# Eliot Bernstein’s Comments to Steven Lessne Proposed Orders, Eliot’s comments in Red and prefaced with “Eliot Comment:”

# (ELIOT COMMENT: I OBJECT AND DO NOT CONSENT TO A SINGLE WORD IN THE PROPOSED ORDER AND BELIEVE IT IS PART OF AN ONGOING FRAUD ON AND BY THIS COURT BY STEVEN LESSNE, ALAN ROSE, TED BERNSTEIN, ROBERT SPALLINA, DONALD TESCHER, JUDGE MARTIN COLIN, JUDGE DAVID E FRENCH AND JUDGE JOHN PHILLIPS et al.)

# THE ORDER WAS DRAFTED PRIOR TO THE HEARING BY ALAN ROSE AND NOT SHOWN TO ELIOT UNTIL AFTER ROSE GAVE IT TO THE JUDGE AT THE END OF THE HEARING THUS IT CANNOT ACCURATELY REFLECT THE RECORD AND WAS PREFABRICATED WHOLLY PRIOR AND ELIOT OBJECTS AS IT CANNOT REFLECT THE TRUE RECORD WHERE NO RECORD WAS MADE OF THIS HEARING.

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

PROBATE DIVISION

CASE NO.: 502014CP002815XXXXNB (IH)

OPPENHEIMER TRUST COMPANY

OF DELAWARE, in its capacity as Resigned Trustee (ELIOT COMMENT: As it was already determined in these proceedings Oppenheimer as a resigned Trustee has NO STANDING to move the Court and was allowed a chance to provide an accounting and hearing but in no other way move the Court on behalf of the trusts.) of the Simon Bernstein Irrevocable Trusts created for the benefit of Joshua, Jake and Daniel Bernstein,

Petitioner,

vs.

ELIOT AND CANDICE BERNSTEIN,

in their capacity as parents and natural guardians of JOSHUA, JAKE AND DANIEL BERNSTEIN, minors,

Respondents.

*I*

ORDER APPOINTING GUARDIAN *AD LITEM FOR* MINORS, JOSHUA, JAKE AND DANIEL BERNSTEIN

THIS CAUSE came before the Court at an evidentiary hearing held on February 25, 2016 upon he *Omnibus Motion (I) To Appoint A Guardian Ad Litem For The Minor Beneficiaries Of The "Grandchildren Trusts;" (II) To Hold Eliot And Candice Bernstein In Contempt Of Court For Their Continued Violation Qf A Court Order And Repeated Statements Assaulting The Dignity Of The Court: And (III) To Establish A Schedule And Protocol For Accounting And Turnover Proceedings* (the "Motion") filed by Petitioner, Oppenheimer Trust Company Of Delaware ("Oppenheimer"), in its capacity as the resigned trustee (ELIOT COMMENT: Again it was determined that a resigned trustee has no standing to move the Court) of three Irrevocable Trusts settled by Simon Bernstein on September 7, 2006 for the benefit of his grandchildren, minors, Joshua, Jake and Daniel Bernstein (the "Grandchildren Trusts"). Having considered the Motion and the arguments of the parties, taken judicial notice of the matters requested in the Motion, and being otherwise duly advised in the premises, the Court rules as follows:

