

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT, 1525 PALM BEACH LAKES BLVD., WEST PALM
BEACH, FL 33401

June 27, 2016

CASE NO.: 4D16-1449

L.T. No.: 2014CP002815XXXXNB;

Related Case Numbers:

502010CP003123XXXXSB;

502010CP003125XXXXSB;

502010CP003128XXXXSB.

**APPELLANT'S RESPONSE
SHOWING CAUSE FOR
EXTENSION OF TIME TO FILE
INITIAL BRIEF ON APPEAL**

ELIOT IVAN BERNSTEIN

v.

OPPENHEIMER TRUST CO.
OF DELAWARE, ET AL.

Appellant / Petitioner(s)

Appellee / Respondent(s)

Appellant-Petitioner Eliot I. Bernstein, respectfully says and moves this Court as follows:

1. I am the Appellant-Petitioner herein being pro se and having been adjudicated to be in "indigent" status in this case and related cases for several years.
2. I make this response to the Show Cause Order herein as to why this case should not be dismissed for lack of prosecution.
3. As indicated in the caption of the response herein, the following are "related" cases also impacted by the actions and proceedings herein as follows: Case No.'s:

- a. 502010CP003123XXXXSB
- b. 502010CP003125XXXXSB
- c. 502010CP003128XXXXSB

4. This case brings clearly into focus exactly why Production of Full Records and Indexes on Appeal in ALL related cases is necessary and further why proceedings in all cases should be stayed pending full investigation of fraud upon the Court under the Statewide Fraud Policy of the Court's dated September 27, 2012¹.
5. There are meritorious grounds to the Appeal herein including but not limited to under standards of abuse of discretion by the lower court in making the Final Judgment, lack of standing by resigned Trustee Oppenheimer to have brought the Petition seeking "Guardianship" of my children, insufficient facts to support the Judgment including but not limited to the alleged "hearing" to determine Guardianship occurring illegally in violation of Court Rules mandating Electronic Recordings in Guardianship cases, other fundamental error and plain error issues, subject matter jurisdiction issues and improper notice pleadings, and fraud upon the court.
6. This Court shall formally take Notice of the Statewide Court Policy on Fraud with said Policy requirements having been communicated to the Chief Judges and Clerks of each District Court of Appeals thus including this 4th District Court of

¹ September 27, 2012 Office of the State Courts Administrator - State Courts System Fraud Policy <http://iviewit.tv/Simon%20and%20Shirley%20Estate/20120927%20Florida%20State%20Courts%20System%20Fraud%20on%20the%20Court%20Policy%20Procedure.pdf>

Appeals which shall take all required actions as required by such policy including but not limited to Reporting requirements.

7. This case takes the fraud involving Robert Spallina of Tescher & Spallina back to at least 2010 as shown by the original filings by Oppenheimer herein by falsely and fraudulently claiming in Paragraph 8 as seen on Record on Appeal Page 000010 as follows: 8. “In 2010, Eliot and Candice Bernstein, as the parents and natural guardians of Joshua, Jake and Daniel Bernstein, filed Petitions to Appoint Successor Trustee for each of the Trusts in the Circuit Court and for Palm Beach County, Case Nos. 50201 OCP003123XXXXSB, 50201 OCP003125XXXXSB and 50201OCP003128XXXXSB.”
8. Said Petitions from July 2010 were filed by the Offices of Tescher and Spallina under the signature of Robert Spallina yet falsely and fraudulently claiming and purporting to have been signed by myself and my wife Candice Bernstein when neither of us had ever met Robert Spallina or Donald Tescher or signed any such document to file any such Petition in July of 2010².
9. This fraud was reported on the Record to Judge Colin and further reported to the Palm Beach County Sheriff’s Office as further fraud on the Court and in these cases involving the forgery of our signatures for said Petition.

