

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

CASE NO. 4D16-1449

Consolidated with Case Nos. 4D16-1476 and 4D16-1478

ELIOT IVAN BERNSTEIN

L.T. CASE NOS. 2014CP003698XXXXNB

Appellant,

v.

TED S. BERNSTEIN, AS TRUSTEE,  
et al.

Appellee.

\_\_\_\_\_ /

**APPELLEE'S, TED S. BERNSTEIN, AS TRUSTEE, JOINDER IN  
APPELLEE OPPENHEIMER'S RESPONSE TO APPELLANT'S  
MOTION FOR EXTENSION OF TIME AND TO STAY PROCEEDINGS ETC.**

Appellee, Ted S. Bernstein, as successor Trustee of the Shirley Bernstein Trust ("Trustee"), joins in Appellee's *Oppenheimer Response to Appellant's Motion for Extension of Time and to Stay Proceedings and Grant an Extension* filed October 24, 2016.

1. The Trustee joins in Oppenheimer's Response opposing the latest motion for an extension or stay filed by Appellant, Eliot Ivan Bernstein ("Eliot").

2. While the undersigned remains sympathetic to any legitimate need for more time, Eliot has abused and continues to abuse that privilege, having already

been granted several extensions, and having ignored or disregarded this Court's most recent Order dated September 22, 2016:

Appellant shall file the initial brief within twenty (20) days from the date of this order. No motions or other filings shall toll the time to file the initial brief, and no further extensions shall be granted absent a showing of extraordinary circumstances where, if a further extension is not granted, irreparable and material harm will result to the litigant.

3. The orders under review appointed former circuit and probate judge Diana Lewis to serve as Guardian ad Litem, to represent the interests of Eliot's three children. The Order was entered after Judge Phillips determined Eliot was an inadequate representative of his children's interests and, indeed, was acting adverse and destructive to their interests. Thus, Eliot could no longer serve as their representative in these various trust and estate matters.

4. There are two key points which must be made. First, there is no showing of extraordinary circumstances or irreparable and material harm will result *to Eliot*. His children are beneficiaries of the trusts at issue in these consolidated appeals; Eliot himself is not a beneficiary. Second, these filings demonstrate vividly that Eliot is in no position to adequately represent the beneficial interests of his children in the trusts, nor to act in the best interests of his children.

5. These continued delays by Eliot prevent the Trustee and the trial court from administering the trusts and making distributions to beneficiaries, including into

the trusts for each of Eliot's children. These issues, although important, are simple and straightforward, and potentially delay or undermine the work of the court-appointed Guardian ad Litem. It is not Eliot who suffers harm, per this Court's admonition; rather, it is the ten true beneficiaries of these trusts, including Eliot's children, who are suffering irreparable and material harm by the continued delay in these proceedings.

WHEREFORE, the Trustee respectfully requests the Court deny the pending Motion.

### **CERTIFICATE OF SERVICE**

I CERTIFY that a copy of the foregoing has been served by e-mail on all parties listed on the attached service list, this 24th day of October, 2016.

MRACHEK, FITZGERALD, ROSE, KONOPKA,  
THOMAS & WEISS, P.A.  
505 South Flagler Drive, Suite 600  
West Palm Beach, FL 33401  
(561) 655-2250 Telephone / (561) 655-5537 Facsimile  
email: [arose@mrachek-law.com](mailto:arose@mrachek-law.com)  
Attorneys for Ted S. Bernstein

By: /s/ Alan B. Rose  
Alan B. Rose (Fla. Bar No. 961825)

**SERVICE LIST** - CASE NO. 4D16-1478

Eliot Bernstein, individually  
and Eliot and Candice Bernstein,  
as Parents and Natural Guardians of  
D.B., Ja. B. and Jo. B, Minors  
2753 NW 34th Street  
Boca Raton, FL 33434  
(561) 245-8588 - Telephone  
(561) 886-7628 - Cell  
(561) 245-8644 - Facsimile  
Email: [ivewit@ivewit.tv](mailto:ivewit@ivewit.tv)  
[ivewit@gmail.com](mailto:ivewit@gmail.com)  
[tourcandy@gmail.com](mailto:tourcandy@gmail.com)

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  
([john@jmorrisseylaw.com](mailto:john@jmorrisseylaw.com))  
Counsel for Molly Simon, Alexandra  
Bernstein, Eric Bernstein, Michael  
Bernstein

Lisa Friedstein  
2142 Churchill Lane  
Highland Park, IL 60035  
[lisa@friedsteins.com](mailto:lisa@friedsteins.com)  
Individually and as trustee for her  
children, and as natural guardian for  
M.F. and C.F., Minors

Peter M. Feaman, Esq.  
Peter M. Feaman, P.A.  
3695 W. Boynton Beach Blvd., Suite 9  
Boynton Beach, FL 33436  
(561) 734-5552 - Telephone  
(561) 734-5554 - Facsimile  
Email: [service@feamanlaw.com](mailto:service@feamanlaw.com);  
[mkoskey@feamanlaw.com](mailto:mkoskey@feamanlaw.com)  
Counsel for William Stansbury

Pam Simon  
303 E. Wacker Drive, Suite 2725  
Chicago, IL 60601  
[psimon@stpcorp.com](mailto:psimon@stpcorp.com)

Robert Spallina, Esq.  
Donald Tescher, Esq.  
Tescher & Spallina  
925 South Federal Hwy., Suite 500  
Boca Raton, Florida 33432

Jill Iantoni  
2101 Magnolia Lane  
Highland Park, IL 60035  
[jilliantoni@gmail.com](mailto:jilliantoni@gmail.com)  
Individually and as trustee for her  
children, and as natural guardian for  
J.I. a minor

Diana Lewis, Esq.  
ADA & Mediations Services, LLC  
2765 Tecumseh Drive  
West Palm Beach, FL 33409  
(561) 758-3017 - Telephone  
Email: [dzlewis@aol.com](mailto:dzlewis@aol.com)  
Guardian *Ad Litem* for  
Eliot Bernstein's minor children,  
Jo.B., Ja.B., and D.B.

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](mailto:boconnell@ciklinlubitz.com);  
[jfoglietta@ciklinlubitz.com](mailto:jfoglietta@ciklinlubitz.com);  
[service@ciklinlubitz.com](mailto:service@ciklinlubitz.com);  
[slobdell@ciklinlubitz.com](mailto:slobdell@ciklinlubitz.com)

Steven A. Lessne, Esq.  
GUNSTER, YOAKLEY &  
STEWART, P.A.  
*Counsel for Oppenheimer Trust  
Company of Delaware*  
4855 Technology Way, Suite 630  
Boca Raton, FL 33431  
Telephone: (561) 961-8085  
Email: [slessne@gunster.com](mailto:slessne@gunster.com)