1. The sole beneficiaries of the Grandchildren Trusts, and the only real parties in interest in this litigation (other than Oppenheimer), are Joshua, Jake and Daniel Bernstein (the "Minor Beneficiaries"). Neither Eliot nor Candice Bernstein (the "Bernsteins”) were sued in their individual capacities by Oppenheimer, nor have they moved for, or been granted, permission to intervene in their individual capacities. They have been afforded standing in these proceedings, to date, solely as the parents and natural guardians of the Minor Beneficiaries.
2. The Bernsteins have been shown to have multiple conflicts of interest with the Minor Beneficiaries (ELIOT COMMENT: This is false and misleading as in a very similar, almost identical proceeding, the Court stated Eliot and Candice were perfectly suitable to represent their children and thus this sharp practice and fraud on the court by Lessne to claim with no proof or witness at trial that is has been shown is false and misleading and slanderous.). For example, in their pleadings, they repeatedly allege that the trusts created for the Minor Beneficiaries' benefit are fraudulent and that they, and not their children, are the true beneficiaries. Counter-Complaint, 44-50, 52-60, 65, 109-110, 186 and 253; (ELIOT COMMENT: CANDICE CHECK THIS AS I DON’T THINK THIS IS WHAT IT STATES) Objection to Oppenheimer Accountings,pp. 1 and 20. In addition, the Bernsteins insist that their overarching goal in this litigation "is to bring about a change in the legal system in efforts to root out systemic corruption at the highest levels by a rogue group of criminals disguised as attorneys at law, judge s, politicians and more." Counter-Complaint, 212. No reasonable inference can be drawn that the Minor Beneficiaries have a similar interest or agenda, or that pursuing such an agenda at the risk of dissipating their own inheritance is in their best interest (ELIOT COMMENT: The inheritances have been dissipated already by the breaches of fiduciary duties outlined in the Counter Complaint and thus there is nothing left and Oppenheimer is the cause of this whole debacle including resigning prior to finding a Corporate Successor as required by the language of the trust and thrusting this whole situation to the Court when they began to panic that Robert Spallina who directed the use of these trust funds improperly by Oppenheimer was under investigation, his legal assistant and notary public was arrested for fraudulent notarizations of six parties, including a deceased Simon and was under investigation for other crimes, including those involving these Unsigned Oppenheimer Trusts they used to file this Complaint that are incomplete and in some instances entirely missing signature pages. It should be noted that at trial Eliot introduced Evidence that showed that Alan B. Rose, Esq. had entered Simon Bernstein’s home and removed documents relating to these trusts from the property which was under the custody of Brian O’Connell involving several alleged Dispositive Documents for Simon and Shirley and these children’s trust, that he illegally removed from the premises thereby disturbing the chain of custody in the documents and becoming a material and fact witness who was questioned at a hearing held the same day in the Shirley Trust case and these newly discovered documents it was learned in court had not been tendered to this Court prior to the hearing and the Complaint has not been amended or sought to be amended to add the documents to the complaint to supersede the prior documents the case is based upon. The case must now be refiled to reflect these alleged new documents that will need to be forensically examined once they are submitted by Lessne and Rose to this Court as the documents are not identical as learned in Court. Eliot’s counsel Candice Schwager, Esq. has requested the trust documents from Mr. Rose who refused to communicate or tender them to her unless she is admitted Pro Hac Vice into the cases and where she needs the documents to enter. In this case if there were any conflicts making Eliot conflicted or causing the need for independent counsel for his children Mr. Rose would have to turn over documents for review prior to any counsel or predatory guardian they are seeking being implemented. Instead of giving Schwager the documents necessary Lessne, working in conspire with Rose have instead chosen to refuse her the documents and instead try to gain a predatory guardian on the children to control them and harass and extort the Bernstein’s[[1]](#footnote-1). See Exhibit – Rose Letter to Schwager. This Court has also been made aware of this problem that Rose refuses to turn over the documents and Eliot sought a stay to get counsel prior to holding hearings where the minors were unrepresented and this Court refused to grant such stay for counsel and instead attempts to gain a predatory guardianship in order to retaliate against Eliot for exposing fraud, fraud on the Court, fraud by the Court and forgery and fraudulent notarizations in documents in the Estates and Trusts of Simon and Shirley Bernstein, PROVEN and FURTHER ALLEGED CRIMES. These are factual realities of the case that Eliot and his beautiful wife Candice have exposed, proven and more already in these cases. This guardianship attempt is highly suspect as nothing more than further harassment and extortion as alleged in the Counter Complaint.).
