IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT IN AND FOR PALM BEACH COUNTY, FLORIDA

Probate Division
Case No.: 502014CP003698XXXXNBIJ

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

OPPOSITION TO MOTION TO FINAL ORDER APPROVING SALE AND RULE 9.310. STAY PENDING REVIEW OF ALL CASES OF JUDGE PHILLIPS

Now comes ELIOT IVAN BERNSTEIN ("PETITIONER") who respectfully petitions and pleads and shows this court as follows:

1. I am Eliot Bernstein and I make this statement in opposition to the Motion to Modify an Order of Sale filed by Alan Rose and Ted Bernstein.
2. I further make this statement for a Stay pending review under Florida Rules of Appellate Procedure 9.310 to Stay all cases Judge John G. Phillips is Assigned to pending review of an

Appeal and Writ of Prohibition against Judge Phillips who should already be mandatorily Disqualified, such other cases being under Case Numbers:

Judge Martin Colin / Howard Coates / John Phillips Estate & Trust Cases

Estate and Trust Cases, Simon, Shirley and Eliot Children Cases Transferred from Colin to Coates to Phillips

1. Case # 502012CP004391XXXXSB – Simon Bernstein Estate
2. Case # 502011CP000653XXXXSB – Shirley Bernstein Estate
3. Case # 502014CP002815XXXXSB – Oppenheimer v. Bernstein Minor Children
4. Case # 502014CP003698XXXXSB – Shirley Trust Construction
5. Case # 502015CP001162XXXXSB – Eliot Bernstein v. Trustee Simon Trust Case OLD CASE # 502014CA014637XXXXMB
6. Case # TBD – Creditor Claim – Eliot v. Estate of Simon

Judge Coates Case

7. Case ID: 502015CP002717XXXXNB

Judge David E. French Cases

8. Case # 20I2CP004391 IX – Simon Bernstein Estate

3. The motion should be struck from the Calendar as it is not appropriate for a UMC Calendar motion as it requires an Evidentiary hearing and can not be heard in 5 minutes.
4. The motion should further be struck from the Calendar as it was filed as a "sharp practice" by attorney Alan Rose continuing sharp practices herein and specifically knowing that I had filed for Unavailability due to being on medication and medical treatment and that other hearings were specifically re-scheduled for this reason.
5. The motion should be denied as Ted Bernstein is not a proper Trustee and should be removed as Trustee or alternatively the motion should not be heard until after a proper hearing to remove Ted Bernstein as Trustee and a proper investigation of multiple frauds upon the court in these matters, including recent fraudulent activity at a validity hearing held December 15, 2015 before this Court, involving officers and fiduciaries of the court.

6. The motion should further be denied and struck from the Calendar as it is filed by Alan Rose who must be Disqualified as a Material and Fact Witness under Florida Rules being a material and fact witness to the discovery, possession and chain of custody of multiple "original" documents and underlying instruments herein, as well as being a counter defendant in the stayed counter complaint in this case and finally as an alleged participant of the fraud on the court and fraud on the beneficiaries that continues to this day.
7. Judge Colin had specific concerns about the proceeds of the house sale going into Rose's firm account. He stated on the record that no proceeds were to be used for legal fees or available to the trustee without a court order. The proceeds were not to be commingled or held by rose's firm for fees or any back payments or anyway for them to access the money.
8. The money was to be frozen and untouched by any of them. Attorney fees from the trust are barred when there is a breach of duty claim in an adversary proceeding and there are multiple breach of fiduciary claims against Ted Bernstein.
9. The proceeds were to be held away from Ted Bernstein acting as trustee as well because of claims I have filed for breach of duty and upcoming pending hearings to remove Ted.
10. Additionally, there is no proper Sale contract for the Home as there is no known buyer and no determination that an arm's length transaction has occurred.
11. There are NO ACCOUNTINGS IN FIVE YEARS in the Shirley Trust and thus selling assets appears improper without beneficiaries having any accountings to determine the value of their inheritancy, in violation of Probate Rules and Statutes.
12. Ted Bernstein has failed in his fiduciary duties to properly account and has illegally withheld documents and records away from beneficiaries to make decisions on anything with informed consent and information and this violates the fiduciaries duties to transparency wholly.

13. There has been no backup documentation provided justifying any such attorney fees claimed by Ted Bernstein and Alan Rose and there should be a full evidentiary hearing before any such fees are awarded and before any modification of any Order of Sale.

14. The underlying Order of Sale is invalid and should be vacated as Judge Colin knew and should have known he already should have been mandatorily disqualified as being a material and fact witness to fraud upon the Court in his Court committed by the Tescher and Spallina law firm that Ted Bernstein brought into the lives of Simon and Shirley Bernstein and who acted as Ted Bernstein's counsel as Trustee in this case and where Robert Spallina has admitted fraudulently altering a Shirley Trust and mailing it to various parties and whereby the fraudulent language added directly benefited Ted Bernstein and his family financially, where they had previously been considered predeceased for ALL purposes of dispositions of the Shirley Trust and as beneficiaries.

