

RECEIVED, 12/15/2016 10:13 AM, Clerk, Fourth District Court of Appeal

Appendix Exhibit 1 Part 1

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

TED BERNSTEIN, as Trustee  
of the Shirley Bernstein Trust Agreement  
dated May 20, 2008, as amended,

Probate Division  
Case No.: 502014CP003698XXXXNBIJ

Plaintiff,

v.

**Objections to Proposed Order of Alan  
Rose/ Ted Bernstein and Proposed Order**

ALEXANDRA BERNSTEIN; ERIC BERNSTEIN;  
MICHAEL BERNSTEIN; MOLLY SIMON;  
PAMELA B. SIMON, Individually and as Trustee  
f/b/o Molly Simon under the Simon L. Bernstein Trust  
Dtd 9/13/12; ELIOT BERNSTEIN, individually, as  
Trustee f/b/o D.B., Ja. B. and Jo. B. under the  
Simon L. Bernstein Trust Dtd 9/13/12, and on behalf  
of his minor children D.B., Ja. B. and Jo. B.;  
JILL IANTONI, Individually, as Trustee f/b/o J.I.  
under the Simon L. Bernstein Trust Dtd 9/13/12,  
and on behalf of her Minor child J.I.;  
MAX FRIEDSTEIN; LISA FRIEDSTEIN, Individually,  
as Trustee f/b/o Max Friedstein and C.F., under the  
Simon L. Bernstein Trust Dtd 9/13/12, and on behalf  
of her minor child, C.F.,

Defendants.

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**OBJECTIONS TO PROPOSED ORDER OF ALAN B. ROSE AND TED BERNSTEIN'S  
PROPOSED "ORDER ON SUCCESSOR TRUSTEE'S MOTION TO  
APPOINT A GUARDIAN AD LITEM; FOR A GAG ORDER TO PROTECT THE  
GUARDIAN AND OTHERS; AND TO STRIKE ELIOT BERNSTEIN'S FILINGS" AND  
PROPOSED ALTERNATIVE ORDER**

**OBJECTIONS TO PROPOSED ALAN ROSE / TED BERNSTEIN ORDER**

1. Eliot and Candice Bernstein object to the entirety of the Order proposed by Alan Rose which was prepared in advance of the alleged evidentiary hearing.

2. The Hearing was improperly conducted since no electronic recording of the hearing took place and Guardianship Hearings should be designated as “GA” cases and subject to mandatory Electronic Recording according to the Court Reporting Services Department of the 15th Judicial Circuit and several clerks contacted. See, <http://15thcircuit.co.palm-beach.fl.us/web/guest/court-reporters>
3. That Chief Administrative Judge Colbrath’s Judicial Assistant Diana Grant suggested this matter should be Noticed back for a Hearing since no Electronic Record and did confirm Judge Phillips was Administrative Judge in the North Branch.
4. As Administrative Judge in the North Branch, it is presumed Judge Phillips knew and should have known the type of hearing he was conducting and took proper Judicial steps to ensure a proper Hearing record on such important issues as Guardianship and Eliot Bernstein requested a court reporter when he discovered that Alan Rose and Ted Bernstein took no steps to have one present at their GAL hearing.
5. The Court is requested to Disqualify on its own motion or Order new Hearings.
6. There is thus no record of the Hearings for the Court to resolve any issues in the proposed Order.
7. The Order submitted by Alan Rose and Ted Bernstein was drafted prior to the Hearing by Alan Rose and not shown to Eliot until after Rose gave it to the Judge at the end of the Hearing thus said proposed Order can not accurately reflect the record and was pre-fabricated wholly prior and Eliot objects as it cannot reflect a true record and there is no Record of these proceedings.
8. According to one of many witnesses at the Courthouse on Feb. 25, 2016, Alan Rose, Ted Bernstein and Steven Lessne were observed entering the Courtroom on Feb. 25, 2016 for the Hearing before Judge Phillips from at or around the Chambers of Judge Phillips where these

parties ultimately produced a Pre-Prepared Order in Advance of any “Hearing” which was not electronically recorded nor any Stenographer present.

9. Eliot Bernstein and his wife Candice Bernstein are fully capable, competent, educated parents of their minor children and there is no basis in law or fact for a guardianship as both parents are fully capable of making proper determinations for the minor children herein and protect their best interests (SEE ATTACHED EXHIBIT A - STATEMENT OF CREDITOR WILLIAM STANSBURY IN SUPPORT OF ELIOT AND CANDICE BERNSTEIN).
10. Eliot Bernstein and Candice Bernstein have already been wrongfully subjected to a Child Protective Services Hotline investigation on or about May 2015 and which resulted in an Unfounded basis for action with witnesses claiming it appeared to be a retaliation by those involved in the lawsuits before this Court. The complaint was dismissed as wholly baseless after a month long thorough investigation by CPS. The complaint allegations are similar to those allegations alleged in these proceedings, repeatedly.
11. Eliot Bernstein and Candice Bernstein have already undergone a Guardianship Hearing before Judge Colin where Guardianship was Denied and is and should remain as the law of the case. See Order dated August 20, 2014 in this lawsuit.
12. No change of circumstances or facts have been shown to support this Petition by Alan Rose coordinated with Steven Lessne which should be deemed abusive legal process practices by these attorneys and dismissed.
13. Eliot Bernstein’s actions in exposing fraud in the courts and amongst attorneys should be applauded, not sanctioned as should Eliot and Candice Bernstein be applauded for teaching their children to seek Truth and Justice and all legal costs and expenses to expose these costs and

defend against actions caused by fraud should be liable to the parties that committed Fraud on the Court and more.

14. The Court should be Reporting those Officers and Fiduciaries of this Court who have committed Proven and Admitted Felony Crimes, including a multitude of Fraud on the Court involving False, Fraudulent, Forged and Fraudulently Notarized Documents committed by multiple parties in conspire and the Court has done nothing to rectify, resolve or report these crimes and criminals to the proper authorities, including the Chief Judge and Inspector General, state and federal law enforcement or the state attorney and judicial disciplinary departments and instead holds hearings to retaliate against the Whistleblower Eliot who has done nothing but expose their many crimes.
15. Eliot and Candice's children are well adjusted, educated and have 2 varsity athletic minor children and it is not an appropriate basis to impose Guardianship and additional costs and fees for the failure to go along with fraud and for exposing fraud in and about the Courthouse.
16. Alan Rose and Ted Bernstein's complaint should be Dismissed as the underlying Trust documents that these parties are operating under have never been disclosed in over 3 years of litigation as part of abusive discovery tactics.
17. Alan Rose and Ted Bernstein's complaint should be dismissed as a proper sanction for involvement in missing and lost documents and all documents including originals never produced by Ted Bernstein's business partners Tescher & Spallina upon their resignation before Judge Colin after fraud in the Shirley Bernstein estate was proven and as a further sanction for Alan Rose misleading this Court on Dec. 15, 2015<sup>1</sup> that no such Order to Disclose<sup>2</sup> was issued.

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<sup>1</sup> December 15, 2015 Hearing Judge John Phillips  
<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20151215%20Hearing%20Transcript%20Phillips%20Validity%20Hearing.pdf>

## **Relevancy of Evidence and Bad Faith in its Destruction**

18. From the Florida Bar resources, In *Federal Insurance Co. v. Allister*, 622 So. 2d 1348, 1351 (Fla. 4th DCA 1993), the Fourth District set forth five factors to consider before imposing sanctions for spoliation of evidence: “(1) whether there is prejudice; (2) whether the prejudice can be cured; (3) the practical importance of the evidence; (4) the good faith or bad faith surrounding the loss of evidence; and (5) possible abuse if the evidence is not excluded.”<sup>4</sup>
19. This Court should be holding new Case Management Conferences for a Complex case assuming the Court does not determine on it’s own motion it should have Disqualified previously and then holding Discover Compliance hearings and then Spoliation and bad faith hearings for the loss, destruction and or intentional destruction of Originals and documentary evidence, Discovery abuses and resolve all outstanding Discovery first and Dismiss all Guardianship hearings or Stay such hearings.
20. The minor children have repeatedly been denied access to Trust funds for counsel of their own choosing and also this Court has denied adjournments when Counsel has attempted to come in pro hac vice.
21. No hearings should be scheduled until full hearings on “Original” documents and Trust and Will Instruments are determined as there appear to be NO TRUSTS that are the basis for this lawsuit, nowhere has anyone, including Tescher and Spallina who were ordered to turn over their records and who are alleged to have created these trusts on the day Simon died produced these documents that Eliot is sued hereunder as Trustee of and his children are alleged beneficiaries of.

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<sup>2</sup> Feb 18. 2014 Order to Produce ALL Records in Simon and Shirley Bernstein Estate Cases Held by Tescher and Spallina for Bernstein family as former removed Fiduciaries and Counsel in the matters due to Admitted and Proven Fraud and Forgery in these matters by their law firm.  
<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20140218%20ORDER%20ON%20PETITION%20FOR%20DISCHARGE%20TESCHER%20SPALLINA%20Case%20502012CP004391XXXXSB%20SIMON.pdf>

22. Thus, in disputed Proposed Orders such as this one the rules state that the Judge will go back to the record and determine the veracity of the parties Proposed Orders but there is no Record, Thus, the Proposed Order of Ted Bernstein and Alan Rose should be denied in it's entirety.
23. Further, these Simon Trusts for his Grandchildren are alleged to have been created the day he died and were not made part of the Simon Trust that was improperly validated by this Court when the Trust language states they are held thereunder.
24. Eliot is sued as Trustee of Trust created under the Simon Trust that has never been produced to Eliot as Trustee or his Children that are alleged beneficiaries. The Trusts were not made part of the original complaint and when requested by Eliot's retained counsel seeking Pro Hac Vice she was refused the documents that her client Eliot and Trustee and his Children as Beneficiaries are sued hereunder in.
25. Eliot does not know the terms of the alleged Trusts he is Guardian for and has never signed or seen such trust as captioned above and the beneficiaries, his minor and now adult children have never been given copies to know what the terms of the trusts state and so this lawsuit is based on NON-EXIST SIMON TRUSTS FOR HIS GRANDCHILDREN that no party allegedly possesses or has produced and therefore represents yet another Fraud on the Court by Alan Rose and Ted Bernstein.
26. Until such 10 missing trusts are produced and delivered to the trustee and beneficiaries by the alleged fiduciary Ted that is Suing them in this capacity under these alleged Trusts any Guardianship hearings should be dismissed or stayed and sanctions granted and all of this reported to state authorities, the Chief Judge Colbath and the Inspector General of the Court.
27. The language of the Shirley Trust Agreement that this Court claims valid states that **TED BERNSTEIN IS CONSIDERED PREDECEASED FOR ALL PURPOSES OF DISPOSITIONS**

OF THE SHIRLEY TRUST and this filing is regarding disposition of the Shirley Trust where Ted is thus considered Pre-Deceased by the express language and thus not proper to act.

28. Eliot is sued as Trustee of Trust created under the Simon Trust that has never been produced to Eliot as Trustee or his Children that are alleged beneficiaries. The Trusts were not made part of the original complaint and when requested by Eliot's retained counsel, Candice Schwager, Esq. seeking Pro Hac Vice she was refused the documents that her client Eliot as Trustee and his Children as Beneficiaries are sued hereunder in and need to respond to but Ted and Alan Rose acting as alleged fiduciaries and counsel to the Simon Trust where the Grandchildren Trusts are deemed to be held thereunder but are not in the Simon Trust this Court deemed valid have refused<sup>3</sup> retained counsel the documents that form the basis of this lawsuit so that she could enter Pro Hac Vice after review<sup>4</sup>.
29. Further, these Simon Trusts for his Grandchildren are alleged to have been created the day he died and were not made part of the Simon Trust that was improperly validated by this Court when the Trust language states they are held thereunder.
30. Finally, Spallina and Tescher are court ordered by this Court to have produced ALL their records and in the production copies sent NONE OF THESE TRUSTS WERE INCLUDED and they claim to have created them the day Simon died and therefore should have been included in Production as they should have been made part of this lawsuit and should have been part of the Simon Trust that states they are held thereunder.

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<sup>3</sup> January 06, 2016 Alan Rose Letter Denying Minor Children Counsel and Eliot Counsel the Trust documents that form the basis of this Lawsuit.

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20160106%20Rose%20Denying%20to%20talk%20or%20give%20information%20to%20Attorney%20Schwager.pdf>

<sup>4</sup>Candice Schwager, Esq. Pro Hac Vice Submission

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20151212%20Candice%20Schwager%20Pro%20Hac%20Vice%20ECF%20Filing%20Stamped%20Copy.pdf>



31. Eliot does not know the terms of the alleged Trusts he is Trustee for and has never signed or seen such trust as captioned above and the beneficiaries, his minor and now adult children have never been given copies to know what the terms of the trusts state and so this lawsuit is based on NON-EXIST SIMON TRUSTS FOR HIS GRANDCHILDREN that no party possess or has produced and therefore represents yet another Fraud on the Court by Alan Rose and Ted Bernstein.
32. No information was given at the December 15, 2015 (SEE EXHIBIT DEC 15 2015 Hearing Transcript already Exhibited herein via URL) hearing regarding who the beneficiaries were as it was merely a trust validity hearing and under the trust this court alleges to be valid Eliot Bernstein Family Trust and Eliot Bernstein are direct beneficiaries under Shirley Bernstein's Trust Agreement (see Exhibit 1 – Shirley Trust Language on Beneficiaries) that is IRREVOCABLE, thus Alan Rose has misled the Court and this wholly contradicts the record of what transpired in the December 15, 2015 hearing (as the resulting order that was also prefabricated prior to the hearing and thus could not have accurately reflected the record, which it does not, see exhibited transcript versus order.
33. This Court has held no hearings to determine that Shirley Bernstein's Trust's beneficiaries are not Eliot and Eliot Family Trust as so stated in the Trust nor held any proper Construction hearing.
34. The Court again erred and is being appealed on this issue as Eliot has standing individually as he was sued individually and counter sued individually and has standing as a beneficiary of Shirley's irrevocable trust, as well as standing as the Trustee of the NONEXISTENT Trust for his children as stated in the Complaint heading (a trust Eliot has never seen, never been given copy of and was not produced ever by Tescher and Spallina who claim to have created these trusts on the day Simon Bernstein died and who were court ordered to turn over all records to the

Curator Benjamin Brown when they resigned after admitting FRAUDULENTLY CREATING AND DISTRIBUTING A FRAUDULENT SHIRLEY BERNSTEIN TRUST AND SENDING IT TO ELIOT'S CHILDREN'S COUNSEL and their LAW FIRM WAS FOUND TO HAVE SUBMITTED MULTIPLE FORGED AND FRAUDULENTLY NOTARIZED FALSE INSTRUMENTS TO THE COURT AND OTHERS, INCLUDING FORGING A DEAD PERSON, SIMON BERNSTEIN'S SIGNATURE AND FIVE OTHER PARTIES INCLUDING ELIOT'S SIGNATURE) and these ALLEGED trusts he is sued under have NO originals possessed or seen by TED BERNSTEIN who admitted in the December 15, 2015 hearing to not having ever seen the original trusts he is operating under in the Simon and Shirley Trust and Estate cases and these alleged grandchildren trusts created on the day Simon died, September 13, 2012 have been refused to be turned over to Eliot or his counsel Candice Schwager despite repeated requests and were not made part of this Complaint filed by Ted suing Eliot in such capacity and claiming his children are beneficiaries.

35. Further, Brian O'Connell has order of this Court to have ALL of Tescher and Spallina's records turned over to him, including ALL ORIGINALS and O'Connell only has one original document in his possession turned over (and it is not a Simon and Shirley Estate document) and thus no ORIGINAL DOCUMENTS WERE TURNED OVER and the COURT IS OPERATING ON ALLEGED FRAUDULENT RECREATIONS and PRODUCTION OF ALL ORIGINAL ESTATE AND TRUST AND PROPERTY RECORDS OF SIMON MUST BE TURNED OVER FOR INSPECTION IMMEDIATELY BY WHOMEVER POSSESSES THEM AND SPALLINA AND TESCHER ORDERED TO SHOW CAUSE AS TO WHY THEY ARE IN CONTEMPT OF COURT FOR FAILURE TO PRODUCE ALL RECORDS ORDERED.

36. Mr. Rose and his client Ted Bernstein have stated they have never seen the original trust documents and do not possess them for any trusts and thus this Court ruled to make copies of the trust valid at a VALIDITY HEARING when the only witness brought to validate them was Robert Spallina who is under an SEC consent order, which he violated as witness when denying his plea to CRIMINAL MISCONDUCT and admitted new crimes of Fraud on the Court, mail fraud and other crimes he stated he never made any party aware of prior to December 15, 2015 hearing before Phillips who now has had knowledge of felony admissions and possible SEC consent violation by SPALLINA as an Officer of the Court and former Court Appointed Fiduciary before him. Since learning of these crimes testified and admitted to in Open Court at the hearing and evidence further submitted in subsequent filings to this Court, Judge John L. Phillips has taken absolutely no steps proper a judge or party with information regarding felony misconduct to report to the proper state and federal tribunals would be required by law and judicial canons to take and thus this appears that acting Outside the Color of Law Judge Phillips is aiding and abetting the cover up of state and federal crimes and this would also be Misprision of Felony.

37. Eliot has standing in these cases despite a fraudulently obtained court Order however in regards to any trusts alleged to exist as he is a beneficiary in all but one trust of Simon and was a beneficiary in that trust until only a few days before Simon's death in an Amended and Restated Trust that this Court deemed valid despite Governor Rick Scott's Notary Public Division already finding that the Simon Trust was not properly notarized. The trusts for the children that Ted and Rose allege are the beneficiaries have never been produced to this court or any party that Eliot is aware of. Further, it is wildly claimed that Shirley's Irrevocable Beneficiaries are not the beneficiaries and that Simon's alleged Beneficiaries are the beneficiaries of Shirley's Trust,

despite no such claim in the Shirley Trust this court deemed valid and it should be noted that this appears an attempt by Alan Rose and Ted to make it appear that prior alleged improper distributions of a Shirley Trust asset were paid to 7-10 of Simon's Beneficiaries to trusts that have never been produced. Further the Court should note the Illinois Federal Lawsuit for the Life Insurance Policy, which is also missing, was filed by Ted on another trust that NO EXECUTED COPY OR ORIGINAL EXISTS OR HAS BEEN TENDERED TO THAT COURT and where again further fraud on a Federal Court has been alleged for similar reasons as the instant case.

