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

CASE NO.: 4D16-1449, 4D16-1476,
4D16-1478

L.T. No.: 2014CP002815XXXXNB,
2014CP002815XXXXNB,
2014CP003698XXXXNB

ELIOT IVAN BERNSTEIN	v.	OPPENHEIMER TRUST CO. OF DELAWARE, ET AL.
Appellant / Petitioner(s)		Appellee / Respondent(s)

AND OTHER NON RELATED TRUST CASE TO OPPENHEIMER CASE

CONSOLIDATED BY 4TH DCA 4D16-1478

ELIOT IVAN BERNSTEIN	v.	TED BERNSTEIN, AS TRUSTEE, ETC., ET AL.
Appellant / Petitioner(s)		Appellee / Respondent(s)

INITIAL BRIEF ON THE MERITS

Respectfully submitted
By: **/S/ Eliot Ivan Bernstein**
Pro Se Appellant

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2. http://15thcircuit.co.palm-beach.fl.us/documents/19739/25153/courtreporting_FAQ.pdf
3. Rule 1.210(b) of the Florida Rules of Civil Procedure

PRELIMINARY STATEMENT

This is an Appeal to the 4th District Court of Appeals of three (3) Orders of now retired Judge John Phillips appointing a "Guardian ad Litem", one Diana Lewis, over my 3 children where one was over the age of 18 at the time of the Orders where no Service or Process over Joshua Bernstein who was 18 at the time was ever acquired and where Joshua Bernstein was thus provided no Due Process opportunity to be heard and where no hearing to determine if any form of Guardian over such person over the age of 18 was proper. As this Court will see from literally the First Paragraph of the Petition by Alan Rose giving rise to these Orders, further Fraud Upon the Court was continued in the Court below and continues to this day with these Appeals occurring against the backdrop of actual and admitted fraudulent and forged filings occurring in the Lower Court below. This is further a "Consolidated Appeal" of the three Orders, consolidated over objection by Appellant from 2 separate "Trust" cases with 2 separate sets of parties, pleadings and facts all into this one appeal.

Joshua Bernstein had already reached the age of 18 as of August, 2015, some 6 months prior to issuance of the Order and where Appellees were aware of the age of the adult child at the time of filing said Petitions for Guardianship.

Eliot Bernstein, Pro Se, shall be referred to as Appellant.

Ted Bernstein and the Oppenheimer Trust[1] are referred to as Appellees.

Three Records on Appeal were Produced by the 15th Judicial Clerk in this matter.

1. R-1 shall designate the ROA from the Lower Tribunal Shirley Bernstein Trust CASE NO.:50-2014-CP-003698-XXXX-NB and 4th DCA NO.:4D16-1478.
2. R-2 shall designate the ROA from the Lower Tribunal Oppenheimer Trust Case No. 50-2014-CP-002815-XXXX-NB, 4th DCA CASE NO.:4D16-1476.
3. R-3 shall designate the ROA from the Lower Tribunal Oppenheimer Trust Case No. 50-2014-CP-002815-XXXX-NB, 4th DCA Case No. 4D16-1449.
4. R-4 shall designate the ROA previously produced for this Court from a separate Appeal in the Shirley Bernstein Trust, Lower Tribunal Case No. 50-2014-CP-003698-XXXX-NB under 4th DCA Case No. 4D16-222.

[1] Lessne purports to represent a "Resigned Trustee" and technically represented Trustee Oppenheimer's representative Janet Craig at Oppenheimer Trust Company of New Jersey, Lessne did not represent the Trusts or Beneficiaries of the Trusts. Appellant challenges the Standing of the Resigned Manager to have brought the Guardian Petition and Standing issues to argue on Appeal as Appellee and in the lower court.

NOTE: DUE PROCESS OBJECTION ON APPEAL: Pro Se Appellant Eliot I. Bernstein has been Denied by this 4th District Court of Appeals the Production of the Original Case Files on Appeal for the involved Oppenheimer "Trusts" which are part of the subject of this Appeal. Indigent Pro Se Appellant has never had access to, nor been provided these case files in the Lower Tribunal. The Original Case files appear to be filed under Lower Tribunal Case Numbers: 502010 CP 003128 XXXXSB for Joshua Bernstein (R-4, p. 77); 502010 CP 003125 XXXXSB for Jake Bernstein (R-4, p. 80); and 502010 CP 003123 XXXXSB for Daniel Bernstein. (R-4, p. 83).

This Court was advised of the necessity for Production of these Records based upon the ongoing Frauds Upon the Court being advised in my first Motion for an Extension in the 4D16-1449 filed and received by this 4th District Court of Appeals RECEIVED, 6/28/2016 12:01 AM, Clerk, Fourth District Court of Appeal[2].

As shown in Paragraph 4 of said Motion,

> 4. "This case brings clearly into focus exactly why Production of Full Records and Indexes on Appeal in ALL related cases is necessary and further why proceedings in all cases should be stayed pending full investigation of fraud upon the Court under the Statewide Fraud Policy of the Court's dated September 27, 2012, attorney conduct codes, judicial canons and law."

