

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 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.

MOTION FOR ENTRY OF ORDER APPOINTING NAMED GUARDIAN *AD LITEM*
FOR MINORS, JOSHUA, JAKE AND DANIEL BERNSTEIN

Petitioner, OPPENHEIMER TRUST COMPANY OF DELAWARE (“Oppenheimer”), as the resigned trustee of three irrevocable trusts created by the late Simon Bernstein for the benefit of his minor grandchildren, Joshua, Jake and Daniel Bernstein (the “Grandchildren Trusts”), files this Motion for Entry of Order Appointing Named Guardian *Ad Litem* for minors, Joshua, Jake and Daniel Bernstein (the “Minor Beneficiaries”), and states:

1. Following an evidentiary hearing on February 25, 2016, the Court requested the parties to submit proposed orders appointing a guardian ad litem for the Minor Beneficiaries if the parties could not agree on a particular guardian ad litem.

2. On March 14, 2016, the undersigned, on behalf of Oppenheimer Trust Company of Delaware, submitted the proposed order attached hereto as Exhibit "A," and the Notice to Court attached hereto as Exhibit "B."

3. The undersigned contacted Chambers and left messages on the Court's voicemail to check on the status of the Orders but, to date, the undersigned has received no response.

WHEREFORE, Oppenheimer respectfully requests that the Court enter the proposed order attached hereto as Exhibit "A" or grant such other relief as it deems just and proper.

Respectfully submitted,

GUNSTER, YOAKLEY & STEWART, P.A.
Counsel for Petitioner
4855 Technology Way, Suite 630
Boca Raton, FL 33431
Telephone: (561) 961-8085

By: /s/Steven A. Lessne

Steven A. Lessne, Esq.
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished via e-mail to all parties on the attached Service List this 1st day of April, 2016.

/s/ Steven A. Lessne

SERVICE LIST

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DANIEL BERNSTEIN, minors,

Respondents.

ORDER APPOINTING AS 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 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"). 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 entered an Order in this matter, and a companion order in Case No. 502014CP003698XXXXNB, on March 1, 2016 granting motions to appoint a guardian *ad litem* for Joshua, Jake and Daniel Bernstein (the “Minor Beneficiaries”), and setting forth a protocol for selecting a guardian *ad litem*. Having received the parties’ notices contemplated under the companion order, the Court hereby appoints a guardian *ad litem* for the Minor Beneficiaries as follows:

1. _____ is hereby appointed as the guardian *ad litem* for the Minor Beneficiaries in this case, with sole and exclusive authority to represent the Minor Beneficiaries’ interests in this case. The guardian *ad litem* shall be entitled to petition the Court 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.

2. The guardian *ad litem* shall file an acceptance of appointment with this Court, with a copy to the parties listed at the end of this Order, within fifteen (15) days of the date of this Order; otherwise, the parties shall notify the Court by letter that the appointment has not been accepted, in which case the Court will either appoint an alternate guardian *ad litem* without further hearing or hold an additional hearing to select an alternate guardian *ad litem*.

3. The guardian *ad litem* shall have 45 days from his/her acceptance of this appointment within which to file a response to Oppenheimer’s Petition and objections, if any, to Oppenheimer’s accountings.

4. 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.

5. The guardian *ad litem* shall notify this Court and Oppenheimer of any actions taken by Eliot and/or Candice Bernstein which interfere with the guardian *ad litem's* duties hereunder.

DONE AND ORDERED in Chambers, Palm Beach County, Florida on _____, 2016.

Hon. John L. Phillips, Circuit Judge

Copies furnished to:

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Respondents.

NOTICE TO COURT REGARDING SELECTION OF GUARDIAN AD LITEM

Petitioner, OPPENHEIMER TRUST COMPANY OF DELAWARE (“Oppenheimer”), as the resigned trustee of three irrevocable trusts created by the late Simon Bernstein for the benefit of his minor grandchildren, Joshua, Jake and Daniel Bernstein (the “Grandchildren Trusts”), notifies this Court as follows pursuant to the Order entered in this case, and the companion Order entered in Case No. 502014CP003698XXXXNB, on March 1, 2016:

1. The parties have conferred and all parties, other than Eliot and Candice Bernstein, have agreed on the appointment of retired Judge Diana Lewis as guardian *ad litem* for minor beneficiaries Joshua, Jake and Daniel Bernstein (the “Minor Beneficiaries”).

2. As of the date of this filing, Eliot and Candice Bernstein have not proposed an alternate guardian *ad litem*.

3. In an effort to comply with this Court's directive for each party to "submit a list of three names of potential guardian *ad litem*s, each of whom has agreed to accept the appointment if selected," *see Order entered in Case No. 502014CP003698XXXXNB*, ¶ 8, Oppenheimer, through the undersigned, contacted several Florida attorneys located in Palm Beach County; however, none of them would agree to accept the appointment if selected.

4. Oppenheimer consents to the appointment of retired Judge Diana Lewis, or any Florida-licensed lawyer located in Palm Beach County that is selected by the Court, as guardian *ad litem*.

Respectfully submitted,

GUNSTER, YOAKLEY & STEWART, P.A.
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By: /s/Steven A. Lessne

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished via e-mail to all parties on the attached Service List this 14th day of March, 2016.

/s/ Steven A. Lessne

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All counsel of record in Case No. 502014CP003698XXXXNB