

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.

**Objections to Proposed Order of Alan  
Rose / Ted Bernstein**

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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**OBJECTIONS TO PROPOSED ORDER OF ALAN B. ROSE AND TED BERNSTEIN "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" AND PROPOSED ALTERNATIVE  
ORDER FOR HEARING HELD JANUARY 14, 2016**

1. That Florida licensed attorney Alan Rose on behalf of Ted Bernstein misled this Court on Sept. 15, 2015<sup>1</sup> including whether all four cases had been properly Noticed<sup>2</sup> and where due to this misinformation at the case management conference a Trial was improperly set in Shirley Bernstein's Trust case in violation of Florida Civil Rules of Procedure 1.200<sup>3</sup> and in violation of due process while the PRs of the Simon Bernstein Estate Brian O'Connell and Joy Foglietta stood silent despite their office having sent the Notice for the Case Management Conference in the first instance,

4 MR. ROSE: I'm not planning on doing the  
5 whole hearing, but briefly there are,  
6 technically, four other cases that all were  
7 assigned. I think we've noticed a status  
8 conference in all four cases.

That Florida licensed attorney Alan Rose requested January 14, 2016 at 12:17pm<sup>4</sup> that Eliot Bernstein submit comments to a proposed Order from a January 14, 2016 hearing by 3pm that same day or else he would file with the Court as an unopposed Order and Eliot replied and 3:30pm<sup>5</sup> on January that he would try to get his changes to him timely on January 15th, 2016 to submit to the Court together with his proposed Order (Eliot did not know at the time that Rose was supposed to give him five days under the rules);

2. Mr. Rose in violation of ADMINISTRATIVE ORDER 5.204-5/09<sup>6</sup> then ignored said received email indicating that Eliot would send comments and a proposed order to him the next day and instead sent a letter to Judge Phillips with his proposed Order only to the Court on January 14,

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<sup>1</sup> Sept 15, 2015 Hearing Transcript

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20150915%20Judge%20Phillips%20Hearing%20-%20Estate%20of%20%20Simon%20Bernstein.pdf>

<sup>2</sup> August 03, 2015 Notice of Hearing Status Conference for Simon Bernstein Estate Case Only  
<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20150803%20Notice%20of%20Hearing%20for%20Sept%2015%202015%20930am%20Case%20Management.pdf>

<sup>3</sup>Florida Rules of Civil Procedure 1.200  
[http://phonl.com/fl\\_law/rules/frcp/frcp1200.htm](http://phonl.com/fl_law/rules/frcp/frcp1200.htm)

<sup>4</sup> January 14, 2016 Email Rose  
<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20160114%20at%2012.12pm%20Alan%20Rose%20Proposed%20Order%20Email.pdf>

<sup>5</sup> January 14, 2016 Eliot Email to Rose with Dr. Report  
<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20160114%20at%203.30pm%20Eliot%20response%20to%20Rose%20re%20Order.pdf>

<sup>6</sup><http://15thcircuit.co.palm-beach.fl.us/documents/10179/15133/5.204.pdf>

2016 at 4:15pm<sup>7</sup> without waiting for Eliot's comments and proposed order and this too in violation of Administrative Order 5.204-5/09<sup>8</sup> and further asked for an immediate ruling that day from Judge Phillips, knowing there are five days for my response and proposed order to be sent to him before seeking relief with the court as if unopposed with no counter order. This further evidences Mr. Rose's continued Sharp Practices and violation and contempt of the court decorum, efforts to obstruct due process and tortiously interfere with the fair administration of justice;

3. Florida licensed attorney Alan Rose on behalf of Ted Bernstein having further misled this Court about the status of the case and the time necessary for a proper validity Trial at the September 15, 2015 case management conference and left no time for a proper trial for the 10 witnesses called by the Trustee or for Eliot to properly cross examine witnesses available that day leaving Eliot and this Court with insufficient time for a proper trial / hearing which was improperly held without proper pre-trial procedures to determine outstanding discovery and requests for production and proper witnesses.
4. That the January 14, 2016 hearing for standing was also improperly scheduled at a UMC hearing by Alan Rose, despite needing an evidentiary hearing as requested by Eliot at the hearing to give testimony and have any witnesses present but which Eliot was denied opportunity for such by this Court;
5. Where Judge Phillips asked Eliot at the January 14, 2016 hearing what statute gave him standing as a named Beneficiary in the Shirley Trust document that Phillips has Ordered to be valid and when Eliot, a Pro Se litigant, did not know off the top of his head the Florida Statute giving

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<sup>7</sup> January 14, 2016 4:15 pm Alan Rose Letter to Judge Phillips  
<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20160114%204.06pm%20ExParte%20Letter%20to%20Judge%20Phillips%20Alan%20Rose%20Proposed%20Order.pdf>

<sup>8</sup><http://15thcircuit.co.palm-beach.fl.us/documents/10179/15133/5.204.pdf>

named beneficiaries standing in a Trust case where they are named, Judge Phillips, who is supposed to know the statutes himself improperly ruled against Eliot's standing for this sole reason of his lack of knowing the statute at the hearing and based solely on the claims of Alan Rose and not on the merits after proper hearing with testimony from both sides or giving Eliot a chance to find the correct statute to preserve his standing. Judge Phillips, then quite rudely told Eliot if he did not like it to get a lawyer despite the fact that a prior motion for a Continuance of the validity trial itself was filed timely before Trial so that Texas attorney Candice Schwager could get admitted pro hac vice yet attorney Alan Rose denied Candice Schwager any such courtesy even though it was to benefit the minor children and Alan Rose has further denied Candice Schwager access to document production to further her review of the case while this Court improperly stated the motion for continuance was untimely when the statute permits it to be made even at the time of trial and where it was filed in writing before the trial.

6. That Florida Statutes 733.707, 736.0103, 731.201 (2)(4)(9)(11)(20) and (23) give Eliot standing as a Beneficiary, Heir and Interested Person and Trustee of the Eliot Bernstein Family Trust in this case and the Simon Estate, the Simon Trust and the Shirley Estate.
7. That for instance in the Shirley Trust case addressed herein, Eliot and his two sisters are the beneficiaries of Shirley's Trust at the time it become irrevocable with a defined class of beneficiaries in stone upon her death, as stated in the trust;

ARTICLE II. AFTER MY DEATH - E. Disposition of Trusts Upon Death of Survivor of My Spouse and Me.

