IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT IN AND FOR PALM BEACH COUNTY, FLORIDA

IN RE: CASE NO. 502012CP004391XXXXNBIH

ESTATE OF SIMON L. BERNSTEIN,

_____/

OMNIBUS RESPONSE IN OPPOSITION TO STANSBURY'S MOTION TO VACATE IN PART ORDER PERMITTING RETENTION OF MRACHEK [DE 497]; and REPLY IN SUPPORT OF (i) MOTION TO APPOINT TED BERNSTEIN AS ADMINISTRATOR AD LITEM [DE 475], and (ii) MOTION TO RATIFY AND CONFIRM APPOINTMENT OF SUCCESSOR TRUSTEE [DE 495]

Ted S. Bernstein, as Successor Trustee of the Simon L. Bernstein Amended and Restated Trust ("Trustee"), submits his Response in Opposition Motion to Vacate in Part Order Permitting Retention of Mrachek Firm [DE 497], and his Reply in Support of (i) his Motion to Appoint Ted Bernstein as Administrator Ad Litem [DE 475], and (ii) Motion to Ratify and Confirm Appointment of Ted S. Bernstein as Successor Trustee [DE 495], and states:

INTRODUCTION

The Court should overrule the objections by potential claimant, William Stansbury ("Stansbury") and enter appropriate orders: (i) denying the late-filed and meritless objection to the Estate's retention of the Mrachek, Fitzgerald, Rose, Konopka, Thomas & Weiss, P.A. law firm ("Mrachek Firm") to defend it against Stansbury's claim;[1] (ii) appointing Ted S. Bernstein Administrator ad Litem to oversee that defense; and (iii) ratify, confirm or simply appoint Ted S. Bernstein as successor Trustee of Simon's Trust.

[1] The full title is *Motion To Vacate In Part The Court's Ruling On September 7, 2016, And/Or Any Subsequent Order, Permitting The Estate Of Simon Bernstein To Retain Alan Rose And Page, Mrachek, Fitzgerald, Rose, Konopka, Thomas & Weiss P.A. As Legal Counsel And Motion for Evidentiary Hearing To Determine Whether Rose And Page, Mrachek Are Disqualified From Representing The Estate Due To An Inherent Conflict Of Interest*, filed October 7, 2010. [DE 497]

Stansbury opposes the Personal Representative's/Trustee's plan to lower the costs and expenses of the Estate administration. The fiduciaries' goals are to avoid unnecessary squabbling over who should be acting for the Estate, streamline the administration, and resolve Stansbury's claim as quickly and efficiently as possible. In fact, the PR agreed that Mrachek Firm should handle the defense because it has extensive prior experience and knowledge defending the same claim for other parties, and that Ted S. Bernstein to serve as administrator ad litem (for no fee), thereby saving the Estate the expense of Mr. O'Connell serving as the Estate's representative. Stansbury also objects to Trustee's Motion to ratify his appointment or to have the Court appoint Trustee based upon the unanimous agreement of the beneficiaries, despite a prior unappealed order finding he has no standing to seek the removal of a trustee.[2]

There is no legitimate reason for Stansbury to oppose these Motion, other than simply to be a thorn in the Estate's side and drive up the cost of litigation. In essence, through his Motion to Vacate the retention order and disqualify the Mrachek Firm from representing the Estate, Stansbury is trying to choose who can represent his adversary (the Estate) in his independent action. In that claim, Stansbury seeks more than $2.5 million – far more in damages than the total assets of the Estate. The Motion is untimely, improper, and sanctionable, and evidences a further attempt by Stansbury to hijack the Estate for his own benefit.

Likewise, Stansbury seeks to hinder, delay and obstruct the orderly administration of the Trust, which is the sole residuary beneficiary of the Estate. The beneficiaries of the Trust all agree

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[2] See *Motion to Ratify and Confirm Appointment of Ted S. Bernstein as Successor Trustee of Trust Which Is Sole Beneficiary of the Estate*, filed August 10, 2016 [DE 473] and Stansbury's *Response in Opposition to Motion to Ratify and Confirm Appointment of Ted S. Bernstein as Successor Trustee of the Simon Bernstein Amended and Restated Trust*, filed September 23, 2016. [DE 495]

to the Trustee's service, and wish to avoid any issue as to the Trustee's position and the unnecessary expenditure of funds. No funds will flow from the Estate to the Trust unless and until Stansbury's claim has been resolved, so any claim of standing or prejudice is nonsensical.