38. Due to this Court's removing standing of a named beneficiary Eliot and alleged Trustee of missing trusts on behalf of his children just because Eliot did not know the statute that gave him standing as a beneficiary and trustee when asked by Judge Phillips (who knows Eliot is pro se) he therefore lost standing and despite later filings that gave the correct statutes to Judge Phillips that give him standing to refute his ill gotten and precedent setting Order with no Construction hearing deciding beneficiaries held as the record reflects and thus part of defective and ill-gotten Order, Judge Phillips has refused to reconsider and thus the Order is appealed.
39. That Pro Se Eliot not knowing the statute when asked as basis for losing standing and the Court's refusing all filings in these matters since that time becomes precedent setting and jeopardizes any beneficiary of the Florida Court that does not know off hand at a 5 Minute UMC hearing the code section that gives beneficiaries standing. The removal of standing is a an attempt to silence Eliot's ability to further prove Fraud in and by the Court and its officers, fiduciaries and judges as a whistleblower, including the new crimes admitted by Spallina before Judge Phillips.
40. Eliot filed pleadings in several capacities that he has consistently filed under including as Natural Guardian on behalf of his minor children, Daniel Elijsha Abbe Ottomo Bernstein and Jacob

Noah Archie Bernstein and his now adult child Joshua Ennio Zander Bernstein. By refusing Eliot's filings submitted to the court recently claiming Eliot has NO standing despite the pleading being filed in multiple valid capacities and his order only denying individual standing, Judge Phillips has denied the minor children being represented in either of the last two hearings by counsel and thus despite claims that they are beneficiaries they have not been represented at ANY hearings by counsel and counsel has been blocked by Ted Bernstein, Alan Rose and this Court, despite Eliot having counsel waiting to come in but who cannot get the Grandchildren's Trust to review and enter the case properly. This denies Eliot's children counsel and appears a violation of their Constitutional Due Process rights.

41. Judge Phillips has refused to reschedule hearings to get the minor children counsel and delay hearings until Eliot's retained counsel Candice Schwager, Esq. could get in the case Pro Hac Vice to defend them after getting the MISSING TRUSTS FROM THE FIDUCIARIES, while simultaneously Rose and Ted acting as fiduciaries refuse documents that would enable her to review the trusts and come into the case and have refused her documents as already exhibited in URL herein. Instead of giving her the requested trusts that no one has seen and Eliot is sued as Trustee of and his children beneficiaries of in this matter and having the children have counsel, this bizarre and frightening attempt to get a predatory guardianship applied instead with their friends or by appointment of the court, is a major ABUSE OF PROCESS when all the children really need is counsel or Counsel Ad Litem.
42. Mr. Rose refused to turn over documents to Schwager and made slanderous allegations in court against her on February 25<sup>th</sup> 2016 at the hearing, offering no proof of his allegations or witnesses and thus had no reason when questioned by Eliot as a Witness/Counter Defendant at the hearing

for his refusal to turn over documents to retained counsel Schwager, who was trying to get documents to evaluate the complaints and enter Pro Hac Vice for the hearings.

43. That Eliot claims this court now under Judge Phillips tutelage is conducted as a further fraud on the court and fraud by the court to cover up MULTIPLE PROVEN CRIMES BY OFFICERS, FIDUCIARIES AND JUDGES of this Court, as there has already been proven fraud and forgery in these cases by Ted Bernstein and his former counsel Spallina and Tescher who are now under consent with the SEC.
44. The Court has been given evidence that in the December 15, 2015 hearing this Court became further aware of criminal misconduct of Spallina, including federal crimes admitted before Judge Phillips and this guardianship is being sought as retaliation and to silence Eliot from exposing further the crimes and Judge Phillips failure to notify authorities, which is a Misprision of Felony and Violation of Judicial Canons as Eliot stated to Judge Phillips in the February 25, 2016 noticing Judge Phillips that he would be filing charges against him if he did not contact the proper tribunals of the crimes before many witnesses in the Court that day.
45. This Guardian/Gag Order is a further attempt to extort and harass Eliot and his family before the feds and others come in and make arrest, especially where Eliot was on the front page of the Palm Beach Post being interviewed regarding an ongoing Guardian Series Exposing Explosive information of Massive Conflicts of Judge Colin and Judge French both prior judges in these matters and involving hundreds of cases Colin then recused from for undisclosed conflicts with his wife Elizabeth Savitt Colin and Judge French. (SEE EXHIBIT - PALM BEACH POST<sup>5</sup>)

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<sup>5</sup> "Florida guardianship reform passes; seniors protest at courthouse." By John Pacenti - Palm Beach Post Staff Writer Posted: 7:20 p.m. Wednesday, Feb. 24, 2016  
<http://www.mypalmbeachpost.com/news/lifestyles/health/florida-guardianship-reform-passes-seniors-protest/nqXbx/>

46. No such proof or evidence was given to this Court in regard to this guardian hearing and in fact the court was given multiple orders stating Eliot and his wife Candice are qualified to represent their children in already established law of the case as exhibited already herein.
47. Candice Bernstein is a natural guardian and has no conflict with the matters as she is not a claimed beneficiary and this court has not removed her standing as Natural Guardian so she should be appointed if Eliot is somehow disqualified by further void orders, as Judge John Phillips has refused to disqualify on multiple solid grounds for his disqualification and fear that Eliot will not and has not received a fair hearing and trial by Judge Phillips who the case was improperly transferred to by Judge Colin's post recusal steering of the case, first to a judge, Howard Coates, who was a partner in a law firm being sued in these matters as counter defendant and who denied being involved with Eliot's former companies but evidence reveals he was a billing partner on the Iviewit companies and then after his Sua Sponte recusal after gaining access to the confidential court files it was transferred to Judge Phillips who should have recused for numerous reasons stated in his disqualification papers<sup>6</sup>, SEE ATTACHED.)
48. Again Candice Bernstein is a non conflicted party and is a suitable natural guardian and no arguments or evidence was presented at trial that either her or Eliot were unfit in any way, in fact most of the claim is that Eliot is pursuing Court Corruption and seeking to have prosecuted attorneys and judges who are alleged to be involved in crimes such as those his efforts have led

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<sup>6</sup> December 04, 2015 Disqualification

<http://www.iviewit.tv/Simon%20and%20Shirley%20Estate/20151204%20FINAL%20SIGNED%20NOTARIZED%20Disqualification%20of%20Florida%20Circuit%20Court%20Judge%20John%20L%20Phillips%20ECF%20STAMPED.pdf>

Corrections

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20151204%20FINAL%20CORRECTIONS%20to%20Disqualification%20of%20Florida%20Circuit%20Court%20Judge%20John%20L%20Phillips%20ECF%20STAMPED.pdf>

and

December 28, 2015 2nd Disqualification of 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>

to arrest and admission of felony misconduct in these cases, which seems like RETALIATION for seeking truth and justice against any person who has violated the law (NO ONE ABOVE THE LAW INCLUDING ATTORNEYS AND JUDGES) and not bad parenting.

49. All intentional delays in inheritance and wastes of monies have been caused by Ted and his former counsel Tescher and Spallina who committed fraud on this court and the beneficiaries and in their resignation letter<sup>7</sup> Donald Tescher stated they wanted to make reparations for their damages and so all these costs are due to them and they were contracted by Ted and thus they should be forced to post bonding instantly to pay ALL ELIOT AND HIS CHILDREN'S LEGAL FEES. Since their crimes benefitted Ted directly and they were acting as Ted's counsel Ted should have also been removed as party to the Fraud on this Court. Mr Rose attempts to spin the costs and delays on Eliot when ALL of these interferences with inheritances, questionable beneficiaries, etc. was due to a series of fraudulent documents and frauds on the courts by Tescher & Spallina, PA et al. that caused all these disputes, costs, etc. Eliot and his minor children are victims now being further victimized through these continued fraudulent proceeding conducted OUTSIDE THE COLOR OF LAW and in violation of law, judicial canons and attorney conduct codes.

50. This court was made aware on the record at the December 15,2015 that Mr. Spallina through US mail send a Fraudulently created trust document to Eliot's minor children's counsel Christine Yates as part of an elaborate fraud and their law firm submitted Fraudulent and FORGED Documents to the Court in these matters for six parties, including a deceased Simon and the Court has failed again to notify authorities or do anything about admissions of officers of the court under sworn testimony before Judge Phillips admitting these crimes as the record reflects.

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<sup>7</sup> January 14, 2014 Tescher and Spallina Resignation Letter  
<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20140114%20Tescher%20and%20Spallina%20Resignation%20Letter%20as%20PR%20in%20estates%20of%20Simon%20and%20Shirley.pdf>



Judge Phillips and Rose and Ted appear to be working together to cover this up and shut this down and silence Eliot and his children before all these new crimes are revealed and investigated and prosecuted. So far Eliot's work has led to arrest of Tescher and Spallina law firm member and has led to admission to PB Sheriff and this court of new crimes that are yet to be prosecuted, new crimes to the FBI and SEC and the court has admitted it has done nothing about in the hearing on February 25, 2016 in front of multiple witnesses who attended the hearings.

51. Recently Eliot was on the cover of the Palm Beach Post in an article on the ABUSE OF GUARDIANSHIP IN FLORIDA and the two judges covered in the story are the two former judges in these cases, Colin and French who are accused of similar crimes as those alleged by Eliot by many other parties and for running court proceedings in conflicts that benefited them and Colin's wife, perhaps this is further reason for Judge Phillips rulings to deny Eliot due process and shut him down after professing he "loved" Martin Colin in the first hearing and would not be reviewing his orders despite claims that he acted outside the color of law in ruling once he failed to disqualify himself when fraud on the court was discovered and he became a material and fact witness and possible suspect in the CRIMINAL FRAUD IN AND ON THE COURT THAT WAS PROVEN AGAINST COLIN'S COURT APPOINTED FIDUCIARIES AND COUNSEL TESCHER AND SPALLINA AND TED BERNSTEIN.

52. Ted Bernstein is under multiple state and federal investigations filed by both Eliot and Creditor William Stansbury.

53. Again, if a Guardian was necessary for Eliot's minor children than those minors of Lisa Friedstein and Jill Iantoni would also be in need of Guardians for conflicts identical what Mr. Rose is claiming Eliot has with his children, yet Mr. Rose does not seek Guardian Ad Litem for them and they have not had counsel representing them at all throughout these hearings.

54. Eliot is the only person who has sought and retained counsel for his minor children that was not conflicted with him, but their lawyer, Christine Yates of Tripp Scott was driven off after wasting considerable monies trying to get dispositive documents and then getting fraudulent documents when she finally got them.
55. Ted and Mr Rose are attempting to use this predatory Guardianship as a weapon and enlisting the Court to attempt this Child Abuse in efforts to gain control over their money and lives and silence Eliot from exposing the ongoing criminal activities going on in this Court.
56. Eliot will not agree to any guardian proposed by Alan Rose or Ted Bernstein and if this court appoints such a predatory guardian Eliot will also reject any Guardian proposed by Judge Phillips who is acting outside the color of law and is conflicted with these matters.
57. In fact, in the February 25, 2016 hearing Judge Phillips was given a Federal Complaint filing to Judge John Robert Blakey whereby Alan Rose presented into evidence Exhibit A of the complaint, SEE EXHIBIT – MOTION FOR INJUNCTION<sup>8</sup>. and whereby Exhibit A is a list of defendants Eliot is seeking to add as parties to the complaint, including Judge Phillips as a material and fact witness to crimes that occurred in his Court by Robert Spallina at the December 15, 2012 hearing and as an alleged suspect for his failure to report the crimes as required by Judicial Canon and law and Eliot will take any attempt to force Guardian on his children as a reportable criminal act in retaliation of a Whistleblower.
58. Any attempt to have a Guardian pay any attorney fees out of any Estate and Trust assets will also be viewed as criminal conversion of Estate and Trust assets and added to ongoing criminal and civil actions.

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<sup>8</sup> February 24, 2106 II Federal Court Filing Naming Judge Phillips as a party to be added to an Amended Counter Complaint in Exhibit A as a material and fact witness and as a potential conspirator in the Conspiracy Count and more.  
<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20160224%20FINAL%20ESIGNED%20MOTION%20FOR%20INJUNCTION%20ECF%20STAMPED%20COPY%20COMBINED%20FILING.pdf>

59. Eliot believes that this Court has taken improper jurisdiction through orders that are being sought to be voided at this time for Fraud on the Court, Fraud by the Court and other violations of Attorney Conduct Codes, Judicial Canons and State and Federal law.
60. The Court should note that the buyer of the Saint Andrews home that this Court recently approved the sale of and referenced in the Plaintiff's Federal complaint exhibited herein in URL already, was allegedly found dead on February 23<sup>rd</sup> 2016 of a gunshot wound to the head in the Garage of Eliot's father's home<sup>9</sup> and this after Eliot had contacted a person named in the transaction that denied knowing of the transaction approved by this Court or how her name is on documents in the closing and the FL state department and where it was alleged in Federal filings that this sale APPROVED by this Court despite protests by Eliot, was done with fraudulent instruments including an alleged fraudulent deed notarized by Alan Rose. Esq. as already exhibited herein in the Federal papers filed.
61. This Court should report these matters additionally to all proper state and federal authorities and again Judge John Phillips and Judge Martin Colin will be material and fact witnesses to the home sale that is alleged to have been done through Fraud on the Court and Fraud by the Court.
62. That the Court should take **JUDICIAL NOTICE** and REPORT THE FOLLOWING  
CRIMINAL MISCONDUCT AND NEW FRAUD ON THE COURT INFORMATION  
ADMITTED TO BEFORE JUDGE PHILLIPS UNDER OATH BY SPALLINA, the sole witness to the validity hearing before Judge Phillips, who in the hearing violated his signed SEC consent Order for criminal conduct involving insider trading and admitted to new crimes under oath, including Fraud on the Court, Fraud on Beneficiaries, Mail Fraud and more in the

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<sup>9</sup> "EXCLUSIVE — Donald Trump Friend, Motivational Speaker Mitch Huhem Found Dead in \$1.1 Million-Boca Raton Home ... Suicide Suspected!" February 26, 2016 by Jose Lambiet  
<http://www.gossipextra.com/2016/02/26/donald-trump-friend-motivational-speaker-mitch-huhem-found-dead-boca-raton-5709/>

December 15, 2016 hearing. **Spallina Perjured his testimony about not having pled to felony or misdemeanor charges as the SEC Order shows he plead to criminal conduct thus mandating it be either felony or misdemeanor criminal conduct.**

63. The following information is cause for impeachment of Spallina's testimony made with "unclean hands" and voiding of the validity hearings ruling due to the criminal conduct learned and committed in the Court on December 15, 2015 by Spallina, a court appointed officer of the court and a court appointed fiduciary in these matters. Therefore, immediate actions should be taken by the Court to notify proper authorities, including but not limited to, the SEC of the violation of his Consent Order that Spallina signed as evidenced in the referenced herein Consent Order, the FBI regarding the newly admitted Mail Fraud, the Sheriff department regarding the newly admitted Fraud on the Court, Fraud on Beneficiaries and their counsel and the misuse of a deceased person's identity to close another deceased person's estate (now fully admitted), the Inspector General of the Courts due to the Fraud on the Court and alleged Fraud by the Court, the Chief Judge and where the Court is the scene of fresh new crimes of continued Fraud on the Court in these matters, this Court should disqualify itself entirely from the matters as it appears that one cannot investigate oneself or one's court and judicial friends and loves without a **MASSIVE APPEARANCE OF IMPROPRIETY;**

- a. On or about September 28, 2015, the SEC out of Washington, DC publicly announced Insider Trading and related charges in a separate action against Florida attorneys and Third-Party Defendants herein SPALLINA and TESCHER. That SPALLINA pled guilty of criminal misconduct and the SEC Consent signed by SPALLINA states,

"2. Defendant has agreed to plead guilty to criminal conduct relating to certain matters alleged in the complaint in this action and acknowledges that his conduct violated the federal securities laws. Specifically, Defendant has agreed to plead guilty to a one count information which

charges him with committing securities fraud involving insider trading in the securities of Pharmasset, Inc. in a matter to be filed in the United States District Court for the District of New Jersey, (the “Criminal Action”).”<sup>10</sup>

- b. December 15, 2015 hearing under sworn oath as a witness in a Validity Hearing before Judge PHILLIPS, SPALLINA stated the following from the hearing transcript Page 93 Lines 14-22<sup>11</sup>;

14. . . . . THE COURT: You can answer the question, which  
15. . . . . is, did you plead to a felony?  
16. . . . . MR. BERNSTEIN: Sorry, sir.  
17. . . . . THE WITNESS: I have not.  
18. . . . . THE COURT: Okay. Next question.  
19. BY MR. BERNSTEIN:  
20. . . . Q. Have you pled guilty to a misdemeanor?  
21. . . . A. **I have not. [emphasis added]**  
22. . . . Q. Were you involved in a insider trading case?  
23. . . . . MR. ROSE: Objection. Relevance.  
24. . . . . THE COURT: Sustained. Next question.

- c. Further, in the SEC Consent signed by SPALLINA reads,

“12. Defendant understands and agrees to comply with the term of 17 C.P.R. f 202,S(e). which provides in part that it is the Commission's policy "not to permit a defendant or respondent to consent to a judgment or order that imposes a sanction while denying the allegations in the complaint or order for proceedings." As part of Defendant's agreement to comply with the terms of Section 202.5(e), Defendant acknowledges that he has agreed to plead guilty for related conduct as described in paragraph 2 above, and: (i) will not take any action or make or permit to be made any public statement denying, directly or indirectly, any allegation in the complaint or creating the impression that the complaint is without factual basis; (ii) will not make or permit to be made any public statement to the effect that Defendant does not admit the allegations of the complaint, or that this Consent contains no admission of the allegations; (iii) upon the filing of this Consent, Defendant hereby withdraws any papers filed in this action

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<sup>10</sup> September 28, 2015 SEC Government Complaint filed against TESCHER and SPALLINA @ <http://www.sec.gov/litigation/complaints/2015/comp-pr2015-213.pdf>

<sup>11</sup> December 15, 2015 PHILLIPS VALIDITY HEARING TRANSCRIPT  
<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20151215%20Hearing%20Transcript%20Phillips%20Validity%20Hearing.pdf>

to the extent that they deny any allegation in the complaint; and (iv) stipulates for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. §523, that the allegations in the complaint are true...”

- d. SPALLINA further states under sworn testimony at the Validity Hearing regarding the trust documents he created being valid admits to fraudulently altering a Shirley Trust Document and sending to Attorney at Law Christine Yates, Esq. representing the minor children of Eliot via the mail, Page 95 Lines 14-25 and Page 96 Line 1-19,

14. . . . Q. . Mr. Spallina, have you been in discussion with  
15. . the Palm Beach County Sheriff's Office regarding the  
16. . Bernstein matters?

17. . . . . MR. ROSE: . Objection. . Relevance.

18. . . . . THE COURT: . Overruled.

19. . . . . You can answer that.

20. . . . . THE WITNESS: . Yes, I have.

21. . BY MR. BERNSTEIN:

22. . . . Q. . And did you state to them that you  
23. . fraudulently altered a Shirley trust document and then  
24. . sent it through the mail to Christine Yates?

25. . . . A. . Yes, I did.

1. . . . Q. . Have you been charged with that by the Palm  
2. . Beach County Sheriff yet?

3. . . . A. . No, I have not.

4. . . . Q. . Okay. . How many times were you interviewed by  
5. . the Palm Beach County Sheriff?

