking Eliot's Filings*, etc. and referenced Notice of Hearing.

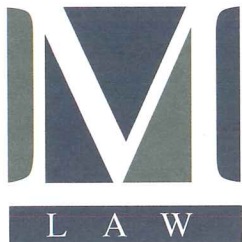
We have served the attached letter and proposed order on all parties.

**Ashley Bourget** | *Paralegal*  
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MRACHEK  
FITZGERALD  
ROSE  
KONOPKA  
THOMAS  
& WEISS, P.A.

WRITER'S DIRECT DIAL NUMBER: (561) 355-6991  
WRITER'S E-MAIL ADDRESS: [arose@mrachek-law.com](mailto:arose@mrachek-law.com)

January 14, 2016

*VIA EMAIL*

The Honorable John L. Phillips  
North County Courthouse  
3188 PGA Boulevard  
Room 1414 | Courtroom 3  
Palm Beach Gardens, FL 33410

Re: *Ted Bernstein, etc., et al. v. Alexandra Bernstein, et al.*  
Case Number(s): 2014CP003698XXXXNB IH

Dear Judge Phillips:

Regarding the hearing held this morning, January 14, 2015, attached is a proposed *Order Determining Eliot Bernstein Lacks Standing Individually And Striking Eliot's Filings, and Deferring Ruling on the Appointment of a Guardian Ad Litem and Other Relief Sought.*

I believe this proposed Order is consistent with the Court's ruling this morning, granting the relief sought in the Motion. I circulated a draft of the proposed Order, and received the following response from Eliot Bernstein:

Mr. Rose,

As you are and should be aware, to the extent any Order of Judge Colin is valid and remains in effect, the law of the case by Judge Colin's Orders has upheld my Standing in both Shirley and Simon and Denied your client Ted Bernstein in this regard and further that you are aware and were aware of the Outstanding Order of Production of Judge Colin that was never complied with at the time you mislead Judge Phillips' Court and moved in Shirley on Sept. 15, 2015.

For these reasons and more, I Object to the entirety of the Proposed Order and will be submitting my own Proposed Order by tomorrow, as I mentioned on the record today I am heavily medicated due to a dental problem.

The Honorable John L. Phillips  
January 14, 2016  
Page 2

Absent some Medical or other Emergency, the Date February 25 at 3:15pm does work, however, 1 hour is Insufficient, I think it should be at least one full working day and thus I object to the time being limited to one hour. Also, you are not properly serving notice to all parties, including all of the Counter Defendants.

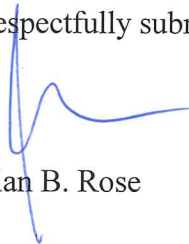
Thank you.

On behalf of my client, the Trustee, we request that you enter the enclosed form proposed Order or whatever Order Your Honor believes is consistent with your ruling today.

We also have enclosed a Notice of Evidentiary Hearing for February 25th, consistent with your ruling and the scheduling information from your judicial assistant. I advise you that Mr. Eliot Bernstein also objects to your Honor's ruling that the evidentiary hearing be scheduled for one hour.

We appreciate Your Honor's time and attention to these matters.

Respectfully submitted,



Alan B. Rose

Enclosures

cc: All parties listed on the Service List

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.

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**ORDER DETERMINING ELIOT BERNSTEIN LACKS STANDING INDIVIDUALLY  
AND STRIKING ELIOT'S FILINGS, AND DEFERRING RULING ON THE  
APPOINTMENT OF A GUARDIAN AD LITEM AND OTHER RELIEF SOUGHT**

THIS CAUSE came before the Court for hearing on January 14, 2016 on Successor Trustee's  
*Motion for Appointment of a Guardian Ad Litem to Represent the Interests of Eliot Bernstein's  
Children; For A Gag Order to Protect Guardian and Others; and to Strike Eliot's Filings* (the  
"Motion"). The Court, having considered the record, heard argument of counsel and being otherwise  
fully advised in the premises, hereby ORDERS AND ADJUDGES:

1. The Motion is GRANTED in part as set forth in this Order and DEFERRED in remaining part pending an evidentiary hearing as requested by Eliot Bernstein and his wife.

