

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

PROBATE DIVISION  
CASE NO.:

502014CP002815XXXXNB

OPPENHEIMER TRUST COMPANY  
OF DELAWARE, in its capacity as  
Resigned Trustee of the Simon Bernstein  
Irrevocable Trusts created for the benefit  
of Joshua, Jake and Daniel Bernstein,

Petitioner,

Objections to Proposed Order of  
Oppenheimer and Proposed Order

vs.

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

Respondents.

\_\_\_\_\_ /

**OBJECTIONS TO PROPOSED ORDER OF OPPENHEIMER / STEVEN LESSNE ESQ.  
PROPOSED "ORDER APPOINTING GUARDIAN AD LITEM FOR MINORS,  
JOSHUA, JAKE AND DANIEL BERNSTEIN" AND PROPOSED ALTERNATIVE  
ORDER**

**OBJECTIONS TO PROPOSED OPPENHEIMER / LESSNE PROPOSED ORDER**

1. I, Eliot Ivan Bernstein, 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. as stated in prior pleadings to this Court.

2. THE ORDER WAS DRAFTED PRIOR TO THE HEARING BY STEVEN LESSNE AND NOT SHOWN TO ELIOT UNTIL AFTER LESSNE GAVE IT TO JUDGE PHILLIPS 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.
3. The Hearing was improperly conducted since no electronic recording of the hearing took place and Guardianship Hearings should be designated as “GA” cases and subject to mandatory Electronic Recording according to the Court Reporting Services Department of the 15th Judicial Circuit and several clerks contacted. See, <http://15thcircuit.co.palm-beach.fl.us/web/guest/court-reporters>
4. That Chief Administrative Judge Colbrath’s Judicial Assistant Diana Grant suggested this matter should be Noticed back for a Hearing since no Electronic Record and did confirm Judge Phillips was Administrative Judge in the North Branch.
5. As Administrative Judge in the North Branch, it is presumed Judge Phillips knew and should have known the type of hearing he was conducting and took proper Judicial steps to ensure a proper Hearing record on such important issues as Guardianship and Eliot Bernstein requested a court reporter when he discovered that Alan Rose and Ted Bernstein took no steps to have one present at their GAL hearing and was denied the ability to find one or get stay.
6. The Court is requested to Disqualify on its own motion or Order new Hearings.

7. There is thus no record of the Hearings for the Court to resolve any issues in the proposed Order.
8. According to one of many witnesses at the Courthouse on Feb. 25, 2016, Alan Rose, Ted Bernstein and Steven Lessne were observed entering the Courtroom on Feb. 25, 2016 for the Hearing before Judge Phillips from at or around the Chambers of Judge Phillips where these parties ultimately produced a Pre-Prepared Order in Advance of any “Hearing” which was not electronically recorded nor any Stenographer present.
9. Eliot Bernstein and his wife Candice Bernstein are fully capable, competent, educated parents of their minor children and there is no basis in law or fact for a guardianship as both parents are fully capable of making proper determinations for the minor children herein and protect their best interests (SEE ATTACHED EXHIBIT B - STATEMENT OF CREDITOR WILLIAM STANSBURY IN SUPPORT OF ELIOT AND CANDICE BERNSTEIN).
10. Eliot Bernstein and Candice Bernstein have already been wrongfully subjected to a Child Protective Services Hotline investigation on or about May 2015 and which resulted in an Un-founded basis for action with witnesses claiming it appeared to be a retaliation by those involved in the lawsuits before this Court. The complaint was dismissed as wholly baseless after a month long thorough investigation by CPS. The complaint allegations are similar to those allegations alleged in these proceedings and where witnesses contacted by Family Services stated that the complaint appeared to be in retaliation and in reference to Eliot’s whistleblowing and exposure of fraud on the court, fraudulent documents, forgeries and more committed in the Estates and Trusts of Simon and Shirley Bernstein by Oppenheimer’s retained counsel in these matters, Robert Spallina, Esq. and Donald