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2 http://iviewit.tv/Simon%20and%20Shirley%20Estate/20160627%20FINAL%20ESIGNED%20OPPENHEIMER%204TH%20DCA%20EXTENSION%20INITIAL%20BRIEF%20ECF%20STAMPED%20COPY.pdf

Further, in Paragraphs 7-9 it was shown:

> ***7.This case takes the fraud involving Robert Spallina of Tescher & Spallina back to at least 2010 as shown by the original filings by Oppenheimer herein by falsely and fraudulently claiming in Paragraph 8 as seen on Record on Appeal Page 000010 as follows: 8. "In 2010, Eliot and Candice Bernstein, as the parents and natural guardians of Joshua, Jake and Daniel Bernstein, filed Petitions to Appoint Successor Trustee for each of the Trusts in the Circuit Court and for Palm Beach County, Case Nos. 50201 OCP003123XXXXSB, 50201 OCP003125XXXXSB and 50201OCP003l28XXXXSB."***
>
> 8. Said Petitions from July 2010 were filed by the Offices of Tescher and Spallina under the signature of Robert Spallina yet falsely and fraudulently claiming and purporting to have been signed by myself and my wife Candice Bernstein when neither of us had ever met Robert Spallina or Donald Tescher or signed the document to file any such Petition in July of 2012.
>
> 9. This fraud was reported on the Record to Judge Colin and further reported to the Palm Beach County Sheriff's Office as further fraud on the Court and in these cases involving the forgery of our signatures for said Petition."

Thus, not only does this Court nor Appellant Eliot Bernstein have benefit of the Full Records of the involved Oppenheimer Trusts for purposes of this Appeal causing Due Process violations on Appeal, the Court below of Judge Phillips did not obtain such full records or provide Appellant benefit of same in determining any Guardianship which must now be overturned on Appeal on Due process grounds alone.

Further, with respect to the alleged Trusts which are part of the Shirley Bernstein Case on Appeal herein for Eliot's children but are factually alleged to be Trusts

under a Simon Bernstein Trust Dated 9-13-12, none of these Trusts for Eliot's children who are claimed as beneficiaries where Appellant is claimed as Trustee and were sued in the Shirley Trust case appealed herein have ever been produced by Ted Bernstein or Alan Rose and Appellant has never seen these trusts and in fact attorney Alan Rose has admitted said Trusts do not exist. Neither the Simon Bernstein Trust dated 9/13/12 or any grandchildren trusts sued have ever been produced to this court in any of the Simon and Shirley Bernstein Estate and Trust cases and without them this case appears filed against parties that do not legally exist.

Thus, the entirety of these Consolidated Appeals are based upon missing Trusts, missing Records and improper hearings and incomplete findings and all such Orders must be vacated and overturned and new proceedings ordered. Further, even with respect to documents which were provided, these are only incomplete, not fully executed, missing signature pages entirely and are "copies" while the "Originals" have never been provided by Oppenheimer to this Court or the lower court or any party.

STATEMENT OF THE CASES AND FACTS

In summary, the Petitions to appoint a Guardian were filed initially for a UMC hearing with continuing fraudulent statements being placed before the Court, no

due process hearing occurred, the Hearings were not electronically recorded according to law and thus must be overturned and vacated, and once again insufficient time was allowed for proper witnesses and facts to be developed and the Orders are thus an abuse of discretion by a now retired Judge who should have Disqualified and such Orders are not supported by competent, substantial evidence. Moreover, multiple filings of Appellant and motions which should have been heard to determine the real facts in the cases still have never been heard to this day. Thus, there can be no basis to uphold such Orders which must be vacated.

In continuing and ongoing Fraud upon the Court in these proceedings, the very First Paragraph of the Petition under the signature of attorney Alan M. Rose filed on behalf of his client Ted Bernstein to obtain the Guardian appointments herein is **ripe with fraud** falsely stating and claiming in this Jan. 4th, 2016 filing as follows:

> "***As a result of upholding these documents, the Court has determined that Eliot Bernstein, individually, is not a beneficiary of either Simon's or Shirley's Trusts or Estates. Instead, his three sons are among the beneficiaries of both Simon's and Shirley's Trusts, in amounts to be determined by further proceedings. Eliot lacks standing to continue his individual involvement in this case***." See, R-4 page 1711.

Yet, this entire factual statement by attorney Alan M. Rose is False and Fraudulent as at this time, the Lower Tribunal (Judge Phillips) had made NO SUCH DETERMINATIONS or Findings "constructing" the meaning of alleged documents at a Validity Hearing or determining "Standing". See, R-4 1578-1582

Final Judgement Dec. 16, 2015. It is noted that attorney Alan Rose and Ted Bernstein acting as a fiduciary originally attempted to get this Guardian Appointed by Judge Phillips through this Jan. 4, 2016 Petition at a UMC Hearing, one of the many continuing and ongoing "sharp practices" Appellant has been faced with throughout these related cases.

Just part of Appellant's response to this initial continuing Fraud filing by Alan Rose and Ted Bernstein noted the need for Compliance with outstanding Discovery including "Originals" from Tescher & Spallina which to this day have never been provided where Appellant stated to the Lower Tribunal in a January 13, 2016 filing in part as follows:

> "1. *I oppose the motion by Alan M. Rose to appoint a Guardian for my children and oppose his motion for any "gag" order and* ***since an Evidentiary Hearing and Testimony are both necessary with respect to the factual pleadings by Alan Rose and such evidence and testimony including my own testimony on both matters which would last well beyond 30 minutes alone it is inappropriate and improper process to achieve anything at the Uniform Motion Calendar Hearing on Jan. 14, 2016 beyond Scheduling of Compliance for outstanding Discovery and Production, depositions and then an evidentiary hearing and a proper Case Management Conference for this "Complex" case.***
>
> 2. *This, however, naturally raises the issue of first scheduling the hearings on the motions to remove Ted Bernstein as Trustee for not being qualified under the language of the trusts, for misconduct in fiduciary capacity, for waste and fraud upon the estate and other matters . . .*" See R-4, page 1800.