2. By Final Judgment dated December 16, 2015, this Court has determined that Simon Bernstein's Will dated July 25, 2012 is valid and enforceable according to its terms. The Final Judgment is valid, binding and in full force and effect.

3. Based upon the Court's determination of the validity of Simon's Will, Simon Bernstein exercised a power of appointment he held over assets in the Shirley Bernstein Trust, in favor of his "then living grandchildren." Eliot Bernstein is not a grandchild of Simon or Shirley Bernstein. Based upon the exercise of the power of appointment, Eliot Bernstein is not a beneficiary of the Shirley Bernstein Trust. As a result, Eliot Bernstein lacks individual standing to participate in this proceeding, as he is not a beneficiary of either the Shirley Bernstein Trust or the Shirley Bernstein Estate.

4. Accordingly, Eliot Bernstein is barred from any further participation in his individual capacity in this action, and is removed individually as a party. Any and all pending motions, claims, or other filings by Eliot Bernstein, individually, in this case are hereby stricken from the record, and no further individual filings will be permitted except for a Notice of Appeal of the Final Judgment, should he desire to file one.

5. Having determined that Eliot Bernstein lacks individual standing, the Court next will consider whether a Guardian ad Litem should be appointed to represent the interests of the children of Eliot and Candice Bernstein, each of whom has been determined to be a beneficiary of the Shirley Bernstein Trust, and whether to enter a confidentiality order as requested by the Trustee in the



Motion. These matters will be addressed at an evidentiary hearing to be set by separate order of this Court.

DONE and ORDERED in Chambers, North County Courthouse in Palm Beach Gardens, Florida, on this \_\_\_ day of January, 2016.

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HONORABLE JOHN L. PHILLIPS  
Circuit Court Judge

Copies to: Attached Service List

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

Eliot Bernstein, individually  
and Eliot and Candice Bernstein,  
as Parents and Natural Guardians of  
D.B., Ja. B. and Jo. B, Minors  
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Counsel for Molly Simon, Alexandra Bernstein,  
Eric Bernstein, Michael Bernstein

Lisa Friedstein, individually and as trustee for  
her children, and as natural guardian for M.F.  
and C.F., Minors; and Max Friedstein  
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Jill Iantoni, individually and as trustee for her  
children, and as natural guardian for J.I. a minor  
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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.: 502014CP003698XXXXNB

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.

**NOTICE OF EVIDENTIARY HEARING**

*Specially Set Evidentiary Hearing- One Hour Reserved*

YOU ARE HEREBY NOTIFIED that the undersigned has called up for hearing the following:

**DATE:** Thursday, February 25, 2016

**TIME:** 3:15 p.m.

**JUDGE:** Honorable John L. Phillips

**PLACE:** Palm Beach North County Courthouse, 3188 PGA Blvd., Courtroom 3,  
Palm Beach Gardens, FL 33410

**MATTER(S) TO BE HEARD:**

**SUCCESSOR TRUSTEE'S MOTION FOR APPOINTMENT OF A  
GUARDIAN AD LITEM TO REPRESENT THE INTERESTS OF ELIOT  
BERNSTEIN'S CHILDREN; FOR A GAG ORDER TO PROTECT  
GUARDIAN AND OTHERS; AND TO STRIKE ELIOT'S FILINGS**

**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 14<sup>th</sup> day of January, 2016.

MRACHEK, FITZGERALD, ROSE, KONOPKA,  
THOMAS & WEISS, P.A.  
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Email: [arose@mrachek-law.com](mailto:arose@mrachek-law.com)  
Secondary: [mchandler@mrachek-law.com](mailto:mchandler@mrachek-law.com)  
Attorneys for Ted S. Bernstein

By: /s/ Alan B. Rose  
Alan B. Rose (Fla. Bar No. 961825)

