

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT

CASE NO. 4D16-222

ELIOT BERNSTEIN

L.T. CASE NOS. 2014CP003698XXXXNB
2011CP000653XXXXNB

Appellant,

v.

TED S. BERNSTEIN, AS TRUSTEE,
et al.

Appellee.

**APPELLEE'S, TED S. BERNSTEIN, AS SUCCESSOR TRUSTEE,
RESPONSE TO APPELLANT'S, ELIOT I. BERNSTEIN, MOTION WITH
SPECIFICITY TO ORDER PRODUCTION OF THE FULL RECORD AND
EXTEND TIME TO FILE INITIAL BRIEF**

Appellee, Ted S. Bernstein, as Successor Trustee of the Shirley Bernstein Trust ("Trustee"), responds to Appellant's, Eliot I. Bernstein, Motion With Specificity to Order Production of the Full Record and Extend Time to File Initial Brief, and states:

1. The most recent Motion is just another stall and delay tactic by this vexatious pro se litigant. In its May 13th Order, this Court denied the request for indexes to two related estate cases; the instant Motion is simply reargument of that request.

2. This is a simple appeal involving the resolution of one count of a multi-count trust action. The order under review is an appealable judgment which upholds

validity of five testamentary documents over the objections of Eliot Bernstein. It is a limited appeal under Rule 9.170, and a full record is not required. Certainly, a full record of a series of separate (even if tangentially related) probate cases is not needed or even recommended in every case.¹

3. As the Court noted in the May 13th Order, the trial transcript is of record on this appeal, as are all of the trial exhibits from the one day validity trial, and anything else relevant to this appeal. To the extent there is something additional, in the record below, or in the record of any other case which Appellant believes is necessary to include in this appellate record, it can be included in an appendix. (That is not an invitation to bombard the Court with extraneous and irrelevant materials).

4. There is no reason to delay this appeal any longer. The motion should be denied and the Appellant should be ordered to file his initial brief within the existing deadline.

¹ Indeed, in an article in *The Florida Bar Journal*, two appellate lawyers advocate the benefits of taking the opposite approach: "The new rule also provides the parties may elect to prepare an appendix Especially in a probate proceeding, where the record may be voluminous and contain many matters unrelated to the appeal of a specific order, an appendix may prove advantageous for highlighting the most critical documents for the appellate court's consideration." Rebecca Creed and Jennifer Richardson, *New Appellate Rule for Probate and Guardianship Proceedings*, *THE FLORIDA BAR JOURNAL* Vol. 86, No. 8 (Sept./Oct. 2012).

CERTIFICATE OF SERVICE

I CERTIFY that a copy of the foregoing has been furnished to parties listed on attached Service List by: Facsimile **and** U.S. Mail; U.S. Mail; E-mail Electronic Transmission; FedEx; Hand Delivery this 26th day of May, 2016.

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SERVICE LIST - CASE NO. 4D16-222

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