2. Disposition of Balance. Any parts of the Marital Trust and the Family Trust my spouse does not or cannot effectively appoint (including any additions upon my spouse's death), or all of the Family Trust if my spouse did not survive me, shall be divided among and **held in separate Trusts for my lineal descendants then living, per stirpes [emphasis added]**. Any assets allocated under this Subparagraph 11.D. to my children (**as that term is defined under this Trust [emphasis added]**), shall be distributed to the then serving Trustees of each of their respective Family Trusts, established by my spouse

as grantor on even date herewith (the "Family Trusts" which term includes any successor trust thereto), to be held and administered as provided under said Trusts. The provisions of the Family Trusts are incorporated herein by reference, and if any of the Family Trusts are not then in existence and it is necessary to accomplish the foregoing dispositions, the current Trustee of this Trust is directed to take such action to establish or reconstitute such applicable trust(s), or if the Trustee is unable to do so, said assets shall be held in separate trusts for such lineal descendants and administered as provided in Subparagraph 11.E. below. Each of my lineal descendants for whom a separate Trust is held hereunder shall hereinafter be referred to as a "beneficiary," with their separate trusts to be administered as provided in Subparagraph 11.E. below.

and

F. Trusts for Beneficiaries. The Trustee shall pay to a beneficiary the net income of such beneficiary's trust. The Trustee shall pay to the beneficiary and the beneficiary's children, such amounts of the principal of such beneficiary's trust as is proper for the Welfare of such individuals. After a beneficiary has reached any one or more of the following birthdays, the beneficiary may withdraw the principal of his or her separate trust at any time or times, not to exceed in the aggregate 1/3 in value after the beneficiary's 25th birthday, 1/2 in value (after deducting any amount previously subject to withdrawal but not actually withdrawn) after the beneficiary's 30th birthday, and the balance after the beneficiary's 35th birthday, provided that the withdrawal powers described in this sentence shall not apply to any child of mine as beneficiary of a separate trust. The value of each trust shall be its value as of the first exercise of each withdrawal right, plus the value of any subsequent addition as of the date of addition. The right of withdrawal shall be a privilege which may be exercised only voluntarily and shall not include an involuntary exercise. If a beneficiary dies with assets remaining in his or her separate trust, upon the beneficiary's death the beneficiary may appoint his or her trust to or for the benefit of one or more of my lineal descendants and their spouses (excluding from said class, however, such beneficiary and such beneficiary's creditors, estate, and creditors of such beneficiary's estate). Any part of his or her trust such beneficiary does not effectively appoint shall upon his or her death be divided among and held in separate Trusts for the following persons:

1. for his or her lineal descendants then living, per stirpes; or
2. if he or she leaves no lineal descendant then living, per stirpes for the lineal descendants then living of his or her nearest ancestor (among me and my lineal descendants) with a lineal descendant then living who is also a lineal descendant of my spouse.

A trust for a lineal descendant of mine shall be held under this paragraph, or if a trust is then so held, shall be added to such trust.

ARTICLE III. GENERAL - E1 - Definitions. In this Agreement,

1. Children, Lineal Descendants. The terms "child," "children" and "lineal descendant" mean only persons whose relationship to the ancestor designated is created entirely by or through (a) legitimate births occurring during the marriage of the joint biological parents to each other, (b) children and their lineal descendants arising from surrogate births and/or third party donors when (i) the child is raised from or near the time of birth by a married couple (other than a same sex married couple) through the

pendency of such marriage, (ii) one of such couple is the designated ancestor, and (iii) to the best knowledge of the Trustee both members of such couple participated in the decision to have such child, and (c) lawful adoptions of minors under the age of twelve years. No such child or lineal descendant loses his or her status as such through adoption by another person. **Notwithstanding the foregoing, as I have adequately provided for them during my lifetime, for purposes of the dispositions made under this Trust, my children, TED S. BERNSTEIN ("TED") and PAMELA B. SIMON ("PAM"), and their respective lineal descendants shall be deemed to have predeceased the survivor of my spouse and me [Emphasis Added],**

That the trust language is clear that Ted and Pamela and their lineal descendants, at the time of Shirley's death were not beneficiaries and Eliot and his two sisters Lisa and Jill are. Further, the Court should note that Ted is considered predeceased for ALL PURPOSES OF DISPOSITIONS of the Shirley Trust, which would disqualify him as a Trustee to make dispositions, including holding hearings for construction and validity or making any disbursements and thus further reason to strike the Validity Hearing on December 15, 2015 as a Sham Hearing conducted by a deceased person under the trust.

8. Similarly, at Judge Phillips' validity hearing Order on December 16, 2016, Eliot was never shown a copy of beforehand or had chance to submit comments and a counter order to Rose was also issued in violation of ADMINISTRATIVE ORDER 5.204-5/09\*<sup>9</sup>, the order issued contains rulings on issues that were not Noticed to be Heard, not Scheduled for the Trial and in fact not heard at the hearing at all, no testimony or anything from either party on the ruled on items as evidenced in the transcript and thus the December 16, 2015 Order should further be stricken as an improper Void Order and for other far more serious reasons further defined herein. That the Rose Proposed Order for the January 14, 2016 hearing feeds off the December 16, 2016 Order and for this reason the December 16, 2016 Order and the Proposed Order should be stricken.

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<sup>9</sup> Administrative Order Regarding Preparation of Order - ADMINISTRATIVE ORDER 5.204-5/09\*

9. That Eliot further stated to the Court that the hearing was improperly scheduled by Rose when he knew Eliot had filed in December a Notice of Unavailability for the month of January and further learned that he was under medical care and prescription medications<sup>10</sup> making him medically unfit during the time of the January 14, 2016 hearing and again, using sharp practice unbecoming of an Attorney at Law, Rose scheduled the hearing and would not withdraw it despite knowing Eliot was not well and was still seeking to have counsel admitted to protect the children.
10. Eliot stated on the record that he was medically unfit and on heavy medications for any hearing that day and yet Judge Phillips ignored the request to postpone and schedule a proper evidentiary hearing to determine standing and rushed to rule without even having proper testimony on any of the items in Rose's Proposed Order.
11. That having declared in a September 15, 2015 hearing "love"<sup>11</sup> for Judge Colin and pre-judging that he would not question Colin's actions that have been called into question and alleged as Fraud by the Court and that he would not find that Colin did something wrong, wholly prejudiced Eliot's position and denies him fundamental due process rights.
12. Having further reviewed the Record of the Cases having determined that an outstanding Order by Judge Colin for Production<sup>12</sup> against prior fiduciaries Tescher & Spallina was never performed or complied with fundamentally prejudicing a proper validity Trial. In fact it was learned at the December 15, 2015 trial that NONE of the Original Dispositive Documents were available for inspection at the hearing and that Trustee Ted Bernstein claimed under oath he had

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<sup>10</sup> Dr. Ronik Seecharan Letter

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20160114%20Seecharan%20Letter%20Regarding%20procedure.pdf>

<sup>11</sup> September 15, 2015 Hearing Transcript Page 27 Lines 14-25 and Page 28 Lines 1-6

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20150915%20Judge%20Phillips%20Hearing%20-%20Estate%20of%20%20Simon%20Bernstein.pdf>

<sup>12</sup> February 18, 2014 Order to Turn Over **ALL** records of Tescher and Spallina to Curator

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20140218%20ORDER%20ON%20PETITION%20FOR%20DISCHARGE%20TESCHER%20SPALLINA%20Case%20502012CP004391XXXXSB%20SIMON.pdf>

never seen the original trust he operates under nor took any steps to validate the documents in light of the fact that his prior counsel SPALLINA had admittedly fraudulently created a Shirley Trust document at the December 15, 2015 hearing he testified at as to the validity of the documents he admitted fraud in creating and then sent the fraudulent trust via mail to Attorney at Law Christine Yates representing Eliot's minor children and finally it was learned at the hearing that Tescher and Spallina had violated the Colin Court Order to turn over their records in entirety and still possessed Original dispositive documents;