6. . . . . MR. ROSE: . Objection. . Relevance.

7. . . . . THE COURT: . Sustained.

8. . BY MR. BERNSTEIN:

9. . . . Q. . Did you mail a fraudulently signed document to  
10. . Christine Yates, the attorney for Eliot Bernstein's  
11. . minor children?

12. . . . . MR. ROSE: . Objection. . Relevance.

13. . . . . THE COURT: . Overruled.

14. . . . . THE WITNESS: . Yes.

15. . BY MR. BERNSTEIN:

16. . . . Q. . And when did you acknowledge that to the  
17. . courts or anybody else? . When's the first time you came  
18. . about and acknowledged that you had committed a fraud?

19. . . . A. . **I don't know that I did do that [emphasis added].**

e. SPALLINA then perjures himself in self contradiction when he tries to claim that his law firm did not mail Fraudulent documents to the court and commits here further FRAUD ON THE COURT when he then slips up and admits that his legal assistant and notary public Kimberly Moran, already prosecuted in these matters for fraudulent notarization and who has admitted forgery of six persons in these matters then sent the fraudulent documents back to the court when he states;

10· ·BY MR. BERNSTEIN:

11· ··· Q· ·And what was she convicted for?

12· ··· A· ·She had notarized the waiver releases of

13· ·accounting that you and your siblings had previously

14· ·provided, and we filed those with the court.

15· ··· Q· ·We filed those with the court.

16· ····· Your law firm submitted fraudulent documents

17· ·to the court?

18· ··· A· ·No· We filed -- we filed your original

19· ·documents with the court that were not notarized, and

20· ·the court had sent them back.

21· ··· Q· ·And then what happened?

22· ··· A· ·And then Kimberly forged the signatures and

23· ·notarized those signatures and sent them back.

f. That not only does SPALLINA admit to Felony criminal acts that have not yet been investigated but admits that his office members are also involved in proven Fraudulent Creation of a Shirley Trust and where MORAN has already admitted six counts of forgery for six separate parties (including for a deceased Simon and for Eliot) and fraudulent notarizations of such documents when Spallina states in the hearing Pages 102-103,

102

20· ····· MR. BERNSTEIN:· Sure.

21· ·BY MR. BERNSTEIN:

22· ··· Q· ·You've testified here about Kimberly Moran.

23· ····· Can you describe your relationship with her?

24· ··· A· ·She's been our long-time assistant in the

25· ·office.

103

·1· ··· Q· ·Was she convicted of felony fraudulent

·2· ·notarization in the Estate of Shirley Bernstein?

- .3. . . . . MR. ROSE:· Objection.· Relevance.
- .4. . . . . THE COURT:· Overruled.
- .5. . . . . You're asking if she was convicted of a felony
- .6. . . . with respect to the Estate of Shirley Bernstein?
- .7. . . . . You can answer the question.
- .8. . . . . MR. BERNSTEIN:· Correct.
- .9. . . . . THE WITNESS:· I believe she was.

g. SPALLINA then claims that it is “standard operating procedure” for he and his clients to sign sworn Final Waivers under penalty of perjury with knowingly and irrefutably false statements and admitting that the April 09, 2012 Full Waiver (already referenced and linked herein) submitted to this Court by Spallina’s law firm in October of 2012 by Simon Bernstein, at a time after his death on September 13, 2012 and yet still acting as the Personal Representative, signed under penalty of perjury allegedly by Simon Bernstein and witnessed by Spallina, contained knowingly false statements . Then SPALLINA had a deceased Simon file that alleged sworn document with the Court as Personal Representative on a date after his death as part of a Fraud on the Court and Fraud on the Beneficiaries and Interested Parties. SPALLINA states in testimony as follows,

Pages 108-110

- 17. . . . Q.· Okay.· Are you aware of an April 9th full
- 18. ·waiver that was allegedly signed by Simon and you?
- 19. . . . A.· Yeah.· That was the waiver that he had signed.
- 20. ·And then in the May meeting, we discussed the five of
- 21. ·you, all the children, getting back the waivers of the
- 22. ·accountings.
- 23. . . . Q.· Okay.· And in that April 9th full waiver you
- 24. ·used to close my mother's estate, does Simon state that
- 25. ·he has all the waivers from all of the parties?
- .1. . . . A.· He does.· We sent out -- he signed that, and
- .2. ·we sent out the waivers to all of you.
- .3. . . . Q.· Okay.· So on April 9th of 2012, Simon signed,
- .4. ·with your presence, because your signature's on the
- .5. ·document, a document stating he had all the waivers in
- .6. ·his possession from all of his children.
- .7. . . . . Had you sent the waivers out yet as of
- .8. ·April 9th?



...

20 · BY MR. BERNSTEIN:

21 · . . . Q. · April 9th, 2012, you have a signed full waiver  
22 · of Simon's that says that he is in possession of all of  
23 · the signed waivers of all of the parties?

24 · . . . A. · Standard operating procedure, to have him  
25 · sign, and then to send out the documents to the kids.

..

·1 · . . . Q. · Was Simon in possession -- because it's a  
·2 · sworn statement of Simon saying, I have possession of  
·3 · these waivers of my children on today, April 9th,  
·4 · correct, the day you two signed that?

·5 · . . . . . Okay. · So if you hadn't sent out the waivers  
·6 · yet to the --

·7 · . . . A. · I'm not certain when the waivers were sent  
·8 · out.

·9 · . . . Q. · Were they sent out after the --

10 · . . . A. · I did not send them out.

11 · . . . Q. · Okay. · More importantly, when did you receive  
12 · those? · Was it before April 9th or on April 9th?

13 · . . . A. · We didn't receive the first one until May.

14 · And it was your waiver that we received.

15 · . . . Q. · So how did you allow Simon, as his attorney,  
16 · to sign a sworn statement saying he had possession of  
17 · all of the waivers in April if you didn't get mine 'til  
18 · May?

19 · . . . . . MR. ROSE: · Objection. · I think it's relevance  
20 · . . . and cumulative. · He's already answered.

21 · . . . . . THE COURT: · What's the relevance?

22 · . . . . . MR. BERNSTEIN: · Oh, this is very relevant.

23 · . . . . . THE COURT: · What is the relevance on the issue  
24 · . . . that I have to rule on today?

25 · . . . . . MR. BERNSTEIN: · On the validity? · Well, it's  
1 · . . . relevant. · If any of these documents are relevant,  
·2 · . . . this is important if it's a fraud.

·3 · . . . . . THE COURT: · I'll sustain the objection.

·4 · . . . . . MR. BERNSTEIN: · Okay. · Can I -- okay.

·5 · BY MR. BERNSTEIN:

·6 · . . . Q. · When did you get -- did you get back prior to  
·7 · Simon's death all the waivers from all the children?

·8 · . . . A. · No, we did not.

·9 · . . . Q. · So in Simon's April 9th document where he  
10 · says, he, Simon, on April 9th has all the waivers from  
11 · his children while he's alive, and you didn't even get  
12 · one 'til after he passed from one of his children, how  
13 · could that be a true statement?

14. . . . . MR. ROSE:· Objection.· Relevance.· Cumulative.  
15. . . . . THE COURT:· Sustained.

- h. Finally, SPALLINA also perjures himself under sworn oath at the hearing when testifying to the status of his Florida Bar license, which at this time he is listed as “**Not Eligible to Practice Law in Florida**<sup>12</sup>” when he states in the December 15, 2015 hearing,

Page 91

7. ·BY MR. BERNSTEIN:

·8. . . . Q.· Mr. Spallina, you were called today to provide

·9. ·some expert testimony, correct, on the --

10. . . . A.· No, I was not.

11. . . . Q.· Oh, okay.· You're just going based on your

12. ·doing the work as Simon Bernstein's attorney and Shirley

13. ·Bernstein's attorney?

14. . . . A.· Yes.

15. . . . Q.· Okay.· Are you still an attorney today?

16. . . . A.· I am not practicing.

17. . . . Q.· Can you give us the circumstances regarding

18. ·that?

19. . . . A.· I withdrew from my firm.

Pages 120-121

19. ·BY MR. BERNSTEIN:

20. . . . Q.· Did you -- are you a member of the Florida

21. ·Bar?

22. . . . A.· Yes, I am.

23. . . . Q.· Currently?

24. . . . A.· Yes, I am.

25. . . . Q.· Okay.· You said before you surrendered your

·1. ·license.

·2. . . . A.· I said I withdrew from my firm.· It wasn't

·3. ·that I was not practicing.

- i. Spallina further Perjures his testimony when asked if the Fraudulent Shirley Trust he created by Post Mortem fraudulently altering a Shirley Amendment and disseminated

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<sup>12</sup> [https://www.floridabar.org/wps/portal/flbar/home/attysearch/mprofile!/ut/p/a1/jc\\_LDolwEAXQT-ptthRaWo6mkRazxgdCNYUWakLowfr\\_42LioOrtJzs3cYZ41zA\\_dLfTdNZyH7vjYvTxACM3dBrawxEHIOI3ZqgSEHEE7girnxJMMNktoDIOr2qgtF7RM\\_8sjMoRf-T3zn8RJNQO5BXKtp0AxeYNIRTj-HTx\\_eJ2II7ycdg2C6e8\\_WXgh/dI5/d5/L2dBISEvZ0FBIS9nQSEh/?mid=497381](https://www.floridabar.org/wps/portal/flbar/home/attysearch/mprofile!/ut/p/a1/jc_LDolwEAXQT-ptthRaWo6mkRazxgdCNYUWakLowfr_42LioOrtJzs3cYZ41zA_dLfTdNZyH7vjYvTxACM3dBrawxEHIOI3ZqgSEHEE7girnxJMMNktoDIOr2qgtF7RM_8sjMoRf-T3zn8RJNQO5BXKtp0AxeYNIRTj-HTx_eJ2II7ycdg2C6e8_WXgh/dI5/d5/L2dBISEvZ0FBIS9nQSEh/?mid=497381)

through the mail attempted to change the beneficiaries of the Shirley Trust and he answered no. Yet, the following analysis shows different;

22. BY MR. BERNSTEIN:

23. . . . Q. Did the fraudulently altered document change

24. the beneficiaries that were listed in Shirley's trust?

25. . . . A. **They did not [emphasis added]**.

j. Now comparing the language in the two documents the Court can see that this statement is wholly untrue. From the alleged Shirley Trust document,

“Notwithstanding the foregoing, as I have adequately provided for them during my lifetime, for purposes of the dispositions made under this Trust, my children, TED S. BERNSTEIN ("TED") and PAMELA B. SIMON ("PAM"), **and their respective lineal descendants [emphasis added]** shall be deemed to have predeceased the survivor of my spouse and me, provided, however, if my children, ELIOT BERNSTEIN, JILL !ANTONI and LISA S. FRIEDSTEIN, and their lineal descendants all predecease the survivor of my spouse and me, then TED and PAM, and their respective lineal descendants shall not be deemed to have predeceased me and shall be eligible beneficiaries for purposes of the dispositions made hereunder.”<sup>13</sup>

k. Then the language from the fraudulent amendment states;

2. I hereby amend the last sentence of Paragraph E. of Article III. to read as follows:

"Notwithstanding the foregoing, as my spouse and I have adequately provided for them during our lifetimes, for purposes of the dispositions made under this Trust, my children, TED S. BERNSTEIN ("TED") and PAMELA B. SIMON ("PAM '), shall be deemed to have predeceased the survivor of my spouse and me, provided, however, if my children, ELIOT BERNSTEIN, JILL IANTONI and LISA S. FRIEDSTEIN, and their respective lineal descendants all predecease the survivor of my spouse and me, then TED and PAM shall not be deemed to have predeceased the survivor of my spouse and me and shall become eligible beneficiaries for purposes of the dispositions made hereunder."

64. Clearly the fraudulent amendment attempts to remove from the predeceased language regarding TED and PAMELA’s lineal descendants from being excluded by removing them from the original trust language as being considered predeceased and thus change

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<sup>13</sup> Shirley Trust Page 7

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/Shirley%20Trust%20plus%20fraudulent%20amendment%202.pdf>

the beneficiaries of the Shirley Trust. In fact, adding Ted and Pam's lineal descendants back into the trust would give them a chance to convert improperly %40 of the value to their families from %0.

65. This perjury by Spallina, acting already with proven unclean hands and admitted to crimes in the Estates and Trusts of Simon and Shirley Bernstein changed the outcome of the validity hearing adding cause for a rehearing and voiding the Order that resulted, which were already void and of no effect since Judge Phillips should have already voluntarily mandatorily disqualified himself from the proceedings prior to holding any hearings.

66. That as for Ted being qualified as a fiduciary, the following passage from the December 15, 2015 hearing that Ted called for to prove the validity of the dispositive documents after his former counsel admitted criminal activities shows that Ted, who used this disgraced attorney Spallina as his star and only witness to validate the documents, did nothing to validate the documents himself as Trustee to protect the beneficiaries harmed by his former counsels actions, his friend and business associate when he states, under oath,

Page 206-210

25. . . . Q. . Okay. Ted, you were made aware of Robert  
1. Spallina's fraudulent alteration of a trust document of  
2. your mother's when?  
3. . . . A. I believe that was in the early 2013 or '14.  
4. . . . Q. Okay. And when you found out, you were the  
5. fiduciary of Shirley's trust, allegedly?  
6. . . . A. I'm not sure I understand the question.  
7. . . . Q. When you found out that there was a fraudulent  
8. alteration [sic] of a trust document, were you the  
9. fiduciary in charge of Shirley's trust?  
10. . . . A. I was trustee, yes. I am trustee, yes.  
11. . . . Q. And your attorneys, Tescher and Spallina, and  
12. their law firm are the one who committed that fraud,  
13. correct, who altered that document?  
14. . . . A. That's what's been admitted to by them,  
15. correct.

16. . . . Q. . Okay. So you became aware that your counsel  
17. that you retained as trustee had committed a fraud,  
18. correct?

19. . . . A. . Correct.

20. . . . Q. . What did you do immediately after that?

21. . . . A. . The same day that I found out, I contacted  
22. counsel. I met with counsel on that very day. I met  
23. with counsel the next day. I met with counsel the day  
24. after that.

25. . . . Q. . Which counsel?

1. . . . A. . Alan Rose.

...

P 209-210

24. BY MR. BERNSTEIN:

25. . . . Q. . Have you seen the original will and trust of  
1. your mother's?

2. . . . A. . Can you define original for me?

3. . . . Q. . The original.

4. . . . A. . The one that's filed in the court?

5. . . . Q. . Original will or the trust.

6. . . . A. . I've seen copies of the trusts.

7. . . . Q. . Have you done anything to have any of the  
8. documents authenticated since learning that your  
9. attorneys had committed fraud in altering dispositive  
10. documents that you were in custody of?

11. . . . . MR. ROSE: . Objection. . Relevance.

12. . . . . THE COURT: . Overruled.

13. . . . . THE WITNESS: . I have not.

14. BY MR. BERNSTEIN:

15. . . . Q. . So you as the trustee have taken no steps to

16. validate these documents; is that correct?

17. . . . A. . Correct.

67. Finally, as reported by the Palm Beach Post<sup>14</sup> and others in an evolving story of

Probate/Guardian abuse emanating from Florida's courts, similar to the bank and mortgage  
frauds that found judges and lawyers fraudulently conveying properties through "robosigning"  
aka bank fraud, forgery and more, Florida's Judges are coming under fire for their bizarre

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<sup>14</sup> "Judge's wife accused of taking fees before court OKs them" Palm Beach Post by John Pacenti  
<http://www.mypalmbeachpost.com/guardianships-elizabeth-savitt/>  
and

"The Judge's wife, a frequent court-appointed guardian" Americans Against Abusive Probate  
Guardianship

Posted on January 14, 2016, Dr. Sam Sugar

<http://aaapg.net/florida-the-judges-wife-a-frequent-court-appointed-guardian/>

behaviors of probate/guardianship abuses and basically grave robbing Florida's elderly as has been evidenced herein, where dead person's identities are used to commit Fraud on the Court and when discovered covered up by further Fraud by the Court in conjunction with the lawyers and guardians and judges.

68. This filing has been submitted via ECF to the Court per Judge Phillips JA who has stated that despite Judge Phillips order blocking Eliot from filing responses and pleadings in these matters and attempting to strike Eliot's prior pleadings, including a Counter Complaint, she could not speak with Eliot as Judge Phillips advised her that she cannot speak to Pro Se parties, despite the normal procedure being emailing the proposed orders to his chambers.

WHEREFORE, the proposed Order of Ted Bernstein and Alan Rose is Objected to herein entirely and an Alternate Order submitted.

Dated: March 1, 2016

**/s/Eliot Ivan Bernstein**

Eliot Ivan Bernstein  
2753 NW 34th St  
Boca Raton, FL 33434  
561-245-8588  
[iviewit@iviewit.tv](mailto: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 1st day of March, 2016.

