

IN THE CIRCUIT COURT IN AND FOR THE 15th JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA

IN RE: ESTATE OF:

PROBATE DIVISION

SIMON L. BERNSTEIN,

FILE NO: 502012CP4391XXXXNB/IH

Deceased.

**MOTION IN OPPOSITION TO PERSONAL REPRESENTATIVE'S (1) PETITION FOR
AUTHORIZATION TO SELL ESTATE JEWELRY and (2) STATUS CONFERENCE
ON PETITION FOR AUTHORIZATION TO MOVE, STORE AND SELL TPP**

ELIOT IVAN BERNSTEIN, Beneficiary of the Estate of SIMON L. BERNSTEIN, Pro Se, ("Mr. Bernstein" or "Eliot"), hereby files this Opposition to the PERSONAL REPRESENTATIVE'S (1) "PETITION FOR AUTHORIZATION TO SELL ESTATE JEWELRY" and (2) "STATUS CONFERENCE ON PETITION FOR AUTHORIZATION TO MOVE, STORE AND SELL TPP" ("Petitions"), filed by and as grounds, states:

1. Eliot gives this Court of John L. Phillips no jurisdiction in these matters and appears solely to contest and object to the jurisdiction of this Court and any actions by the Personal Representative Brian O'Connell's office due to continuing and ongoing issues of fraud on the court and fraud by the court and its officers and fiduciaries that remains unresolved in this case and whereby no proper procedures have been followed according to the Florida court fraud policy¹, Judicial Canons, Florida Attorney Conduct Code and state and federal Law.
2. All matters and actions in the case should be Stayed until such time as the fraud on the court has been corrected and all Statewide fraud policy procedures have been followed, including notifying and engaging the Inspector General and Chief Justice of the court of the prior fraud

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

by officers of the court and fiduciaries and the newly admitted fraud on the court and fraud on the beneficiaries that was uncovered in statements under oath by Robert Spallina in the December 15, 2015 hearing before this court that he claimed he had not revealed to anyone prior to sham hearing before the court²..

3. Judge John Phillips knows and should know that he should be mandatory disqualified based just on the original motions for mandatory disqualification³ and Eliot I. Bernstein pleads and demands that Judge Phillips perform this mandatory duty to disqualify on his own motion due to conflicts, adverse interests, alleged fraud and more.
4. Until such time that all fraud on and by the court is properly regulated, all acts of this court are further aiding and abetting fraud on the court, constituting fraud by the court and all acts are outside the color of law. See “EMERGENCY PETITION TO: FREEZE ESTATE ASSETS, APPOINT NEW PERSONAL REPRESENTATIVES, INVESTIGATE FORGED AND FRAUDULENT DOCUMENTS SUBMITTED TO THIS COURT AND OTHER INTERESTED PARTIES, RESCIND SIGNATURE OF ELIOT BERNSTEIN IN ESTATE

² December 15, 2015 Hearing Judge Phillips Validity Sham Hearing
<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20151215%20Hearing%20Transcript%20Phillips%20Validity%20Hearing.pdf>

³ December 04, 2015 “VERIFIED SWORN EMERGENCY PETITION AND AFFIDAVIT FOR IMMEDIATE MANDATORY DISQUALIFICATION QF CIRCUIT JUDGE JOHN L. PHILLIPS
<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20151204%20SECOND%20FILED%20DOCKETED%20FINAL%20CORRECTIONS%20to%20Disqualification%20of%20Florida%20Circuit%20Court%20Judge%20John%20L%20Phillips%20ECF%20STAMPED.pdf>

and

December 04, 2015 -“NOTICE OF CORRECTION TO VERIFIED SWORN EMERGENCY PETITION AND AFFIDAVIT FOR IMMEDIATE MANDATORY DISQUALIFICATION OF CIRCUIT JUDGE JOHN L. PHILLIPS”
<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20151204%20SECOND%20FILED%20DOCKETED%20FINAL%20CORRECTIONS%20to%20Disqualification%20of%20Florida%20Circuit%20Court%20Judge%20John%20L%20Phillips%20ECF%20STAMPED.pdf>

and

December 28, 2015 2nd VERIFIED SWORN EMERGENCY PETITION AND AFFIDAVIT FOR IMMEDIATE MANDATORY DISQUALIFICATION OF CIRCUIT JUDGE JOHN L. PHILLIPS
<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20151228%20FINAL%20SIGNED%20NOTARIZED%20Second%20Disqualification%20of%20Judge%20Phillips%20after%20Validity%20Hearing%20on%20December%202015,%202015%20ECF%20STAMPED%20COPY.pdf>