13. That the totality of the related cases should have determined this case to be a "complex" case and the case management conference should have been conducted properly as such, again such deprivation of rights severely prejudiced the outcome;
14. That proper pre-trial procedures thus were not followed and must be corrected in furtherance of justice;
15. That missing necessary witnesses and missing discovery were existent at the time of the validity trial including but not limited to witnesses Notary Publics who signed documents, Kimberly Moran and Lindsay Baxley (where Governor Rick Scott's Notary Public Division has already prosecuted in conjunction with the Palm Beach County Sheriff Moran for fraudulent notarization in these matters and Lindsay Baxley aka Lindsay Giles was also found to have improperly notarized a Will and Amended Trust of Simon) and Witnesses to the Execution of the alleged documents, Traci Kratish, Esq., Diana Banks, Rachel Walker and a John Doe signor, as well as, other witnesses William Stansbury and Donald Tescher, Esq. thus necessitating a new Trial after proper pre-trial proceedings are completed and a Case-Management Conference for a "complex" case is held before a non-conflicted and non-adverse judge;



16. That the circumstances of Judge Colin's handling of the case and specifically, including but not limited to, hearings held on Sept. 13, 2013<sup>13</sup> whereupon alleged Trustee Ted Bernstein appeared on the record claiming his fiduciary status as fiduciary for the Estate at a time he had not yet been appointed, a year after Simon's death at the time of the hearing, yet remaining silent as to various Frauds upon the Court admitted by his counsel, including an April 9, 2012 Petition for Discharge<sup>14</sup> claiming all beneficiaries had properly waived their interests and rights and Simon was in possession of them on that date. Ted Bernstein having known this to be false, as he did not complete his own Waiver until August 01, 2012 and therefore knew this statement that Simon had the completed Waivers in April 2012 to be false and further fraudulent actions involving the fiduciaries Tescher and Spallina who were acting as Simon's counsel at the time of the alleged signing and Ted's counsel when it was finally delivered to the Court as if Simon were delivering it alive Post Mortem months after his death while still acting as PR.
17. For clarification of this complex Post Mortem scheme, it should be noted that when Simon died, Ted was NOT appointed Successor PR by the Court while he maintained to the family on the day Simon died that he was acting as PR and acted as such and yet Ted was not appointed by Colin and issued Letters until October 13, 2013 after the hearing September 13, 2013 hearing that Colin threatened to read him Miranda's, leading to a series of bad rulings of Colin's that were designed to protect rather than have prosecuted those officers of his court involved in these frauds on the Court and the Beneficiaries. Yet, Ted's counsel Tescher and Spallina never filed for Letters for Ted when Simon died and instead they (Ted and his counsel Tescher and Spallina)

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<sup>13</sup> September 13, 2013 Colin Hearing - Mirand Warnings and more  
<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20130913%20TRANSCRIPT%20Emergency%20Hearing%20Colin%20Spallina%20Tescher%20Ted%20Manceri.pdf>

<sup>14</sup> April 09, 2012 Alleged Simon Full Discharge Waiver Deposited by him with the Court after he passed away.  
<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20120409%20Petition%20for%20Discharge%20Full%20Waiver%20Shirley%20SIGNED%2020120409%20NOT%20FILED%20UNTIL%2020121024.pdf>

all choose to use Simon as PR for months after he died to file fraudulently filed documents and in some instance forged and fraudulently notarized for Simon Post Mortem, all these criminal acts committed as part of a complex legal scam to create the appearance that Simon closed his wife's estate properly before he died and made changes to Beneficiaries and Fiduciaries and documents prior to his own death.

18. Ted introduced his friends Tescher and Spallina to his father to do estate planning so as that Ted could get business in return from them.
19. Spallina and Tescher, Ted's close business associates that he retained as his counsel to represent him as Personal Representative and Trustee and Ted Bernstein further sat idly by as he learned that his mother's estate was closed by his deceased father acting as PR at a time after his death and while Ted was claiming he was the PR (prior to Letters issued in October 2013) through a series of fraudulent acts of his counsel Spallina and Tescher and the totality of the circumstances indicating Judge Colin is a necessary and material fact witness as Eliot Bernstein attempted to inform this Court on July 30, 2015 and Sept. 15, 2015 and at Trial Dec. 15th, 2015 and further by opposition herein;
20. That Judge Colin having issued prior Orders denying Ted Bernstein's motions to deny Eliot's Standings and that Eliot Bernstein has standing in all cases before this Court until proper hearings and trial determine otherwise;
21. Eliot Bernstein was sued individually in this action and Eliot has filed a counter complaint that also gives him individual standing. Eliot is also the alleged Trustee of his children's trusts, trusts that to this day he still has not been given a copy of. Eliot is also a beneficiary of the Simon Estate, the Shirley Bernstein Trust and the Shirley Bernstein Estate. Eliot also is alleged to be a beneficiary of Simon's Trust, as Simon's 2012 Amended Trust, allegedly done days before his

death, was improperly constructed, leaving Eliot still a beneficiary. Eliot is an interested party individually in all cases.

22. That a continuance should have been granted for Eliot Bernstein for all hearings to determine if his minor children's counsel Candice Schwager could be admitted pro hac vice or otherwise be afforded additional time to retain counsel of his choosing as the minor children have not been represented at any hearings, despite Rose's own contention that the children need independent counsel and where the Court should demand deposit of adequate funds from the Trusts or from the parties responsible for the need for counsel, Tescher and Spallina, into a proper account for no less than \$100,000.00 for immediate retention of counsel for the minors, thereby negating any need for guardians (who would then need to get counsel and so a guardian would only add additional expenses);
23. Hampering this effort to retain counsel for the minor children is Rose and his client Ted, as alleged Successor Trustee, refusal to turn over records to counsel Schwager<sup>15</sup> acting on behalf of Eliot and his minor children whom she is retained to represent but cannot enter the cases until she is approved Pro Hac Vice, a determination she will be making after getting the necessary case files from the fiduciaries. Currently, efforts underway to provide Eliot and his children with local counsel for Schwager have proved unsuccessful and perhaps that is because Eliot has exposed Fraud on the Court and alleges Fraud by the Court and several South Florida lawyers and judges involved, leading to a blackballing effect whereby many contacted will not even return calls after learning of who is involved in the case and many are already aware and instantly refuse.