**/s/Eliot Ivan Bernstein**

Eliot Ivan Bernstein  
2753 NW 34th St

Boca Raton, FL 33434  
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**SERVICE LIST**

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<p><b>COUNTER DEFENDANT</b>        Donald Tescher, Esq.,        Tescher &amp; Spallina, P.A.        Wells Fargo Plaza        925 South Federal Hwy Suite        500        Boca Raton, Florida 33432        dtescher@tescherspallina.com        ddustin@tescherspallina.com        kmoran@tescherspallina.com</p>	<p><b>COUNTER DEFENDANT &amp; COUNSEL TO TED BERNSTEIN SERVED</b>        Alan B. Rose, Esq.        PAGE, MRACHEK, FITZGERALD, ROSE, KONOPKA, THOMAS &amp; WEISS, P.A.        505 South Flagler Drive, Suite 600        West Palm Beach, Florida 33401        arose@pm-law.com        and        arose@mrachek-law.com</p>	<p><b>Counter Defendant</b>        TESCHER &amp; SPALLINA, P.A.        Wells Fargo Plaza        925 South Federal Hwy Suite        500        Boca Raton, Florida 33432        dtescher@tescherspallina.com        ddustin@tescherspallina.com        kmoran@tescherspallina.com</p>

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	<p>Pamela Simon  President  STP Enterprises, Inc.  303 East Wacker Drive  Suite 210  Chicago IL 60601-5210  psimon@stpcorp.com</p>	<p><b>Counter Defendant</b>  Mark R. Manceri, Esq., and  Mark R. Manceri, P.A.,  2929 East Commercial  Boulevard  Suite 702  Fort Lauderdale, FL 33308  mrmlaw@comcast.net  mrmlaw1@gmail.com</p>
<p><b>Counter Defendant</b>  L. Louis Mrachek, Esq.  PAGE, MRACHEK, FITZGERALD,  ROSE, KONOPKA, THOMAS &amp;  WEISS, P.A.  505 South Flagler Drive, Suite  600  West Palm Beach, Florida 33401  lmrachek@mrachek-law.com</p>	<p><b>Counter Defendant</b>  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><b>Counter Defendant</b>  Kimberly Moran  Tescher &amp; Spallina, P.A.  Wells Fargo Plaza  925 South Federal Hwy Suite  500  Boca Raton, Florida 33432  kmoran@tescherspallina.com</p>
<p><b>Counter Defendant</b>  Lindsay Baxley aka Lindsay Giles  Life Insurance Concepts  950 Peninsula Corporate Circle  Suite 3010  Boca Raton, FL 33487  lindsay@lifeinsuranceconcepts.com</p>	<p><b>Counter Defendant</b>  Estate of Simon Bernstein  Personal Representative  Brian M. O'Connell, Partner  Ciklin Lubitz Martens &amp;  O'Connell  515 N Flagler Drive  20th Floor  West Palm Beach, FL 33401  boconnell@ciklinlubitz.com  jfoglietta@ciklinlubitz.com</p>	<p>Jill Iantoni  2101 Magnolia Lane  Highland Park, IL 60035  jilliantoni@gmail.com</p>
<p>Lisa Friedstein  2142 Churchill Lane  Highland Park, IL 60035  Lisa@friedsteins.com  lisa.friedstein@gmail.com  lisa@friedsteins.com</p>	<p>Pamela Beth Simon  950 N. Michigan Avenue  Apartment 2603  Chicago, IL 60611  psimon@stpcorp.com</p>	



**EXHIBIT A - STATEMENT OF WILLIAM STANSBURY REGARDING GUARDIAN**

**HEARING**

## Eliot Ivan Bernstein

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**From:** William Stansbury <WESgator@msn.com>  
**Sent:** Thursday, March 3, 2016 4:08 PM  
**To:** Eliot Ivan Bernstein  
**Subject:** Re: Amended Eliot and Candice Bernstein GAL issue 3.2.2016  
**Attachments:** Amended Eliot and Candice Bernstein GAL issue 3.2.2016 signed page 5.pdf

See attached - Sorry for the oversight

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**From:** Eliot Ivan Bernstein <[iviewit@iviewit.tv](mailto:iviewit@iviewit.tv)>  
**Sent:** Thursday, March 3, 2016 3:59 PM  
**To:** 'William "Bill" Stansbury'  
**Subject:** FW: Amended Eliot and Candice Bernstein GAL issue 3.2.2016

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**From:** William Stansbury [<mailto:WESgator@msn.com>]  
**Sent:** Wednesday, March 2, 2016 4:52 PM  
**To:** Eliot Ivan Bernstein  
**Subject:** Amended Eliot and Candice Bernstein GAL issue 3.2.2016

Eliot,

As you are aware, i was extremely busy over the weekend and as such prepared my statement on 2/29/2016 in a bit of a rush.

I have reviewed my original statement and made some minor changes. Please see my amended statement attached.

My name is William E. Stansbury and I am a competent adult residing in Palm Beach County, Florida. I am voluntarily writing this in the hope that any consideration to appoint a Guardian ad Litem (GAL) for the children of Eliot and Candice Bernstein will be dismissed without merit. For clarification purposes, this is an amendment to the statement that I have previously made on 2/29/2016.

Based on the information provided on the Florida GAL website, the Florida GAL Program is a partnership of community advocates and professional staff providing a powerful voice on behalf of Florida's abused and neglected children. GAL is central to fulfilling society's most fundamental obligation by making sure a qualified, compassionate adult **will fight for and protect a child's basic human right to be safe**, to be treated with dignity and respect, and to learn and grow in the safe embrace of a loving family.

As a father of 3 children and 5 grandchildren, I wholeheartedly support the mission and purpose of the GAL program when **a child's basic human right to be safe**, to be treated with dignity and respect, and to learn and grow in the safe embrace of a loving family is challenged.

The Florida GAL program is not intended to be used as a weapon to threaten, harass or extort parents. Sadly, however, I believe that may be what is occurring with Eliot and Candice Bernstein. I express this belief after having sat through numerous court hearings since 2012 and following the corresponding Palm Beach County, Florida cases that have involved the Estates of Simon and Shirley Bernstein and their respective testamentary instruments, including Case Nos. 50 2012 CP 004391 XXXX SB (In re: Estate of Simon Bernstein), 50 2011 CP 000653 XXXX SB (In re: Estate of Shirley Bernstein), 50 2015 CP 002717 XXXX NB, 50 2015 CP 001162 XXXX NB, 50 2014 CP 002815 XXXX NB, and 50 2014 CP 003698 XXXX NB.

I have personal knowledge of the following matters that have transpired in connection with certain of the above referenced cases when Judge Colin was presiding:

- 1) Florida licensed attorneys Donald Tescher and Robert Spallina (T&S) drafted certain testamentary instruments for Simon and Shirley Bernstein. Through Eliot's investigative efforts, Mr. Spallina admits to the court and the police that, after Shirley's death, Mr. Spallina changed certain terms in her testamentary instruments and sent same through the U.S. mail to Florida licensed attorney Christine Yates. Ms. Yates was retained by Eliot to represent his family after his father's passing in 2012. In addition to drafting testamentary instruments for Simon and Shirley Bernstein and changing certain terms in Shirley's documents, T&S were also appointed and served as the initial personal representatives of Simon's estate and successor trustees of Simon's revocable trust. I believe that Eliot's investigative efforts were the primary reason that T&S's acts were discovered, and that same began Eliot's quest for the truth.

- 2) T&S paralegal, Kimberly Moran, pled guilty to improperly notarizing documents and admitted to the PBSO to forging six documents, including one of Simon's, and depositing them with the court. I believe that Eliot's efforts helped expose Ms. Moran's unethical conduct.
- 3) Attorney Spallina filed certain estate closing documents with the court in the Estate of Shirley Bernstein that were signed by Simon Bernstein, as the purported personal representative of Shirley's estate, notwithstanding that Simon passed away several weeks before such documents were filed on his behalf. I believe that Eliot's efforts were the primary reason that Mr. Spallina's conduct in connection with these court filings was exposed.
- 4) As evidenced by a court transcript from a hearing in Shirley's estate case to re open on 9/13/2013, Judge Colin stated twice that he had heard enough EVIDENCE to read several officers of the court and fiduciaries their Miranda rights. However, Judge Colin did nothing to address the corresponding issues and allowed these very same officers the opportunity to continue to practice in his courtroom. To no avail, Eliot brought such circumstances to the attention of Judge Colin.
- 5) Attorney Spallina submitted a claim as trustee of a trust he claims to have never seen to Heritage Union Life Insurance Company through the U.S. mail for payment of an approximately \$1.7M death benefit on a missing policy owned by Simon Bernstein personally. The records from the insurance company list the Simon Bernstein Trust N.A. (THE ILIT) as the contingent beneficiary (the primary beneficiary was LaSalle National Trust NA). Mr. Spallina represented himself on the claim form submitted to the insurance company as the trustee of the ILIT. Subsequently, Mr. Spallina admitted that he had never seen the ILIT and had no idea what its terms were. To make matters worse, Mr. Spallina and four out of five of Simon Bernstein's adult children (Eliot's brother (Ted), and Eliot's three sisters (Pam, Jill and Lisa)) were involved in a scheme that would get the money to those four children. Eliot did not agree to go along with this scheme. Mr. Spallina engaged in such conduct notwithstanding his duty to advocate as personal representative of Simon's estate and successor trustee of his revocable trust for the proceeds to be paid to the estate and ultimately the revocable trust. Simon's revocable trust is the sole residuary beneficiary of his estate; Simon's grandchildren are the beneficiaries of Simon's revocable trust. Without a copy of the trust showing Mr. Spallina as trustee and Simon's children as beneficiaries, Heritage Union refused to pay the claim. I believe that Eliot's efforts helped to expose Mr. Spallina's actions.
- 6) Eliot's brother, Ted Bernstein, filed a breach of contract lawsuit in Illinois against Heritage Union, with Ted now signing as successor trustee of the ILIT, for not paying the above referenced insurance claim (the "Illinois Litigation"). Ted filed the Illinois Litigation as the purported trustee of the ILIT – the very same trust under which Mr. Spallina had previously claimed to be the trustee. Ted Bernstein was aware of the actions of Mr. Spallina, yet went along with them until the scheme fell apart, and, to the best of my knowledge, never reported the actions of Mr. Spallina to any authority. Ted suddenly remembered that he (Ted) was the trustee of the ILIT that he claims he has never seen and had no copy to produce. If Ted Bernstein prevails in the Illinois

Litigation, he and his sisters will benefit from the \$1.7M unpaid insurance death benefit. Eliot has opposed this scheme that benefits his siblings (and possibly himself) to the exclusion of Simon's estate and his grandchildren, including Eliot's children and the other grandchildren of Simon. Attorney Peter Feaman has brought to the attention of Brian O'Connell (successor PR of Simon's estate) and Alan Rose (Ted Bernstein's attorney) that there appears to be a conflict of interest where Ted is serving as successor trustee of Simon's revocable trust that would benefit from the insurance proceeds (trust beneficiaries are the grandchildren) vs. Ted representing himself as trustee of the never seen nor found ILIT that benefits Ted and his siblings. I find it extremely ironic and disingenuous that Ted Bernstein has requested the appointment of a GAL for Eliot's children while he simultaneously is trying to divert funds from Eliot's children and Simon's other grandchildren through his initiation and pursuit of the Illinois Litigation.

- 7) Ted Bernstein is the alleged successor trustee and successor personal representative of the revocable trust and estate of Shirley Bernstein. He represented to the court that the personal property of Shirley Bernstein in her condo was inventoried and moved to the residence of Simon Bernstein for safekeeping. The personal property in the condo is an asset of the estate of Simon Bernstein. Inventories of personal property from the condo show significant discrepancies when compared to the new inventories done at Simon's home. Eliot has insisted for a complete accounting of all personal property, as he is listed as a beneficiary of Simon's personal property (which would have included Shirley's personal property as her will left all of her personal property to Simon when she passed away, that was not listed in any codicil, survived by Simon).

- 8) In 2014, T&S resigned as successor trustees of Simon's revocable trust. T&S appoint their friend, Ted Bernstein, as successor trustee of Simon's revocable trust. Ted was not listed as a trustee by his father in Simon's revocable trust.

Florida licensed attorney Brian O'Connell was appointed by Judge Colin as the successor PR for the estate of Simon Bernstein in 2014. He assumed this fiduciary responsibility from attorney Benjamin Brown who was appointed by Judge Colin as curator for the estate when T&S resigned. Mr. O'Connell read the 2012 restated revocable trust of Simon and brought to the attention of Judge Colin that it does not appear that Ted is qualified to be appointed as trustee based on the trust language. Since the fall of 2014, Eliot has been requesting Mr. O'Connell to call up a hearing to have the court determine if Ted is properly serving. As of the date of this instrument, I am not aware that Mr. O'Connell has taken any action.

I have knowledge of the following matters that have transpired in connection with certain of the above referenced cases when Judge Phillips was presiding:

- 1) A status conference was scheduled for Simon Bernstein estate by Brian O'Connell, but Alan Rose chose to discuss the Shirley Bernstein estate and trust. Mr. Rose represented to the court that the Shirley trust was also scheduled for the conference but, based on the notice of hearing, it was not. Attorney Peter Feaman and Eliot Bernstein objected, but to no avail. The Court had hearings in Shirley's estate and trust and not Simon's estate.
- 2) Attorney Peter Feaman advises the Court that Judge Colin may not have followed proper procedure in steering the Bernstein cases to the North Branch post recusal. The Court tells Mr. Feaman that's what the 4<sup>th</sup> DCA is for, even though the Court knew or should have known that the recusal/transfer orders were on appeal at the Florida Supreme Court.
- 3) On December 15, 2015, I attended a hearing to determine the validity of the Simon and Shirley wills and revocable trusts. Eliot Bernstein advised the Court that he had an attorney for his children waiting to be admitted. This attorney requested from Attorney Alan Rose copies of all documents, to include his children's' trust documents to review prior to the trial. Apparently, Attorney Rose refused to send her anything. The hearing was not stayed until the children had counsel, and the judge ordered the trial to proceed with the children not having counsel present.
- 4) At the hearing on December 15, 2015, Alan Rose called two witnesses to verify that the documents were authentic. The first was Robert Spallina – the same Robert Spallina who admitted to changing testamentary document language and mailing it to Eliot's family attorney, using a dead man (Simon) to close the estate of Shirley, and submitting a claim form to Heritage Union for Simon's life insurance when he knew he was not the trustee of the ILIT trust. As of this writing, I am not aware that anything has been done by the court, or other authorities, to address the admissions of wrongdoing by Mr. Spallina. The second witness called to validate the documents was Ted Bernstein. He admitted that he had not seen an original of the documents. None of the witnesses to the documents, nor the notary were called to testify. Additionally, no original documents were provided at the trial, nor was any forensic handwriting expert called to testify, nor was any forensic expert retained by Ted to validate documents after Mr. Spallina admitted to changing the language in at least one testamentary document.
- 5) I attended a hearing on February 25, 2016 in Judge Phillips' courtroom. The purpose of the hearing was to determine if a Guardian ad Litem should be appointed for Eliot's minor children. Eliot called Alan Rose as a witness and when Eliot asked him about not providing information to the attorney he is trying to retain for his children, Alan Rose indicated that he wasn't giving her anything. Attorney Alan Rose indicted that while he was in the home of Simon Bernstein to check on a chandelier, he discovered some testamentary documents and took them with him. Eliot requested additional time to call witnesses, but his request was denied by the Court, which seemed unusual to me in light of the seriousness of the hearing.

Here is what I have observed in the home of Eliot and Candice Bernstein:

- 1) Happy, bright, respectful children who aren't embarrassed to tell their parents they love them in front of other people.
- 2) Children who understand that when a guest enters their home that they get up and acknowledge them.
- 3) Children who are always grateful for the smallest courtesy extended to them.
- 4) Parents who tell their children how much they love them.
- 5) Parents who teach their children that virtues like honesty and integrity are more important than money.

Eliot and Candice have created a loving nurturing home for their children. They are outstanding role models as parents. For anyone to suggest that they have a conflict of interest with their children is absurd. They are a family unit and none of them view something that is good for one as bad for another.

Based on my observations, Eliot and Candice Bernstein are not the "bad guys" in these estate matters.

I believe they are being portrayed this way because they have exposed inappropriate actions by officers of the court – the very officers who have an affirmative duty to assure justice is done.

They are being portrayed this way because they refused to go along with Eliot's siblings in their scheme to capture Simon's life insurance proceeds.

They are being portrayed this way because they believe that Ted Bernstein has hijacked Shirley Bernstein's trust and made distributions that are very questionable.

They are being portrayed this way because they believe that, by having Ted Bernstein serving as trustee of Simon's trust, that the directives of Simon Bernstein in that document are not being honored.

They are being portrayed this way because those that are asking for them to lay down and quit searching for the truth know they never will.

It appears to me that the Florida GAL is being used as tool to try to punish Eliot and Candice for not keeping their mouth shut when they saw what was occurring.

My observation has led me to the conclusion that many people in these estate matters should have someone watching over them, but I am confident that it is not the children of Eliot and Candice Bernstein.

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*William Hansberg*  
3/2/2016 5



My name is William E. Stansbury and I am a competent adult residing in Palm Beach County, Florida. I am voluntarily writing this in the hope that any consideration to appoint a Guardian ad Litem (GAL) for the children of Eliot and Candice Bernstein will be dismissed without merit.

Based on the information provided on the Florida GAL website, the Florida GAL Program is a partnership of community advocates and professional staff providing a powerful voice on behalf of Florida's abused and neglected children. GAL is central to fulfilling society's most fundamental obligation by making sure a qualified, compassionate adult will fight for and protect a child's basic human right to be safe, to be treated with dignity and respect, and to learn and grow in the safe embrace of a loving family.

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documents were authentic. The first was Robert Spallina – the same Spallina who admitted to changing testamentary document language and mailing it to Eliot’s family attorney, using a dead man (Simon) to close the estate of Shirley, and submitting a claim form to Heritage Union for Simon’s life insurance when he knew he was not the trustee of the 1995 trust. As of this writing, I am not aware that anything has been done by the court to address the admissions of wrongdoing by Mr. Spallina. The second witness called to validate the documents was Ted Bernstein. He admitted that he had not seen an original of the documents. None of the witnesses to the documents, nor the notary were called to testify. Additionally, no original documents were provided at the trial, nor was any forensic handwriting expert called to testify, nor was any forensic expert retained by Ted to validate documents after Spallina admitted to changing the language in at least one testamentary document.

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William E. Hansbury  
2/29/2016

Appendix Exhibit 1 Part 2

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

TED BERNSTEIN, as Trustee  
of the Shirley Bernstein Trust Agreement  
dated May 20, 2008, as amended,

Probate Division  
Case No.: 502014CP003698XXXXNBIJ

Plaintiff,

v.

**ALTERNATE PROPOSED ORDER**

ALEXANDRA BERNSTEIN; ERIC BERNSTEIN;  
MICHAEL BERNSTEIN; MOLLY SIMON;  
PAMELA B. SIMON, Individually and as Trustee  
f/b/o Molly Simon under the Simon L. Bernstein Trust  
Dtd 9/13/12; ELIOT BERNSTEIN, individually, as  
Trustee f/b/o D.B., Ja. B. and Jo. B. under the  
Simon L. Bernstein Trust Dtd 9/13/12, and on behalf  
of his minor children D.B., Ja. B. and Jo. B.;  
JILL IANTONI, Individually, as Trustee f/b/o J.I.  
under the Simon L. Bernstein Trust Dtd 9/13/12,  
and on behalf of her Minor child J.I.;  
MAX FRIEDSTEIN; LISA FRIEDSTEIN, Individually,  
as Trustee f/b/o Max Friedstein and C.F., under the  
Simon L. Bernstein Trust Dtd 9/13/12, and on behalf  
of her minor child, C.F.,

Defendants.

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**ALTERNATE ORDER PROPOSED**

This Cause came before the Court for an evidentiary hearing on February 25, 2016, on Successor Trustee's Motion for Appointment for Guardian Ad Litem to Represent the Interests of Eliot Bernstein's Children etc. (The Motion'), but was not Electronically recorded or a Stenographer provided rendering the proceedings defective but whereby the Court otherwise determines and Orders:

1. Thus there is No Record of the proceedings and the matter should be re-heard after other proceedings herein or dismissed entirely.