10. This Court must now Order full investigation and reporting of fraud in the entire case herein and forensic analysis and investigation of all material documents or refer to the entire matter to the Inspector General and appropriate law enforcement consistent with the State fraud policy.
11. The “related” nature and “complex” nature of the cases was shown before then Judge Colin under Filing# 15557326 Electronically Filed 07/03/2014 02:40:44 PM Record on Appeal Pages 000089-000092 in my motion for an Extension of time to Answer the original Oppenheimer complaint where it was expressly raised and questioned before the Court about why Oppenheimer was bringing a “new” case when other Trust cases allegedly involving the Oppenheimer Trusts had already existed (Par. 2 , page 00089 Record on Appeal) and further showing the fraudulent notarizations and documents of Tescher and Spallina’s filings in the Shirley Bernstein Estate case. (pages 000089-000090 Record on Appeal.)
12. The original complaint of Oppenheimer as seen on Record on Appeal Page 0010 further contains false and fraudulent statements by claiming in Paragraphs 5 and 6 as follows: “5. Gerald R. Lewin was the initial trustee of the Trusts. 6. On September 5, 2007, Mr. Lewin resigned as trustee and appointed Stanford Trust Company as his successor pursuant to Section 5 .3 of the Trusts. “
13. Yet, showing the complex nature of the cases and the “inter-related” nature of the cases attorney Alan Rose came out in May of 2015 with a “sudden” magical

finding of new documents at the home of Simon Bernstein at 7020 Lions Head Lane, Boca Raton, Fl allegedly finding “new” original copies of the Oppenheimer Trusts yet the attached Tax filings signed by Gerald Lewin wholly contradicts Oppenheimer’s claim of who was the original Trustee and when the Trust began as Gerald Lewin’s documents claim the Trust started on Sept. 1, 2006 and that Stanford was the original Trustee. This, however, occurred despite the fact that the home had previously been inventoried by the PR Brian O’Connell firm and all documents allegedly removed. See Rose Link:

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20150520%20Alan%20Rose%20Letter%20to%20Eliot%20et%20al%20Regarding%20Oppenheimer%20Trust%20documents%20and%20Tax%20Records%20found.pdf>

14. Yet, Spallina’s fraudulent filing in July 2010 further contradicts when the Trust was created claiming it was Sept. 7, 2006 and who was Trustee falsely claiming it to be one Traci Kratish originally and as the records show herein Oppenheimer refused to provide documents for a very significant time and then ultimately only turned over documents with wrong names, not initialed, not fully signed, not notarized etc.

15. Traci Kratish gave statements to the PBSO stating she did not even work for Simon Bernstein on the date the Trust was allegedly created and did not do any work for the trust “pre” Stanford. See Kratish statement³.
16. Because of the extreme intertwined nature of the frauds in the related cases and exhausting detailed review from multiple dockets extensive time has been consumed and continues to be consumed sorting out the fraud which the lower tribunal was asked to correct and refused to correct, it is respectfully requested for an additional 30 days to submit the Initial Brief herein.
17. While other parties like Ted Bernstein and Alan Rose have claimed I only seek to delay proceedings, this claim is false and directly ignores that I am the one to have brought truth and integrity to the proceedings and that in fact there was over a 2 year delay in the related cases from the time Judge Colin first received my Emergency Filing in May of 2013 showing then widespread fraud in these proceedings until such time as Judge Colin mysteriously recused 24 hours after denying a mandatory Disqualification having never held any validity hearings or validity of documents during such 2 year time.

WHEREFORE, it is respectfully prayed for an Order granting at least 30 additional days to file the Initial Brief or such other reasonable amount as is just and proper and such other and further relief as is just and proper.

³ <http://iviewit.tv/Simon%20and%20Shirley%20Estate/Kratish%20Statements%20to%20PBSO.pdf>

/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 27th day of June, 2016.

/s/ Eliot Ivan Bernstein

Eliot Ivan Bernstein
2753 NW 34th St.
Boca Raton, FL 33434
561-245-8588
iviewit@iviewit.tv

SERVICE LIST

John P. Morrissey, Esq. 330 Clematis Street, Suite 213 West Palm Beach, FL 33401 (561) 833-0766-Telephone (561) 833-0867 -Facsimile Email: John P. Morrissey (iohn@jrnoiTisseylaw.com)	Lisa Friedstein 2142 Churchill Lane Highland Park, IL 60035 lisa@friedsteins.com
Peter M. Feaman, Esq. Peter M. Feaman, P.A.	Jill Iantoni 2101 Magnolia Lane Highland Park, IL 60035