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<sup>15</sup> Rose Letter Refusing to turn over documents to Attorney at Law Candice Schwager  
<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20160106%20Rose%20Denying%20to%20talk%20or%20give%20information%20to%20Attorney%20Schwager.pdf>

24. The refusal to turn over documents by fiduciaries including Ted Bernstein have plagued this case from the start and continue to this day and in fact are what forced Eliot to seek counsel and Court relief to get documents statutorily owed to him in the first place as he and his children were denied dispositive documents for months after the death of his father and years after the death of his mother by Ted, Spallina, Tescher and others. Production requests are still outstanding and unheard by the Court, including records of the Court in toto due to the Fraud on the Court, which requires now discovery.
25. That no construction hearings have been held on the Wills, Trusts and instruments herein and / or not fully and fairly heard to determine beneficiaries, standing, valid trustees (where the PR of Simon's Estate Brian O'Connell has asserted an affirmative defense to the complaint in the Shirley Trust Construction case that Ted is NOT A VALID trustee serving in the Simon Trust under the terms of the trust<sup>16</sup> and if true would call for a rehearing of the validity hearing entirely with a new legally proper Trustee who is valid, not conflicted and not adverse to Beneficiaries as Ted is;
26. That hearings should be held on the removal of Ted Bernstein instantly by this Court from all fiduciary capacities PRIOR TO ANY ACTIONS involving Ted proceeding further and as the referenced September 13, 2013 hearing transcript footnoted herein already shows, Judge Colin had at that time of the first hearing in September 13, 2013 enough evidence involving TWO criminal acts learned and admitted to in the hearing involving Fraud on the Court and Fraud on the Beneficiaries, to state that he had enough evidence at that moment to read Ted and his counsel Spallina, Tescher (who did not appear but was represented) and Manceri their Miranda

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<sup>16</sup> Brian O'Connell pleading Ted is NOT A VALID Trustee Under Slmon L Bernstein Amended and Restated Trust, Page 7  
<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20150217%20Answer%20%20Affirmative%20Defenses%20O'Connell%20States%20Ted%20is%20NOT%20VALID%20TRUSTEE.pdf>

Warnings, twice, yet no action has since been taken by Colin or the Phillips Court to remedy such actions that leave Ted and his counsel with “unclean hands” and involvement in criminal activities;

27. That the present motions of Ted Bernstein and Alan Rose should be stayed indefinitely;
28. That this Court having given reason to Eliot Bernstein that he would not receive a fair trial and having not received fair trials based upon the findings herein should now for this reason and others stated in two disqualification petitions filed against Judge Phillips, voluntarily mandatorily Disqualify from these proceedings.
29. Further, Judge Phillips is also now a necessary material and fact witness to the improper Post Recusal steering of the cases by Judge Colin to his Court, first to Judge Coates, a former Proskauer Rose Partner and where Proskauer is Counter Defendant in this action and also Coates formerly was retained by Eliot’s Iviewit technology companies at the heart of the estate and trust matters, yet Coates took the cases and files and concealed in Court in this case his prior involvement with Eliot and Simon Bernstein’s companies when he was a Proskauer Partner and held a hearing where he then Sua Sponte recused himself (after getting all the court’s confidential and non published records sent to him) and then passed the cases to Judge Phillips, the alleged intended target all along of Colin’s improper Post Recusal steering as cited in the disqualification motions filed<sup>17</sup> and <sup>18</sup> and thus Phillips should also instantly disqualify and void

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<sup>17</sup> December 04, 2015 First Disqualification of Phillips  
<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20151204%20FINAL%20SIGNED%20NOTARIZED%20Disqualification%20of%20Florida%20Circuit%20Court%20Judge%20John%20L%20Phillips%20ECF%20STAMPED.pdf>

and

Corrections

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20151204%20FINAL%20CORRECTIONS%20to%20Disqualification%20of%20Florida%20Circuit%20Court%20Judge%20John%20L%20Phillips%20ECF%20STAMPED.pdf>

<sup>18</sup> December 28, 2015 Second Disqualification of Phillips

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20151228%20FINAL%20SIGNED%20NOTARIZED>

his orders as required by Judicial Canons as he will soon be subpoenaed for deposition and as a witness to relevant matters about the case steering, for his acts outside the color of law in taking this case while knowing of his witness status, if not made a defendant in any further proceedings, state and federal, for continued Fraud by the Court and aiding and abetting and more.

30. That Judge Phillips knowing he is a material and fact witness and now potential defendant of charges of Fraud By the Court in these cases has an adverse interest to Eliot, his wife and their minor children that reflect in his intent to deprive Eliot and his three minor children and lovely wife of their fundamental due process rights.
31. Phillips has threatened Eliot and his wife Candice repeatedly with contempt for nothing other than to create false record, while at the December 15, 2015 hearing an attorney at law, Spallina and an officer the court commits and admits Fraud on the Court, Fraud on the Beneficiaries, Mail Fraud and more, yet at the same hearing Phillips is too busy threatening Candice and then removing her from participating and forcing her from the bench with Eliot as the records of the hearings reflect and simultaneously doing nothing when Spallina admits criminal misconduct in the proceedings directly involving the cases before him. This adverse interest and conflict with Eliot is because Eliot has accused Phillips, Judge Colin and Judge Coates of being part of the improper Post Recusal steering by Colin and transfer of the cases by Colin (who recused 1 day after denying a disqualification motion that alleged **FRAUD BY THE COURT OF COLIN**). Judge Phillips rude and threatening behaviors reflected in the transcripts of the hearings appear entirely in retaliation and to suppress Eliot's rights to fair hearings and Eliot fears that he and his children have not and cannot receive due process in the Phillips court.

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[%20Second%20Disqualification%20of%20Judge%20Phillips%20after%20Validity%20Hearing%20on%20December%202015,%202015%20ECF%20STAMPED%20COPY.pdf](#)

32. The Proposed Order of Rose now attempts to remove Eliot's standing and his prior pleadings filed on behalf of himself and as Guardian of his minor children and remove his standing in the matters through this improper proposed Order without due process and in violation of Administrative Orders. The Order Rose has prepared for Phillips to sign does not accurately reflect the truth of the proceedings and is designed to remove Eliot's rights to his inheritancy through further denial of due process and procedure, even moving the court to attempt Gag Orders on Eliot and to suppress distribution of the December 15, 2016 hearing that exposes new frauds on the court and more.

33. That the Court should take **JUDICIAL NOTICE** and REPORT THE FOLLOWING CRIMINAL MISCONDUCT AND NEW FRAUD ON THE COURT INFORMATION ADMITTED TO BEFORE JUDGE PHILLIPS UNDER OATH BY SPALLINA, the sole witness to the validity hearing before Judge Phillips, who in the hearing violated his signed SEC consent Order for criminal conduct involving insider trading and admitted to new crimes under oath, including Fraud on the Court, Fraud on Beneficiaries, Mail Fraud and more in the December 15, 2016 hearing. **Spallina Perjured his testimony about not having pled to felony or misdemeanor charges as the SEC Order shows he plead to criminal conduct thus mandating it be either felony or misdemeanor criminal conduct.**

34. The following information is cause for impeachment of Spallina's testimony made with "unclean hands" and voiding of the validity hearings ruling due to the criminal conduct learned and committed in the Court on December 15, 2015 by Spallina, a court appointed officer of the court and a court appointed fiduciary in these matters. Therefore, immediate actions should be taken by the Court to notify proper authorities, including but not limited to, the SEC of the violation of his Consent Order that Spallina signed as evidenced in the referenced herein Consent Order, the

FBI regarding the newly admitted Mail Fraud, the Sheriff department regarding the newly admitted Fraud on the Court, Fraud on Beneficiaries and their counsel and the misuse of a deceased person's identity to close another deceased person's estate (now fully admitted), the Inspector General of the Courts due to the Fraud on the Court and alleged Fraud by the Court, the Chief Judge and where the Court is the scene of fresh new crimes of continued Fraud on the Court in these matters, this Court should disqualify itself entirely from the matters as it appears that one cannot investigate oneself or one's court and judicial friends and loves without a MASSIVE APPEARANCE OF IMPROPRIETY;