OF SHIRLEY BERNSTEIN AND MORE”⁴ detailing the initial fraud on the court by court appointed officers, fiduciaries and counsel in the case, attorneys at law Robert Spallina and Donald Tescher (See SEC Consent of Robert Spallina and Donald Tescher for Insider Trading⁵) and fiduciary Ted Bernstein. See, Disqualification Motions Martin Colin & All Writs Colin Disqualification detailing the fraud on and by the court and more.⁶

5. This Court knows and should know that both PR Brian O’Connell’s office and Trustee Ted Bernstein and his counsel Alan Rose have wholly failed to ensure compliance with the Order of Judge Colin of Feb. 18, 2014⁷ regarding full production of all records of attorneys Tescher

⁴ May 06, 2013 Petition to Freeze

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20130506%20FINAL%20SIGNED%20Petition%20Freeze%20Estates%20Orginal%20LOWEST.pdf>

⁵ See, SEC Complaint and “SEC Charges Five With Insider Trading, Including Two Attorneys and an Accountant”

<http://www.sec.gov/news/pressrelease/2015-213.html>

and Government Complaint @ <http://www.sec.gov/litigation/complaints/2015/comp-pr2015-213.pdf> and Consent Orders

<http://www.iviewit.tv/Simon%20and%20Shirley%20Estate/2015%20Spallina%20and%20Tescher%20SEC%20Settlement%20Consent%20Orders%20Insider%20Trading.pdf>

⁶ See All Writ Filed with the Florida Supreme Court @

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20150609%20FINAL%20All%20Writs%20Mandamus%20Prohibition%20and%20Restraining%20Order%20Stay%20re%20Martin%20Colin%20Disqualification%20ECF%20STAMPED%20COPY.pdf>

and

See Amended All Writ Filed with the Florida Supreme Court @

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20150630%20FINAL%20REDO%20All%20Writs%20Mandamus%20Prohibition%20and%20Restraining%20Order%20Stay%20re%20Martin%20Colin%20Disqualification%20ECF%20STAMPED%20COPY.pdf>

and

See VERIFIED SWORN EMERGENCY PETITION AND AFFIDAVIT FOR IMMEDIATE DISQUALIFICATION OF JUDGE MARTIN COLIN @

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20150514%20FINAL%20Motion%20for%20Disqualification%20Colin>

and

Colin Order Denying Disqualification @

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20150518ORDERDenyingDisqualificationColin.pdf>

and

See Colin Sua Sponte Recusals @

<http://www.iviewit.tv/Simon%20and%20Shirley%20Estate/20150519%20Colin%20Recusals%20Clerk%20Reassigns.pdf>

⁷ February 18, 2014 Colin Order for Tescher and Spallina to turn over ALL records after resigning after admitting their law firm committed fraud on the court, fraud on beneficiaries and others.

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20140218%20ORDER%20COLIN%20TESCHER%20SPALLINA%20TO%20TURN%20OVER%20ALL%20RECORDS%20PRODUCTION%20ON%20PETITI>

& Spallina and thus breaching duties as “fiduciaries” and this Court knows such full production was not properly available under due process procedures prior to an alleged “validity” hearing which is on appeal and in fact this Court knows attorney Alan Rose falsely claimed there was no such order at trial.

6. This Court knows and should know that both Trustee Ted Bernstein, his attorney Alan Rose and PR Brian O’Connell are intertwined as witnesses to what took place with the TPP and documents and records in general and specifically from 7020 Lions Head Lane Boca Raton, Fl and hearings should be held and/or depositions of these parties taken prior to any further actions as alleged fiduciaries which must be stayed at this time.
7. The court should note that PR O’Connell has claimed that Ted is not a validly serving Trustee of the Simon Bernstein Trust and attorney Peter Feaman, Esq. has also claimed Ted is acting improperly with his counsel Rose, implying that he is acting in breach of fiduciary duty as he is not qualified to be Trustee under the very terms of the Simon Trust he alleges to operate under that this court erroneously validated without knowing the whereabouts of the original document. See O’Connell and Feaman Letters regarding Ted Bernstein not being a valid trustee and conflicts and more⁸.