Tescher, Esq. whose firm deposited such fraudulent documents in the court and have admitted to fraudulently creating a Shirley Bernstein Trust document and sending it to Eliot's children's counsel in these matters via mail, as admitted by Robert Spallina, Esq. in a December 12, 2015 Hearing in the Shirley Trust case. The claims of document fraud are ripe in Eliot's Counter Complaint and new evidence suggests there are new trust documents found in this matter by a one Alan B. Rose, Esq. that were improperly removed with no writ of possession by him from the Estate of Simon Bernstein, whose property is under the custody of Brian O'Connell, Esq. who replaced Tescher and Spallina who resigned after admitting to fraud and more and THESE NEWLY DISCOVERED DISPOSITIVE DOCUMENTS ARE ALLEGEDLY SIGNED in places the filed trust documents in this case are not and thus there are now dispositive documents missing from this record which may impact the hearings.

11. Eliot Bernstein and Candice Bernstein have already undergone a Guardianship Hearing before Judge Colin where Guardianship was Denied, See Exhibit A – Existing Order, and is and should remain as the law of the case. The reference in the Order to at a later time a hearing being scheduled to address any Guardian issue was specifically stated by Judge Colin at the hearing to not include Oppenheimer as the filer since they were determined to have no standing by Order to bring any future action, including this action and were limited to trying to find a Successor Trustee and an accounting hearing for a final accounting. This filing was filed by a party with no standing, Mr. Lessne and Oppenheimer, other than both as Counter Defendants in the stayed Counter Complaint and who through continued sharp practices is now trying to gain a predatory guardianship

to silence Eliot and Candice from exposing fraud in the case as alleged in the Counter Complaint.

12. No change of circumstances or facts have been shown to support this Petition by Steven Lessne which should be deemed abusive and sharp legal process practices by these attorneys and dismissed.
13. Eliot Bernstein's actions in exposing fraud in the courts and amongst attorneys should be applauded, not sanctioned as should Eliot and Candice Bernstein be applauded for teaching their children to seek Truth and Justice.
14. That the Attached Statement of William Stansbury is in further support of Eliot and Candice Bernstein.
15. 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 and this violation obstructs justice in efforts to deny Eliot due process through continued sharp practices.
16. Again it was determined that a resigned trustee has no standing to move the Court in any pleading.
17. That Lessne has claimed that Eliot is conflicted with his children but all references cited in his motion to claim conflicts in this matter are in reference to other dispositive documents in the Shirley and Simon Estates and Trusts and not one reference is made to these trusts in the instant lawsuit and this sharp practice is intended to mislead this court.
18. 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.

19. 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.
20. 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 . See Exhibit – Rose Letter to Schwager.

21. 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.
22. Eliot was never adjudicated a vexatious litigant and no proof or witness was brought up at trial of such.
23. The Order for accounting replies 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

24. None of the reasons set forth by Oppenheimer represent 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 as it mostly states that Eliot is on a crusade to clean up the court system and remove attorneys and judges who act outside the color of law and Eliot has already in these related matters already had arrests made and found 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. This Predatory Guardian pleading is in efforts to shut down Eliot from exposing and having prosecuted further Fraud in the case, which is currently under investigation.
25. Eliot has stated clearly who he thinks is directly involved in the crimes and has filed multiple criminal complaints against these parties, including some with Creditor William Stansbury and others Stansbury filed alone, both state and federal, including against Lessne and Eliot is also laser specific in who he is alleging as part of the ensuing cover up of the Fraud on the Court and now Fraud by the Court, including now Judge John Phillips and the other attorneys and fiduciaries already involved in proven and admitted felony crimes in related matters. 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 INJUNCTION etc.
26. 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.



27. 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.
28. 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.
29. 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.
30. 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.

31. 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.
32. Eliot states regarding the contempt charge 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.
33. THE COUNTER DEFENDANTS INCLUDING MR LESSNE AND ROSE HAVE NOT BEEN SERVED.

34. That until newly discovered Dispositive documents are submitted to this Court and determination made of the changes and impact on these proceedings, Mr. Lessne should be restrained from any other activities as the terms and conditions and signatures must all now be evaluated prior to proceeding.

WHEREFORE, the proposed Order of Ted Bernstein is Objected to in entirety herein and should be stricken and sanctions imposed for reasons so stated herein regarding this attempt to gain a Predatory Guardianship and an Alternate Order submitted.

Dated: March 01, 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 1st day of March, 2016.