This Court can simply look to 5 of Appellant's filings in response to Ted Bernstein-Alan Rose and the Oppenheimer filings for Guardian to find sufficient basis to overturn and vacate the Orders herein and if necessary remand.

3 of such filings are in the Record on Appeal for the FOURTH DISTRICT CASE NO.:4D16-222 and thus R-4 herein as follows:

> 01/13/16 RESPONSE TO: RESPONSE IN OPPOSITION MOTIONS FOR GUARDIAN & GAG ORDER FILED (R-4 1799-1820)
>
> 01/13/16 RESPONSE TO:: RESPONSE IN OPPOSITION MOTIONS FOR GUARDIAN & GAG ORDER FILED (R-4 1821-1842)
>
> 01/19/16 OBJECTION: TO PROPOSED ORDER OF ALAN ROSE/TED BERNSTEIN F/B ELIOT BERNSTEIN (R-4 1843-1875).

The last 2 filings are in the Appendix and are:

"March 1, 2016 Objections to Proposed Order of Alan Rose/ Ted Bernstein and Proposed Order" and "March 1, 2016 Objections to Proposed Order of Oppenheimer and Proposed Order," see Appendix Exhibit 1 - Combined Objections Oppenheimer and Shirley Trust.

As shown in Paragraphs 2-3 in the Objections to Proposed Order of Alan Rose/Ted Bernstein of March 1, 2016,

> "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/courtreporters
>
> 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."
>
> See, Appendix Exhibit 1 - Shirley Trust Objections.

Likewise, these same paragraphs and legal citations were placed before Judge Phillips of the Lower Tribunal in the Oppenheimer case at Paragraphs 3 and 4. See, Appendix Exhibit 1 - Oppenheimer Objections.

As further shown to the Court below which has abused its discretion in appointing a Guardian and rendered Orders which are not proper under substantial competent evidence from hearings which had no mandatory recording and were insufficient to allow proper witnesses, Appellant filed as follows,

> "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" and further that,

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, 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 that no such Order to Disclose was issued.

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

See, Appendix Exhibit 1 - March 1, 2016 Objections to Proposed Order on Guardians.

The instant proceedings that gave rise to the Order on Appeal appointing a Guardian Ad litem were not a "construction" proceeding of the Oppenheimer Trusts which were not Testamentary Trusts and therefore should not have fallen under the exception in FS 736.0201(5) to be filed or determined in the Probate Court under the Probate Rules.

For procedural posture of this and all "related" cases, however, it is noted in fact that there still has never been any "construction" or "validity" of the involved

Oppenheimer Trusts determined despite Appellant raising further "fraud" in Instruments and documents on the record with the involved Trusts herein.

The lower tribunal under Judge Martin Colin, however, somehow had marked and filed civil trust cases as "Probate" cases and to the extent the cases were marked as Probate cases, the lower tribunal was required by Florida Statutes, Probate Rules and Court Rules to mandatorily Record the Guardianship Hearings Digitally and where there is no recording or transcript of the hearings despite best efforts by Appellant to have a court record of the hearings produced even at the hearing, which request was denied by Judge Phillips. See, 15th Judicial Circuit Court Reporting Department and 15th Judicial Frequently Asked Questions.

The underlying cases are Trust Cases and in Oppenheimer the trusts are non-testamentary and all of them should have been heard under the Civil Rules of Procedure in the civil court, not as Probate Cases in the Probate court. Instead, the lower tribunal heard the cases in Probate Court beginning under Judge Martin Colin who had been moved for Mandatory Disqualification multiple times and then, after denying the last mandatory Disqualification motion accusing him directly of fraudulent acts involving a home sale and more, Colin suddenly "Recused" within 24 hours and then POST RECUSAL "steered" the cases to the North Branch of Palm Beach County after having conversations with at least 2 Judges in the South Branch Ex-Parte where Judge Colin was already a "material

fact witness" to various Frauds that occurred in his Court, with his name on several of the alleged fraudulent documents and the frauds were committed by his Court appointed fiduciaries and attorneys at law, making his handling of the cases lead to an overwhelming appearance of impropriety.

Appellant notes that in both separate cases which have been consolidated for Appeal over objections, in neither case has any "Original" Trust been produced despite an Order from retired Judge Colin for the former Co-Personal Representatives, Co-Trustees, Donald Tescher, Esq. and Robert Spallina, Esq., who withdrew after admissions of their law firm committing multiple frauds, to turn over **ALL** records in the matters, whereby they turned over NO ORIGINAL documents out of a production of 7202 pages and thus no documents in these matters produced by them, including ALL the trusts cannot be verified against originals at this time, see Appendix Exhibit 2 - February 18, 2014 Colin Order for Production.[3] It should be noted that Alan Rose misled the Court in several hearings, including a December 15, 2015 hearing before Judge Phillips in Shirley's Trust case that no such order for production of ALL of Tescher and Spallina's records was issued by Judge Colin.