2. That Eliot Bernstein and his wife Candice Bernstein are fully capable, competent, educated parents of their minor children and there is no basis in law or fact for a guardianship as both parents are fully capable of making proper determinations for the minor children herein and protect their best interests.
3. That Case Management for a Complex case was necessary before and is necessary now and should be ordered.
4. That a schedule for full outstanding Discovery compliance should be determined and Discovery hearings conducted for missing, lost, destroyed and withheld discovery.
5. That all Guardianship Petitions by Ted Bernstein and Alan Rose are dismissed.
- 6.
7. No valid existing copy or original of the Trusts that Eliot is sued hereunder as Trustee and his children sued hereunder as alleged beneficiaries titled “f/b/o D.B., Ja. B. and Jo. B. under the Simon L. Bernstein Trust Dtd 9/13/12” have been produced to this Court, nor to the sued parties and it is alleged that they do not exist, as they are not part of the Simon Bernstein Trust this Court validated improperly as valid where they are claimed to be held thereunder. Without such documents provided by Plaintiff to the Trustee of said trusts and the counsel of Eliot’s minor children and not being under the Simon Trust provided this Court at a validity hearing and as so stated in the trust, this lawsuit **MUST BE TERMINATED**, other than the stayed counter complaint as the parties sued do not have the trusts they are sued under.
8. That Ted Bernstein acting as the alleged Fiduciary of the Simon Trust has failed to distribute such alleged Trusts to the Trustee and Beneficiaries of said trust that he sued. Therefore, this Court denies all filings by Plaintiff and all orders obtained without such



documents necessary to this lawsuit provided to all parties and have three business days to produce to this Court and the parties sued thereunder as Trustee and beneficiaries the bona fide ORIGINAL trust documents that are the basis of this lawsuit and were specifically supposed to be held under the Simon Trust and which are necessary for the defendants to have to defend themselves regarding the terms and conditions of said NONEXISTENT at this time trusts or this Court will remove permanently all records of Plaintiff other than for formulating damages and as evidence of Fraud Upon this Court, again.

9. This Court determined after a trial held on December 15, 2015 as to Count II of the Plaintiffs Complaint the validity of Shirley Bernstein's Trust Agreement. Also heard was admitted creation of a fraudulent Shirley Trust document sent via US Mail to Eliot's children's former counsel, Christine Yates, Esq. of Tripp Scott law firm by former fiduciary and counsel in these matters, Robert Spallina, Esq. when he testified before this Court on December 15, 2015 to criminal misconduct that he stated he did not believe he had told anyone prior of and in so doing may have violated his SEC consent order provided the Court in prior pleadings. This Court therefore acknowledges the criminal acts confessed by Robert Spallina, Esq. and notes that his testimony also appears to be perjured as evidenced to this Court in prior pleadings and rules to strike all testimony of Spallina for unclean hands and more.
10. The determination of beneficiaries and permissible appointee beneficiaries under the Simon Bernstein Trust Agreement needs to be heard at a subsequent hearing and where the alleged beneficiaries of trusts that DO NOT EXIST and where not made part of the Simon Bernstein Trust where they are supposed to be held thereunder but are not in the

Simon Trust this Court deemed valid and therefore this Court strikes the validity of the Simon Trust until the beneficiaries trusts sued hereunder in this lawsuit are provided to trustees, beneficiaries and this Court.

11. Proper beneficiaries were not determined through a proper construction hearing as one at the December 15, 2015 and one has never been held despite there being motions for construction filed, the only issue heard before the Court was if the documents provided were deemed valid and thus ALL claims by Plaintiff in their motions and proposed Orders referencing beneficiaries determined at the December 15, 2015 hearing are sticken as false statements to this Court, despite any Order issued in Error.
12. The Shirley Bernstein Trust Beneficiaries in the document improperly validated by this Court are factually “Eliot Bernstein Family Trust, Jill Iantoni Family Trust and Lisa Friedstein Family Trust” created on the same date as the Shirley Bernstein Trust and IRREVOCABLE ON THE DATE OF HER PASSING.
13. That Alan Rose was instructed by former recused Judge Martin Colin to sue all potential beneficiaries of the Shirley Trust and by failing to sue the named beneficiaries thereunder and instead sued alleged beneficiaries of Simon’s Trust the NONEXISTENT Grandchildren Trusts sued hereunder and therefore this Court sanctions Alan Rose and Ted Bernstein for Contempt of this Courts prior Order and falsely suing parties of NONEXISTENT Grandchildren Trusts.
14. Eliot Bernstein has proven to be an adequate representative for his children at the hearing on February 25, 2015 and no witnesses or evidence presented to this Court showed otherwise and in fact, prior Orders in this case have held that Eliot and Candice are suitable representatives of their minor children in this case and therefore this Court

rejects any Guardian Ad Litem from being appointed and sanctions Alan Rose and Ted Bernstein for filing frivolous and vexatious retaliatory filings to harass and extort Eliot and Candice Bernstein through their minor children for their exposure of criminal acts by officers and fiduciaries of this Court and their whistleblowing efforts that have led to arrest in these matters already.

15. The Court finds that the Successor Trustee has put forward no statute or law that gives him the right to request Guardian Ad Litem for Eliot's children including one child that is 18 and an adult. Case law provided by Alan Rose is for minors only in cases where there are extreme needs for protective guardianships, which have no similarity or bearing to these matters and therefore the Court sanctions Alan Rose and Ted Bernstein for these sharp practices.
16. The Court finds that the alleged Successor Trustee continues to waste Trust assets with numerous defense attorneys past and present to promote his agenda and through continued fraud on the court in this hearing including suing parties under a NONEXISTENT TRUST and further fraud on the court admitted by his witness Robert Spallina at the validity hearing before this Court, the Court has notified all proper authorities of the criminal misconduct confessed before it and strikes all Plaintiff's filings and sanctions Plaintiff and his counsel for further Fraud on the Court.
17. That having removed standing of Eliot and due to conflicts alleged by Plaintiff's of Eliot representing his minor children, this Court is aware that the last three hearings have had NO COUNSEL for the Minor Children and no one representing them at all at the Guardian hearing and therefore strikes all prior hearings and orders gained from such hearings where minors were wholly blocked from representation and the alleged Trustee

did not disclose this to this Court and thus further sanctions are granted against Plaintiff and his counsel for this deprivation of Constitutional Rights to counsel.

18. The Court finds that any appointment or award to a Guardian Ad Litem of fees and all fees for any attorneys in these matters that have not participated in the fraud on the court and more already proven in these matters shall be paid by those parties responsible for the criminal acts that have created these disputes and court hearings, etc. The Court is aware in Eliot's responses to the proposed Orders filed hereunder there is a resignation letter exhibited in a footnote URL that Tescher & Spallina PA law firm has stated that they wanted to make reparations to the Bernstein family for the harms caused as exhibited in the response and therefore this Court Orders that all past and future legal fees of all parties not involved in the fraud on the court be paid by Tescher and Spallina who are now required to post a \$100,000,000.00 dollar bond which is the estimated value of the Estate and Trusts of Simon and Shirley Bernstein that remains unaccounted for at this time due to other apparent breaches of fiduciary duties in failing to provide accountings to determine the actual value, this bond will be used for all victim court incurred expenses and to provide counsel to ALL parties.

DONE and ORDERED in Chambers, North County Courthouse in Palm Beach Gardens, Florida, on this 1st day of March, 2016.

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HONORABLE JOHN L. PHILLIPS  
Circuit Court Judge

Copies to: Attached Service List

**SERVICE LIST**

<p><b>COUNTER DEFENDANT</b>  Robert L. Spallina, Esq.,  Tescher &amp; Spallina, P.A.  Wells Fargo Plaza  925 South Federal Hwy Suite  500  Boca Raton, Florida 33432  rspallina@tescherspallina.com  kmoran@tescherspallina.com  <a href="mailto:ddustin@tescherspallina.com">ddustin@tescherspallina.com</a></p>	<p><b>COUNTER DEFENDANT</b>  Ted Bernstein, individually  880 Berkeley  Boca Raton, FL 33487  <a href="mailto:tbernstein@lifeinsuranceconcepts.com">tbernstein@lifeinsuranceconcepts.com</a></p>	<p><b>COUNTER DEFENDANT</b>  John J. Pankauski, Esq.  Pankauski Law Firm PLLC  120 South Olive Avenue  7th Floor  West Palm Beach, FL 33401</p>
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	<p>Pamela Simon  President  STP Enterprises, Inc.  303 East Wacker Drive  Suite 210</p>	<p><b>Counter Defendant</b>  Mark R. Manceri, Esq., and  Mark R. Manceri, P.A.,  2929 East Commercial  Boulevard</p>

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<b>Counter Defendant</b> Lindsay Baxley aka Lindsay Giles Life Insurance Concepts 950 Peninsula Corporate Circle Suite 3010 Boca Raton, FL 33487 lindsay@lifeinsuranceconcepts.c om	<b>Counter Defendant</b> Estate of Simon Bernstein Personal Representative Brian M. O'Connell, Partner Ciklin Lubitz Martens & O'Connell 515 N Flagler Drive 20th Floor West Palm Beach, FL 33401 boconnell@ciklinlubitz.com jfoglietta@ciklinlubitz.com	Jill Iantoni 2101 Magnolia Lane Highland Park, IL 60035 jilliantoni@gmail.com
Lisa Friedstein 2142 Churchill Lane Highland Park, IL 60035 Lisa@friedsteins.com lisa.friedstein@gmail.com lisa@friedsteins.com	Pamela Beth Simon 950 N. Michigan Avenue Apartment 2603 Chicago, IL 60611 psimon@stpcorp.com	

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

PROBATE DIVISION  
CASE NO.:

502014CP002815XXXXNB

OPPENHEIMER TRUST COMPANY  
OF DELAWARE, in its capacity as  
Resigned Trustee of the Simon Bernstein  
Irrevocable Trusts created for the benefit  
of Joshua, Jake and Daniel Bernstein,

Petitioner,

Objections to Proposed Order of  
Oppenheimer and Proposed Order

vs.

ELIOT AND CANDICE BERNSTEIN,  
in their capacity as parents and natural  
guardians of JOSHUA, JAKE AND  
DANIEL BERNSTEIN, minors,

Respondents.

\_\_\_\_\_ /

**OBJECTIONS TO PROPOSED ORDER OF OPPENHEIMER / STEVEN LESSNE ESQ.  
PROPOSED "ORDER APPOINTING GUARDIAN AD LITEM FOR MINORS,  
JOSHUA, JAKE AND DANIEL BERNSTEIN" AND PROPOSED ALTERNATIVE  
ORDER**

**OBJECTIONS TO PROPOSED OPPENHEIMER / LESSNE PROPOSED ORDER**

1. I, Eliot Ivan Bernstein, OBJECT AND DO NOT CONSENT TO A SINGLE WORD IN THE PROPOSED ORDER AND BELIEVE IT IS PART OF AN ONGOING FRAUD ON AND BY THIS COURT BY STEVEN LESSNE, ALAN ROSE, TED BERNSTEIN, ROBERT SPALLINA, DONALD TESCHER, JUDGE MARTIN COLIN, JUDGE

DAVID E FRENCH AND JUDGE JOHN PHILLIPS et al. as stated in prior pleadings to this Court.

2. THE ORDER WAS DRAFTED PRIOR TO THE HEARING BY STEVEN LESSNE AND NOT SHOWN TO ELIOT UNTIL AFTER LESSNE GAVE IT TO JUDGE PHILLIPS AT THE END OF THE HEARING THUS IT CANNOT ACCURATELY REFLECT THE RECORD AND WAS PREFABRICATED WHOLLY PRIOR AND ELIOT OBJECTS AS IT CANNOT REFLECT THE TRUE RECORD WHERE NO RECORD WAS MADE OF THIS HEARING.
3. The Hearing was improperly conducted since no electronic recording of the hearing took place and Guardianship Hearings should be designated as “GA” cases and subject to mandatory Electronic Recording according to the Court Reporting Services Department of the 15th Judicial Circuit and several clerks contacted. See, <http://15thcircuit.co.palm-beach.fl.us/web/guest/court-reporters>
4. That Chief Administrative Judge Colbrath’s Judicial Assistant Diana Grant suggested this matter should be Noticed back for a Hearing since no Electronic Record and did confirm Judge Phillips was Administrative Judge in the North Branch.
5. As Administrative Judge in the North Branch, it is presumed Judge Phillips knew and should have known the type of hearing he was conducting and took proper Judicial steps to ensure a proper Hearing record on such important issues as Guardianship and Eliot Bernstein requested a court reporter when he discovered that Alan Rose and Ted Bernstein took no steps to have one present at their GAL hearing and was denied the ability to find one or get stay.
6. The Court is requested to Disqualify on its own motion or Order new Hearings.



7. There is thus no record of the Hearings for the Court to resolve any issues in the proposed Order.
8. According to one of many witnesses at the Courthouse on Feb. 25, 2016, Alan Rose, Ted Bernstein and Steven Lessne were observed entering the Courtroom on Feb. 25, 2016 for the Hearing before Judge Phillips from at or around the Chambers of Judge Phillips where these parties ultimately produced a Pre-Prepared Order in Advance of any “Hearing” which was not electronically recorded nor any Stenographer present.
9. Eliot Bernstein and his wife Candice Bernstein are fully capable, competent, educated parents of their minor children and there is no basis in law or fact for a guardianship as both parents are fully capable of making proper determinations for the minor children herein and protect their best interests (SEE ATTACHED EXHIBIT B - STATEMENT OF CREDITOR WILLIAM STANSBURY IN SUPPORT OF ELIOT AND CANDICE BERNSTEIN).
10. Eliot Bernstein and Candice Bernstein have already been wrongfully subjected to a Child Protective Services Hotline investigation on or about May 2015 and which resulted in an Un-founded basis for action with witnesses claiming it appeared to be a retaliation by those involved in the lawsuits before this Court. The complaint was dismissed as wholly baseless after a month long thorough investigation by CPS. The complaint allegations are similar to those allegations alleged in these proceedings and where witnesses contacted by Family Services stated that the complaint appeared to be in retaliation and in reference to Eliot’s whistleblowing and exposure of fraud on the court, fraudulent documents, forgeries and more committed in the Estates and Trusts of Simon and Shirley Bernstein by Oppenheimer’s retained counsel in these matters, Robert Spallina, Esq. and Donald

Tescher, Esq. whose firm deposited such fraudulent documents in the court and have admitted to fraudulently creating a Shirley Bernstein Trust document and sending it to Eliot's children's counsel in these matters via mail, as admitted by Robert Spallina, Esq. in a December 12, 2015 Hearing in the Shirley Trust case. The claims of document fraud are ripe in Eliot's Counter Complaint and new evidence suggests there are new trust documents found in this matter by a one Alan B. Rose, Esq. that were improperly removed with no writ of possession by him from the Estate of Simon Bernstein, whose property is under the custody of Brian O'Connell, Esq. who replaced Tescher and Spallina who resigned after admitting to fraud and more and THESE NEWLY DISCOVERED DISPOSITIVE DOCUMENTS ARE ALLEGEDLY SIGNED in places the filed trust documents in this case are not and thus there are now dispositive documents missing from this record which may impact the hearings.

11. Eliot Bernstein and Candice Bernstein have already undergone a Guardianship Hearing before Judge Colin where Guardianship was Denied, See Exhibit A – Existing Order, and is and should remain as the law of the case. The reference in the Order to at a later time a hearing being scheduled to address any Guardian issue was specifically stated by Judge Colin at the hearing to not include Oppenheimer as the filer since they were determined to have no standing by Order to bring any future action, including this action and were limited to trying to find a Successor Trustee and an accounting hearing for a final accounting. This filing was filed by a party with no standing, Mr. Lessne and Oppenheimer, other than both as Counter Defendants in the stayed Counter Complaint and who through continued sharp practices is now trying to gain a predatory guardianship

to silence Eliot and Candice from exposing fraud in the case as alleged in the Counter Complaint.

12. No change of circumstances or facts have been shown to support this Petition by Steven Lessne which should be deemed abusive and sharp legal process practices by these attorneys and dismissed.
13. Eliot Bernstein's actions in exposing fraud in the courts and amongst attorneys should be applauded, not sanctioned as should Eliot and Candice Bernstein be applauded for teaching their children to seek Truth and Justice.
14. That the Attached Statement of William Stansbury is in further support of Eliot and Candice Bernstein.
15. As it was already determined in these proceedings Oppenheimer as a resigned Trustee has NO STANDING to move the Court and was allowed a chance to provide an accounting and hearing but in no other way move the Court on behalf of the trusts and this violation obstructs justice in efforts to deny Eliot due process through continued sharp practices.
16. Again it was determined that a resigned trustee has no standing to move the Court in any pleading.
17. That Lessne has claimed that Eliot is conflicted with his children but all references cited in his motion to claim conflicts in this matter are in reference to other dispositive documents in the Shirley and Simon Estates and Trusts and not one reference is made to these trusts in the instant lawsuit and this sharp practice is intended to mislead this court.
18. The inheritances have been dissipated already by the breaches of fiduciary duties outlined in the Counter Complaint and thus there is nothing left and Oppenheimer is the cause of

this whole debacle including resigning prior to finding a Corporate Successor as required by the language of the trust and thrusting this whole situation to the Court when they began to panic that Robert Spallina who directed the use of these trust funds improperly by Oppenheimer was under investigation, his legal assistant and notary public was arrested for fraudulent notarizations of six parties, including a deceased Simon and was under investigation for other crimes, including those involving these Unsigned Oppenheimer Trusts they used to file this Complaint that are incomplete and in some instances entirely missing signature pages.

19. It should be noted that at trial Eliot introduced Evidence that showed that Alan B. Rose, Esq. had entered Simon Bernstein's home and removed documents relating to these trusts from the property which was under the custody of Brian O'Connell involving several alleged Dispositive Documents for Simon and Shirley and these children's trust, that he illegally removed from the premises thereby disturbing the chain of custody in the documents and becoming a material and fact witness who was questioned at a hearing held the same day in the Shirley Trust case and these newly discovered documents it was learned in court had not been tendered to this Court prior to the hearing and the Complaint has not been amended or sought to be amended to add the documents to the complaint to supersede the prior documents the case is based upon.
20. The case must now be refiled to reflect these alleged new documents that will need to be forensically examined once they are submitted by Lessne and Rose to this Court as the documents are not identical as learned in Court. Eliot's counsel Candice Schwager, Esq. has requested the trust documents from Mr. Rose who refused to communicate or tender them to her unless she is admitted Pro Hac Vice into the cases and where she needs the

documents to enter. In this case if there were any conflicts making Eliot conflicted or causing the need for independent counsel for his children Mr. Rose would have to turn over documents for review prior to any counsel or predatory guardian they are seeking being implemented. Instead of giving Schwager the documents necessary Lessne, working in conspire with Rose have instead chosen to refuse her the documents and instead try to gain a predatory guardian on the children to control them and harass and extort the Bernstein's . See Exhibit – Rose Letter to Schwager.

