

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

ELIOT BERNSTEIN, Individually; ELIOT BERNSTEIN as a Beneficiary of the 2008 SIMON L. BERNSTEIN TRUST AGREEMENT, as Amended and Restated in the SIMON L. BERNSTEIN AMENDED AND RESTATED TRUST AGREEMENT Dated July 25, 2012 and as Legal Guardian of JOSHUA BERNSTEIN, JACOB BERNSTEIN, and DANIEL BERNSTEIN,

Case No.: 502015CP001162XXXXNB IJ

Plaintiffs,

v.

THEODORE STUART BERNSTEIN, Individually; THEODORE STUART BERNSTEIN, as Successor Trustee of the 2008 SIMON L. BERNSTEIN TRUST AGREEMENT, as Amended and Restated in the SIMON L. BERNSTEIN AMENDED AND RESTATED TRUST AGREEMENT Dated July 25, 2012; ALEXANDRA BERNSTEIN; ERIC BERNSTEIN; MICHAEL BERNSTEIN; MOLLY SIMON; JULIA IANTONI; MAX FRIEDSTEIN; CARLY FRIEDSTEIN; JOHN AND JANE DOE 1-5000,

Defendants.

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**SUCCESSOR TRUSTEE'S AMENDED MOTION TO DISMISS FOR LACK OF  
STANDING OR, ALTERNATIVELY, TO APPOINT A GUARDIAN AD LITEM TO  
REPRESENT THE INTERESTS OF ELIOT BERNSTEIN'S CHILDREN**

Successor Trustee, Ted S. Bernstein (the "Trustee"), moves the Court to dismiss for lack of standing this Petition to Remove Trustee, or alternatively, to appoint a guardian ad litem to represent the interest of the children of Eliot Bernstein, D.B., Ja.B. and Jo.B, and states:

1. This is an action to remove a trustee. Such an action may be maintained only by a settlor, cotrustee or beneficiary. §736.0706, Fla. Stat. (2015). Here, because this Court already has

determined that Eliot Bernstein is not a beneficiary, and he certainly is not a settlor or cotrustee, he lacks standing to maintain this action.

2. By its December 16, 2015 Final Judgment relating to the trial held on December 15th, this Court upheld the 2012 Will and Trust of Simon L. Bernstein. As a result of upholding these documents, the Court determined that Eliot Bernstein, individually, is not a beneficiary of either Simon's or Shirley's Trusts or Estates. Instead, Eliot's three sons are among the beneficiaries of both Simon's and Shirley's Trusts, in amounts to be determined by further proceedings. Eliot is not a beneficiary and lacks standing to continue his individual involvement in this case.

3. All filings by Eliot Bernstein should be stricken, including the Petition he filed in this action. Therefore, this action should be dismissed with prejudice.

4. Alternatively, the Trustee seeks the appointment of a guardian ad litem to protect the interests of Eliot Bernstein's three children in the matters involving this Estate and the Simon L. Bernstein Amended and Restated Trust, which is the sole residuary beneficiary of the Estate. On March 1, 2016 this court granted the Trustee's similar Motion for Appointment of a Guardian Ad Litem to Represent the Interests of Eliot Bernstein's Children as related to the Shirley Bernstein Trust (Case No. 502014CP003698).

5. Based upon the events which have transpired and the pleadings and other papers filed by Eliot in this case, the Trustee does not believe that Eliot is capable of adequately representing the interests of his children or willing to enable the Trustee to carry out Simon's and Shirley's wishes to benefit their grandchildren. Since the December 15<sup>th</sup> trial and resulting Final Judgment, Eliot has increased his attacks on this Court and these proceedings. In addition, Eliot shows no interest in seeing his parents' trusts and estates administered in an economic and efficient process to maximize

the distribution among their grandchildren. Instead, he is on a crusade against injustice and corruption among judges, lawyers, fiduciaries, and others, including the Florida Supreme Court and the Florida Bar, as detailed in the Motion filed in the related case (Case No. 502014CP003698).

6. In its Order dated March 1, 2016, in the related case, this Court found that Eliot is not acting in the best interests of his children and, "in fact, is acting adverse and destructive to the children's interests." There is a conflict of interest between the goals and objectives of Eliot Bernstein and the proper goals and objectives which should be pursued on behalf of his children, and he is an inadequate representative for his children.

7. All filings by Eliot Bernstein in his capacity as guardian of his children should be stricken, including the Petition he filed in this action. To the extent that Court instead wishes to appoint a Guardian ad Litem, the Trustee requests appointment of the same Guardian ad Litem already appointed by this Court in the Shirley Trust Construction case (Case No. 502014CP003698), under the same terms and conditions.

WHEREFORE, the Trustee respectfully suggests that this Court dismiss the Petition or, alternatively, appoint a Guardian Ad Litem for Eliot's children, and grant such other relief as the Court deems appropriate.



**SERVICE LIST Case No.: 502015CP001162XXXXNBIJ**

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