

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

CASE NO.: 4D16-0222  
L.T. No.:2011CP000653XXXXSB  
2014CP003698XXXXNB

ELIOT IVAN BERNSTEIN,

Appellant / Petitioner,

**Appellant's Good Faith Draft  
Initial Brief on Appeal and  
Response To Show Cause;  
Extension of Time**

v.

TED BERNSTEIN, AS TRUSTEE, ET AL.

Appellee / Respondent(s)

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

1. I am the Appellant-Petitioner herein pro se.
2. I submit this response in good faith responding to the Show Cause Order as to why this Appeal should not be dismissed for lack of prosecution.
3. Attached hereto in good faith is a substantially completed "Draft" Initial Brief on Appeal which includes the Arguments to be submitted on Appeal, citation to over 12 relevant cases from the 4th DCA and Florida Supreme

Court, basic outline of the arguments themselves, conclusion, partially completed Citation page and related items. See Draft Brief Exhibit 1.

4. Appellant again reminds this Court of the Statewide Fraud Policy for the Courts and petitions this Court to fulfill all required obligations in reporting the fraud to the Inspector General and should stay the Appeal pending correction of the fraud below.
5. Appellant again requests for production of Full Records and Indexes on Appeal certified by the Clerk of the Court below Sharon Bock and again moves that Appellant is prejudiced without full access to such records in completing this Appeal of a Final Judgment declaring “validity” of certain Testamentary instruments and Trusts.
6. Appellant again reminds this Court that many items in the cases were never served upon Appellant throughout the cases herein and Appellant is entitled to full production of all Records and Indexes.
7. Appellant further reminds this Court from the Notice of Administration filed in the Simon Bernstein Estate case alone signed by both attorneys Donald Tescher and Robert Spallina which Only listed as Beneficiaries the 5 children of Simon Bernstein including the Appellant and NOT naming ANY grandchildren as Beneficiaries is not only further evidence of fraud in the proceedings below but a basis for a new trial since the lower Court denied

any pre-trial Discovery of these attorneys and denied sufficient time for Trial to have necessary witnesses specifically including Donald Tescher who's signed statement in the Notice of Administration fundamentally contradicts the case presented by Ted Bernstein and his attorney Alan Rose.

8. Appellant respectfully reminds this Court that attorneys Tescher and Spallina were centrally involved in the fraud that was discovered and determined in the Shirley Bernstein case herein and that such fraud was never corrected or properly heard and determined and thus the entirety of these cases should be stayed and referred to the Inspector General and all obligations under the Fraud policy discharged.
9. Appellant has further been busy in the related Oppenheimer case and has only recently received "new" Records and Indexes on Appeal from that case which is intertwined with the cases herein and has been busy reviewing those items as well.
10. As this Court should see from the substantially completed "Draft" Initial Brief on the merits, this is not a delay or dilatory tactic and well founded legal arguments have already been constructed and simply are in need of a reasonable time of 10 days for completion should this Court not simply stay such cases based upon the frauds therein.

11. It is further respectfully shown to this Court that Appellant herein was the first to identify and expose the frauds in the underlying cases resulting in an Emergency motion filed in both the Shirley and Simon Bernstein Estate cases in May of 2013 which were immediately denied by then Judge Colin who was not even Assigned to the Simon Bernstein case at the time.
12. As shown by the recent submission in the related Oppenheimer case, the frauds with Robert Spallina implicating Judge Colin go back to at least on or about June 2010 when unknown to Appellant, attorney Robert Spallina filed a Petition involving Trusts of the minor children using the name and alleged signatures of Eliot and Candice Bernstein, however such document and filings were clearly in fraud as Eliot and Candice Bernstein had never even met Robert Spallina at such time and never signed any such document during that time all of which was Reported on the Record to Judge Colin, was reported to the Palm Beach Sheriff's Office and now has been Reported by Appellant to this 4th District Court of Appeals.
13. Considering that Ted Berstein, his attorney Alan Rose and Judge Colin simply proceeded along with "business as usual" for 2 years after Appellant's original May 2013 Emergency Motion showing fraud while also calling for validation of documents and instruments with Judge Colin not correcting the fraud nor undertaking to determine "validity" for 2 years until

he mysteriously “recused” within 24 hours of denying a mandatory Disqualification, it can not reasonably be said that Appellant is the one delaying justice herein nor engaging in dilatory tactics.

WHEREFORE, it is respectfully prayed for an Order staying the cases herein until proper adjudication of fraud consistent with the Statewide Court Fraud policy occurs and until full production of all proper Records and Indexes on Appeal certified by Clerk Sharon Bock or alternatively granting a reasonable time of not less than 10 days for Appellant to finalize the substantially completed Draft Initial Brief which Appellant does in protest claiming prejudice from lack of proper Records and correction of the fraud herein and for such other and further relief as may be just and proper.

Dated: July 5, 2016

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**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 5th day of July, 2016.

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EXHIBIT 1 – Draft Brief