21. This Court has also been made aware of this problem that Rose refuses to turn over the documents and Eliot sought a stay to get counsel prior to holding hearings where the minors were unrepresented and this Court refused to grant such stay for counsel and instead attempts to gain a predatory guardianship in order to retaliate against Eliot for exposing fraud, fraud on the Court, fraud by the Court and forgery and fraudulent notarizations in documents in the Estates and Trusts of Simon and Shirley Bernstein, PROVEN and FURTHER ALLEGED CRIMES. These are factual realities of the case that Eliot and his beautiful wife Candice have exposed, proven and more already in these cases. This guardianship attempt is highly suspect as nothing more than further harassment and extortion as alleged in the Counter Complaint.
22. Eliot was never adjudicated a vexatious litigant and no proof or witness was brought up at trial of such.
23. The Order for accounting replies was not complied with as Judge Colin had ordered that all filings had to be faxed to him for approval first and he recused and Eliot did not know what to do to comply as stated on the record that was not created at the hearing on February 25, 2016

24. None of the reasons set forth by Oppenheimer represent any reason for a Guardian ad Litem in this case requested by a party with no legal standing to move on behalf of the trusts as it mostly states that Eliot is on a crusade to clean up the court system and remove attorneys and judges who act outside the color of law and Eliot has already in these related matters already had arrests made and found PROVEN AND ADMITTED FORGERY, FRAUDULENT NOTARIZATIONS, FRAUD ON THE COURT, FRAUD ON BENEFICIARIES, FRAUDULENT CREATION OF A SHIRLEY TRUST DOCUMENT and more in these matters. This Predatory Guardian pleading is in efforts to shut down Eliot from exposing and having prosecuted further Fraud in the case, which is currently under investigation.
25. Eliot has stated clearly who he thinks is directly involved in the crimes and has filed multiple criminal complaints against these parties, including some with Creditor William Stansbury and others Stansbury filed alone, both state and federal, including against Lessne and Eliot is also laser specific in who he is alleging as part of the ensuing cover up of the Fraud on the Court and now Fraud by the Court, including now Judge John Phillips and the other attorneys and fiduciaries already involved in proven and admitted felony crimes in related matters. In fact, in the February 25, 2016 hearing Judge Phillips was given a Federal Complaint filing to Judge John Robert Blakey whereby Alan Rose presented into evidence Exhibit A of the complaint, SEE EXHIBIT – MOTION FOR INJUNCTION etc.
26. No evidence or witnesses to support any of the false contentions contained in this Prefabricated PreTrial Order that was prepared prior to hearing and thus cannot reflect the record supports any need for guardians in these matters.

27. Mr. Lessne again knowing he has no standing to move this Court attempts to move the court and should be sanctioned for this repeated attempt to move the court lacking standing other than the allowed accounting. Mr Lessne failed to secure a successor trustee after resigning first and this was because his client Oppenheimer bled the trust dry on the command of Robert Spallina who had nothing to do with these trusts and where Oppenheimer was supposed to have the Estate and Trusts replenish the funds when they were used and when they requested Spallina replenish the trusts as he claimed he would when directing Oppenheimer to misuse funds of trusts he had nothing to do with, Oppenheimer, knowing Spallina was under investigation for the fraud and forgeries abdicated their duties as fiduciaries and instead chose this suit after resigning and before finding successors and thus all costs and damages should be billed directly by this court to them for this sham filing without legal standing.
28. No evidence or witnesses were presented in support of these claims at the hearing and there is no legal basis for this removal and any attempt to remove the Counter Complaint of which MR. LESSNE is a SERVED COUNTER DEFENDANT in need of counsel has already been argued in this case and it was determined that it was stayed until after the accounting hearing at which point Mr. Lessne's involvement is finished.
29. Eliot states any attempt by this Court to impose a Guardian will be reported as further retaliation and further extortive and abusive abuse of process by all those involved in any such predatory Guardian.
30. Mr. Lessne is aware his role in this case other than as a SERVED COUNTER DEFENDANT are over when he resigned and any interface with any party on behalf of

the trusts would be further FRAUD ON THE COURT in addition to those already presented in the Counter Complaint.

31. Again, any action Mr. Lessne takes other than finishing the accounting with Eliot and Candice who were deemed qualified by Judge Colin, SEE ORDER, is further FRAUD ON THE COURT AND FRAUD ON THE BENEFICIARIES and will be duly reported against all parties involved in any such communications with Mr. Lessne and a Successor of any sort.
32. Eliot states regarding the contempt charge that this was discussed in the hearing and it was explained that Eliot was more than happy to comply with the request but Judge Colin ordered that all filing had to be faxed to his chambers before filing and at the time they were due he recused one day after denying a Petition for Disqualification alleging both FRAUD ON THE COURT AND FRAUD BY THE COURT, including FRAUD in this case and thus once this Court determines where Eliot is to send the responses he will be happy to be comply. Also, since new documents that form the basis for the complaint are believed to exist according to Rose and Lessne who have refused to submit them to the Court or Eliot's retained counsel and therefore they may wholly alter these proceedings and must be presented and reviewed as they may change answers in the accountings and in fact already do as they were not in possession of the trustee when they operated the trust and the terms and other changes may be in there and thus must be submitted to the Court first for Eliot to review and the case refiled or amended based upon them.
33. THE COUNTER DEFENDANTS INCLUDING MR LESSNE AND ROSE HAVE NOT BEEN SERVED.



34. That until newly discovered Dispositive documents are submitted to this Court and determination made of the changes and impact on these proceedings, Mr. Lessne should be restrained from any other activities as the terms and conditions and signatures must all now be evaluated prior to proceeding.

WHEREFORE, the proposed Order of Ted Bernstein is Objected to in entirety herein and should be stricken and sanctions imposed for reasons so stated herein regarding this attempt to gain a Predatory Guardianship and an Alternate Order submitted.

Dated: March 01, 2016

/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 1st day of March, 2016.

/s/Eliot Ivan Bernstein  
Eliot Ivan Bernstein  
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<p>COUNTER DEFENDANT Alan B. Rose, Esq. PAGE, MRACHEK, FITZGERALD, ROSE, KONOPKA, THOMAS &amp; 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>COUNTER DEFENDANT L. Louis Mrachek, Esq. PAGE, MRACHEK, FITZGERALD, ROSE, KONOPKA, THOMAS &amp; WEISS, P.A. 505 South Flagler Drive, Suite 600 West Palm Beach, Florida 33401 561-355-6991 lmrachek@mrachek-law.com</p>	<p>COUNTER DEFENDANT AND RESIGNED TRUSTEE Steven A. Lessne, Esq. Gunster, Yoakley &amp; 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>
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<p>COUNTER DEFENDANT David Lanciotti Executive VP and General Counsel LaSalle National Trust NA CHICAGO TITLE LAND TRUST COMPANY, as Successor 10 South LaSalle Street Suite 2750 Chicago, IL 60603 David.Lanciotti@ctt.com</p>	<p>COUNTER DEFENDANT T&amp;S Registered Agents, LLC Wells Fargo Plaza 925 South Federal Hwy Suite 500 Boca Raton, Florida 33432 dtescher@tescherspallina.com</p>	<p>COUNTER DEFENDANT Byrd F. "Biff" Marshall, Jr. President &amp; Managing Director Gray Robinson, PA 225 NE Mizner Blvd #500 Boca Raton, FL 33432 biff.marshall@gray-robinson.com</p>
<p>COUNTER DEFENDANT</p>	<p>COUNTER DEFENDANT</p>	<p>COUNTER DEFENDANT</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>Heritage Union Life Insurance  Company  A member of WiltonRe Group of  Companies  187 Danbury Road  Wilton, CT 06897  cstroup@wiltonre.com</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>COUNTER DEFENDANT  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>COUNTER DEFENDANT  Gerald R. Lewin  CBIZ MHM, LLC  1675 N Military Trail  Fifth Floor  Boca Raton, FL 33486</p>	<p>COUNTER DEFENDANT  Lindsay Baxley aka Lindsay Giles  Life Insurance Concepts  950 Peninsula Corporate Circle  Suite 3010  Boca Raton, FL 33487  lindsay@lifeinsuranceconcepts.com</p>
<p>COUNTER DEFENDANT  Kimberly Moran  Tescher &amp; Spallina, P.A.  Wells Fargo Plaza  925 South Federal Hwy Suite 500  Boca Raton, Florida 33432  kmoran@tescherspallina.com</p>	<p>COUNTER DEFENDANT  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>COUNTER DEFENDANT  STP Enterprises, Inc.  Pamela Simon - President  303 East Wacker Drive  Suite 210  Chicago IL 60601-5210  psimon@stpcorp.com</p>
<p>COUNTER DEFENDANT  Janet Craig  Oppenheimer Trust Company of  Delaware  405 Silverside Road  Wilmington, DE 19809  Janet.Craig@opco.com</p>	<p>COUNTER DEFENDANT  William McCabe  Oppenheimer &amp; Co., Inc.  85 Broad St Fl 25  New York, NY 10004  William.McCabe@opco.com</p>	<p>COUNTER DEFENDANT  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>COUNTER DEFENDANT  James Dimon  Chairman of the Board and Chief  Executive Officer</p>	<p>COUNTER DEFENDANT  Neil Wolfson  President &amp; Chief Executive Officer  Wilmington Trust Company</p>	<p>COUNTER DEFENDANT  Ralph S. Janvey  Krage &amp; Janvey, L.L.P.  Federal Court Appointed Receiver</p>

<p>JP Morgan Chase &amp; CO. 270 Park Ave. New York, NY 10017-2070 Jamie.dimon@jpmchase.com</p>	<p>1100 North Market Street Wilmington, DE 19890-0001 nwolfson@wilmingtontrust.com</p>	<p>Stanford Financial Group 2100 Ross Ave, Dallas, TX 75201 rjanvey@kjllp.com</p>
<p>COUNTER DEFENDANT Jill Iantoni 2101 Magnolia Lane Highland Park, IL 60035 jilliantoni@gmail.com</p>	<p>COUNTER DEFENDANT Lisa Sue Friedstein 2142 Churchill Lane Highland Park, IL 60035 lisa.friedstein@gmail.com lisa@friedsteins.com</p>	<p>COUNTER DEFENDANT Dennis McNamara Executive Vice President and General Counsel Oppenheimer &amp; Co. Inc. Corporate Headquarters 125 Broad Street New York, NY 10004 800-221-5588 Dennis.mcnamara@opco.com info@opco.com</p>
<p>COUNTER DEFENDANT Hunt Worth, Esq. President Oppenheimer Trust Company of Delaware 405 Silverside Road Wilmington, DE 19809 302-792-3500 hunt.worth@opco.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 Pankauski Law Firm PLLC 120 South Olive Avenue 7th Floor West Palm Beach, FL 33401</p>
<p>COUNTER DEFENDANT Pamela Beth Simon 950 N. Michigan Avenue Apartment 2603 Chicago, IL 60611 psimon@stpcorp.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 Theodore Stuart Bernstein 880 Berkeley Boca Raton, FL 33487 tbernstein@lifeinsuranceconcepts.com</p>
<p>COUNTER DEFENDANT Theodore Stuart Bernstein Life Insurance Concepts, Inc.</p>		

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**EXHIBIT A – EXISTING ORDER RE GUARDIAN AD LITEM**

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

PROBATE DIVISION

CASE NO.: 502014CP002815XXXXSB (IY)

OPPENHEIMER TRUST COMPANY  
OF DELAWARE, in its capacity as  
Resigned Trustee of the Simon Bernstein  
Irrevocable Trusts created for the benefit  
of Joshua, Jake and Daniel Bernstein,

Petitioner,

vs.

ELIOT AND CANDICE BERNSTEIN,  
in their capacity as parents and natural  
guardians of JOSHUA, JAKE AND  
DANIEL BERNSTEIN, minors,

Respondents.

**OMNIBUS ORDER**

THIS MATTER came before the Court on October 20, 2014 upon the following Motions filed by Oppenheimer Trust Company of Delaware (“Oppenheimer”): (i) Motion for Summary Judgment As To Count I Of Its Petition; (ii) Motion To Strike Or Sever Counterclaim; and (iii) Motion To Appoint Guardian *Ad Litem* For Minor Beneficiaries. Having considered the Motions, heard argument from Oppenheimer’s counsel and from Eliot and Candice Bernstein (the “Bernsteins”), and being otherwise duly advised in the premises, it is hereupon

ORDERED and ADJUDGED as follows:

1. Oppenheimer's Motion for Summary Judgment As To Count I Of Its Petition is granted as follows:

a. Oppenheimer effectively resigned as Trustee of the three "Grandchildren Trusts" at issue in this case effective as of May 26, 2014.

b. By October 30, 2014, the Bernsteins, as natural guardians of the minor beneficiaries of the Grandchildren Trusts, shall submit the name and address of a proposed Successor Trustee to the Court, to Oppenheimer's counsel and to the proposed Successor Trustee. At the time of their submissions, the Bernsteins shall notify the proposed Successor Trustee that he/she shall either accept or decline the appointment by November 10, 2014 by notifying the Court, the Bernsteins and counsel for Oppenheimer of his/her election in writing.

c. If the proposed Successor Trustee accepts the appointment, Oppenheimer shall deliver the trust assets to the Successor Trustee in accordance with the provisions of Fla. Stat. § 736.0707(2). If the proposed Successor Trustee declines the appointment or fails to respond, the Court will consider other available options in light of Oppenheimer's resignation.

2. Oppenheimer may file and serve final accountings for each of the Grandchildren Trusts with the Court. Within twenty (20) days after Oppenheimer files and serves its final accountings, the Bernsteins, as natural guardians of the minor beneficiaries, may file form, line-item objections to the final accountings. Thereafter, the Court will conduct appropriate proceedings to review and settle the final accountings.

3. The Court withholds ruling on Oppenheimer's Motion To Appoint Guardian *Ad Litem* For Minor Beneficiaries, but may reconsider Oppenheimer's Motion after the Bernsteins file their objections to the final accounting or at a later date.



4. The Counter-Complaint filed in this action remains stayed pending further Order of this Court.

DONE AND ORDERED in Chambers, Palm Beach County, Florida, this \_\_\_\_ day of October, 2014.

  
\_\_\_\_\_  
Hon. Martin H. Colin, Circuit Judge

cc: Steven A. Lessne, Esq.  
Eliot and Candice Bernstein  
Alan Rose, Esq.

**EXHIBIT B - STATEMENT OF WILLIAM STANSBURY REGARDING GUARDIAN  
HEARING**

My name is William E. Stansbury and I am a competent adult residing in Palm Beach County, Florida. I am voluntarily writing this in the hope that any consideration to appoint a Guardian ad Litem (GAL) for the children of Eliot and Candice Bernstein will be dismissed without merit. For clarification purposes, this is an amendment to the statement that I have previously made on 2/29/2016.

Based on the information provided on the Florida GAL website, the Florida GAL Program is a partnership of community advocates and professional staff providing a powerful voice on behalf of Florida's abused and neglected children. GAL is central to fulfilling society's most fundamental obligation by making sure a qualified, compassionate adult **will fight for and protect a child's basic human right to be safe**, to be treated with dignity and respect, and to learn and grow in the safe embrace of a loving family.

As a father of 3 children and 5 grandchildren, I wholeheartedly support the mission and purpose of the GAL program when **a child's basic human right to be safe**, to be treated with dignity and respect, and to learn and grow in the safe embrace of a loving family is challenged.

The Florida GAL program is not intended to be used as a weapon to threaten, harass or extort parents. Sadly, however, I believe that may be what is occurring with Eliot and Candice Bernstein. I express this belief after having sat through numerous court hearings since 2012 and following the corresponding Palm Beach County, Florida cases that have involved the Estates of Simon and Shirley Bernstein and their respective testamentary instruments, including Case Nos. 50 2012 CP 004391 XXXX SB (In re: Estate of Simon Bernstein), 50 2011 CP 000653 XXXX SB (In re: Estate of Shirley Bernstein), 50 2015 CP 002717 XXXX NB, 50 2015 CP 001162 XXXX NB, 50 2014 CP 002815 XXXX NB, and 50 2014 CP 003698 XXXX NB.

I have personal knowledge of the following matters that have transpired in connection with certain of the above referenced cases when Judge Colin was presiding:

- 1) Florida licensed attorneys Donald Tescher and Robert Spallina (T&S) drafted certain testamentary instruments for Simon and Shirley Bernstein. Through Eliot's investigative efforts, Mr. Spallina admits to the court and the police that, after Shirley's death, Mr. Spallina changed certain terms in her testamentary instruments and sent same through the U.S. mail to Florida licensed attorney Christine Yates. Ms. Yates was retained by Eliot to represent his family after his father's passing in 2012. In addition to drafting testamentary instruments for Simon and Shirley Bernstein and changing certain terms in Shirley's documents, T&S were also appointed and served as the initial personal representatives of Simon's estate and successor trustees of Simon's revocable trust. I believe that Eliot's investigative efforts were the primary reason that T&S's acts were discovered, and that same began Eliot's quest for the truth.

- 2) T&S paralegal, Kimberly Moran, pled guilty to improperly notarizing documents and admitted to the PBSO to forging six documents, including one of Simon's, and depositing them with the court. I believe that Eliot's efforts helped expose Ms. Moran's unethical conduct.
- 3) Attorney Spallina filed certain estate closing documents with the court in the Estate of Shirley Bernstein that were signed by Simon Bernstein, as the purported personal representative of Shirley's estate, notwithstanding that Simon passed away several weeks before such documents were filed on his behalf. I believe that Eliot's efforts were the primary reason that Mr. Spallina's conduct in connection with these court filings was exposed.
- 4) As evidenced by a court transcript from a hearing in Shirley's estate case to re open on 9/13/2013, Judge Colin stated twice that he had heard enough EVIDENCE to read several officers of the court and fiduciaries their Miranda rights. However, Judge Colin did nothing to address the corresponding issues and allowed these very same officers the opportunity to continue to practice in his courtroom. To no avail, Eliot brought such circumstances to the attention of Judge Colin.
- 5) Attorney Spallina submitted a claim as trustee of a trust he claims to have never seen to Heritage Union Life Insurance Company through the U.S. mail for payment of an approximately \$1.7M death benefit on a missing policy owned by Simon Bernstein personally. The records from the insurance company list the Simon Bernstein Trust N.A. (THE ILIT) as the contingent beneficiary (the primary beneficiary was LaSalle National Trust NA). Mr. Spallina represented himself on the claim form submitted to the insurance company as the trustee of the ILIT. Subsequently, Mr. Spallina admitted that he had never seen the ILIT and had no idea what its terms were. To make matters worse, Mr. Spallina and four out of five of Simon Bernstein's adult children (Eliot's brother (Ted), and Eliot's three sisters (Pam, Jill and Lisa)) were involved in a scheme that would get the money to those four children. Eliot did not agree to go along with this scheme. Mr. Spallina engaged in such conduct notwithstanding his duty to advocate as personal representative of Simon's estate and successor trustee of his revocable trust for the proceeds to be paid to the estate and ultimately the revocable trust. Simon's revocable trust is the sole residuary beneficiary of his estate; Simon's grandchildren are the beneficiaries of Simon's revocable trust. Without a copy of the trust showing Mr. Spallina as trustee and Simon's children as beneficiaries, Heritage Union refused to pay the claim. I believe that Eliot's efforts helped to expose Mr. Spallina's actions.
- 6) Eliot's brother, Ted Bernstein, filed a breach of contract lawsuit in Illinois against Heritage Union, with Ted now signing as successor trustee of the ILIT, for not paying the above referenced insurance claim (the "Illinois Litigation"). Ted filed the Illinois Litigation as the purported trustee of the ILIT – the very same trust under which Mr. Spallina had previously claimed to be the trustee. Ted Bernstein was aware of the actions of Mr. Spallina, yet went along with them until the scheme fell apart, and, to the best of my knowledge, never reported the actions of Mr. Spallina to any authority. Ted suddenly remembered that he (Ted) was the trustee of the ILIT that he claims he has never seen and had no copy to produce. If Ted Bernstein prevails in the Illinois

Litigation, he and his sisters will benefit from the \$1.7M unpaid insurance death benefit. Eliot has opposed this scheme that benefits his siblings (and possibly himself) to the exclusion of Simon's estate and his grandchildren, including Eliot's children and the other grandchildren of Simon. Attorney Peter Feaman has brought to the attention of Brian O'Connell (successor PR of Simon's estate) and Alan Rose (Ted Bernstein's attorney) that there appears to be a conflict of interest where Ted is serving as successor trustee of Simon's revocable trust that would benefit from the insurance proceeds (trust beneficiaries are the grandchildren) vs. Ted representing himself as trustee of the never seen nor found ILIT that benefits Ted and his siblings. I find it extremely ironic and disingenuous that Ted Bernstein has requested the appointment of a GAL for Eliot's children while he simultaneously is trying to divert funds from Eliot's children and Simon's other grandchildren through his initiation and pursuit of the Illinois Litigation.