3. Eliot Bernstein also has a history of vexatious litigation and public disrespect for and disobedience to the judicial system and its officers, as detailed in Oppenheimer's Motion. Eliot Bernstein was adjudicated a vexatious litigant by the United States District Court for the Southern District of New York and enjoined from filing further specified claims in any court without its prior permission. (ELIOT COMMENT: Eliot was never adjudicated a vexatious litigant and no proof or witness was brought up at trial of such.) Yet, Eliot Bernstein asserted those enjoined claims in his Counter-
4. Complaint in apparent violation of the injunction (ELIOT COMMENT: If the Court determines this statement to be true these claims and this case should be transferred to the US Federal Court of the most Honorable Shira Scheindlin to be heard as the Counter Complaint does tie the current alleged criminal and civil violations to the prior claims asserted in Eliot’s RICO and ANTITRUST that includes members of this Court, including Judge Jorge Labarga and the Florida Bar and several of the Florida Supreme Court Justices, which would further conflict this Court from hearing any claims about the new Frauds and Forgeries and crimes committed including Fraud on this Court as PROVEN and ADMITTED to committed by fiduciaries and officers of this Court and Fraud by this Court as alleged. Where Judge Martin Colin in the Counter Complaint is a named party as a Material and Fact Witness and potential future Counter Defendant as filed in the Counter Complaint Caption, that Colin then stayed, apparently ignoring the massive conflict of interest it represents, which should have caused him to disqualify and void his orders but he did not.). The Bernsteins are in continued violation of a May 4, 20 15 Order entered by Judge Martin Colin, which required compliance over nine months ago (ELIOT COMMENT: The Order was not complied with as Judge Colin had ordered that all filings had to be faxed to him for approval first and he recused and Eliot did not know what to do to comply as stated on the record that was not created at the hearing on February 25, 2016), and in recent filings with Florida appellate courts, the Bernsteins insist that all orders entered in this case "are void as a matter of law, and are of no legal force and effect."*Petitionfor All Writs (dated January 29, 2016), 101.* Further, the Bernsteins have repeatedly alleged that multiple judges have committed fraud in their official capacities in these proceedings and that all Florida judges have conflicts of interest which prohibit them from presiding over these proceedings. *Id , 106-107.* All of the above, and certainly in combination, render the Bernsteins inappropriate and inadequate representatives for the Minor Beneficiaries in this litigation (ELIOT COMMENT: None of this represents any reason for a Guardian ad Litem in this case requested by a party with no legal standing to move on behalf of the trusts. While mostly true this comes after PROVEN AND ADMITTED FORGERY, FRAUDULENT NOTARIZATIONS, FRAUD ON THE COURT, FRAUD ON BENEFICIARIES, FRAUDULENT CREATION OF A SHIRLEY TRUST DOCUMENT and more in these matters and Eliot has stated clearly who he thinks is directly involved in the crimes and the cover up of the Fraud on the Court including now Judge John Phillips. In fact, in the February 25, 2016 hearing Judge Phillips was given a Federal Complaint filing to Judge John Robert Blakey whereby Alan Rose presented into evidence Exhibit A of the complaint, SEE EXHIBIT – MOTION FOR PRELIMINARY INJUNCTION etc. and whereby Exhibit A is a list of defendants Eliot is seeking to add as parties to the complaint, including Judge Phillips as a material and fact witness to crimes that occurred in his Court by Robert Spallina at the December 15, 2012 hearing and others and as an alleged suspect for his failure to report the crimes as required by Judicial Canon and law and Eliot will take any attempt to force Guardian on his children as a reportable criminal act in retaliation. Eliot will be reporting the attempt by Alan Rose, Steven Lessne and Ted Bernstein shortly.)
5. For the above reasons, the guardian *ad litem* appointed in Case No.: 502014CP003698XXXXNB shall be deemed appointed simultaneously as the guardian *ad !item* for the Minor Beneficiaries in this case, with sole and exclusive authority to represent the Minor Beneficiaries' interests in this case (ELIOT COMMENT: No evidence or witnesses to support any of the false contentions contained in this Prefabricated PreTrial Order that was prepared prior to hearing and thus cannot reflect the record supports any need for guardians in these matters.). The guardian *ad litem* shall be entitled to petition for reasonable compensation for his/her services, to be paid out of the gross proceeds of any recovery, distributions or inheritance to be received by the Minor Beneficiaries from the Shirley Bernstein Trust u/a/d May 20, 2008, as amended, the Simon Bernstein Trust, and/or the Estates of Simon or Shirley Bernstein (ELIOT COMMENT: Mr. Lessne again knowing he has no standing to move this Court attempts to move the court and should be sanctioned for this repeated attempt to move the court lacking standing other than the allowed accounting. Mr Lessne failed to secure a successor trustee after resigning first and this was because his client Oppenheimer bled the trust dry on the command of Robert Spallina who had nothing to do with these trusts and where Oppenheimer was supposed to have the Estate and Trusts replenish the funds when they were used and when they requested Spallina replenish the trusts as he claimed he would when directing Oppenheimer to misuse funds of trusts he had nothing to do with, Oppenheimer, knowing Spallina was under investigation for the fraud and forgeries abdicated their duties as fiduciaries and instead chose this suit after resigning and before finding successors and thus all costs and damages should be billed directly by this court to them for this sham filing without legal standing.)