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3 http://iviewit.tv/Simon%20and%20Shirley%20Estate/20140218%20ORDER%20COLIN%20TESCHER%20SPALLINA%20TO%20TURN%20OVER%20ALL%20RECORDS%20PRODUCTION%20ON%20PETITION%20FOR%20DISCHARGE%20TESCHER%20SPALLINA%20Case%20502012CP004391XXXXSB%20SIMON.pdf

In the case of the Shirley Bernstein Trust, not even "copies" of the relevant alleged Trusts for 10 grandchildren have been produced by attorney Alan Rose or his client Ted Bernstein despite claims that these are the beneficiaries of both Simon and Shirley Bernstein's Estates and Trusts and these are the parties legally sued by them in these matters. In fact, Alan Rose has now admitted that NO SIMON BERNSTEIN TRUST DATED 9/13/12 legally exists and that grandchildren trusts for alleged beneficiaries are not legally existent as of this date and where Appellant was sued under the Shirley Trust Case 2014CP003698XXXXNB in this matter in his capacity as a Trustee for such legally non-existent trust. The grandchildren sued were sued under the same legally non-existent trust and no copies of any of the alleged grandchildren's trusts have ever been produced or are in the record on appeal. No such trust dated on the day Simon Bernstein died, 9/13/12 has ever been produced to this Court or the Lower Court and thus personal jurisdiction over the legally non-existent parties does not exist. This is cause for vacating the entire sham proceedings other than Appellants pleading, including his counter complaint. It is further noted for this Court that Appellant's son Joshua Bernstein was over the age of 18 years at the time the Petitions herein were heard and the Orders issued and it was known by attorneys Alan Rose and Steve Lessne and their clients, Judge Phillips and Diana Lewis appointed Guardian that Joshua Bernstein was over the age of 18 years and that no Guardian/Competency Hearings were held

demonstrating the need for Joshua Bernstein to have a Guardian or Guardian ad Litem as an adult.

The Orders appointing a Guardian Ad Litem are not supported by any evidence from any Hearing, much less competent substantial evidence as the Lower Tribunal acted illegally abusing its discretion in failing to ensure the Hearing was Digitally Recorded and a record produced as required according to Florida Statutes 744.3109, Probate Rule 5.541, and the 15th Judicial Circuit Court Rules and Staff from the 15th Judicial Court Reporting Services Department. Appellant attempted to have the Court get a reporter at the hearing but was denied by Judge Phillips. The arbitrary, capricious and illegal acts of lower tribunal Judge John L. Phillips in denying Digital Recording and denying Appellant time to get a court reporter at the hearing ensured that there is no competent evidence to support the Order.

The children of Appellant and the three grandchildren of Simon and Shirley who are alleged beneficiaries in the Shirley Trust case and the beneficiaries in the Oppenheimer case were not represented by counsel at the guardian hearings nor by their parents and despite Appellant seeking the court to allow a Pro Hac Vice attorney who was already retained by the children to come into the case and represent the minor children and one adult at the hearing, which would have obviated any alleged conflicts with Appellant and caused no need for a guardian, Judge Phillips proceeded knowing they were unrepresented minors and an adult

child was unrepresented in effort to gain predatory guardianships using a former Judge Diana Lewis.

If the lower court ordered a Guardian for the children of Eliot Bernstein and his wife in the Shirley Trust case due to a conflict of interest between them and their children it would go to say that all the children of Simon and Shirley Bernstein would need similar guardians for their children as alleged beneficiaries as they all have the same conflict that Eliot does. However, Judge Phillips did not order guardians for all similarly situated grandchildren and thereby such Orders are an abuse of discretion and prejudicial to Appellant in the Shirley Trust case and cause for reversal. In fact, six of the minor children alleged to be beneficiaries have never been represented in the matters by their parents or counsel and three of them currently remain unrepresented by any party at hearings.

Appellant Eliot Bernstein was the only person in the Shirley Trust case and Estate case who advanced the need for the grandchildren to have independent counsel from their parents as there was conflict created as to who the beneficiaries were, due to fraudulent documents and admissions of fraud by fiduciaries and counsel that threw into question who the beneficiaries are, including a fraudulent Shirley Trust created by Robert Spallina, Esq. Spallina who admitted in a December 15, 2015 Validity Hearing in the Shirley Trust case to have sent the fraudulent Shirley Trust he created that changed beneficiaries to favor his client and business

associate Ted, via US mail, to Christine C. Yates. Yates was counsel Eliot initially retained to represent his children's interests wherever their would be conflict between Eliot and his children. Further conflict and adversity is created now because the copies of the alleged Shirley and Simon trusts and estates nowhere mention 10 grandchildren's trusts as beneficiaries, instead only 3 of five of the children are named beneficiaries and have trusts under the Shirley and Simon trusts with their children and again no grandchildren trusts exist under the Simon or Shirley Bernstein trusts, nor have they ever been produced or are they a part of the Lower Tribunal record, despite claims that dispositions were made by Ted to these nonexistent trusts and that parties were sued under trusts that now are admitted not to exist today and in capacities under the non-existent trusts.