DISQUALIFICATION MOTION

Stansbury moves to disqualify the Mrachek Firm on the basis that the law firm's former representation of Ted Bernstein at his deposition was adverse to the Estate's interests. Even if true, these facts would not rise to disqualification. Technically speaking, the representation in question would be former representation of a witness in an unrelated matter, which does not come close to warranting disqualification.

Stansbury's objection looks even more ridiculous when viewed on a practical level. In the Illinois case, the Estate (represented by Illinois counsel) was trying to win entitlement to insurance proceeds against Simon's 1995 Insurance Trust (represented by another Illinois law firm). At the deposition of Ted Bernstein, he was represented by Illinois counsel as part of the Illinois case. All the Mrachek Firm did was sit through the Florida deposition of a witness in the Illinois case, to protect the witness from the disclosure of privileged information.

Stansbury and Ted are in conflict on every issue. That is not relevant. What is relevant is that Ted and the Estate are aligned on the issue raised in these probate proceedings and in the independent action. It is true that Stansbury selfishly is rooting for the Estate to win the Illinois case, whereas Ted is trying to uphold Simon's alleged wishes as explained by Simon to his lawyer.

Stansbury wants the Estate to win the insurance proceeds because that would put more money into the Estate to fund a settlement or satisfy a judgment if Stansbury prevails. Ted S. Bernstein, as trustee of a 1995 Insurance Trust allegedly created by Simon, is a claimant in the Illinois case, and his primary concern in these proceedings is to minimize the cost to the Bernstein family members

while Stansbury pursues his own agenda. Judge Colin agreed with Ted's position, ordering that if Stansbury wanted the Estate to hire counsel to benefit Stansbury by pursuing the Illinois claim, Stansbury needed to pay for the Estate's Illinois counsel.

Putting aside the conflicts between Stansbury and Ted, there is no disqualifying conflict between the Estate and Ted. Ted is Trustee of Simon's Trust, the sole beneficiary of the Estate, and is acting with the direction and agreement of all beneficiaries of Simon's Trust, including the former probate judge appointed as Guardian ad Litem. Simon in his Trust knew that an individual might serve as fiduciary for two trusts, and expressly waived any conflict of interest that might arise.[3]

In his capacity as Trustee of the 1995 Illinois Insurance Trust, Ted is not a participant in this Estate and has retained no Florida counsel. The Mrachek Firm does not represent Ted as Trustee of the Illinois Trust and is not counsel adverse to the Estate in the Illinois case.

Instead, the sole involvement of Ted as Administrator and the Mrachek Firm as counsel is to defend the Estate in Stansbury's independent action pending in Palm Beach County Circuit. In that case, which is the only thing relevant to these motions, ***Stansbury is directly adverse to the Estate***. Ted and the Mrachek Firm are directly aligned with the Estate against Stansbury. There is no assertion that Ted and the Mrachek Firm are not motivated and capable of doing a good job protecting the Estate from Stansbury, nor is there any reason to believe that the Mrachek Firm's representation of the Estate would be compromised in any way. The only issue in the independent action is whether Stansbury should be awarded a judgment against the Estate for $0 or $2.5 million, or something in between.

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[3] In his Trust, Simon provided: " J. Interested Trustee. The Trustee may act under this Agreement even if interested . . . as a fiduciary of another trust. . . . " Regardless of the positions taken by Ted in the Illinois litigation, the Estate is represented through Mr. O'Connell and counsel, and nothing that happens in Illinois will impact or in any way materially limit the Mrachek Firm's ability and desire to the Estate against Stansbury's ill-founded claim.

The Mrachek Firm is not adverse to the Estate in the independent action; it is adverse to Stansbury. Stansbury is just trying to choose who can represent his adversary. Stansbury's interest is to be opposed by the least knowledgeable, least effective adversary. So it makes sense that Stansbury would like to get rid of everyone who could hurt his chances of winning. That would be everyone with knowledge of the facts (Ted S. Bernstein and the Mrachek Firm) and everyone motivated to protect the Estate (Ted S. Bernstein).