6. The Answer and Counter-Complaint filed by Eliot and Candice Bernstein (which they purport to file (i) "Individually, PRO SE;" (ii) "as the Natural Guardians of [the Minor Beneficiaries];" (iii) "as Guardians of the members of Bernstein Family Realty, LLC;" and (iii) "as beneficiaries of [sixteen (16) Trusts, two (2) Estates, and multiple] Corporate Entities set up by Simon and Shirley Bernstein"), and the "Objection to Final Accounting; Petition for Formal, Detailed Audited and Forensic Accounting and Document Production" (the "Objection") filed by Eliot and Candice Bernstein, "individually and on behalf of [their] minor children, who are alleged qualified beneficiaries of Settlor's Estate and Trusts," are hereby stricken. (ELIOT COMMENT: No evidence or witnesses were presented in support of these claims at the hearing and there is no legal basis for this removal and any attempt to remove the Counter Complaint of which MR. LESSNE is a SERVED COUNTER DEFENDANT in need of counsel has already been argued in this case and it was determined that it was stayed until after the accounting hearing at which point Mr. Lessne’s involvement is finished.)
7. The guardian *ad* litemshall have 45 days from his/her appointment within which to file a response to Oppenheimer's Petition and objections, if any, to Oppenheimer's accountings (ELIOT COMMENT: Eliot states any attempt by this Court to impose a Guardian will be reported as further retaliation and further extortive and abusive abuse of process by all those involved in any such predatory Guardian.).
8. Oppenheimer and the guardian *ad litem* shall confer in good faith regarding a resolution of this matter and/or a timeframe within which to try any unresolved issues (ELIOT COMMENT: Mr. Lessne is aware his role in this case other than as a SERVED COUNTER DEFENDANT are over when he resigned and any interface with any party on behalf of the trusts would be further FRAUD ON THE COURT in addition to those already presented in the Counter Complaint.).
9. Neither Eliot nor Candice Bernstein shall take any action which interferes with the guardian *ad litem's* duties. (ELIOT COMMENT: Again, any action Mr. Lessne takes other than finishing the accounting with Eliot and Candice who were deemed qualified by Judge Colin, SEE ORDER, is further FRAUD ON THE COURT AND FRAUD ON THE BENEFICIARIES and will be duly reported against all parties involved in any such communications with Mr. Lessne and a Successor of any sort.).
10. Eliot and Candice Bernstein are also held to be in contempt of court for their willful violation of Judge Martin Colin's May 4, 2015 Order. The Court withholds coercive, sanctions based upon the appointment of a guardian *ad !item* and striking of the Bernsteins' pleadings, which renders the Bernsteins' compliance moot. (ELIOT COMMENT: Eliot states that this was discussed in the hearing and it was explained that Eliot was more than happy to comply with the request but Judge Colin ordered that all filing had to be faxed to his chambers before filing and at the time they were due he recused one day after denying a Petition for Disqualification alleging both FRAUD ON THE COURT AND FRAUD BY THE COURT, including FRAUD in this case and thus once this Court determines where Eliot is to send the responses he will be happy to be comply. Also, since new documents that form the basis for the complaint are believed to exist according to Rose and Lessne who have refused to submit them to the Court or Eliot’s retained counsel and therefore they may wholly alter these proceedings and must be presented and reviewed as they may change answers in the accountings and in fact already do as they were not in possession of the trustee when they operated the trust and the terms and other changes may be in there and thus must be submitted to the Court first for Eliot to review and the case refiled or amended based upon them.).

Copies furnished to: Steven A. Lessne, Esq.

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ELIOT COMMENT: THE COUNTERDEFENDANTS INCLUDING MR LESSNE AND ROSE HAVE NOT BEEN SERVED.

1. 20160106 Rose and Ted Bernstein Denying Eliot Minor Children Counsel Records including for Newly Discovered Trusts that Eliot is Sued herein under on behalf of his children that Rose removed from Estate without writ of possession to take Estate documents into his possession. <http://iviewit.tv/Simon%20and%20Shirley%20Estate/20160106%20Rose%20Denying%20to%20talk%20or%20give%20information%20to%20Attorney%20Schwager.pdf> [↑](#footnote-ref-1)