In the Oppenheimer case there is NO conflict between Eliot and his children as misrepresented to the lower court and this Court by Lessne, as Eliot is not seeking interest in the corpus of the trusts as a beneficiary or otherwise. The Order in the Oppenheimer case claims that Eliot is in conflict with his children over the benefits. Yet, Lessne cites in his pleadings to a claim in the Counter Complaint filed by Eliot in the Oppenheimer lawsuit that refers to the conflicts amongst beneficiaries in the Shirley and Simon trust cases as the basis for conflict with Eliot and his children in Oppenheimer's case, this represents a pattern and practice by Lessne of sharp practices and false and misleading pleadings in this lawsuit.

Where there is dispute as to who the beneficiaries are, the children or grandchildren due to the prior proven and admitted frauds committed by the Fiduciaries and Counsel in limited to the Shirley Trust case before this Court. In the Oppenheimer case, there has never been a claim by Eliot to be the beneficiary of the three children's trusts and this is wholly misrepresented to the court by Lessne. In fact, as Lessne's original pleadings with the Lower Tribunal show is that Oppenheimer filed the suit because Eliot would not become the Successor Trustee to Oppenheimer who had resigned prior to electing a successor as required and seeking to force Eliot to accept the position, no mention of conflicts was brought up as there are no conflicts.

In both cases on appeal in this brief, all that was needed if anything was a lawyer for all of the grandchildren, not a guardian which was an abuse of discretion. The guardian was needed to simultaneously silence Eliot's due process rights to silence any chance that the children could object through removal of their legal rights to an insider guardian, all at the time Eliot was exposing and the press was exposing a mass of corruption allegations at the Guardian/Probate court involving Judge French, Judge Colin and Judge Phillips, who were at that very moment in time involved in the fraudulent probate sale of the primary residence in Shirley's Trust. The guardianship Order came just as Appellant was exposing fraud in the land trusts used for the purpose of buying the home from Shirley's Trust and where at

that time the new owner through the fraudulent probate sale, a friend and motivational speaker to President Elect of the United States Donald Trump, Mitchell Huhem, was found with his head blown clear off (according to official reports) in the garage at that home that had just been fraudulently sold in the probate court to him.

On or about that same time, The Palm Beach Post began an ongoing series into the problems in the 15th Judicial Probate/Guardian courts called “Guardianship - A Broken Trust” highlighting Colin and French and major conflicts with Colin’s wife, Elizabeth Savitt Colin, causing Colin’s recusal on over 100+ cases according to the Palm Beach Post. Further, Eliot was calling publically with several national organizations and the press for criminal investigations into the three judges and filing criminal complaints against them with state and federal authorities and also notifying the Illinois Federal court, under Honorable Judge John Robert Blakey that a recent dead body was now found in the home that Eliot had just sought Blakey to freeze the sale of through injunction due to the fraud ongoing in the FL courts.

The lower tribunal abused its discretion by failing to schedule and allow for a proper hearing based on the extensive fraud in the cases and detailed factual pleadings of Appellant which were never heard, including his counter complaint,

objections to accountings and other filings which the Oppenheimer Order under appeal moved to strike them all from the record, again without proper hearings. See, R-1, R-2, R-3, R-4, lists of motions never heard by the Lower Tribunal.

An additional argument made for appointment of a Guardian ad litem as set out in the Petitions filed by attorneys Steven Lessne and Alan Rose is that Appellant is allegedly a "vexatious" litigant who is on a campaign for justice in the Courts and changing the legal system and further attacking Appellant for doing what every Court in the State of Florida has the obligation to do, address and remedy Fraud in the Court, Fraud in the Pleadings and any misconduct of its Court Officers and Court Appointed Fiduciaries, Attorneys at Law and Guardians, according to attorney conduct codes, judicial canons and law. This is the only basis claimed for guardianship for Eliot's children and no witnesses against Eliot or evidence in support of this contention in the Estate and Trust lawsuits was presented at trial. This bizarre claim that Eliot has filed vexatious litigation in the cases in the Lower court is based on the fact that he is exposing fraud in and on the court by court officials and despite the fact that Eliot has now proven and gained admission of fraud and forgeries in these cases. Felony crimes committed by the Fiduciaries (Ted, Spallina and Tescher as fiduciaries) and Court Appointed Officers (Tescher and Spallina as counsel to Ted et al.) and Tescher & Spallina's legal assistant and notary public and making this claim of vexatious litigant against Eliot wholly

unfounded other than to exhibit the retaliation by Court appointed officers for Eliot's exposing the crimes of these Court Officials and Court Appointed Officials. The Record is clear that Appellant did not commit MULTIPLE FELONY CRIMINAL ACTS in these cases, but instead it was the parties that brought Rose and Lessne into the matters, Tescher and Spallina that committed crimes, very serious felony crimes and this is far more serious than any vexatious litigation claims against Eliot. In fact, due to their close relation to Tescher and Spallina who committed FELONY ACTS OF FRAUD ON THE COURT AND FRAUD ON THE BENEFICIARIES both Rose and Lessne should have been removed from the proceedings as at minimum material and fact witnesses to the crimes of the parties who referred them into the matters and possibly as participants in the crimes.