With all due respect to Mr. O'Connell, as Personal Representative he simply is gathering assets and redistributing them in the order specified in the Florida Probate Code. It makes no difference to the PR whether the Estate's assets go to Stansbury or the beneficiaries. To the residuary beneficiary (the Simon Trust) and the indirect beneficiaries (ten grandchildren trusts) it makes a huge difference. Stansbury wants all of the Estate's assets for himself. The beneficiaries, with the agreement of the Estate's Personal Representative, want Ted to serve as Administrator ad Litem to defend the Estate and Mrachek Firm to serve as counsel for the Estate.

Why? Ted worked alongside Simon in the companies which employed Stansbury, and Ted's children, nieces and nephews stand to benefit if Stansbury's claim is defeated.[4] Moreover, the Mrachek Firm represented all of the Estate's co-defendants in Stansbury case (all of whom have settled), and the Mrachek Firm has extensive knowledge of the case, the facts, the documents and the witnesses. And, it's lawyers have the time and resources to get the Stansbury case tried quickly and efficiently.

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[4] Stansbury seeks to prevent the most knowledgeable person (Ted) and the most knowledgeable and "up-to-speed" lawyers (Mrachek Firm) from defending against Stansbury's claims. Indeed, Ted is the only person still alive and still involved in these proceedings with any knowledge about Stansbury claims. Ted was an officer, director and largest shareholder of the company which employed all three players (Stansbury, Simon and Ted) and which is at the heart of Stansbury's $2.5 million claim. Ted also is the only person willing to stand up and defend the Estate against Stansbury's claim.

It makes sense why Stansbury would want to get rid of Ted and the Mrachek Firm.[5] There simply is no basis to allow that to happen. Mrachek never represented Stansbury in any matter. Mrachek never represented the Estate in any matter. None of its former clients have complained that Mrachek now will represent the Estate. There simply is no basis to disqualify Mrachek. Moreover, Mrachek possesses no confidential or privileged materials *of the Estate* and gained no "informational advantage" *over the Estate*. *Manning v. Cooper*, 981 So. 2d 668 (Fla. 4th DCA 2008). Instead, Mrachek does have an informational advantage against Stansbury and any other law firm hired by the Estate, and the Estate has gained that informational advantage by hiring the Mrachek Firm.

Without a full evidentiary hearing, the court cannot grant a motion to disqualify counsel, nor can a court deny such a motion where the testimony at the hearing established a prima facie case for disqualification. *Flaig v. Coquina Palms Homeowner's Ass'n Inc.*, 153 So. 3d 968 (Fla. 5th DCA 2015). However, where the Motion on its face, even if true, does not establish a valid basis for disqualification, the Motion can and should be summarily denied.

Judge Phillips conducted a hearing and entered an order approving the Estate's retention of the Mrachek Firm, and deferring on whether to appoint Ted. Then, there was a status conference before the trial court in the underlying action, at which the undersigned was granted leave to amend the affirmative defenses, and the parties discussed setting the case for trial immediately thereafter. Stansbury made no mention of any issue at the status conference. But as the train was about to get moving, after the trial court status conference, Stansbury moved this Court to vacate the retention

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[5] Stansbury's motives are suspect. Last summer, before mediation, Stansbury had been complaining that the underlying action was moving too slowly. He requested a status conference on July 11, 2016, complaining that Mr. O'Connell was not available and the case was taking too long. In light of those concerns, the beneficiaries agreed at the mediation to speed things up. Now, Stansbury says things are moving too quickly and should be slowed down or stayed altogether, for months.

of the Mrachek Firm. He then sought to stay the underlying case ***for months*** until the Motion to Vacate (essentially disqualify the Mrachek firm) can be heard.

There is no basis for the Motion to Vacate. Purely tactical motions to disqualify opposing counsel are highly disfavored. In this case, the motion to disqualify counsel was brought by a party who was *never* a client of the law firm; shared no confidences or secrets with the law firm; and unreasonably delayed bringing the issue up the forefront. Trustee and his counsel move for sanctions because such strategic gambits are not only disfavored, but prohibited. Stansbury and his counsel should be sanctioned for this maneuver. The Motion to Vacate should be summarily denied; and Stansbury (both client and lawyer) should be sanctioned for pursuing this Motion which is meritless and filed for an improper purpose, and for pursuing other unsupportable defenses and positions.