- 7) Ted Bernstein is the alleged successor trustee and successor personal representative of the revocable trust and estate of Shirley Bernstein. He represented to the court that the personal property of Shirley Bernstein in her condo was inventoried and moved to the residence of Simon Bernstein for safekeeping. The personal property in the condo is an asset of the estate of Simon Bernstein. Inventories of personal property from the condo show significant discrepancies when compared to the new inventories done at Simon's home. Eliot has insisted for a complete accounting of all personal property, as he is listed as a beneficiary of Simon's personal property (which would have included Shirley's personal property as her will left all of her personal property to Simon when she passed away, that was not listed in any codicil, survived by Simon).

- 8) In 2014, T&S resigned as successor trustees of Simon's revocable trust. T&S appoint their friend, Ted Bernstein, as successor trustee of Simon's revocable trust. Ted was not listed as a trustee by his father in Simon's revocable trust.

Florida licensed attorney Brian O'Connell was appointed by Judge Colin as the successor PR for the estate of Simon Bernstein in 2014. He assumed this fiduciary responsibility from attorney Benjamin Brown who was appointed by Judge Colin as curator for the estate when T&S resigned. Mr. O'Connell read the 2012 restated revocable trust of Simon and brought to the attention of Judge Colin that it does not appear that Ted is qualified to be appointed as trustee based on the trust language. Since the fall of 2014, Eliot has been requesting Mr. O'Connell to call up a hearing to have the court determine if Ted is properly serving. As of the date of this instrument, I am not aware that Mr. O'Connell has taken any action.

I have knowledge of the following matters that have transpired in connection with certain of the above referenced cases when Judge Phillips was presiding:

- 1) A status conference was scheduled for Simon Bernstein estate by Brian O'Connell, but Alan Rose chose to discuss the Shirley Bernstein estate and trust. Mr. Rose represented to the court that the Shirley trust was also scheduled for the conference but, based on the notice of hearing, it was not. Attorney Peter Feaman and Eliot Bernstein objected, but to no avail. The Court had hearings in Shirley's estate and trust and not Simon's estate.
- 2) Attorney Peter Feaman advises the Court that Judge Colin may not have followed proper procedure in steering the Bernstein cases to the North Branch post recusal. The Court tells Mr. Feaman that's what the 4<sup>th</sup> DCA is for, even though the Court knew or should have known that the recusal/transfer orders were on appeal at the Florida Supreme Court.
- 3) On December 15, 2015, I attended a hearing to determine the validity of the Simon and Shirley wills and revocable trusts. Eliot Bernstein advised the Court that he had an attorney for his children waiting to be admitted. This attorney requested from Attorney Alan Rose copies of all documents, to include his children's' trust documents to review prior to the trial. Apparently, Attorney Rose refused to send her anything. The hearing was not stayed until the children had counsel, and the judge ordered the trial to proceed with the children not having counsel present.
- 4) At the hearing on December 15, 2015, Alan Rose called two witnesses to verify that the documents were authentic. The first was Robert Spallina – the same Robert Spallina who admitted to changing testamentary document language and mailing it to Eliot's family attorney, using a dead man (Simon) to close the estate of Shirley, and submitting a claim form to Heritage Union for Simon's life insurance when he knew he was not the trustee of the ILIT trust. As of this writing, I am not aware that anything has been done by the court, or other authorities, to address the admissions of wrongdoing by Mr. Spallina. The second witness called to validate the documents was Ted Bernstein. He admitted that he had not seen an original of the documents. None of the witnesses to the documents, nor the notary were called to testify. Additionally, no original documents were provided at the trial, nor was any forensic handwriting expert called to testify, nor was any forensic expert retained by Ted to validate documents after Mr. Spallina admitted to changing the language in at least one testamentary document.
- 5) I attended a hearing on February 25, 2016 in Judge Phillips' courtroom. The purpose of the hearing was to determine if a Guardian ad Litem should be appointed for Eliot's minor children. Eliot called Alan Rose as a witness and when Eliot asked him about not providing information to the attorney he is trying to retain for his children, Alan Rose indicated that he wasn't giving her anything. Attorney Alan Rose indicted that while he was in the home of Simon Bernstein to check on a chandelier, he discovered some testamentary documents and took them with him. Eliot requested additional time to call witnesses, but his request was denied by the Court, which seemed unusual to me in light of the seriousness of the hearing.

Here is what I have observed in the home of Eliot and Candice Bernstein:

- 1) Happy, bright, respectful children who aren't embarrassed to tell their parents they love them in front of other people.
- 2) Children who understand that when a guest enters their home that they get up and acknowledge them.
- 3) Children who are always grateful for the smallest courtesy extended to them.
- 4) Parents who tell their children how much they love them.
- 5) Parents who teach their children that virtues like honesty and integrity are more important than money.

Eliot and Candice have created a loving nurturing home for their children. They are outstanding role models as parents. For anyone to suggest that they have a conflict of interest with their children is absurd. They are a family unit and none of them view something that is good for one as bad for another.

Based on my observations, Eliot and Candice Bernstein are not the "bad guys" in these estate matters.

I believe they are being portrayed this way because they have exposed inappropriate actions by officers of the court – the very officers who have an affirmative duty to assure justice is done.

They are being portrayed this way because they refused to go along with Eliot's siblings in their scheme to capture Simon's life insurance proceeds.

They are being portrayed this way because they believe that Ted Bernstein has hijacked Shirley Bernstein's trust and made distributions that are very questionable.

They are being portrayed this way because they believe that, by having Ted Bernstein serving as trustee of Simon's trust, that the directives of Simon Bernstein in that document are not being honored.

They are being portrayed this way because those that are asking for them to lay down and quit searching for the truth know they never will.

It appears to me that the Florida GAL is being used as tool to try to punish Eliot and Candice for not keeping their mouth shut when they saw what was occurring.

My observation has led me to the conclusion that many people in these estate matters should have someone watching over them, but I am confident that it is not the children of Eliot and Candice Bernstein.

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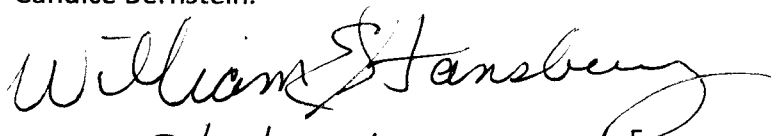
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3/2/2016 5



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I have personal knowledge of the following matters that have transpired in connection with certain of the above-referenced cases when Judge Phillips was presiding:

- 1) A status conference was scheduled for Simon Bernstein estate by Brian O'Connell, but Alan Rose chose to discuss the Shirley Bernstein estate and trust. Rose represented to the court that the Shirley trust was also scheduled for the conference. Peter Feaman and Eliot objected on the record, but to no avail. The Court ruled to have hearings in Shirley's estate and trust and not Simon's estate.
- 2) Attorney Peter Feaman advises the Court that Judge Colin did not follow proper procedure in steering the Bernstein cases to the North Branch post recusal. The Court tells Mr. Feaman that's what the 4<sup>th</sup> DCA is for, even though the Court knew or should have known that the recusal/transfer orders were on appeal at the Florida Supreme Court.
- 3) On December 15, 2015 I attended a hearing to determine the validity of the Simon and Shirley wills and revocable trusts. Eliot Bernstein advised the Court that he had an attorney for his children but this attorney requested from Alan Rose copies of all documents, to include his children's' trust documents to review prior to the trial. Apparently, Attorney Rose did not send her anything. The hearing was not stayed until the children had counsel, and the judge ordered the trial to proceed with the children not having counsel present.
- 4) At the hearing on December 15, 2015, Alan Rose called two witnesses to verify that the

documents were authentic. The first was Robert Spallina – the same Spallina who admitted to changing testamentary document language and mailing it to Eliot’s family attorney, using a dead man (Simon) to close the estate of Shirley, and submitting a claim form to Heritage Union for Simon’s life insurance when he knew he was not the trustee of the 1995 trust. As of this writing, I am not aware that anything has been done by the court to address the admissions of wrongdoing by Mr. Spallina. The second witness called to validate the documents was Ted Bernstein. He admitted that he had not seen an original of the documents. None of the witnesses to the documents, nor the notary were called to testify. Additionally, no original documents were provided at the trial, nor was any forensic handwriting expert called to testify, nor was any forensic expert retained by Ted to validate documents after Spallina admitted to changing the language in at least one testamentary document.

- 5) I attended a hearing on February 25, 2016 in Judge Phillips’ courtroom. The purpose of the hearing was to determine if a Guardian ad Litem should be appointed for Eliot’s minor children. Eliot called Alan Rose as a witness and when Eliot asked him about not providing information to the attorney he is trying to retain for his children, Alan Rose indicated that he wasn’t giving her anything. Eliot requested additional time to call witnesses, but his request was denied by the Court, which seemed unusual to me in light of the seriousness of the hearing.

Here is what I have observed in the home of Eliot and Candice Bernstein:

- 1) Happy, bright, respectful children who aren’t embarrassed to tell their parents they love them in front of other people.
- 2) Children who understand that when a guest enters their home that they get up and acknowledge them.
- 3) Children who are always grateful for the smallest courtesy extended to them.
- 4) Parents who tell their children how much they love them.
- 5) Parents who teach their children that virtues like honesty and integrity are more important than money.

Eliot and Candice have created a loving nurturing home for their children. They are outstanding role models as parents. For anyone to suggest that they have a conflict of interest with their children is absurd. They are a family unit and none of them view something that is good for one as bad for another.

Based on my observations, Eliot and Candice Bernstein are not the “bad guys” in these estate matters.

I believe they are being portrayed this way because they have exposed inappropriate actions by officers of the court – the very officers who have an affirmative duty to assure justice is done.

They are being portrayed this way because they refused to go along with Eliot's siblings in their scheme to capture Simon's life insurance proceeds.

They are being portrayed this way because they believe that Ted Bernstein has hijacked Shirley Bernstein's trust and made distributions that are very questionable.

They are being portrayed this way because they believe that, by having Ted Bernstein serving as trustee of Simon's trust, that the directives of Simon Bernstein in that document are not being honored.

They are being portrayed this way because those that are asking for them to lay down and quit searching for the truth know they never will.

It appears to me that the Florida GAL is being used as tool to try to punish Eliot and Candice for not keeping their mouth shut when they saw what was occurring.

My observation has led me to the conclusion that many people in these estate matters should have someone watching over them, but I am confident that it is not the children of Eliot and Candice Bernstein.

William E. Hansbury  
2/29/2016

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

PROBATE DIVISION  
CASE NO.: 502014CP002815XXXXNB

OPPENHEIMER TRUST COMPANY  
OF DELAWARE, in its capacity as  
Resigned Trustee of the Simon Bernstein  
Irrevocable Trusts created for the benefit  
of Joshua, Jake and Daniel Bernstein,

Petitioner,

vs.

ALTERNATE PROPOSED ORDER

ELIOT AND CANDICE BERNSTEIN,  
in their capacity as parents and natural  
guardians of JOSHUA, JAKE AND  
DANIEL BERNSTEIN, minors,

Respondents.

\_\_\_\_\_ /

**PROPOSED ALTERNATIVE ORDER**

THIS CAUSE came before the Court at an evidentiary hearing held on February 25, 2016 upon the "Omnibus Motion (I) To Appoint A Guardian Ad Litem For The Minor Beneficiaries Of The "Grandchildren Trusts;" (II) To Hold Eliot And Candice Bernstein In Contempt Of Court For Their Continued Violation Of A Court Order And Repeated Statements Assaulting The Dignity Of The Court: And (III) To Establish A Schedule And Protocol For Accounting And Turnover Proceedings (the "Motion")" filed by Petitioner, Oppenheimer Trust Company Of Delaware ("Oppenheimer"), in its capacity as the **resigned trustee** of three Irrevocable Trusts settled by Simon Bernstein on September 7, 2006 for the benefit of his grandchildren, minors, Joshua, Jake and Daniel Bernstein (the "Grandchildren Trusts"). The proceeding being defective as it was not Electronically recorded or a Stenographer provided rendering the

proceedings defective but whereby the Court otherwise determines having not reviewed the record as one was not created and being otherwise duly advised in the premises, the Court rules as follows:

1. There is No Record of the proceedings and the matter should be dismissed and further action to bring such a petition stayed until after other proceedings herein
2. That Eliot Bernstein and his wife Candice Bernstein are fully capable, competent, educated parents of their minor children and there is no basis in law or fact for a guardianship as both parents are fully capable of making proper determinations for the minor children herein and protect their best interests.
3. That Case Management for a Complex case was necessary before and is necessary now and should be ordered.
4. That a schedule for full outstanding Discovery compliance should be determined and Discovery hearings conducted for missing, lost, destroyed and withheld discovery.
5. Oppenheimer Trust Co is the resigned Trustee of three trusts created in 2006 for the benefit of three of Simon Bernstein's grandchildren, Joshua, Jacob and Daniel. Eliot and Candice Bernstein (The Bernstein's) were sued in this matter as Parents and Natural Guardians for their minor children and have answered the complaints as such, PRO SE.
6. No evidence has been brought forward to support the allegations that The Bernstein's have any conflict of interest or evidence that they have ever claimed to have any beneficial interest in the three named trusts in this case. References to paragraphs contained herein refer to OTHER trusts where due to fraudulent alterations of trust documents there is now questions and trust construction that needs to still be

addressed as to who the proper beneficiaries and permissible appointees are of Simon and Shirley's Estates and Trusts, NOT the three trusts that Oppenheimer is the Resigned Trustee of.

7. See PP 44-50, 52-60, 65, 109-110, 186 and 253 as referenced in Oppenheimers proposed order that have no bearing or merit in this action.
8. Statements about the Bernstein's having an overarching goal in this litigation and agenda is unfounded and untrue. The Bernstein's goal is to seek the truth that has arisen from questionable actions of Oppenheimer at the direction of Simon Bernstein's prior Personal Representative and Trustee Robert Spallina, who was once a licensed Florida Bar Attorney. As of this date he is ineligible to practice law in the State of Florida due to admitted Fraud and SEC Violations. In addition, Oppenheimer has multiple FINRA reports citing fraud and financial abuse and it is the Bernstein's intentions to uncover the truth and ask the court to determine if the damages that have occurred to their minor children are due to Oppenheimer's actions and/or the prior fiduciaries.
9. Any allegations that Eliot Bernstein is a vexatious litigant were not supported with evidence or facts at the hearing and are unfounded and untrue. Any reference to a prior case in New York resulting from business and patent litigation has no bearing on litigation regarding probate matters and family law is exempt from vexatious litigation allegations.
10. Allegations that the Bernstein's representations of their children's interests are inadequate or inappropriate are statements and allegations that cannot and were not supported by evidence, therefore are unfounded and untrue.



11. All filings by the Bernstein's have been filed as Parents and Natural Guardians on behalf of their children AND THEY HAVE NEVER CLAIMED TO BENEFICIARIES OF THESE TRUST IN THIS CASE AND THUS NO CONFLICT HAS EVER EXISTED AS MISREPRESENTED TO THIS COURT BY LESSNE and are not stricken as there is no personal claim made by the Bernstein's to any benefit of the three trusts created in 2006 solely for their children and this was continued sharp practices by Lessne to move this Court and this Court further sanctions Mr. Lessne for this attempt to mislead the Court.
12. The Bernstein's shall have 45 days to file a response to Oppenheimer's Petition for the additional Objections from the date the newly found Dispositive Documents that are trusts that form the basis of this lawsuit, which were discovered by Alan B. Rose, Esq. and removed without authorization from Simon Bernstein estate property with no Writ of Possession and admitted in Rose's possession, are turned over to this Court. The secreting of dispositive documents necessary to the accounting as they are referenced throughout that allegedly supersede the trusts in the record cause any Objections to Accountings due or claim of violation of previous orders by a former recused Judge moot as they were based on different documents than are now known to exist.
13. The Court Orders that these newly discovered dispositive trust documents that were not sent by the trustees to the beneficiaries and are materially different according to Alan B. Rose, Esq. testimony before the Court on February 25, 2016 regarding his improper and illegal removal of Simon Estate Properties including but not limited to the 3 children's trusts.

DONE and ORDERED in Chambers, North County Courthouse in Palm Beach Gardens,  
Florida, on this 1st day of March, 2016.

---

HONORABLE JOHN L. PHILLIPS

Circuit Court Judge

Copies to: Attached Service List

**SERVICE LIST**

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Appendix Exhibit 2

IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL

IN RE: ESTATE OF SIMON L. BERNSTEIN,

PROBATE DIVISION

Deceased.

CASE NO. 502012CP004391XXXXSB

ELIOT IVAN BERNSTEIN, PRO SE

DIVISION: IY (COLIN)

Petitioner

vs.

TESCHER & SPALLINA, P.A., (and all parties, associates and of counsel); ROBERT L. SPALLINA (both personally and professionally); DONALD R. TESCHER (both personally and professionally); THEODORE STUART BERNSTEIN (as alleged personal representative, trustee, successor trustee) (both personally and professionally); et. al.

Respondents.

ORDER ON PETITION FOR RESIGNATION AND DISCHARGE

This cause was heard by the Court on the co-Personal Representatives' Petition for Resignation and Discharge on February 18, 2014, and the Court, having heard arguments of counsel, and otherwise being fully advised in the premises, ORDERS AND ADJUDGES AS FOLLOWS:

1. The Petitioners' request to accept their resignation is ACCEPTED. The co-Personal Representatives' Letters of Administration are hereby revoked.

2. ~~Within~~ <sup>BY MARCH 4, 2014</sup> ~~business days~~ <sup>(uik)</sup> from the later of the date of this order or the appointment of a successor fiduciary, the resigning co-Personal Representatives shall deliver to the successor fiduciary all property of the Estate, real, personal, tangible or intangible, all of the documents and records of the Estate and all records associated with any property of the Estate, regardless of whether such property has been previously distributed, transferred, abandoned or otherwise disposed of.