## SERVICE LIST

<p>Eliot Bernstein, individually and Eliot and Candice Bernstein, as Parents and Natural Guardians of D.B., Ja. B. and Jo. B, Minors 2753 NW 34th Street Boca Raton, FL 33434 (561) 245-8588 - Telephone (561) 886-7628 - Cell (561) 245-8644 - Facsimile Email: Eliot I. Bernstein (<a href="mailto:iviewit@iviewit.tv">iviewit@iviewit.tv</a>)</p> <p>John P. Morrissey, Esq. 330 Clematis Street, Suite 213 West Palm Beach, FL 33401 (561) 833-0866 - Telephone (561) 833-0867 - Facsimile Email: John P. Morrissey (<a href="mailto:john@jmorrisseylaw.com">john@jmorrisseylaw.com</a>) Counsel for Molly Simon, Alexandra Bernstein, Eric Bernstein, Michael Bernstein</p> <p>Lisa Friedstein, individually and as trustee for her children, and as natural guardian for M.F. and C.F., Minors; and Max Friedstein <a href="mailto:lisa.friedstein@gmail.com">lisa.friedstein@gmail.com</a></p> <p>Jill Iantoni, individually and as trustee for her children, and as natural guardian for J.I. a minor <a href="mailto:jilliantoni@gmail.com">jilliantoni@gmail.com</a></p>	<p>Alan Rose, Esq. Mrachek Fitzgerald Rose Konopka Thomas &amp; Weiss, P.A. 505 S Flagler Drive, Suite 600 West Palm Beach, FL 33401 (561) 655-2250 - Telephone (561) 655-5537 - Facsimile Email: <a href="mailto:arose@mrachek-law.com">arose@mrachek-law.com</a></p> <p>Pamela Beth Simon 303 E. Wacker Drive, Suite 2725 Chicago, IL 60601 Email: <a href="mailto:psimon@stpcorp.com">psimon@stpcorp.com</a></p> <p>Brian M. O’Connell, Esq. Joielle A. Foglietta, Esq. Ciklin Lubitz Martens &amp; O’Connell 515 N. Flagler Dr., 20th Floor West Palm Beach, FL 33401 561-832-5900 - Telephone 561-833-4209 - Facsimile Email: <a href="mailto:boconnell@ciklinlubitz.com">boconnell@ciklinlubitz.com</a>; <a href="mailto:jfoglietta@ciklinlubitz.com">jfoglietta@ciklinlubitz.com</a>; <a href="mailto:service@ciklinlubitz.com">service@ciklinlubitz.com</a>; <a href="mailto:slobdell@ciklinlubitz.com">slobdell@ciklinlubitz.com</a></p>
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**"If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact Germaine English, Americans with Disabilities Act Coordinator, Palm Beach County Courthouse, 205 North Dixie Highway, West Palm Beach, Florida 33401; telephone number (561) 355-4380 at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days; if you are hearing or voice impaired, call 711."**

### **SPANISH**

**Si usted es una persona minusvalida que necesita algun acomodamiento para poder participar en este procedimiento, usted tiene derecho, sin tener gastos propios, a que se le provea cierta ayuda. Tenga la amabilidad de ponerse en contacto con Germaine English, 205 N. Dixie Highway, West Palm Beach, Florida, 33401; telèfono numero (561) 355-4380, por lo menos 7 dias antes de la cita fijada para su comparecencia en los tribunales, o inmediateamente despues de recibir esta notificacion si el tiempo antes de la comparecencia que se ha programado es menos de 7 dias; si usted tiene discapacitacion del oido o de la voz, llame al 711.**

### **CREOLE**

**Si ou sè yon moun ki enfim, ki bézwen akomodasyon pou w ka patisipe nan powosedi sa, ou kalifye san ou pa gen okenn lajan pou w peye, gen pwovizyon pou jwen kek ed. Tanpri kontakte Germaine English, koodonate pwogram Lwa pou ameriken ki Enfim yo nan Tribinal Konte Palm Beach la ki nan, 205 North Dixie Highway, West Palm Beach, Florida 33401; télèfonn li se (561) 355-4380 nan 7 jou anvan dat ou gen randevou pou paret nan tribinal la, oubyen imedyatman apre ou fin resevwa konvokasyon an si le ou gen pou w paret nan tribinal la mwens ke 7 jou; si ou gen pwoblem pou w tandè oubyen pale, rele 711.**