Since the Mrachek Firm's representation of defendants in the Stansbury case began, its lawyers handled all aspects of the litigation, including but not limited to: interviewing witnesses; document production; motion practice, including winning a key issue resulting in the dismissal of any derivative claims; began the deposition of Stansbury; prepared for trial; conducted mediation, at which most of the case settled except for the claim against Simon individually. ***Most importantly, Mrachek Firm has never represented Stansbury in anything***.

Rule 4-1.7 of the Rules Regulating the Florida Bar, which addresses conflicts between two existing clients, states:

> Representing Adverse Interests . . . . a lawyer must not represent a client if:
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> (1) the representation of 1 client will be directly adverse to another client; or
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> (2) there is a substantial risk that the representation of 1 or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by a personal interest of the lawyer.

Stansbury alleges that, because Mrachek Firm represented Ted S. Bernstein at his deposition in a matter in which the Estate is adverse to a different trust, a 1995 insurance trust, that somehow disqualifies Mrachek Firm. This is wrong for a number of reasons.

First, Mrachek Firm represents Ted S. Bernstein solely in his role as Trustee of the Simon Bernstein Trust, whose interests are fully aligned with the Estate – both want to defeat Stansbury's claims and recover the Estate's legal fees from Stansbury.

Second, the deposition was being taken not only by Estate's Illinois counsel, but also Eliot Bernstein. Ted was entitled to have his counsel attend to protect his privileges and to protect against harassment by Eliot during that deposition. At that time, on May 6, 2015, there were pending numerous motions to remove Ted Bernstein as Trustee, objecting to Ted's actions as Trustee and accountings, a complaint to determine the validity of testamentary documents and proper beneficiaries of the various estates and trusts. Counsel had to be at this deposition. Moreover, all counsel did was object several times to address privilege issues. Stansbury was at the deposition, the whole time, and observed everything of which he now complains.

Third, there is no risk that the representation of the Estate will be materially limited by the lawyer's responsibilities to Ted S. Bernstein as Trustee

Moreover, even there were a conflict, which there is not, the Estate's court-appointed Personal Representative is the only person with standing to assert it. Stansbury has no standing to raise a challenge as he is the adverse party. Indeed, the Rules of Professional Conduct are not intended to be a weapon to be used by an opposing party:

> Violation of a rule should not itself give rise to a cause of action against a lawyer nor should it create any presumption that a legal duty has been breached . . . . ***Furthermore, the purpose of the rules can be subverted when they are invoked by opposing parties as procedural weapons.*** The fact that a rule is a just basis for a lawyer's self-assessment, or for sanctioning a lawyer under the administration of a

disciplinary authority, ***does not imply that an antagonist in a collateral proceeding or transaction has standing to seek enforcement of the rule.***

Preamble [emphasis added].[6]

In addition, Mr, O'Connell has consented to the Mrachek Firm assuming the Estate's representation in the Stansbury case. The second part of Rule 1.7 states:

> (b) Informed Consent. Notwithstanding the existence of a conflict of interest under subdivision (a), a lawyer may represent a client if:
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> > (1) the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client;
> >
> > (2) the representation is not prohibited by law;
> >
> > (3) the representation does not involve the assertion of a position adverse to another client when the lawyer represents both clients in the same proceeding before a tribunal; and
> >
> > (4) each affected client gives informed consent, confirmed in writing or clearly stated on the record at a hearing.

Each of those requirements is met. In particular, Mr. O'Connell as Personal Representative agreed with beneficiaries' direction to have the Mrachek Firm defend the Estate.

Stansbury also cannot rely on Rule 4-1.9 of the Rules Regulating the Florida Bar, which governs conflicts with former clients:

> A lawyer who has formerly represented a client in a matter shall not thereafter:
>
> > (a) represent another person *in the same or a substantially related matter* in which that person's interests are materially adverse to the interests of the former client unless the former client gives informed consent; or

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[6] Stansbury claims to have standing because he has an interest in ensuring the proper marshaling of assets of the Estate. Whether that is true or false, that is not what is at issue here. The Motion to Vacate seeks to hamstring the Estate in its preservation of assets, for distribution to beneficiaries. Stansbury seeks to take everything in the Estate and more if he is successful. He has no legal standing or moral right to preclude the Estate from defending itself against his claims.