[ON%20FOR%20DISCHARGE%20TESCHER%20SPALLINA%20Case%20502012CP004391XXXXSB%20SIMON.pdf](#)

⁸ O’Connell Pleading Affirmative Defense 1 - Page 7 - Ted is not a validly serving Trustee of the Simon Trust

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20150217%20Answer%20%20Affirmative%20Defenses%20O'Connell%20States%20Ted%20is%20NOT%20VALID%20TRUSTEE.pdf>

and

August 29, 2014 Letter Feaman to O’Connell

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20140829%20Feaman%20Stansbury%20Letter%20to%20Brian%20O'Connell.pdf>

and

December 16, 2014 Feaman to O’Connell Letter

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20141216%20Attorney%20Peter%20Feaman%20Letter%20to%20Attorney%20Personal%20Representative%20Brian%20O'Connell%20re%20Ted%20and%20Alan%20Conflicts.pdf>

8. Even the appraisal done by the Estate at issue herein for the TPP neglects the fact that certain jewelry of Shirley Bernstein's was unaccounted on her inventories that have been challenged as fraudulent and at this time those motions remain unheard.
9. It is unclear how the Jewelry of Shirley's estate that was never inventoried on her inventory was appraised in Simon's Estate and how it was transferred from Shirley Bernstein's estate if it was never ITEMIZED as part of her inventory. Her inventory filed and challenged at this time claims a value of \$25,000 total assets and yet items appear on Simon's inventory of Shirley's assets after the time of her death that are far in excess of \$25,000. Example, PR Brian O'Connell for the Estate of Simon has an Inventory in Simon's Estate showing approximately \$80 thousand plus from Shirley's jewelry yet the Shirley Estate accounting only was valued at \$25,000 and Shirley predeceased Simon. Thus, it is not possible for Simon to have a greater value transferred to him than what was accounted for in Shirley's estate and the result is this is all part of ongoing fraud upon the Court and by the Court in continuing failures to address such fraud.
10. Therefore, the inventorying of Shirley's assets that are alleged to have transferred to Simon is again alleged herein as further fraud and theft of estate of Simon and Shirley assets by fiduciaries and counsel in these matters.
11. Accountings in Shirley's Estate have not been done in violation of Florida Probate Rules and Statutes, either prior to fraudulent closing achieved by fraud on the court that led to the reopening or post as required by Probate Rules and Statutes.
12. Shirley Bernstein had a wedding ring valued and insured at approximately \$250,000 that has not been accounted for in Shirley's Estate and as the Court is aware from the December 15, 2015 hearing the fiduciaries are also aware of fully paid for Bentley that is also unaccounted

in her inventory and despite admitted knowledge of these items existence and failure to correct or amend the inventory, no further actions should be permitted by any of the fiduciaries including PR Brian O'Connell and Ted Bernstein and all matters must now be stayed and an injunction and freeze of assets and records ordered, along with notifying the proper authorities of the continuing and ongoing theft and fraud regarding the millions of dollars of Personal Property now missing.

13. That accountings in Simon's Estate and Trust have been done and challenged by multiple parties and remain unheard as of this date and there are further allegations of fraud on the court and fraud on the beneficiaries and interested parties in those pleadings that involve properties in the Shirley Estate.

14. Personal Property was re-inventoried for Simon's estate and Tangible Personal Property from Shirley's estate that was improperly listed on Simon's estate inventory without first being inventoried on Shirley's inventory, were found to have now gone missing from an original Inventory done by Ted Bernstein, including the entire contents of a multimillion dollar Condominium owned by the Shirley Trust that were misrepresented by Alan Rose and Ted Bernstein to have been moved to 7020 Lions Head Lane, Boca Raton, address of another home that was owned by Shirley. Additionally found missing from the original inventory when the re-inventorying was done due to the missing Condominium properties is also now new missing Tangible Personal Property from the 7020 Lions Head Lane, Boca Raton home and none of these stolen items have been properly inventoried or accounted for by prior fiduciaries and now Brian O'Connell. Brian O'Connell is also aware of ongoing criminal complaints filed regarding these properties and has evaded contacting authorities despite his direct knowledge of the missing properties that were told by Rose and Ted to the court and

others to be at the Saint Andrews Country Club 7020 Lions Head home. O'Connell is further now working with Ted despite knowing he is not a validly serving trustee under the language of the Simon trust to aid and abet the fraud and theft involving the properties, while billing for his time working with such "not validly serving" trustee.

15. The Hearing to hear these two petitions should be also be struck, as the hearing was not properly scheduled; only one (1) day was given by O'Connell to opposing parties to object before filing for hearing; the hearing requires evidentiary proceedings for the two petitions; there are outstanding production requests, there are outstanding accounting objections, there are outstanding motions unheard regarding the TPP and the Jewelry, no fraud policies, ethics policies and judicial canons have been complied with and NO pre-trial procedures were followed.