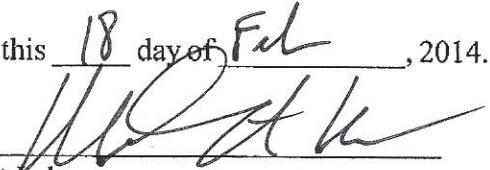
3. The Petitioners' request to reserve ruling on their discharge is ACCEPTED.

4. The resigning co-Personal Representatives shall file an accounting and a Renewed Petition for Discharge within sixty (60) days after the date hereof, which Renewed Petition for Discharge shall be verified and recite that the letters of administration have been revoked, the resigning co-Personal Representatives have surrendered all undistributed Estate assets, records, documents, papers and other property of or concerning the Estate to the successor fiduciary as set forth above, and the amount of compensation paid or to be paid by the resigning co-Personal Representatives pursuant to Probate Rule 5.430(g). Such accounting shall include cash and transactions from the commencement of administration of the Estate and ending as of the date the accounting is submitted.

5. The resigning co-Personal Representatives shall serve notice of filing and a copy of the accounting and Renewed Petition for Discharge on all interested parties and the notice shall state that the objection to the Renewed Petition for Discharge must be filed within thirty days after the later of service of the petition or service of the accounting on that interested person pursuant to Probate Rule 5.430(i).

6. The successor Personal Representative or Curator is authorized to pay a \$ \_\_\_\_\_ retainer to the accountant whom the Successor Personal Representative or Curator selects to provided the accounting which this Order requires. The accountant's hourly rate and compensation shall be subject to court approval.

DONE AND ORDERED in Delray Beach, Florida, this 18 day of Feb, 2014.

  
Circuit Judge

cc: Parties on attached service list

*Write*  
*THE COURT RESENTS JUDICIAL TO ENFORCE THIS ORDER.*



**SERVICE LIST**

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Appendix Exhibit 3

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.: 4D15-3849  
L.T. No.:  
502011CP00653XXXXSB  
502014CA014637XXXXMB  
502014CP002815XXXXSB  
502014CP003698XXXXSB  
502015CP001162XXXXNB  
502015CP002717XXXXNB

ELIOT BERNSTEIN

v. ESTATE OF SIMON BERNSTEIN

---

Appellant / Petitioner(s)

Appellee / Respondent(s)

**Petitioner's Reply to Ted Bernstein/Alan Rose Response:**

**Motion for Re-Hearing En Banc**

I, Eliot Ivan Bernstein, appearing Pro Se as Petitioner-Appellant herein, respectfully shows this Court as follows:

1. I am acting Pro Se, as my own counsel and seek this Court's permission to file this Reply to the Response filed by attorney Alan M. Rose on behalf of Ted Bernstein as this Response misleads this Court about material facts and falsely states material facts before this Court and thus I pray such Sur-reply is in accordance with reporting ethical matters of attorneys and permitting the Court to have proper facts and ensure the integrity of its operations.

2. According to the following link from The Florida Bar Courtesy of the Ethics Department, Rules of Professional Conduct provide:

RULE 4-3.3 CANDOR TOWARD THE TRIBUNAL(a)False Evidence; Duty to Disclose. A lawyer shall not knowingly:(1)make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer; (2)fail to disclose a material fact to a tribunal when disclosure is necessary to avoid assisting a criminal or fraudulent act by the client.<sup>1</sup>

3. Alan B. Rose, Esq. stated to this Court “The issues raised seem to be exceptionally important, or obsessively important, to Eliot Ivan Bernstein, but to no one else in the world. Indeed, these issues already have been decided years ago. *Bernstein v. New York*, 591 F. Supp. 2d 448 (S.D.N.Y. 2008).”
4. This is at least in substantial part a knowingly false and misleading statement by attorney Alan Rose before this Tribunal.
5. As noticed in Par. 7 of the Petition for Re-hearing before this Court which this Court may have misapprehended and / or overlooked in the original All Writs Petition, was the following:

“Eliot Ivan Bernstein has pursued in investigations since early 2000 to present, including a Petition to the White House<sup>2</sup>, the White House Counsel’s Office, the US Attorney General’s Office, investigations to the SEC<sup>3</sup>, FBI, and various State Attorney Generals, and actions with the USPTO, and other legal actions, including RICO and ANTITRUST civil litigation and criminal complaints several Florida Supreme Court Justices, The Florida Bar, several New York

---

<sup>1</sup> See,

[https://www.floridabar.org/TFB/TFBResources.nsf/Attachments/0F161F3B5030FE0485256B29004BEEDD/\\$FILE/candor%20packet.pdf?OpenElement](https://www.floridabar.org/TFB/TFBResources.nsf/Attachments/0F161F3B5030FE0485256B29004BEEDD/$FILE/candor%20packet.pdf?OpenElement)

<sup>2</sup>

<http://iviewit.tv/CompanyDocs/United%20States%20District%20Court%20Southern%20District%20NY/20090213%20FINAL%20SIGNED%20LETTER%20OBAMA%20TO%20ENJOIN%20US%20ATTORNEY%20FINGERED%20ORIGINAL%20MAIL%20I.pdf>

<sup>3</sup>

<http://www.iviewit.tv/CompanyDocs/United%20States%20District%20Court%20Southern%20District%20NY/20090325%20FINAL%20Intel%20SEC%20Complaint%20SIGNED2073.pdf>

Supreme Court Justices, the New York Supreme Court Disciplinary Agencies 1<sup>st</sup> & 2<sup>nd</sup>, several large law firms and lawyers, political figures at the highest levels in both Florida and New York and others and this may cause any review of the following matters by any member of The Florida Bar, a subsidiary of the Florida Supreme Court, with any title in the organization, to prejudice the rights of Eliot Bernstein and his family and will be construed as a denial of due process that obstructs justice.”

6. First, the language in the All Writs was fairly explicit in saying “in investigations since early 2000 to present”, with “present” being the keyword. Thus, attorney Alan M. Rose representing Ted Bernstein knew and should have known reference to a Decision made in August of 2008 did not pertain to the “present” where it is now Dec. 17, 2015 and thus was knowingly misstating facts before this Tribunal.
7. Second, attorney Alan Rose should know such action in referencing a Decision of 2008 to be improper and goes beyond what was raised in the Petition for All Writs and is clearly prejudicial without full and fair briefing including rules of collateral estoppel but would further require new facts not alleged in the All Writs and is thus further improper by attorney Alan Rose.
8. Moreover, in the Petition for All Writs, the Petition to the White House is Footnoted and linked by a uniform resource locator. A simple due diligence review by Attorney Alan Rose prior to filing this false and misleading response before this Court would have shown the following:
  - a. the White House Petition was not filed until Feb. 13, 2009 thus Alan Rose’s reference to an Aug. 2008 Decision was improper and misleading since nowhere in said August 2008 Decision was the Petition to the White House discussed or referenced since it had not occurred yet, thus this is false and misleading; ( Note: The Fax Receipt for this Petition which has my fingerprint showing successful transmission to the White House on it is technically incorrect on the date

showing Jan. 12, 2013 possibly due to a technical machine error; in any event, both dates are clearly beyond the Aug. 2008 Decision Alan Rose is referencing and other records confirm Feb. 13, 2009 as the date this Petition was successfully transmitted.);

b. As quoted from the Petition to the White House on Feb. 13, 2009,

**“Of paramount importance to the interests of the “United States” is the fact that I, Eliot Bernstein, have been specifically urged by Harry I. Moatz, (“Moatz”) Director of the Office of Enrollment & Discipline of the USPTO (“OED”) to seek Congressional legislation to correct these urgent matters impacting the fundamental integrity of the USPTO and adversely impacting the future and development of Inventions and protection of patent rights in the United States with obvious corresponding implications for the future of the US economy and commerce.” ( emphasis added );**

and further,

**“This event was reported to the FBI investigator, *Special Agent Stephen Lucchesi (“Lucchesi”) in the West Palm Beach FBI offices, who also was investigating for several years the Iviewit companies’ affairs and mainly the crime directly against the United States of Fraud on the USPTO in conjunction with Moatz. Moatz directed me to file with the Commissioner of Patents a complaint notifying the USPTO that Fraud against the United States had occurred in the submission of fraudulent applications to the USPTO as well as on my companies’ shareholders and me.* “ ( emphasis added );**

and still,

“More recently and surreally Special Agent Lucchesi has gone missing per the FBI, with the case files and this has elevated the matters to The Honorable Glenn Alan Fine (“Fine”), Inspector General ~ Department of Justice (“DOJ”) who invoked The Honorable H. Marshall Jarrett (“Jarrett”) from the FBI Office of Professional Responsibility (“OPR”) to further investigate,”

As clearly set out in the Petition to the White House in 2009, at least Harry Moatz who is a person in the world beyond myself, being Head of the Office of Enrollment and Discipline of the USPTO at the time deemed these matters of national interest against the “United

States” and presumably did FBI Agent Luchessi, also being a person in the world besides myself who was Investigating the matters for several years at least until he went missing with the case files.

9. Nowhere in the recent Response motion has Attorney Alan Rose produced one federal source from the White House, White House Counsel’s Office, the US Attorney General, the Dept. of Justice, or the USPTO, no US Secret Service Agent, Capitol Police, US DOJ Agent either of the FBI or any federal executive Agency who have declared these matters as unimportant, harassing or frivolous and certainly this is not stated anywhere in the 2008 Decision referenced by Alan Rose since some of these actions occurred after 2008 and could not have possibly been decided or ruled upon by 2008. Thus again, attorney Alan M. Rose is being false and misleading before this Tribunal.
10. Still further, attorney Alan Rose goes on in Paragraph 3 as follows: “ In Bernstein, the federal judge dismissed with prejudice...” regarding an August 08, 2008 Order by the most Honorable Shira A. Scheindlin. First and foremost, Alan Rose is again bringing up matters which were not directly part of the All Writs Petition. Further, a basic review of the Decision cited to by Alan Rose clearly shows that Hon. Judge Scheindlin did not dismiss the case with prejudice and the word “prejudice” is not contained anywhere in the Decision<sup>4</sup>.
11. More egregiously, however, attorney Alan Rose goes on to directly and knowingly imply a Mis-Quote to the 2008 Hon. Judge Scheindlin Decision by saying in Paragraph 3,  
  
“In *Bernstein*, the federal judge dismissed with prejudice Eliot Bernstein's "fantastic conspiracy among members of the legal profession, judges and government officials and private individuals and businesses to deprive plaintiffs of what they describe as their 'holy grail' technologies.”

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<sup>4</sup> See Scheindlin August 08, 2008 Order  
<http://www.iviewit.tv/CompanyDocs/United%20States%20District%20Court%20Southern%20District%20NY/20080808%20Scheindlin%20Dismissal%20of%20Complaint%20no%20comments.pdf>

12. Attorney Alan Rose in what has to be knowingly false conduct makes it appear that federal Judge Scheindlin claimed to have made the above quotation from her Order as if this was the Judge's finding of a "fantastic" story when in fact it was really a direct quote of Defendant law firm Proskauer Rose from their response to Eliot's Complaint that Judge Scheindlin simply quoted from, as Judge Scheindlin's quote is fantastically different than Rose's perversion of her statement.
13. What Hon. Federal Judge Shira A. Scheindlin really stated was much different however as cited directly from her Order as follows.

**SHIRA A. SCHEINDLIN, U.S.D.J.:**

**I. INTRODUCTION**

This action presents a dramatic story of intrigue, car bombing, conspiracy, video technology, and murder. In short, plaintiffs allege that hundreds of defendants engaged in a massive conspiracy to violate their civil rights and, in the process, contributed to the Enron bankruptcy and the presidency of George W. Bush.

In plaintiffs' words:

Plaintiffs depict a conspiratorial pattern of fraud, deceit, and misrepresentation, that runs so wide and so deep, that it tears at the very fabric, and becomes the litmus test, of what has come to be known as free commerce through inventors' rights and due process in this country, and in that the circumstances involve inventors' rights tears at the very fabric of the Democracy protected under the Constitution of the United States.<sup>1</sup>

Defendants characterize the events quite differently:

For many years, *pro se* Plaintiffs Eliot I. Bernstein and Plaintiff Stephen Lamont have engaged in a defamatory and harassing campaign . . . alleging an immense global conspiracy . . . . Although largely unintelligible, the [Amended Complaint] purports to describe a fantastic conspiracy among members of the legal profession, judges and government officials and private



individuals and businesses to deprive plaintiffs of what they describe as their "holy grail" technologies.<sup>2</sup>

While I cannot determine which of these descriptions is more accurate [emphasis added]... are the words of Judge Scheindlin who further goes on in her Decision to detail the facts very specifically in a 50 page Decision.

14. Thus, attorney Alan Rose clearly misquoted Scheindlin's Order with scienter through sharp practices to this Court to sway the Court's opinion against Plaintiff-Appellant Eliot Bernstein.
15. Petitioner respectfully shows this Court and prays that the only appropriate sanction for attorney Alan Rose is at minimum to strike all such false and misleading references in his Response for Ted Bernstein from the Record and further those which go beyond the Petition for All Writs as otherwise the only fair way to balance the record is to permit myself to bring in new facts not part of the All Writs Petition relating to other Orders of Judge Scheindlin from cases that were marked "legally related" and other facts up to the present which to my understanding is not proper process or even permitted on a Motion for a Re-hearing in general or either for a Motion for a Re-hearing En Banc.
16. Permitting the Sale of Lions head under these circumstances where Judge Colin is not issued mandamus to have Disqualified and Voided his Orders would seem even from my layman's point of view of changing the entire law of Florida with respect to Real Estate Disclosures, and what is considered an "arms-length" transaction since as a Judge who should have already Disqualified himself from proceedings he went on to Order the Sale of the Lion's Head home that Alan Rose and Ted Bernstein are in such a rush to sell while Colin called this an "arm's length" transaction **knowing the identity of the Buyer had Never been**

*disclosed in or out of court.* These concepts of disclosure and Judge Colin's improper declaration of what is an "arms-length" transaction were brought up in the underlying Motion for Disqualification cited in the All Writs Petition.

17. This action not only creates extraordinary importance but also seems to raise substantial questions of statewide uniformity in the definition of "arms-length" transactions in Real Estate and further with respect to Florida Property Disclosure laws.

18. Other facts which may have been overlooked or misapprehended by this Court from the Petition for All Writs include:

Par. 9 from All Writs:

"The mandatory disqualification of Judge Colin herein came in the Estate cases of my parents, Shirley and Simon Bernstein, with Shirley predeceasing Simon on December 08, 2010 and Simon passing on September 13, 2012. According to the "official" Court records to date, Judge Colin presided over the Estate of Shirley Bernstein while initially Judge French presided over the Estate of Simon Bernstein although eventually Judge Colin begins making rulings and taking action in both cases.

At the time of Simon Bernstein's passing in 2012, his eldest son Ted Bernstein was claiming possible murder of his father at the hospital in Boca Raton, and proceeded to take steps to claim possible murder with the Coroner, members at the hospital and eventually on the day he passed the Palm Beach County Sheriff's Office back at the home of Simon Bernstein shortly after he was declared deceased. Since that time, valuable personal property items and jewelry which itself was worth more than a million dollars has gone missing and unaccounted for, Simon's home computer and hard drives had been wiped clean, Shirley's condo on the beach was sold off illegally, while multiple key and critical documents like Trusts and other business documents went "missing" and/or not produced by the involved attorneys and fiduciaries. Simon Bernstein had been in the insurance business some 50 years or so and a fair approximate combined worth of both estates could be \$50 to \$100 million. "

Par. 14 from All Writs:

"It is noted that at the time this mandatory disqualification motion had been filed, Judge Colin had already permitted the cases to continue for nearly 2.5 years without ever holding a hearing to determine who the proper Trustees were, who proper Personal Representatives of the Estate were and are, what the construction and meaning of the Trusts and Estates should be and if the dispositive documents

were valid after learning documents had been fraudulently altered and forged and posited with the court of Colin by the Fiduciaries and Counsel, all the while permitting parties such as Ted Bernstein and attorneys Tescher and Spallina who are involved in the direct frauds upon his court to nonetheless continue acting permitting properties to be illegally sold, substantial monies and assets transferred and disposed of while denying Petitioner and Petitioner's minor children rights of inheritancy causing substantial financial and related harm. "

Par. 23 of All Writs:

"The Disqualification motion clearly demonstrated Judge Colin as a material fact witness in relation to the fraud by Attorneys Spallina and Tescher specifically in relation to an Oct. 24, 2012 filing wherein Attorney Spallina files multiple documents allegedly signed by then Deceased Simon Bernstein nearly 6 months before, yet filing these documents in Judge Colin's Court in the Estate of Shirley Bernstein as if Simon was present and still alive, thus using a Deceased person to attempt to close the Estate of Shirley Bernstein. One of the documents filed at this time is an April 9, 2012 Petition for Discharge which was signed before attorney Robert Spallina allegedly by Simon Bernstein. In addition to this document being fraud as purporting in October of 2012 to be filed by Simon who was now deceased, the document had further fraud in the document such as alleging Waivers by the Simon Bernstein children had been performed by such date and yet these Waivers were not completed as of April 9, 2012. These Waivers which were not completed as of April 9, 2012 are other documents later admitted by the Tescher Spallina employee and Notary Kimberly Moran to have been forged. The Disqualification motion further shows Judge Colin and his Court Officer having Ex Parte contact with Attorney Spallina two weeks later on Nov. 5, 2012 but not even this Ex Parte communication is docketed until the next day, Nov. 6, 2012. "

**WHEREFORE**, it is respectfully prayed that this Court strike those portions of the Response filed for Ted Bernstein by his attorney Alan Rose and impose sanctions as otherwise just and proper and further grant relief as requested in the Petition for Re-Hearing En Banc.

Dated: December 17, 2015

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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 17th day of December, 2015.

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By: /s/ Eliot Ivan Bernstein  
Eliot Ivan Bernstein

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Appendix Exhibit 4

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

December 18, 2015

**CASE NO.: 4D15-3849**

L.T. No.: 502011CP00653XXXXSB  
502014CA014637XXXXMB  
502014CP002815XXXXSB  
502014CP003698XXXXSB  
502015CP001162XXXXNB  
502015CP002717XXXXNB

ELIOT BERNSTEIN

v. ESTATE OF SIMON BERNSTEIN

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Appellant / Petitioner(s)

Appellee / Respondent(s)

**BY ORDER OF THE COURT:**

ORDERED sua sponte that the appellant's December 17, 2015 Reply to Motion for Rehearing En Banc is stricken as unauthorized.

Served:

cc: Brian M. O'Connell  
Eliot Ivan Bernstein

Gary R. Shendell

Alan Benjamin Rose

ct



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**LONN WEISSBLUM, Clerk**  
Fourth District Court of Appeal