> (b) use information relating to the representation to the disadvantage of the former client except as rule 4-1.6 would permit with respect to a client or when the information has become generally known.

Neither of those prohibitions is implicated here. Mrachek Firm's representation of Ted as Trustee at his deposition in the Illinois case is not the same or substantially related to Stansbury's claim against the Estate. Likewise, Mrachek Firm's prior representation of Ted and the other defendants who were co-defendants in the Stansbury case was not adverse to the Estate. To the contrary, all of the defendants' interests were fully aligned to defeat Stansbury's claim, and Mrachek Firm's work assisted in lowering the Estate's burden. (Neither the Personal Representative of the Estate nor the parties which could raise any potential "conflict"– LIC, AIM, Ted Bernstein, Shirley's Trust – have not complained and will not be complaining.) Finally, Mrachek Firm is not using any information to the disadvantage of the Estate.

If a prior attorney-client relationship had been shown, the party seeking disqualification must show that the current case involves the same subject matter or a substantially related matter in which the lawyer previously represented the moving party. *Waldrep v. Waldrep,* 985 So. 2d 700, 702 (Fla. 4th DCA 2008) (quoting *Key Largo Rest., Inc. v. T.H. Old Town Assocs., Ltd.*, 759 So. 2d 690, 693 (Fla. 5th DCA 2000)).

As the Fourth District Court of Appeal has stated,

> Before a client's former attorney can be disqualified from representing adverse interests, it must be shown that **the matters presently involved are substantially related to the matters in which prior counsel represented the former client.**

Campbell v. Am. Pioneer Sav. Bank, 565 So. 2d 417, 417 (Fla. 4th DCA 1990)(emphasis added).

In determining which matters are "substantially related," a comment to the rule which the supreme court adopted in 2006 provides as follows:

> ***Matters are "substantially related" for purposes of this rule if they involve the same transaction or legal dispute, or if the current matter would involve the lawyer attacking work that the lawyer performed for the former client***. For example, a lawyer who has previously represented a client in securing environmental permits to build a shopping center would be precluded from representing neighbors seeking to oppose rezoning of the property on the basis of environmental considerations; however, the lawyer would not be precluded, on the grounds of substantial relationship, from defending a tenant of the completed shopping center in resisting eviction for nonpayment of rent.

In re Amendments to the Rules Regulating the Florida Bar, 933 So. 2d 417, 445 (Fla. 2006) (emphasis supplied).

Disqualification of a party's chosen counsel is an extraordinary remedy and should only be resorted to sparingly. *Singer Island, Ltd. v. Budget Constr. Co.*, 714 So. 2d 651, 652 (Fla. 4th DCA 1998).

Moreover, a Motion for Disqualification must be made with reasonable promptness. The Fourth District Court of Appeal has held:

> "A motion to disqualify should be made with reasonable promptness after the party discovers the facts which lead to the motion. " *Transmark, USA, Inc. v. State, Dep't of Ins.*, 631 So. 2d 1112, 1116 (Fla. 1st DCA 1994)(citations omitted). "The rationale behind this rule is to prevent a litigant from using the motion as a tool to deprive his opponent of counsel of his choice after completing substantial preparation of the case." *Id.* at 1116 (citing *Cox v. Am. Cast Iron Pipe Co.*, 847 F. 2d 724, 729 (11th Cir. 1988)).

Information Systems Associates, Inc. v. Phuture World, Inc.., 106 So. 3d 982, 985 (Fla. 4th DCA 2013).

It is important for this Court to be aware of certain timing issues. The Motion to Retain was filed on August 5, 2016, and a copy of it was served on Stansbury's counsel. The undersigned had several discussions with Mr. Feaman from the filing through the hearing, and Mr. Feaman never expressed any concern about a conflict of interest in Mrachek Firm's involvement. On behalf of

Stansbury, Feaman did file an objection on August 22, 2016, to that portion of the motion that sought to appoint Ted Bernstein as administrator *ad litem* to defend the claim, but only that part. The written objection has no reference to any concern about the Mrachek Firm's involvement.