/s/Eliot Ivan Bernstein  
Eliot Ivan Bernstein  
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### **SERVICE LIST**

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**EXHIBIT A – EXISTING ORDER RE GUARDIAN AD LITEM**



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

PROBATE DIVISION

CASE NO.: 502014CP002815XXXXSB (IY)

OPPENHEIMER TRUST COMPANY  
OF DELAWARE, in its capacity as  
Resigned Trustee 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.

**OMNIBUS ORDER**

THIS MATTER came before the Court on October 20, 2014 upon the following Motions filed by Oppenheimer Trust Company of Delaware (“Oppenheimer”): (i) Motion for Summary Judgment As To Count I Of Its Petition; (ii) Motion To Strike Or Sever Counterclaim; and (iii) Motion To Appoint Guardian *Ad Litem* For Minor Beneficiaries. Having considered the Motions, heard argument from Oppenheimer’s counsel and from Eliot and Candice Bernstein (the “Bernsteins”), and being otherwise duly advised in the premises, it is hereupon

ORDERED and ADJUDGED as follows:

1. Oppenheimer's Motion for Summary Judgment As To Count I Of Its Petition is granted as follows:

a. Oppenheimer effectively resigned as Trustee of the three "Grandchildren Trusts" at issue in this case effective as of May 26, 2014.

b. By October 30, 2014, the Bernsteins, as natural guardians of the minor beneficiaries of the Grandchildren Trusts, shall submit the name and address of a proposed Successor Trustee to the Court, to Oppenheimer's counsel and to the proposed Successor Trustee. At the time of their submissions, the Bernsteins shall notify the proposed Successor Trustee that he/she shall either accept or decline the appointment by November 10, 2014 by notifying the Court, the Bernsteins and counsel for Oppenheimer of his/her election in writing.

c. If the proposed Successor Trustee accepts the appointment, Oppenheimer shall deliver the trust assets to the Successor Trustee in accordance with the provisions of Fla. Stat. § 736.0707(2). If the proposed Successor Trustee declines the appointment or fails to respond, the Court will consider other available options in light of Oppenheimer's resignation.

2. Oppenheimer may file and serve final accountings for each of the Grandchildren Trusts with the Court. Within twenty (20) days after Oppenheimer files and serves its final accountings, the Bernsteins, as natural guardians of the minor beneficiaries, may file form, line-item objections to the final accountings. Thereafter, the Court will conduct appropriate proceedings to review and settle the final accountings.

3. The Court withholds ruling on Oppenheimer's Motion To Appoint Guardian *Ad Litem* For Minor Beneficiaries, but may reconsider Oppenheimer's Motion after the Bernsteins file their objections to the final accounting or at a later date.

4. The Counter-Complaint filed in this action remains stayed pending further Order of this Court.

DONE AND ORDERED in Chambers, Palm Beach County, Florida, this \_\_\_\_ day of October, 2014.

  
\_\_\_\_\_  
Hon. Martin H. Colin, Circuit Judge

cc: Steven A. Lessne, Esq.  
Eliot and Candice Bernstein  
Alan Rose, Esq.

**EXHIBIT B - STATEMENT OF WILLIAM STANSBURY REGARDING GUARDIAN  
HEARING**

My name is William E. Stansbury and I am a competent adult residing in Palm Beach County, Florida. I am voluntarily writing this in the hope that any consideration to appoint a Guardian ad Litem (GAL) for the children of Eliot and Candice Bernstein will be dismissed without merit.

Based on the information provided on the Florida GAL website, the Florida GAL Program is a partnership of community advocates and professional staff providing a powerful voice on behalf of Florida's abused and neglected children. GAL is central to fulfilling society's most fundamental obligation by making sure a qualified, compassionate adult will fight for and protect a child's basic human right to be safe, to be treated with dignity and respect, and to learn and grow in the safe embrace of a loving family.

As a father of 3 children and 5 grandchildren, I wholeheartedly support the mission and purpose of the GAL program when a **child's basic human right to be safe**, to be treated with dignity and respect, and to learn and grow in the safe embrace of a loving family is challenged.