16. I, Eliot Ivan Bernstein, ask this court to again have Judge John Phillips disqualify himself as legally required as petitioned in two prior disqualification motions denied by Judge Phillips as legally insufficient (unheard on the merits) and further fear extreme prejudice and retaliation against my family by Judge John Phillips if he stays on, especially where he has refused to disqualify despite it being mandatorily required by Judicial Canon and law and he should do so on his own motion without needing a Pro Se litigant to file papers "legally sufficient" to show him conflicts and other violations that make his original and continued jurisdiction improper and demand disqualification and voiding of all his orders gained through acts outside the color of law.

17. If Judge Phillips does not disqualify on his own motion as required by Judicial Canon and Law then I Eliot Bernstein seek a protective order from Judge Phillips who I allege is continuing an ongoing fraud on the court, fraud by the court, is acting outside the color of

law and who is retaliating against me and my family for exposing fraud on the court and fraud by the court involving his professed “love” for former recused Judge Martin Colin⁹ (who recused one day after denying a mandatory disqualification) and other parties he has expressed favoritism over, including several court appointed counsel and fiduciaries in these matters while neglecting judicial duties and fraud on the court.

18. Judge Phillips has also held predatory guardianship hearings that did not follow guardianship rules and regulations of this court and has obtained an improper and illegal predatory guardianship on two of my minor children and one adult child in his efforts to shut down their due process rights and me and my wife’s due process rights as their proper guardian and shutting me out of my due process rights as a beneficiary in the Estates and Trusts of both my mother and father.

19. Judge Phillips has repeatedly barked and ranted on and off the record at both myself and my lovely wife Candice threatening us with contempt and jail, repeatedly, in efforts to silence our rights and shut down efforts to further expose the frauds in and by the court and its officers and fiduciaries, his professed close personal friends and love. Statements of witnesses to Judge Phillips erratic behavior at proceedings can be provided to this court upon request and the record also reflects the outward hostility of Phillips to Eliot and Candice Bernstein. See William Stansbury Statement.¹⁰

⁹ History of Martin Colin’s conflicts causing recusal, alleged by Palm Beach Post in their series, Guardianship a Broken Trust (115+ cases) <http://www.mypalmbeachpost.com/guardianships-colin-savitt/> and

An August 20, 2016 Article by the Palm Beach Post “Judge Colin appoints ex-law partner to case that nets \$500,000-plus CRIME & LAW By John Pacenti - Post Staff Writer Aug. 20, 2016 @ <http://www.mypalmbeachpost.com/news/news/crime-law/judge-colin-appoints-ex-law-partner-to-case-that-n/nsJbh/>

¹⁰ March 03, 2016

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20160302%20Signed%20William%20Stansbury%20Amended%20Eliot%20and%20Candice%20Bernstein%20GAL%20issue%203.2.2016.pdf>

20. Judge Phillips has wrongfully removed my /standing in several cases improperly after sham proceedings to shut down my due process rights and efforts to expose the frauds in and by the court and its officers and fiduciaries.
21. That I have informed Judge Phillips that I am both seeking to sue him professionally and personally in Federal Court and that I have reported his fraudulent misconduct to state and federal authorities and I reasonably believe this further angers and prejudices Judge Phillips against my family.
22. That Brian O'Connell should be removed as PR of the Estate of Simon for furthering fraud on the court and attempting to traffic in stolen goods, which he knows has been reported to this court and criminal authorities and he is fully aware of the issues of the theft of the personal properties already exposed to this court and himself by Eliot and William Stansbury and others.
23. Judge Phillips is cognizant of fraud on the court and fraud on beneficiaries and counsel to them and was made aware of new crimes admitted and committed by former Co-Personal Representative and counsel Robert Spallina under oath in a December 15, 2015 hearing before him that Spallina claimed he had not told anyone to that time about, including felony federal and state crimes and Judge Phillips has further failed to report the criminal misconduct and fraud on the court or follow the Florida court fraud policies and procedures.

WHEREFORE, Eliot I. Bernstein respectfully requests the Court enter an Order disqualifying Judge Phillips, enjoining and staying all matters pending fraud procedures to be followed and proper hearings herein, denying any relief to the PR and enjoining the PR from any and all action pending proper hearings to be held and further granting the relief set forth above and such other relief as the Court deems just and proper.

Respectfully Submitted

DATE: August, 23, 2016

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished to counsel of record via the Court's e-portal system or U.S. Postal Service on this 23rd day of August, 2016 to the parties on the attached Service List.

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