A hearing was held on September 1, 2016, and Mr. Feaman, on behalf of Mr. Stansbury, raised no objection to the Mrachek Firm being retained as counsel. A proposed order was circulated, and Mr. Feaman never raised any objection to the order. The order was entered on September 26, 2016 [DE 496], and thereafter the parties appeared at a status conference before the circuit court judge handling the independent action, which occurred on Wednesday, October 5, 2016. Only now, after an initial hearing before the trial court and when the case is ready to be set for trial, does Stansbury assert there is some conflict of interest that he only recently discovered.

A party can waive his right to seek disqualification of the opposing party's counsel by failing to promptly move for disqualification upon learning of the facts leading to the alleged conflict. *See Zayas-Bazan v. Marcelin*, 40 So. 3d 870, 872–73 (Fla. 3d DCA 2010); *Rahman v. Jackson*, 992 So.2d 390, 390-91 (Fla. 1st DCA 2008); *Balda v. Sorchych*, 616 So.2d 1114, 1116 (Fla. 5th DCA 1993); *Cox v. American Cast Iron Pipe Co*., 847 F.2d 725 (11th Cir.1988); *Glover v. Libman*, 578 F.Supp. 748 (N.D.Ga.1983). "The rationale behind this rule is to prevent a litigant from using the motion as a tool to deprive his opponent of counsel of his choice after completing substantial preparation of the case." *Cox v. Am. Cast Iron Pipe Co*., 847 F.2d 725, 729 (11th Cir. 1988) (*quoting Jackson v. J. C. Penney Co., Inc.*, 521 F. Supp. 1032, 1034 (N.D. Ga. 1981)).

There is no exact timing for when a motion to disqualify is deemed untimely, instead it is a reasonableness standard. *See Transmark, U.S.A., Inc. v. State, Dept. of Ins*., 631 So. 2d 1112, 1116 (Fla. 1st DCA 1994) ("A motion to disqualify should be made with reasonable promptness after the party discovers the facts which lead to the motion."). In *Transmark*, the petitioners argued that they

did not learn of the conflict until eight weeks before filing their motion to disqualify. *Id*. However, in determining that the petitioners had waived any right to seek disqualification, the First District reasoned that the petitioners knew the attorneys in question (Poppell and Cullen) were engaged in legal matters and were on notice as to what legal matter they had been and were continuing to engage in by the time the law suit was filed. *Id*. Even if they did not, the petitioners engaged in substantial discovery from the day the suit was filed, and thus knew long before they filed the motion to disqualify that Poppell and Cullen were assisting the respondent in pretrial matters. *Id*. The petitioners did not raise the question of conflict until more than 10 months had elapsed and the respondent had already paid $2 million in legal fees. *Id*.

Because Stansbury waited months before first raising any objection to the Mrachek Firm's involvement, having failed to object despite having been given several chances to do so, the Motion to Disqualify was unreasonably delayed and sanctions should be awarded for that reason alone.

STANSBURY'S OTHER OBJECTIONS

Stansbury's other objections to the Trustee serving as administrator ad litem for no fee and the Trustee's motion to ratify his appointment are patently frivolous.

First, Stansbury lacks standing to address either issue. See Order of August 22, 2014. [DE 240] That order was never appealed. As noted above, Stansbury has no right to choose how the Estate defends itself against Stansbury's claim, and no right to dictate anything to the beneficiaries of the Trust.

Second, there is no conflict. Simon Bernstein provided that a Trustee of his Trust could serve even if interested as a trustee of another trust. (See footnote 3) The Trustee's interest here is directly aligned with the Estates – to crush Stansbury's claim and to incur the least amount of cost and expense (including legal fees) in doing so, and thereafter to seek to recover all of the fees and

expenses incurred in defeating Stansbury under section 768.79 and Rule 1.442. Everyone but Stansbury is aligned in that pursuit and share that common goal.

Regardless of what Stansbury says, his only motivation to file these motions is to advance his own interests as the expense of the Estate.

WHEREFORE, Ted S. Bernstein as Simon's Trustee requests that this Court enter orders: (i) denying Stansbury's Motion to Vacate; (ii) appointing Ted S. Bernstein as Administrator ad Litem to defend the Stansbury claim for no fee; and (iii) ratifying or confirming the appointment of Ted S. Bernstein as Successor Trustee or simply appointing him Trustee based upon the unanimous agreement of all beneficiaries; and as appropriate, award the costs and attorneys' fees and against Stansbury and his counsel.

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 28th day of November, 2016.

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