The Florida GAL program is not intended to be used as a weapon to threaten, harass or extort parents. Sadly, however, I believe that may be what is occurring with Eliot and Candice Bernstein. I express this belief after having sat through numerous court hearings since 2012 and following the corresponding Palm Beach County, Florida cases that have involved the Estates of Simon and Shirley Bernstein and their respective testamentary instruments, including Case Nos. 50-2012-CP-004391-XXXX-SB (In re: Estate of Simon Bernstein), 50-2011-CP-000653-XXXX-SB (In re: Estate of Shirley Bernstein), 50-2015-CP-002717-XXXX-NB, 50-2015-CP-001162-XXXX-NB, 50-2014-CP-002815-XXXX-NB, and 50-2014-CP-003698-XXXX-NB.

I have personal knowledge of the following matters that have transpired in connection with certain of the above-referenced cases when Judge Colin was presiding:

- 1) Florida licensed attorneys Donald Tescher and Robert Spallina (T&S) drafted certain testamentary instruments for Simon and Shirley Bernstein. Through Eliot's investigative efforts, Spallina admits to the court and the police that, after Shirley's death, Spallina changed certain terms in her testamentary instruments and sent same through the U.S. mail to Florida licensed attorney Christine Yates. Ms. Yates was retained by Eliot to represent his family after his father's passing in 2012. In addition to drafting testamentary instruments for Simon and Shirley Bernstein and changing certain terms in Shirley's documents, T&S were also appointed and served as the initial personal representatives of Simon's estate and successor trustees of Simon's revocable trust. I believe that Eliot's investigative efforts were the primary reason that T&S's acts were discovered, and that same began Eliot's quest for the truth.
- 2) T&S paralegal, Kimberly Moran, pled guilty to forging signatures on certain probate documents in the Estate of Shirley Bernstein and to notarizing those documents. I believe that Eliot's efforts helped expose Ms. Moran's unethical conduct.
- 3) Attorney Spallina filed certain estate closing documents with the court in the Estate of Shirley Bernstein that were signed by Simon Bernstein, as the purported personal

- representative of Shirley's estate, notwithstanding that Simon passed away several weeks before such documents were filed. I believe that Eliot's efforts were the primary reason that Spallina's conduct in connection with these court filings was exposed.
- 4) As evidenced by a court transcript from a hearing in one of the above-referenced cases, Judge Colin stated twice that he had heard enough to read several officers of the court their Miranda rights. However, Judge Colin did nothing to address the corresponding issues and allowed these very same officers the opportunity to continue to practice in his courtroom. To no avail, Eliot brought such circumstances to the attention of Judge Colin.
  - 5) Attorney Spallina submitted a claim to Heritage Union Life Insurance Company through the U.S. mail for payment of an approximately \$1.7M death benefit on a policy owned by Simon Bernstein personally. The records from the insurance company list the Simon Bernstein Irrevocable Trust N.A. executed in 1995 (the "1995 ILIT") as the contingent beneficiary (the primary beneficiary was LaSalle National Bank). Spallina represented himself on the claim form submitted to the insurance company as the trustee of the 1995 ILIT. Subsequently, Spallina admitted that he had never seen the 1995 ILIT and no idea what its terms were. To make matters worse, Spallina and four out of five of Simon Bernstein's adult children (Eliot's brother (Ted), and Eliot's three sisters (Pam, Jill and Lisa)) were involved in a scheme that would get the money to those four children. Spallina engaged in such conduct notwithstanding his duty to advocate as personal representative of Simon's estate and successor trustee of his revocable trust for the proceeds to be paid to the estate and ultimately the revocable trust. Simon's revocable trust is the sole residuary beneficiary of his estate; Simon's grandchildren are the beneficiaries of Simon's revocable trust. Without a copy of the trust, Heritage Union refused to pay the claim. I believe that Eliot's efforts helped to expose Spallina's actions.
  - 6) Eliot's brother, Ted Bernstein, filed a breach of contract lawsuit in Illinois against Heritage Union for not paying the above-referenced insurance claim (the "Illinois Litigation"). Ted filed the Illinois Litigation as the purported trustee of the 1995 ILIT – the very same trust under which Spallina had previously claimed to be the trustee. Ted Bernstein was aware of the actions of Spallina, yet went along with them until the scheme fell apart, and then Ted suddenly remembered that he (Ted) was the trustee of the 1995 ILIT. If Ted Bernstein prevails in the Illinois Litigation, he and his sisters will benefit from the \$1.7M unpaid insurance death benefit. Eliot has opposed this scheme that benefits his siblings (and possibly himself) to the exclusion of Simon's estate and his grandchildren, including Eliot's children and the other grandchildren of Simon. Florida licensed attorney Peter Feaman has brought to the attention of Brian O'Connell (successor PR of Simon's estate) and Alan Rose (Ted Bernstein's attorney) that there appears to be a conflict of interest where Ted is serving as successor trustee of Simon's revocable trust that would benefit from the insurance proceeds (trust beneficiaries are the grandchildren) vs. Ted representing himself as trustee of the never seen nor found 1995 ILIT that benefits Ted and his siblings. I find it extremely ironic and disingenuous that Ted Bernstein has requested the appointment of a GAL for Eliot's children while he simultaneously is trying to wrongfully divert funds from Eliot's children and Simon's