These frauds have not been fully and fairly dealt with at this time by this Court or the Lower Court and in the Dec 12, 2015 hearing new admissions of new frauds were put in the record by Robert Spallina and where parties centrally involved in committing these multiple frauds on the court and beneficiaries have not been removed from these proceedings and continue to fraudulently move this Court and the Lower Court, including Ted Bernstein, Alan Rose and Steven Lessne, all intertwined and brought in through Ted, Spallina and Tescher from the start in these matters and who should have all been instantly removed when fraud on the

court and fraud on the beneficiaries was proven that occurred while they were fiduciaries and counsel. Ted has had multiple attorneys leave the cases citing conflicts of interest with Ted and more and Ted has run up unknown amounts of bills with each of these attorneys that has not benefited the beneficiaries but rather used trust funds at will and without proper accounting for his defense to the frauds committed while he was acting as a fiduciary committed by his counsel and others that benefitted Ted directly by attempting to include his his family into the Shirley IRREVOCABLE Trust where they are factually considered predeceased for ALL purposes of dispositions. It should be noted that out of 10 grandchildren alleged to be beneficiaries, only 4, Ted and Pam's children have had retained counsel at the hearings and have been unrepresented minors in all of the hearings of the lower court, 3 of them, Lisa and Jill's children not even represented by their parents. Yet, attorneys Lessne and Rose directly committed Fraud Upon the Court and obstruction in their Pleadings for guardianship by citing to alleged findings by the US District Court for the Southern District of New York that never occurred. Further, they altered the language in the Scheindlin's ruling when citing it to this Court to make it appear that Scheindlin made claims against Eliot that were very severe when in fact the quote was attributed to the defendants Proskauer Rose in that case (also a defendant in Eliot's Counter Complaint in Shirley's Trust case) not statements made by the judge in her order. This Court was made aware of that

factual misrepresentation of a Federal Judge's Order to the Court and should have looked further into the fraudulent misrepresentation of a federal judge's order but instead struck it from the record on procedural grounds but failed to take the factual evidence of fraud to the proper authorities, in a continuing and ongoing pattern and practice of concealing the fraud in these cases versus reporting them to the proper state and federal authorities.

The Court itself perpetuates this Fraud by making a Finding that Appellant was in fact adjudicated a "vexatious litigant" by the US SDNY District Court and citing the language. Yet, the Court, in either a further act of direct fraud or act of extreme lack of competence in reviewing pleadings, actually mis-reads and mis-cites pleadings in the same manner as Lessne. What the Record on Appeal does show, however, is extensive pleadings showing FELONY misconduct of the various Fiduciaries and actual Fraud upon the Court. Yet, the lower tribunal never permitted these pleadings to be heard and never scheduled sufficient time to hear such pleadings in any event, another act in an abuse of discretion, arbitrary and prejudicial and predetermined conduct. It should not be the responsibility of Appellant to prosecute these court orchestrated frauds by court appointed fiduciaries and attorneys, it is the court's own obligation once it is determined that fraud has been committed, Appellant and his children are VICTIMS of these crimes who are now being further victimized by Court Officials and Court

appointed Officials to twist the case to one that Eliot is perceived as being the problem.

ARGUMENT

Argument 1 - The lower tribunal abused its discretion and denied due process by failing to schedule and allow for a proper hearing based on the extensive fraud in the cases and detailed factual pleadings of Appellant which were never heard.

Procedural due process is a constitutional guarantee. See, e.g., Vollmer v. Key Dev. Props., 966 So.2d 1022 (Fla. 2 nd DCA 2007). As this Court recently held in Sawaya v Thompson, "there was a denial of procedural due process in the instant case because the trial court summarily denied Appellant's petition without holding an evidentiary hearing.1 Such a summary denial violates a petitioner's right to be heard. Murphy v. Ridgard, 757 So. 2d 607, 608 (Fla. 5th DCA 2000)." And further that, "the trial court also committed reversible error when it summarily denied Appellant's two motions. First, Appellant was entitled to an evidentiary hearing on her Motion in Limine to resolve whether Appellee did in fact allege that Appellant committed crimes, and, if so, whether Appellant committed the crimes. As this Court explained in Sperdute v. Household Realty Corp., 585 So. 2d 1168 (Fla. 4th DCA 1991), "the purpose of an evidentiary hearing is to allow a party to

'have a fair opportunity to contest' the factual issues . . . . [I]t is reversible error for a trial court to deny a party an evidentiary hearing to which he is entitled." Id. at 1169 (quoting Malzahn v. Malzahn, 541 So. 2d 1359, 1360 (Fla. 4th DCA 1989)). In this case, the Trial Court violated the Mandatory Rules for Recording Hearings. There simply are no Records to support the Order for a Guardian nor any records of any alleged hearing. The Trial Court abused its discretion and denied due process by failing to schedule proper time for hearings to permit proper witnesses such as William Stansbury and Peter Feaman who had been noticed to the Court by Appellant as necessary witnesses and who have submitted documentation supporting Appellant's efforts to remove fraud in the proceedings so proper beneficiaries may receive proper recoveries. See, Paragraphs 3-21, R-4 pages 1801-1810.

Moreover, the Records on Appeal are ripe with Motions by Appellant that have never been heard by the Lower Tribunal in rendering the within Guardian Orders and thus Appellant has not only been denied due process, but the Court below lacked a competent substantial record and evidence to uphold such Orders. See, R-1, R-2, R-3, R-4 Motions by Appellant.

Appellant has never been provided the Trusts he was sued under in the Shirley Trust Guardian case and Alan Rose has admitted there are no trusts of Simon Bernstein Dated 9-13-12. Thus, in addition to the lack of jurisdiction and improper

parties being sued, Appellant was further denied due process by having access to proper trusts under which a Guardian is claimed. Same is true for the Oppenheimer Trusts which have incomplete pages, different names, and other defects where counsel Lessnee himself is implicated in the fraud on these Oppenheimer Trusts.