- a. On or about September 28, 2015, the SEC out of Washington, DC publicly announced Insider Trading and related charges in a separate action against Florida attorneys and Third-Party Defendants herein SPALLINA and TESCHER. That SPALLINA pled guilty of criminal misconduct and the SEC Consent signed by SPALLINA states,  
  
“2. Defendant has agreed to plead guilty to criminal conduct relating to certain matters alleged in the complaint in this action and acknowledges that his conduct violated the federal securities laws. Specifically, Defendant has agreed to plead guilty to a one count information which charges him with committing securities fraud involving insider trading in the securities of Pharmasset, Inc. in a matter to be filed in the United States District Court for the District of New Jersey, (the “Criminal Action”).”<sup>19</sup>
- b. December 15, 2015 hearing under sworn oath as a witness in a Validity Hearing before Judge PHILLIPS, SPALLINA stated the following from the hearing transcript Page 93 Lines 14-22<sup>20</sup>;

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<sup>19</sup> September 28, 2015 SEC Government Complaint filed against TESCHER and SPALLINA @ <http://www.sec.gov/litigation/complaints/2015/comp-pr2015-213.pdf>

<sup>20</sup> December 15, 2015 PHILLIPS VALIDITY HEARING TRANSCRIPT  
<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20151215%20Hearing%20Transcript%20Phillips%20Validity%20Hearing.pdf>



14. . . . . THE COURT: You can answer the question, which  
 15. . . . is, did you plead to a felony?  
 16. . . . . MR. BERNSTEIN: Sorry, sir.  
 17. . . . . THE WITNESS: I have not.  
 18. . . . . THE COURT: Okay. Next question.  
 19. BY MR. BERNSTEIN:  
 20. . . . Q. Have you pled guilty to a misdemeanor?  
 21. . . . A. **I have not. [emphasis added]**  
 22. . . . Q. Were you involved in a insider trading case?  
 23. . . . . MR. ROSE: Objection. Relevance.  
 24. . . . . THE COURT: Sustained. Next question.

c. Further, in the SEC Consent signed by SPALLINA reads,

“12. Defendant understands and agrees to comply with the term of 17 C.P.R. f 202,S(e). which provides in part that it is the Commission's policy "not to permit a defendant or respondent to consent to a judgment or order that imposes a sanction while denying the allegations in the complaint or order for proceedings." As part of Defendant's agreement to comply with the terms of Section 202.5(e), Defendant acknowledges that he has agreed to plead guilty for related conduct as described in paragraph 2 above, and: (i) will not take any action or make or permit to be made any public statement denying, directly or indirectly, any allegation in the complaint or creating the impression that the complaint is without factual basis; (ii) will not make or permit to be made any public statement to the effect that Defendant does not admit the allegations of the complaint, or that this Consent contains no admission of the allegations; (iii) upon the filing of this Consent, Defendant hereby withdraws any papers filed in this action to the extent that they deny any allegation in the complaint; and (iv) stipulates for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C.. §523. that the allegations in the complaint are true...”

d. SPALLINA further states under sworn testimony at the Validity Hearing regarding the trust documents he created being valid admits to fraudulently altering a Shirley Trust Document and sending to Attorney at Law Christine Yates, Esq. representing the minor children of Eliot via the mail, Page 95 Lines 14-25 and Page 96 Line 1-19,

14. . . . Q. Mr. Spallina, have you been in discussion with  
 15. the Palm Beach County Sheriff's Office regarding the

16· ·Bernstein matters?  
17· ······MR. ROSE:· Objection.· Relevance.  
18· ······THE COURT:· Overruled.  
19· ······You can answer that.  
20· ······THE WITNESS:· Yes, I have.  
21· ·BY MR. BERNSTEIN:  
22· ··· Q· ·And did you state to them that you  
23· ·fraudulently altered a Shirley trust document and then  
24· ·sent it through the mail to Christine Yates?  
25· ··· A· ·Yes, I did.  
·1· ··· Q· ·Have you been charged with that by the Palm  
·2· ·Beach County Sheriff yet?  
·3· ··· A· ·No, I have not.  
·4· ··· Q· ·Okay.· How many times were you interviewed by  
·5· ·the Palm Beach County Sheriff?  
·6· ······MR. ROSE:· Objection.· Relevance.  
·7· ······THE COURT:· Sustained.  
8· ·BY MR. BERNSTEIN:  
·9· ··· Q· ·Did you mail a fraudulently signed document to  
10· ·Christine Yates, the attorney for Eliot Bernstein's  
11· ·minor children?  
12· ······MR. ROSE:· Objection.· Relevance.  
13· ······THE COURT:· Overruled.  
14· ······THE WITNESS:· Yes.  
15· ·BY MR. BERNSTEIN:  
16· ··· Q· ·And when did you acknowledge that to the  
17· ·courts or anybody else?· When's the first time you came  
18· ·about and acknowledged that you had committed a fraud?  
19· ··· A· ·**I don't know that I did do that [emphasis added].**

e. SPALLINA then perjures himself in self contradiction when he tries to claim that his law firm did not mail Fraudulent documents to the court and commits here further FRAUD ON THE COURT when he then slips up and admits that his legal assistant and notary public Kimberly Moran, already prosecuted in these matters for fraudulent notarization and who has admitted forgery of six persons in these matters then sent the fraudulent documents back to the court when he states;

10· ·BY MR. BERNSTEIN:  
11· ··· Q· ·And what was she convicted for?  
12· ··· A· ·She had notarized the waiver releases of  
13· ·accounting that you and your siblings had previously  
14· ·provided, and we filed those with the court.

15 · · · · Q · We filed those with the court.  
16 · · · · Your law firm submitted fraudulent documents  
17 · to the court?  
18 · · · · A · No · We filed -- we filed your original  
19 · documents with the court that were not notarized, and  
20 · the court had sent them back.  
21 · · · · Q · And then what happened?  
22 · · · · A · And then Kimberly forged the signatures and  
23 · notarized those signatures and sent them back.

- f. That not only does SPALLINA admit to Felony criminal acts that have not yet been investigated but admits that his office members are also involved in proven Fraudulent Creation of a Shirley Trust and where MORAN has already admitted six counts of forgery for six separate parties (including for a deceased Simon and for Eliot) and fraudulent notarizations of such documents when Spallina states in the hearing Pages 102-103,

102  
20 · · · · MR. BERNSTEIN: · Sure.  
21 · BY MR. BERNSTEIN:  
22 · · · · Q · You've testified here about Kimberly Moran.  
23 · · · · Can you describe your relationship with her?  
24 · · · · A · She's been our long-time assistant in the  
25 · office.

103  
·1 · · · · Q · Was she convicted of felony fraudulent  
·2 · notarization in the Estate of Shirley Bernstein?  
·3 · · · · MR. ROSE: · Objection · Relevance.  
·4 · · · · THE COURT: · Overruled.  
·5 · · · · You're asking if she was convicted of a felony  
·6 · with respect to the Estate of Shirley Bernstein?  
·7 · · · · You can answer the question.  
·8 · · · · MR. BERNSTEIN: · Correct.  
·9 · · · · THE WITNESS: · I believe she was.