other grandchildren through his initiation and pursuit of the Illinois Litigation.

- 7) Ted Bernstein is the alleged successor trustee and successor personal representative of the revocable trust and estate of Shirley Bernstein. He represented to the court that the personal property of Shirley Bernstein in her condo was inventoried and moved to the residence of Simon Bernstein for safekeeping. Thus, the personal property in the condo is an asset of the estate of Simon Bernstein. Inventories of personal property from the condo show significant discrepancies. Eliot has insisted for a complete accounting of all personal property, as he is listed as a beneficiary of Simon's personal property (which would have included Shirley's personal property as her will left all of her personal property to Simon when she passed away, survived by Simon).
- 8) In 2014, T&S resigned as successor trustees of Simon's revocable trust. T&S appoint their friend, Ted Bernstein, as successor trustee of Simon's revocable trust. Ted was not listed as a trustee by his father in Simon's revocable trust. Florida licensed attorney Brian O'Connell was appointed by Judge Colin as the successor PR for the estate of Simon Bernstein in 2014. He assumed this fiduciary responsibility from Florida licensed attorney Benjamin Brown who was appointed by Judge Colin as curator for the estate when T&S resigned. Mr. O'Connell read the 2012 restated revocable trust of Simon and brought to the attention of Judge Colin that it does not appear that Ted is qualified to be appointed as trustee based on the trust language. Since the fall of 2014, Eliot has been requesting O'Connell to call up a hearing to have the court determine if Ted is properly serving. As of the date of this instrument, I am not aware that O'Connell has taken any action.

I have personal knowledge of the following matters that have transpired in connection with certain of the above-referenced cases when Judge Phillips was presiding:

- 1) A status conference was scheduled for Simon Bernstein estate by Brian O'Connell, but Alan Rose chose to discuss the Shirley Bernstein estate and trust. Rose represented to the court that the Shirley trust was also scheduled for the conference. Peter Feaman and Eliot objected on the record, but to no avail. The Court ruled to have hearings in Shirley's estate and trust and not Simon's estate.
- 2) Attorney Peter Feaman advises the Court that Judge Colin did not follow proper procedure in steering the Bernstein cases to the North Branch post recusal. The Court tells Mr. Feaman that's what the 4<sup>th</sup> DCA is for, even though the Court knew or should have known that the recusal/transfer orders were on appeal at the Florida Supreme Court.
- 3) On December 15, 2015 I attended a hearing to determine the validity of the Simon and Shirley wills and revocable trusts. Eliot Bernstein advised the Court that he had an attorney for his children but this attorney requested from Alan Rose copies of all documents, to include his children's' trust documents to review prior to the trial. Apparently, Attorney Rose did not send her anything. The hearing was not stayed until the children had counsel, and the judge ordered the trial to proceed with the children not having counsel present.
- 4) At the hearing on December 15, 2015, Alan Rose called two witnesses to verify that the

documents were authentic. The first was Robert Spallina – the same Spallina who admitted to changing testamentary document language and mailing it to Eliot’s family attorney, using a dead man (Simon) to close the estate of Shirley, and submitting a claim form to Heritage Union for Simon’s life insurance when he knew he was not the trustee of the 1995 trust. As of this writing, I am not aware that anything has been done by the court to address the admissions of wrongdoing by Mr. Spallina. The second witness called to validate the documents was Ted Bernstein. He admitted that he had not seen an original of the documents. None of the witnesses to the documents, nor the notary were called to testify. Additionally, no original documents were provided at the trial, nor was any forensic handwriting expert called to testify, nor was any forensic expert retained by Ted to validate documents after Spallina admitted to changing the language in at least one testamentary document.