RULE 9.310. STAY PENDING REVIEW

15. This Court should now grant a Stay pending review of an Appeal and Writ of Prohibition pending with the 4th DCA as Judge Phillips should already have mandatorily been disqualified herein and the Stay should apply to all cases Judge Phillips is in related to this matter.

16. The Writ of Prohibition[1] and the original motion for Disqualification establish the grounds for granting the stay and this Court of Judge John Phillips is well aware of such grounds[2].

[1] January 29, 2016 Writ of Prohibition Phillips
http://iviewit.tv/Simon%20and%20Shirley%20Estate/20160129%20FINAL%20ESIGNED%204thDCA%20WRIT%20PROHIBITION%20FIRST%20PHILLIPS%20DISQUALDENIAL1.28.16%20ECF%20STAMPED%20COPY.pdf

January 29, 2016 Writ of Prohibition Phillips Appendix A
http://iviewit.tv/Simon%20and%20Shirley%20Estate/20160129%20FINAL%20ESIGNED%20APPENDIX%204thDCA%20WRIT%20PROHIBITION%20FIRST%20PHILLIPS%20DISQUALDENIAL1.28.16%20ECF%20STAMPED%20COPY.pdf

17. Such stay should be granted without the requirement of any bonding by Eliot I. Bernstein.

18. 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.**

19. 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

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[2] December 04, 2015 1st Disqualification Motion Judge John L. Phillips
http://iviewit.tv/Simon%20and%20Shirley%20Estate/20151204%20FINAL%20SIGNED%20NOTARIZED%20Disqualification%20of%20Florida%20Circuit%20Court%20Judge%20John%20L%20Phillips%20ECF%20STAMPED.pdf

December 04, 2015 1st Disqualification Judge John L. Phillips Corrections
http://iviewit.tv/Simon%20and%20Shirley%20Estate/20151204%20FINAL%20CORRECTIONS%20to%20Disqualification%20of%20Florida%20Circuit%20Court%20Judge%20John%20L%20Phillips%20ECF%20STAMPED.pdf

December 28, 2015 2nd Disqualification Judge John L. Phillips
http://iviewit.tv/Simon%20and%20Shirley%20Estate/20151228%20FINAL%20SIGNED%20NOTARIZED%20Second%20Disqualification%20of%20Judge%20Phillips%20after%20Validity%20Hearing%20on%20December%2015,%202015%20ECF%20STAMPED%20COPY.pdf

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")."[3]

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[4];

> 14· · · · · · ·THE COURT:· You can answer the question, which
> 15· · · · is, did you plead to a felony?

[3] September 28, 2015 SEC Government Complaint filed against TESCHER and SPALLINA @ http://www.sec.gov/litigation/complaints/2015/comp-pr2015-213.pdf

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

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; aud (iv) stipulates for purposes of exceptions to discharge sot 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**[5]" when he states in the December 15, 2015 hearing,

[5] https://www.floridabar.org/wps/portal/flbar/home/attysearch/mprofile/!ut/p/a1/jc_LDoIwEAXQT-pthRaWo6mkRazxgdCNYUWaKLowfr_42LioOrtJzs3cYZ41zA_dLfTdNZyH7vjYvTxACM3dBrawxEHlOl3Z

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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:
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]**.

qgSEHEE7girnxJMMNktoDlOr2qgtF7RM_8sjMoRf-T3zn8RJNQO5BXKtp0AxeYNIRTj-HTx_eJ2Il7ycdg2C6e8_WXgh/dl5/d5/L2dBISEvZ0FBIS9nQSEh/?mid=497381

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."[6]

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."

20. 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.

21. 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

[6] Shirley Trust Page 7 http://iviewit.tv/Simon%20and%20Shirley%20Estate/Shirley%20Trust%20plus%20fraudulent%20amendment%202.pdf

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.

22. 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· ·altercation [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.

23. Finally, as reported by the Palm Beach Post[7] 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 "robosigning" 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.

[7] http://www.mypalmbeachpost.com/guardianships-colin-savitt
and
http://iviewit.tv/Simon%20and%20Shirley%20Estate/Pacenti%20Articles%20Compiled%20as%20of%20Feb%2002%202016.pdf (Large File = Patience)
http://aaapg.net/florida-the-judges-wife-a-frequent-court-appointed-guardian/

WHEREFORE, it is respectfully prayed for an Order Staying this case and all related cases pending review by the 4th DCA and striking such motion by Ted Bernstein from the Calendar or alternatively postponing the hearing on such motion until after motions to remove Ted Bernstein as a Trustee and fiduciary are fully heard and further granting a full evidentiary hearing should Ted Bernstein survive a proper hearing on motions to be removed as Trustee and for such other and further relief as may be just and proper.

Dated: February 03, 2016

/s/Eliot Ivan Bernstein
Eliot Ivan Bernstein
2753 NW 34th St
Boca Raton, FL 33434
561-245-8588
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 3rd day of February, 2016.

/s/Eliot Ivan Bernstein
Eliot Ivan Bernstein
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SERVICE LIST

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