- g. SPALLINA then claims that it is “standard operating procedure” for he and his clients to sign sworn Final Waivers under penalty of perjury with knowingly and irrefutably false statements and admitting that the April 09, 2012 Full Waiver

(already referenced and linked herein) submitted to this Court by Spallina's law firm in October of 2012 by Simon Bernstein, at a time after his death on September 13, 2012 and yet still acting as the Personal Representative, signed under penalty of perjury allegedly by Simon Bernstein and witnessed by Spallina, contained knowingly false statements . Then SPALLINA had a deceased Simon file that alleged sworn document with the Court as Personal Representative on a date after his death as part of a Fraud on the Court and Fraud on the Beneficiaries and Interested Parties. SPALLINA states in testimony as follows,

Pages 108-110

17 · . . . Q. · Okay. · Are you aware of an April 9th full  
18 · waiver that was allegedly signed by Simon and you?  
19 · . . . A. · Yeah. · That was the waiver that he had signed.  
20 · And then in the May meeting, we discussed the five of  
21 · you, all the children, getting back the waivers of the  
22 · accountings.  
23 · . . . Q. · Okay. · And in that April 9th full waiver you  
24 · used to close my mother's estate, does Simon state that  
25 · he has all the waivers from all of the parties?  
·1 · . . . A. · He does. · We sent out -- he signed that, and  
·2 · we sent out the waivers to all of you.  
·3 · . . . Q. · Okay. · So on April 9th of 2012, Simon signed,  
·4 · with your presence, because your signature's on the  
·5 · document, a document stating he had all the waivers in  
·6 · his possession from all of his children.  
·7 · . . . · Had you sent the waivers out yet as of  
·8 · April 9th?

...

20 · BY MR. BERNSTEIN:

21 · . . . Q. · April 9th, 2012, you have a signed full waiver  
22 · of Simon's that says that he is in possession of all of  
23 · the signed waivers of all of the parties?  
24 · . . . A. · Standard operating procedure, to have him  
25 · sign, and then to send out the documents to the kids.

...

·1 · . . . Q. · Was Simon in possession -- because it's a  
·2 · sworn statement of Simon saying, I have possession of  
·3 · these waivers of my children on today, April 9th,  
·4 · correct, the day you two signed that?

·5· . . . . . Okay. So if you hadn't sent out the waivers  
·6· yet to the --  
·7· . . . A. I'm not certain when the waivers were sent  
·8· out.  
·9· . . . Q. Were they sent out after the --  
10· . . . A. I did not send them out.  
11· . . . Q. Okay. More importantly, when did you receive  
12· those? Was it before April 9th or on April 9th?  
13· . . . A. We didn't receive the first one until May.  
14· And it was your waiver that we received.  
15· . . . Q. So how did you allow Simon, as his attorney,  
16· to sign a sworn statement saying he had possession of  
17· all of the waivers in April if you didn't get mine 'til  
18· May?  
19· . . . MR. ROSE: Objection. I think it's relevance  
20· and cumulative. He's already answered.  
21· . . . THE COURT: What's the relevance?  
22· . . . MR. BERNSTEIN: Oh, this is very relevant.  
23· . . . THE COURT: What is the relevance on the issue  
24· that I have to rule on today?  
25· . . . MR. BERNSTEIN: On the validity? Well, it's  
1· relevant. If any of these documents are relevant,  
·2· this is important if it's a fraud.  
·3· . . . THE COURT: I'll sustain the objection.  
·4· . . . MR. BERNSTEIN: Okay. Can I -- okay.  
·5· BY MR. BERNSTEIN:  
·6· . . . Q. When did you get -- did you get back prior to  
·7· Simon's death all the waivers from all the children?  
·8· . . . A. No, we did not.  
·9· . . . Q. So in Simon's April 9th document where he  
10· says, he, Simon, on April 9th has all the waivers from  
11· his children while he's alive, and you didn't even get  
12· one 'til after he passed from one of his children, how  
13· could that be a true statement?  
14· . . . MR. ROSE: Objection. Relevance. Cumulative.  
15· . . . THE COURT: Sustained.

h. Finally, SPALLINA also perjures himself under sworn oath at the hearing when testifying to the status of his Florida Bar license, which at this time he is listed as

“Not Eligible to Practice Law in Florida”<sup>21</sup> when he states in the December 15, 2015 hearing,

Page 91

7· ·BY MR. BERNSTEIN:

8· ··· Q· ·Mr. Spallina, you were called today to provide  
9· ·some expert testimony, correct, on the --

10· ··· A· ·No, I was not.

11· ··· Q· ·Oh, okay. · You're just going based on your  
12· ·doing the work as Simon Bernstein's attorney and Shirley  
13· ·Bernstein's attorney?

14· ··· A· ·Yes.

15· ··· Q· ·Okay. · Are you still an attorney today?

16· ··· A· ·I am not practicing.

17· ··· Q· ·Can you give us the circumstances regarding  
18· ·that?

19· ··· A· ·I withdrew from my firm.

Pages 120-121

19· ·BY MR. BERNSTEIN:

20· ··· Q· ·Did you -- are you a member of the Florida  
21· ·Bar?

22· ··· A· ·Yes, I am.

23· ··· Q· ·Currently?

24· ··· A· ·Yes, I am.

25· ··· Q· ·Okay. · You said before you surrendered your  
·1· ·license.

·2· ··· A· ·I said I withdrew from my firm. · It wasn't  
·3· ·that I was not practicing.

- i. Spallina further Perjures his testimony when asked if the Fraudulent Shirley Trust he created by Post Mortem fraudulently altering a Shirley Amendment and disseminated through the mail attempted to change the beneficiaries of the Shirley Trust and he answered no. Yet, the following analysis shows different;

22· ·BY MR. BERNSTEIN:

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<sup>21</sup> [https://www.floridabar.org/wps/portal/flbar/home/attysearch/mprofile!/ut/p/a1/jc\\_LDolwEAXQT-ptthRaWo6mkRazxgdCNYUWaKLowfr\\_42LioOrtJzs3cYZ41zA\\_dLftdNZyH7vjYvTxACM3dBrawxEHIOI3ZggSEHEE7girnxJMMNktoDIOr2qgtF7RM\\_8sjMoRf-T3zn8RJNQO5BXKtp0AxeYNIRTj-HTx\\_eJ2II7ycdg2C6e8\\_WXgh/dl5/d5/L2dBISEvZ0FBIS9nQSEh/?mid=497381](https://www.floridabar.org/wps/portal/flbar/home/attysearch/mprofile!/ut/p/a1/jc_LDolwEAXQT-ptthRaWo6mkRazxgdCNYUWaKLowfr_42LioOrtJzs3cYZ41zA_dLftdNZyH7vjYvTxACM3dBrawxEHIOI3ZggSEHEE7girnxJMMNktoDIOr2qgtF7RM_8sjMoRf-T3zn8RJNQO5BXKtp0AxeYNIRTj-HTx_eJ2II7ycdg2C6e8_WXgh/dl5/d5/L2dBISEvZ0FBIS9nQSEh/?mid=497381)