- 5) I attended a hearing on February 25, 2016 in Judge Phillips’ courtroom. The purpose of the hearing was to determine if a Guardian ad Litem should be appointed for Eliot’s minor children. Eliot called Alan Rose as a witness and when Eliot asked him about not providing information to the attorney he is trying to retain for his children, Alan Rose indicated that he wasn’t giving her anything. Eliot requested additional time to call witnesses, but his request was denied by the Court, which seemed unusual to me in light of the seriousness of the hearing.

Here is what I have observed in the home of Eliot and Candice Bernstein:

- 1) Happy, bright, respectful children who aren’t embarrassed to tell their parents they love them in front of other people.
- 2) Children who understand that when a guest enters their home that they get up and acknowledge them.
- 3) Children who are always grateful for the smallest courtesy extended to them.
- 4) Parents who tell their children how much they love them.
- 5) Parents who teach their children that virtues like honesty and integrity are more important than money.

Eliot and Candice have created a loving nurturing home for their children. They are outstanding role models as parents. For anyone to suggest that they have a conflict of interest with their children is absurd. They are a family unit and none of them view something that is good for one as bad for another.

Based on my observations, Eliot and Candice Bernstein are not the “bad guys” in these estate matters.

I believe they are being portrayed this way because they have exposed inappropriate actions by officers of the court – the very officers who have an affirmative duty to assure justice is done.



They are being portrayed this way because they refused to go along with Eliot's siblings in their scheme to capture Simon's life insurance proceeds.

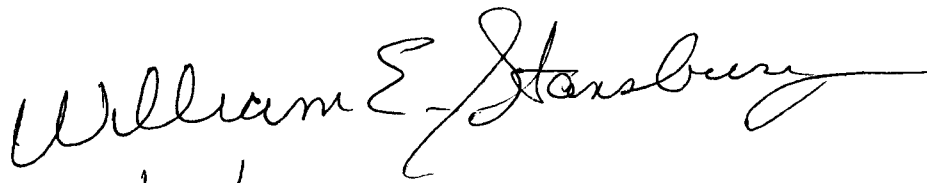
They are being portrayed this way because they believe that Ted Bernstein has hijacked Shirley Bernstein's trust and made distributions that are very questionable.

They are being portrayed this way because they believe that, by having Ted Bernstein serving as trustee of Simon's trust, that the directives of Simon Bernstein in that document are not being honored.

They are being portrayed this way because those that are asking for them to lay down and quit searching for the truth know they never will.

It appears to me that the Florida GAL is being used as tool to try to punish Eliot and Candice for not keeping their mouth shut when they saw what was occurring.

My observation has led me to the conclusion that many people in these estate matters should have someone watching over them, but I am confident that it is not the children of Eliot and Candice Bernstein.

  
2/29/2016

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

PROBATE DIVISION  
CASE NO.: 502014CP002815XXXXNB

OPPENHEIMER TRUST COMPANY  
OF DELAWARE, in its capacity as  
Resigned Trustee of the Simon Bernstein  
Irrevocable Trusts created for the benefit  
of Joshua, Jake and Daniel Bernstein,

Petitioner,

vs.

ALTERNATE PROPOSED ORDER

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

Respondents.