<p>3695 West Boynton Beach Blvd., Suite 9 Boynton Beach, FL 33436 (561) 734-5552 -Telephone (561) 734-5554 -Facsimile Email: service@feamanlaw.com: mkoskey@feamanlaw.com</p>	<p>jilliantoni@gmail.com</p>
<p>Gary R. Shendell, Esq. Kenneth S. Pollock, Esq. Shendell & Pollock, P.L. 2700 N. Military Trail, Suite 150 Boca Raton, FL 33431 (561)241-2323 - Telephone (561)241-2330- Facsimile Email: gary@shendellpollock.com ken@shendellpollock.com estella@shendellpollock.com britt@shendellpollock.com grs@shendellpollock.com</p>	<p>Counter Defendant Robert Spallina, Esq. Donald Tescher, Esq. Tescher & Spallina 925 South Federal Hwy., Suite 500 Boca Raton, Florida 33432</p>
<p>Brian M. O'Connell, Esq. Joielle A. Foglietta, Esq. Ciklin Lubitz Martens & O'Connell 515 N. Flagler Dr., 20th Floor West Palm Beach, FL 33401 561-832-5900-Telephone 561-833-4209 - Facsimile Email: boconnell@ciklinlubitz.com; ifoglietta@ciklinlubitz.com; service@ciklinlubitz.com; slobdell@ciklinliibitz.com</p>	<p>Counter Defendant John J. Pankauski, Esq. Pankauski Law Firm PLLC 120 South Olive Avenue 7th Floor West Palm Beach, FL 33401 courtfilings@pankauskilawfirm.com john@pankauskilawfirm.com</p>
<p>Counter Defendant Mark R. Manceri, Esq., and Mark R. Manceri, P.A., 2929 East Commercial Boulevard Suite 702 Fort Lauderdale, FL 33308 mrmlaw@comcast.net</p>	<p>Counter Defendant Donald Tescher, Esq., Tescher & Spallina, P.A. Wells Fargo Plaza 925 South Federal Hwy Suite 500 Boca Raton, Florida 33432 dtescher@tescherspallina.com</p>

<p>Theodore Stuart Bernstein 880 Berkeley Boca Raton, FL 33487 tbernstein@lifeinsuranceconcepts.com</p>	<p>Counter Defendant TESCHER & SPALLINA, P.A.. Wells Fargo Plaza 925 South Federal Hwy Suite 500 Boca Raton, Florida 33432 dtescher@tescherspallina.com</p>
<p>Theodore Stuart Bernstein Life Insurance Concepts, Inc. 950 Peninsula Corporate Circle Suite 3010 Boca Raton, FL 33487 tbernstein@lifeinsuranceconcepts.com</p>	<p>Counter Defendant Alan B. Rose, Esq. PAGE, MRACHEK, FITZGERALD, ROSE, KONOPKA, THOMAS & WEISS, P.A. 505 South Flagler Drive, Suite 600 West Palm Beach, Florida 33401 561-355-6991 arose@pm-law.com arose@mrachek-law.com</p>
<p>Pamela Beth Simon 950 N. Michigan Avenue Apartment 2603 Chicago, IL 60611 psimon@stpcorp.com</p>	<p>Counter Defendant L. Louis Mrachek, Esq. PAGE, MRACHEK, FITZGERALD, ROSE, KONOPKA, THOMAS & WEISS, P.A. 505 South Flagler Drive, Suite 600 West Palm Beach, Florida 33401 561-355-6991 lmrachek@mrachek-law.com</p>
<p>Jill Iantoni 2101 Magnolia Lane Highland Park, IL 60035 jilliantoni@gmail.com</p>	<p>Counter Defendant Pankauski Law Firm PLLC 120 South Olive Avenue 7th Floor West Palm Beach, FL 33401</p>
<p>Lisa Sue Friedstein 2142 Churchill Lane Highland Park, IL 60035 lisa.friedstein@gmail.com lisa@friedsteins.com</p>	<p>Dennis McNamara Executive Vice President and General Counsel Oppenheimer & Co. Inc. Corporate Headquarters 125 Broad Street New York, NY 10004 800-221-5588 Dennis.mcnamara@opco.com</p>