23. . . . Q. Did the fraudulently altered document change  
24. the beneficiaries that were listed in Shirley's trust?  
25. . . . A. **They did not [emphasis added].**

Now comparing the language in the two documents the Court can see that this statement is wholly untrue. From the alleged Shirley Trust document,

“Notwithstanding the foregoing, as I have adequately provided for them during my lifetime, for purposes of the dispositions made under this Trust, my children, TED S. BERNSTEIN ("TED") and PAMELA B. SIMON ("PAM"), **and their respective lineal descendants [emphasis added]** shall be deemed to have predeceased the survivor of my spouse and me, provided, however, if my children, ELIOT BERNSTEIN, JILL !ANTONI and LISA S. FRIEDSTEIN, and their lineal descendants all predecease the survivor of my spouse and me, then TED and PAM, and their respective lineal descendants shall not be deemed to have predeceased me and shall be eligible beneficiaries for purposes of the dispositions made hereunder.”<sup>22</sup>

Then the language from the fraudulent amendment states;

2. I hereby amend the last sentence of Paragraph E. of Article III. to read as follows:

"Notwithstanding the foregoing, as my spouse and I have adequately provided for them during our lifetimes, for purposes of the dispositions made under this Trust, my children, TED S. BERNSTEIN ("TED") and PAMELA B. SIMON ("PAM '), shall be deemed to have predeceased the survivor of my spouse and me, provided, however, if my children, ELIOT BERNSTEIN, JILL IANTONI and LISA S. FRIEDSTEIN, and their respective lineal descendants all predecease the survivor of my spouse and me, then TED and PAM shall not be deemed to have predeceased the survivor of my spouse and me and shall become eligible beneficiaries for purposes of the dispositions made hereunder."

Clearly the fraudulent amendment attempts to remove from the predeceased language regarding TED and PAMELA’s lineal descendants from being excluded by removing them from the original trust language as being considered predeceased and thus change the beneficiaries of the Shirley Trust. In fact, adding Ted and Pam’s lineal descendants back into the trust would give them a chance to convert improperly %40 of the value to their families from %0.

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<sup>22</sup> Shirley Trust Page 7  
<http://iviewit.tv/Simon%20and%20Shirley%20Estate/Shirley%20Trust%20plus%20fraudulent%20amendm ent%202.pdf>

This perjury by Spallina, acting already with proven unclean hands and admitted to crimes in the Estates and Trusts of Simon and Shirley Bernstein changed the outcome of the validity hearing adding cause for a rehearing and voiding the Order that resulted, which were already void and of no effect since Judge Phillips should have already voluntarily mandatorily disqualified himself from the proceedings prior to holding any hearings.

35. That as for Ted being qualified as a fiduciary, the following passage from the December 15, 2015 hearing that Ted called for to prove the validity of the dispositive documents after his former counsel admitted criminal activities shows that Ted, who used this disgraced attorney Spallina as his star and only witness to validate the documents, did nothing to validate the documents himself as Trustee to protect the beneficiaries harmed by his former counsels actions, his friend and business associate when he states, under oath,

Page 206-210

25 · · · · Q · · Okay · Ted, you were made aware of Robert  
1 · Spallina's fraudulent alteration of a trust document of  
2 · your mother's when?  
3 · · · · A · · I believe that was in the early 2013 or '14.  
4 · · · · Q · · Okay · And when you found out, you were the  
5 · fiduciary of Shirley's trust, allegedly?  
6 · · · · A · · I'm not sure I understand the question.  
7 · · · · Q · · When you found out that there was a fraudulent  
8 · alteration [sic] of a trust document, were you the  
9 · fiduciary in charge of Shirley's trust?  
10 · · · · A · · I was trustee, yes · I am trustee, yes.  
11 · · · · Q · · And your attorneys, Tescher and Spallina, and  
12 · their law firm are the one who committed that fraud,  
13 · correct, who altered that document?  
14 · · · · A · · That's what's been admitted to by them,  
15 · correct.  
16 · · · · Q · · Okay · So you became aware that your counsel  
17 · that you retained as trustee had committed a fraud,  
18 · correct?  
19 · · · · A · · Correct.  
20 · · · · Q · · What did you do immediately after that?  
21 · · · · A · · The same day that I found out, I contacted



22· ·counsel· I met with counsel on that very day· I met  
23· ·with counsel the next day· I met with counsel the day  
24· ·after that.

25· ···· Q· ·Which counsel?

·1· ···· A· ·Alan Rose.

···

P 209-210

24· ·BY MR. BERNSTEIN:

25· ···· Q· ·Have you seen the original will and trust of  
·1· ·your mother's?

·2· ···· A· ·Can you define original for me?

·3· ···· Q· ·The original.

·4· ···· A· ·The one that's filed in the court?

·5· ···· Q· ·Original will or the trust.

·6· ···· A· ·I've seen copies of the trusts.

·7· ···· Q· ·Have you done anything to have any of the  
·8· ·documents authenticated since learning that your  
·9· ·attorneys had committed fraud in altering dispositive  
10· ·documents that you were in custody of?

11· ······ MR. ROSE:· Objection· Relevance.

12· ······ THE COURT:· Overruled.

13· ······ THE WITNESS:· I have not.

14· ·BY MR. BERNSTEIN:

15· ···· Q· ·So you as the trustee have taken no steps to

16· ·validate these documents; is that correct?

17· ···· A· ·Correct.

36. Finally, as reported by the Palm Beach Post<sup>23</sup> and others in an evolving story of

Probate/Guardian abuse emanating from Florida's courts, similar to the bank and mortgage frauds that found judges and lawyers fraudulently conveying properties through "robo signing" aka bank fraud, forgery and more, Florida's Judges are coming under fire for their bizarre behaviors of probate/guardianship abuses and basically grave robbing Florida's elderly as has been evidenced herein, where dead person's identities are used to commit Fraud on the Court and when discovered covered up by further Fraud by the Court in conjunction with the lawyers and guardians and judges.

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<sup>23</sup> <http://www.mypalmbeachpost.com/guardianships-elizabeth-savitt/>  
and  
<http://aaapg.net/florida-the-judges-wife-a-frequent-court-appointed-guardian/>

WHEREFORE, the proposed Order of Ted Bernstein is Objected to herein and an Alternate Order submitted.

Dated: January 19, 2016

**/s/Eliot Ivan Bernstein**

Eliot Ivan Bernstein  
2753 NW 34th St  
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561-245-8588  
[iviewit@iviewit.tv](mailto:iviewit@iviewit.tv)

**CERTIFICATE OF SERVICE**

I CERTIFY that a copy of the foregoing has been furnished to parties listed on attached Service List by E-mail Electronic Transmission; Court ECF; this 19th day of January, 2016.

**/s/Eliot Ivan Bernstein**

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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.