Appellant maintains that because this is a Trust case, this is a Civil case and subject to the Florida Rules of Civil Procedure. As set out in Florida Statutes, "736.0201 Role of court in trust proceedings.—

(1) Except as provided in subsections (5) and (6) and s. 736.0206, judicial proceedings concerning trusts shall be commenced by filing a complaint and shall be governed by the Florida Rules of Civil Procedure." See, FS 736.0201.

The instant proceedings that gave rise to the Order on Appeal appointing a Guardian Ad litem were not a "construction" proceeding of the Oppenheimer Trusts which were not Testamentary Trusts and therefore should not have fallen under the exception in FS 736.0201(5) to be filed or determined in the Probate Court under the Probate Rules. For procedural posture of this and all "related" cases, however, it is noted in fact that there still has never been any "construction" or "validity" of the involved Oppenheimer Trusts or Shirley and Simon Trusts determined despite Appellant raising further "fraud" in Instruments and documents on the record with the involved Trusts herein.

The lower tribunal under Judge Martin Colin, however, somehow had the cases filed by Rose and Lessne marked as "Probate" cases and to the extent the cases were marked as a Probate case, the lower tribunal was required by Florida Statutes, Probate Rules and Court Rules to mandatorily Record the Hearing Digitally for Guardians. See, 15th Judicial Circuit Court Reporting Department and 15th Judicial Frequently Asked Questions.

Appellant was denied due process by not having access to the original files for the Oppenheimer Trusts and for the Trusts being heard under Probate instead of Civil Rules and yet even under Probate Rules the lower Tribunal abused its discretion and violated law and rules by failing to mandatorily record the hearings. The Orders must thus be vacated.

<u>Lower Tribunal should have Disqualified, Due process violated</u>

Under our precedents there are objective standards that require recusal when "the probability of actual bias on the part of the judge or decisionmaker is too high to be constitutionally tolerable." Withrow v. Larkin, 421 U. S. 35, 47 (1975).

It is axiomatic that "[a] fair trial in a fair tribunal is a basic requirement of due process." Murchison, supra, at 136 In re Murchison, 349 U. S. 133, 136 (1955)). These are circumstances "in which experience teaches that the probability of actual bias on the part of the judge or decisionmaker is too high to be constitutionally

tolerable." Withrow, 421 U. S., at 47. , CAPERTON ET AL. v. A. T. MASSEY COAL CO., INC., ET AL. 556 U. S. __

__ (2009).

As shown in Par. 6 of the March 1, 2016 Objections to Orders, "The Court is requested to Disqualify on its own motion or Order new Hearings.", See Appendix Exhibit 1. The Court had previously been petitioned for mandatory disqualification. Bias is shown by objective standards by the Court's deliberate failure and violation of mandatory rules for recording Guardian hearings and had been requested by Appellant to allow this. Bias is shown by objective standards by not permitting sufficient time and scheduling proper time for identified witnesses. See, R-4 1799-1820; R-4 1821-1842; R-4 1843-1875. Bias is shown by objective standards by summarily striking the hearing of any motions of Appellant. Bias is shown by objective standards by not sanctioning attorney Alan Rose for repeated fraudulent and sharp practices. Thus, due process was violated by the lower tribunal's failure to mandatorily disqualify or disqualify on it's own motion and the Orders must thus be vacated and reversed.

Argument 2 - Lack of Substantial and Competent Evidence to find a need for a Guardian and Guardian ad litem; Abuse of Discretion and based on deficient hearings, erroneous facts and fraud upon the Court.

In addition to no Records being available to provide competent substantial evidence to support the Orders below which must now be vacated, the Court abused its discretion by not properly hearing Appellant's motions and providing sufficient time for testimony on disputed facts.

As shown to the Court below,

> "both alleged Creditor William Stansbury and Florida Licensed Attorney Peter Feaman are both Necessary Witnesses in relation to the Integrity of these proceedings and the good faith efforts I have undertaken to uncover fraud upon the Court and in the Court which is directly relevant to resolution of any sham claim by attorney Alan Rose or Steven Lessne regarding guardianship, both being Florida licensed attorneys who have directly Misled this Court in many ways including but not limited to falsely citing language from other Court orders such as Southern District of New York Judge Shira Scheindlin, or Alan Rose falsely claiming during the alleged validity trial that there has been no prior Order for Production of all Original Records by Tescher and Spallina when in fact this was part of the Discharge Order of Judge Colin to the extent any such Order of Judge Colin remains valid. See, Order of Colin on Production2 • 4. Specifically, Alan Rose, a Served Counter Defendant in this very action has knowingly misquoted an Order of SDNY Judge Shira Scheindlin by falsely portraying a Proskauer Rose proposed language in an Order as an actual Order, quote, finding of Hon. Judge Scheindlin herself and while this conduct recently occurred in matters before the 4th DCA3 , this evidence is representative of the sharp practices that Alan Rose and Ted Bernstein have employed to avoid full and fair hearings, obstruct due process, and obscure actual truth seeking processes acting in conflict of interest and more while simultaneously not only