	info@opco.com
<p>Dennis G. Bedley Chairman of the Board, Director and Chief Executive Officer Legacy Bank of Florida Glades Twin Plaza 2300 Glades Road Suite 120 West – Executive Office Boca Raton, FL 33431 info@legacybankfl.com DBedley@LegacyBankFL.com</p>	<p>Hunt Worth, Esq. President Oppenheimer Trust Company of Delaware 405 Silverside Road Wilmington, DE 19809 302-792-3500 hunt.worth@opco.com</p>
<p>James Dimon Chairman of the Board and Chief Executive Officer JP Morgan Chase & CO. 270 Park Ave. New York, NY 10017-2070 Jamie.dimon@jpmchase.com</p>	<p>Neil Wolfson President & Chief Executive Officer Wilmington Trust Company 1100 North Market Street Wilmington, DE 19890-0001 nwolfson@wilmingtontrust.com</p>
<p>William McCabe Oppenheimer & Co., Inc. 85 Broad St Fl 25 New York, NY 10004 William.McCabe@opco.com</p>	<p>STP Enterprises, Inc. 303 East Wacker Drive Suite 210 Chicago IL 60601-5210 psimon@stpcorp.com</p>
<p>Charles D. Rubin Managing Partner Gutter Chaves Josepher Rubin Forman Fleisher Miller PA Boca Corporate Center 2101 NW Corporate Blvd., Suite 107 Boca Raton, FL 33431-7343 crubin@floridatax.com</p>	<p>Ralph S. Janvey Krage & Janvey, L.L.P. Federal Court Appointed Receiver Stanford Financial Group 2100 Ross Ave, Dallas, TX 75201 rjanvey@kjllp.com</p>
<p>Kimberly Moran Tescher & Spallina, P.A. Wells Fargo Plaza 925 South Federal Hwy Suite 500 Boca Raton, Florida 33432</p>	<p>Lindsay Baxley aka Lindsay Giles Life Insurance Concepts 950 Peninsula Corporate Circle Suite 3010 Boca Raton, FL 33487</p>

<p>kmoran@tescherspallina.com</p>	<p>lindsay@lifeinsuranceconcepts.com</p>
<p>Gerald R. Lewin CBIZ MHM, LLC 1675 N Military Trail Fifth Floor Boca Raton, FL 33486</p>	<p>CBIZ MHM, LLC General Counsel 6480 Rockside Woods Blvd. South Suite 330 Cleveland, OH 44131 ATTN: General Counsel generalcounsel@cbiz.com (216)447-9000</p>
<p>Albert Gortz, Esq. Proskauer Rose LLP One Boca Place 2255 Glades Road Suite 421 Atrium Boca Raton, FL 33431-7360 agortz@proskauer.com</p>	<p>Heritage Union Life Insurance Company A member of WiltonRe Group of Companies 187 Danbury Road Wilton, CT 06897 cstroup@wiltonre.com</p>
<p>Estate of Simon Bernstein Brian M O'Connell Pa 515 N Flagler Drive West Palm Beach, FL 33401 boconnell@ciklinlubitz.com</p>	<p>Counter Defendant Steven Lessne, Esq. Gray Robinson, PA 225 NE Mizner Blvd #500 Boca Raton, FL 33432 steven.lessne@gray-robinson.com</p>
<p>Byrd F. "Biff" Marshall, Jr. President & Managing Director Gray Robinson, PA 225 NE Mizner Blvd #500 Boca Raton, FL 33432 biff.marshall@gray-robinson.com</p>	<p>Steven A. Lessne, Esq. Gunster, Yoakley & Stewart, P.A. 777 South Flagler Drive, Suite 500 East West Palm Beach, FL 33401 Telephone: (561) 650-0545 Facsimile: (561) 655-5677 E-Mail Designations: slessne@gunster.com jhoppel@gunster.com eservice@gunster.com</p>
<p>T&S Registered Agents, LLC Wells Fargo Plaza 925 South Federal Hwy Suite 500 Boca Raton, Florida 33432</p>	<p>David Lanciotti Executive VP and General Counsel LaSalle National Trust NA CHICAGO TITLE LAND TRUST</p>

<p>dtescher@tescherspallina.com</p>	<p>COMPANY, as Successor 10 South LaSalle Street Suite 2750 Chicago, IL 60603 David.Lanciotti@ctt.com</p>
<p>Joseph M. Leccese Chairman Proskauer Rose LLP Eleven Times Square New York, NY 10036 jleccese@proskauer.com</p>	<p>Brian Moynihan Chairman of the Board and Chief Executive Officer 100 N Tryon St #170, Charlotte, NC 28202 Phone:(980) 335-3561</p>
<p>Diana Lewis ADR & MEDIATIONS SERVICES, LLC 2765 Tecumseh Drive West Palm Beach, FL 33409 (561) 758-3017 dzlewis@aol.com</p>	