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**PROPOSED ALTERNATIVE ORDER**

THIS CAUSE came before the Court at an evidentiary hearing held on February 25, 2016 upon the "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 Of 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** 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"). The proceeding being defective as it was not Electronically recorded or a Stenographer provided rendering the

proceedings defective but whereby the Court otherwise determines having not reviewed the record as one was not created and being otherwise duly advised in the premises, the Court rules as follows:

1. There is No Record of the proceedings and the matter should be dismissed and further action to bring such a petition stayed until after other proceedings herein
2. That Eliot Bernstein and his wife Candice Bernstein are fully capable, competent, educated parents of their minor children and there is no basis in law or fact for a guardianship as both parents are fully capable of making proper determinations for the minor children herein and protect their best interests.
3. That Case Management for a Complex case was necessary before and is necessary now and should be ordered.
4. That a schedule for full outstanding Discovery compliance should be determined and Discovery hearings conducted for missing, lost, destroyed and withheld discovery.
5. Oppenheimer Trust Co is the resigned Trustee of three trusts created in 2006 for the benefit of three of Simon Bernstein's grandchildren, Joshua, Jacob and Daniel. Eliot and Candice Bernstein (The Bernstein's) were sued in this matter as Parents and Natural Guardians for their minor children and have answered the complaints as such, PRO SE.
6. No evidence has been brought forward to support the allegations that The Bernstein's have any conflict of interest or evidence that they have ever claimed to have any beneficial interest in the three named trusts in this case. References to paragraphs contained herein refer to OTHER trusts where due to fraudulent alterations of trust documents there is now questions and trust construction that needs to still be

addressed as to who the proper beneficiaries and permissible appointees are of Simon and Shirley's Estates and Trusts, NOT the three trusts that Oppenheimer is the Resigned Trustee of.

7. See PP 44-50, 52-60, 65, 109-110, 186 and 253 as referenced in Oppenheimers proposed order that have no bearing or merit in this action.
8. Statements about the Bernstein's having an overarching goal in this litigation and agenda is unfounded and untrue. The Bernstein's goal is to seek the truth that has arisen from questionable actions of Oppenheimer at the direction of Simon Bernstein's prior Personal Representative and Trustee Robert Spallina, who was once a licensed Florida Bar Attorney. As of this date he is ineligible to practice law in the State of Florida due to admitted Fraud and SEC Violations. In addition, Oppenheimer has multiple FINRA reports citing fraud and financial abuse and it is the Bernstein's intentions to uncover the truth and ask the court to determine if the damages that have occurred to their minor children are due to Oppenheimer's actions and/or the prior fiduciaries.
9. Any allegations that Eliot Bernstein is a vexatious litigant were not supported with evidence or facts at the hearing and are unfounded and untrue. Any reference to a prior case in New York resulting from business and patent litigation has no bearing on litigation regarding probate matters and family law is exempt from vexatious litigation allegations.
10. Allegations that the Bernstein's representations of their children's interests are inadequate or inappropriate are statements and allegations that cannot and were not supported by evidence, therefore are unfounded and untrue.

11. All filings by the Bernstein's have been filed as Parents and Natural Guardians on behalf of their children AND THEY HAVE NEVER CLAIMED TO BENEFICIARIES OF THESE TRUST IN THIS CASE AND THUS NO CONFLICT HAS EVER EXISTED AS MISREPRESENTED TO THIS COURT BY LESSNE and are not stricken as there is no personal claim made by the Bernstein's to any benefit of the three trusts created in 2006 solely for their children and this was continued sharp practices by Lessne to move this Court and this Court further sanctions Mr. Lessne for this attempt to mislead the Court.
12. The Bernstein's shall have 45 days to file a response to Oppenheimer's Petition for the additional Objections from the date the newly found Dispositive Documents that are trusts that form the basis of this lawsuit, which were discovered by Alan B. Rose, Esq. and removed without authorization from Simon Bernstein estate property with no Writ of Possession and admitted in Rose's possession, are turned over to this Court. The secreting of dispositive documents necessary to the accounting as they are referenced throughout that allegedly supersede the trusts in the record cause any Objections to Accountings due or claim of violation of previous orders by a former recused Judge moot as they were based on different documents than are now known to exist.
13. The Court Orders that these newly discovered dispositive trust documents that were not sent by the trustees to the beneficiaries and are materially different according to Alan B. Rose, Esq. testimony before the Court on February 25, 2016 regarding his improper and illegal removal of Simon Estate Properties including but not limited to the 3 children's trusts.

DONE and ORDERED in Chambers, North County Courthouse in Palm Beach Gardens,  
Florida, on this 1st day of March, 2016.

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HONORABLE JOHN L. PHILLIPS

Circuit Court Judge

Copies to: Attached Service List

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