denying proper funds for myself to obtain proper counsel for my minor children and myself but further denied retained Texas attorney Candice Schwager documents to review for her to further an application to be admitted pro hac vice after having opportunity to scope potential conflicts of interest between myself and minor children. 5. Alan Rose falsely stated to this Court at the Case Management Conference 4 that no hearings were held prior for guardianship hearings but yet Alan Rose had only a year earlier been denied5 by Judge Colin who claimed Eliot and Candice did not need Guardians for their children. 6. Thus, attorney Alan Rose's conduct himself in these proceedings has relevance to his sham motion for guardianship since his own conduct has caused waste and harm to beneficiaries and delayed and obstructed the fact finding and truth seeking processes of this court and thus right there alone are 3 Witnesses in addition to myself that should be part of any Evidentiary hearing relating to appointment of a Guardianship and thus arriving at a Schedule would be the most that can happen on Jan. 14, 2016, or at least should be the most that can happen on this date. In fact, Florida licensed attorney Peter Feaman has directly prepared pleadings and correspondence showing myself as being the only sibling in these cases to expose fraud and forgery and other proper matters in these cases and eligible to be a Successor. See, below. 8. See filings by Peter Feaman on behalf of alleged Creditor William Stansbury relevant to the sham filing for Guardianship by Alan Rose on behalf of Ted Bernstein. a. b. c. 9. Then of course is the letter by Florida Licensed attorney Peter Feaman from August of 2014, nearly 17 months ago claiming PR Brian O'Connell had an absolute "duty" to file to Remove Ted Bernstein in showing failure to provide Accountings, waste of Trust assets and other matters, yet no action taken by PR O'Connell and no present follow-up by Peter Feaman although as indicated I have been delayed in this very filing by Representations of William Stansbury that Peter Feaman would be filing with the Court relative to these matters including holding hearings off until a Status or Case Management Conference but has yet to do that either, although it was represented it would be filed Tuesday, Jan., 12, 2016 further knowing I had filed for Unavailability with this Court which was served upon Alan Rose and 4 of 22 001826 further filed in my last opposition to the Gag order that I was under medication and needing medical care. See, a. August 29, 2014 Letter from Attorney at Law Peter Feaman, Esq. to Personal Representative

> Attorney Brian O'Connell re Conflicts and more of Ted and Alan Rose. b. December 16, 2014, Letter from Attorney Peter Feaman to PR and Attorney Brian O'Connell Letter re O'Connell's Absolute Duty to Remove Ted c. d. September 19, 2014 Attorney Peter Feaman to PR Attorney Brian O'Connell re Assets of Estates - I 0. William Stansbury is further a necessary Witness as he has information relating to an ongoing Federal investigation of Ted Bernstein by the US Dept. of Labor in relation to Ted Bernstein's fiduciary actions as Plan Administrator I Trustee involving Arbitrage International an asset of the Estate and Trusts where it is likely that further financial harm to beneficiaries including my minor children has occurred according to William Stansbury and yet Alan Rose and Ted Bernstein have not only failed to Disclose these matters to the Court 5 of 22 001827 and parties but further failed to disclose these matters in an alleged Meeting involving Bernstein Holdings and Bernstein Family Investments where Ted Bernstein and Alan Rose." SEE R-4 pages 1823-1827.

As shown by Appendix Exhibit 1 filing of March 1, 2016,

> "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" and further that, "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 POST5) 5 "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-seniorsprotest/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 6 , 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 6 December 04, 2015 Disqualification http://iviewit.tv/Simon%20and%20Shirley%20Estate/20151204%20FILED%20DOCKETED%20COPY%202%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%2015,%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 letter7 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.". See Appendix pages ____, March 1, 2016 Objection to Proposed Orders.

Not only did the Court below not hear or consider these matters to determine a proper factual basis and record for whether a Guardian was necessary, but the Records on Appeal are ripe with multiple motions and petitions of Appellant that were never heard by the Lower Tribunal and instead summarily denied without a hearing with the Lower Tribunal moving to strike Appellant from further filings and removing standing. Appellant's counterclaim in the Oppenheimer case is just one of many motions not heard by the lower tribunal. See, R-1, R-2, R-3, R-4.

Having no evidence or Record of what was heard at any Guardian hearing due to intentional biased violation to not mandatorily record the hearings and further not hearing multiple pleadings and motions of Appellant, the Orders on Guardian must be vacated and overturned for lack of competent, substantial evidence.

CONCLUSION

For all of the foregoing reasons, this Court should vacate and reverse all Orders of Judge Phillips appealed herein and remand all proceedings to a Non-conflicted lower Court for further proceedings after resolving all fraudulent acts and removing all parties who participated in any way directly or indirectly in the frauds and for such other and further relief as may be just and proper.

Dated December 16, 2016

/s/ Eliot Ivan Bernstein
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CERTIFICATE OF COMPLIANCE

I HEREBY CERTIFY that this brief complies with the font requirements of Fla. R. App. P. 9.210(a)(2).

Dated: December 16th, 2016

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CERTIFICATE OF SERVICE

I CERTIFY that a copy of the foregoing has been furnished to parties listed on attached Service List by E-mail Electronic Transmission; Court ECF; this 16th day of December, 2016.

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APPENDIX

See Separate Appendix filed with the Court

EXHIBIT 1

March 01, 2016 “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”

And

March 01, 2016 - “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”

EXHIBIT 2

February 18, 2014 Colin Order for Production