

Eliot Ivan Bernstein

From: Alan Rose <ARose@mrachek-law.com>
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
Attachments: Proposed Order Eliot Lacks Standing.pdf

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 25th 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

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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.: 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.

**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.

HONORABLE JOHN L. PHILLIPS
Circuit Court Judge

Copies to: Attached Service List

SERVICE LIST Case No.: 502014CP003698XXXXNBIJ

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and Eliot and Candice Bernstein,
as Parents and Natural Guardians of
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