**ALTERNATE ORDER**

THIS CAUSE came before the Court for hearing on January 14, 2016 on Successor Trustee Ted Bernstein and Alan Rose's Motion for Appointment of a Guardian Ad Litem to Represent the Interests of Eliot Bernstein's Children and other relief, and Eliot I. Bernstein having filed Opposition and appeared in Opposition. The Court, having considered the record, heard argument of counsel and the parties and having reconsidered the record and being otherwise fully advised in the premises, hereby ORDERS AND ADJUDGES:

1. Strike the Proposed Order of Alan B. Rose and Ted Bernstein in entirety;
2. That Florida Statutes 733.707, 736.0103, 731.201 (2)(4)(9)(11)(20) and (23) give Eliot standing as a Beneficiary, Heir and Interested Person and Trustee of the Eliot Bernstein Family Trust in this case and the Simon Estate, the Simon Trust and the Shirley Estate.
3. That there was no Construction Hearing held, Noticed or Scheduled;
4. That proper pre-trial procedures thus were not followed and must be corrected in furtherance of justice;
5. That the present motions of Ted Bernstein and Alan Rose are stayed indefinitely;
6. Judge Phillips mandatorily disqualify himself and void ALL orders for all the reasons stated in the disqualifications and for newly discovered factual admissions of fraud on the court learned at the December 15, 2015 hearing and further fraud on the court continued through perjured statements made under oath in testimony by a former officer of the court and former fiduciary constituting perjury, obstruction and more;
7. Instantly report new Admissions before this Court and perjurious statements made in the December 15, 2016 validity hearing by attorney at law, former officer of the court and former fiduciary in the Simon Bernstein Estate and Trust, Robert Spallina's admissions of his newly admitted Fraud on the Court, Fraud on Beneficiaries, Mail Fraud and Violations of his signed SEC Consent Order for Securities Fraud and Insider Trading to all the proper authorities, including but not limited to, the Inspector General of the Courts, the Chief Judge of 15th Judicial,
8. That the new Court demand deposit of adequate funds from the Trusts or from bonding of the responsible parties for causing the need for counsel into a proper account for no less than \$100,000.00 for immediate retention of counsel of Eliot's choosing for the minor

children as they have not been represented at hearings despite their standing as alleged beneficiaries and despite the fact that the conflict arises due to the fraud on the court by the prior fiduciaries and their counsel as proven already and or provide leave to Eliot Bernstein to re-apply immediately for funds for Counsel upon a new Judge presiding.

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

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HONORABLE JOHN L. PHILLIPS  
Circuit Court Judge

Copies to: Attached Service List

**SERVICE LIST**

<p><b>COUNTER DEFENDANT</b> Robert L. Spallina, Esq., Tescher &amp; Spallina, P.A. Wells Fargo Plaza 925 South Federal Hwy Suite 500 Boca Raton, Florida 33432 rspallina@tescherspallina.com kmoran@tescherspallina.com <a href="mailto:ddustin@tescherspallina.com">ddustin@tescherspallina.com</a></p>	<p><b>COUNTER DEFENDANT</b> Ted Bernstein, individually 880 Berkeley Boca Raton, FL 33487 <a href="mailto:tbernstein@lifeinsuranceconcepts.com">tbernstein@lifeinsuranceconcepts.com</a></p>	<p><b>COUNTER DEFENDANT</b> John J. Pankauski, Esq. Pankauski Law Firm PLLC 120 South Olive Avenue 7th Floor West Palm Beach, FL 33401</p>
<p><b>COUNTER DEFENDANT</b> Donald Tescher, Esq., Tescher &amp; Spallina, P.A. Wells Fargo Plaza 925 South Federal Hwy Suite 500 Boca Raton, Florida 33432 dtescher@tescherspallina.com ddustin@tescherspallina.com kmoran@tescherspallina.com</p>	<p><b>COUNTER DEFENDANT</b> Ted Bernstein Life Insurance Concepts et al. 950 Peninsula Corporate Circle Suite 3010 Boca Raton, FL 33487 tbernstein@lifeinsuranceconcepts.com</p>	<p><b>COUNTER DEFENDANT</b> Pankauski Law Firm PLLC 120 South Olive Avenue 7th Floor West Palm Beach, FL 33401 courtfilings@pankauskilawfirm.com john@pankauskilawfirm.com</p>

<p><b>COUNTER DEFENDANT</b>  Donald Tescher, Esq.,  Tescher &amp; Spallina, P.A.  Wells Fargo Plaza  925 South Federal Hwy Suite  500  Boca Raton, Florida 33432  dtescher@tescherspallina.com  ddustin@tescherspallina.com  kmoran@tescherspallina.com</p>	<p><b>COUNTER DEFENDANT &amp; COUNSEL TO TED BERNSTEIN SERVED</b>  Alan B. Rose, Esq.  PAGE, MRACHEK, FITZGERALD, ROSE, KONOPKA, THOMAS &amp; WEISS, P.A.  505 South Flagler Drive, Suite 600  West Palm Beach, Florida 33401  arose@pm-law.com  and  arose@mrachek-law.com</p>	<p><b>Counter Defendant</b>  TESCHER &amp; SPALLINA, P.A.  Wells Fargo Plaza  925 South Federal Hwy Suite 500  Boca Raton, Florida 33432  dtescher@tescherspallina.com  ddustin@tescherspallina.com  kmoran@tescherspallina.com</p>
	<p>Pamela Simon  President  STP Enterprises, Inc.  303 East Wacker Drive  Suite 210  Chicago IL 60601-5210  psimon@stpcorp.com</p>	<p><b>Counter Defendant</b>  Mark R. Manceri, Esq., and  Mark R. Manceri, P.A.,  2929 East Commercial  Boulevard  Suite 702  Fort Lauderdale, FL 33308  mrmlaw@comcast.net  mrmlaw1@gmail.com</p>
<p><b>Counter Defendant</b>  L. Louis Mrachek, Esq.  PAGE, MRACHEK, FITZGERALD, ROSE, KONOPKA, THOMAS &amp; WEISS, P.A.  505 South Flagler Drive, Suite 600  West Palm Beach, Florida 33401  lmrachek@mrachek-law.com</p>	<p><b>Counter Defendant</b>  Charles D. Rubin  Managing Partner  Gutter Chaves Josepher Rubin  Forman Fleisher Miller PA  Boca Corporate Center  2101 NW Corporate Blvd., Suite 107  Boca Raton, FL 33431-7343  crubin@floridatx.com</p>	<p><b>Counter Defendant</b>  Kimberly Moran  Tescher &amp; Spallina, P.A.  Wells Fargo Plaza  925 South Federal Hwy Suite 500  Boca Raton, Florida 33432  kmoran@tescherspallina.com</p>
<p><b>Counter Defendant</b>  Lindsay Baxley aka Lindsay Giles  Life Insurance Concepts  950 Peninsula Corporate Circle  Suite 3010  Boca Raton, FL 33487  lindsay@lifeinsuranceconcepts.c</p>	<p><b>Counter Defendant</b>  Estate of Simon Bernstein  Personal Representative  Brian M. O'Connell, Partner  Ciklin Lubitz Martens &amp; O'Connell  515 N Flagler Drive</p>	<p>Jill Iantoni  2101 Magnolia Lane  Highland Park, IL 60035  jilliantoni@gmail.com</p>



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