

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

IN RE:

Case No. 502012CP004391XXXXNBIH

ESTATE OF SIMON L. BERNSTEIN,

Deceased.

**SUBMISSION OF WITNESS LIST FOR HEARINGS SCHEDULED BY DEC. 13, 2016
JUDGE SCHER CASE MANAGEMENT ORDER SUBMITTED BY ELIOT I.
BERNSTEIN, AS A BENEFICIARY OF THE ESTATE OF SIMON L. BERNSTEIN AND
AN INTERESTED PERSON WITH STANDING**

COMES NOW Eliot I. Bernstein, a Beneficiary of the Estate of Simon Bernstein according to the terms of the purported 2012 Will of Simon Bernstein and upon the Newly Discovered Admissions of PR Brian O'Connell discovered on Feb. 9, 2017 but WITHHELD from Judge Scher and this Court and Eliot Bernstein for at least 49 Days and also as an interested person with standing pro se who respectfully pleads and shows this court as follows:

1. I am a Beneficiary under the purported Will of Simon Bernstein of 2012 "in use" by this Court acting pro se.
2. This Submission is to Supplement the Emergency Motion under Florida Rules of Civil Procedure 1.540(b)(3) and 1.540(b)(4) to Vacate-Amend-Modify in part the Case Management Conference Order of Dec. 13, 2016 based upon Newly Discovered Evidence, Discovered on Feb. 9th 2017 involving Admissions-Statement of PR Fiduciary Brian O'Connell, also an Officer of the Court, proving ongoing Fraud Upon the Court in general and upon this very Court of Judge Scher of the Northern Branch of

Palm Beach County by Attorney Alan Rose and with such Case Management Order issued upon Fraud upon the Court without consideration of the Schedule and Motions submitted by Estate Beneficiary Eliot I. Bernstein.

3. None of the parties to this Case have submitted Witness Lists in Advance of the scheduled Hearings of Feb. 16, 2017 and the emergency Motion to Vacate-Modify-Amend the Case Management Order premised upon clear and convincing fraud upon the Court has No Due Process Orderly procedures for the conducting of the Hearings.
4. As such I submit the Witness List below and demand Discovery in advance of such Hearings according to Florida law as follows: "This court and others have held that if a party files a motion pursuant to rule 1.540(b)(3), pleads fraud or misrepresentation with particularity, and shows how that fraud or misrepresentation affected the judgment, the trial court is required to conduct an evidentiary hearing to determine whether the motion should be granted.[7]See Seal v. Brown, 801 So. 2d 993, 994-95 (Fla. 1st DCA 2001); St. Surin v. St. Surin, 684 So. 2d 243, 244 (Fla. 2d DCA *782 1996); Estate of Willis v. Gaffney, 677 So. 2d 949 (Fla. 2d DCA 1996); Dynasty Exp. Corp. v. Weiss, 675 So. 2d 235, 239 (Fla. 4th DCA 1996); Townsend v. Lane, 659 So. 2d 720 (Fla. 5th DCA 1995); S. Bell Tel. & Tel. Co. v. Welden, 483 So. 2d 487, 489 (Fla. 1st DCA 1986)".
5. "[W]here the moving party's allegations raise a colorable entitlement to rule 1.540(b)(3) relief, a formal evidentiary hearing on the motion, as well as permissible discovery prior to the hearing, is required."); Kidder v. Hess, 481 So. 2d 984, 986 (Fla. 5th DCA 1986); Stella v. Stella, 418 So. 2d 1029 (Fla. 4th DCA 1982); see also Robinson. Moreover, the courts have held that the hearing requirement applies when fraud is asserted as a grounds for relief under either rule 1.530 or 1.540, Florida Rules of Civil Procedure. See Stella.

The motion filed by Robinson sufficiently alleges fraud and demonstrates how it affected the judgment, thereby satisfying the requirement for an evidentiary hearing under either rule 1.530 or 1.540.”

WITNESS LIST

- a. Attorney and Officer of the Court Alan Rose
- b. Fiduciary Ted Bernstein
- c. PR Fiduciary and Officer of the Court Brian M. O’Connell
- d. Attorney and Officer of the Court Joy Foglietta,
- e. Attorney and Officer of the Court Mark Manceri
- f. Former Fiduciary, PR, Co-Trustee and Attorney and Officer of the Court Donald Tescher
- g. Former Fiduciary, PR, Co-Trustee and Attorney and Officer of the Court Robert Spallina
- h. Rachel Walker
- i. William Stansbury
- j. Attorney and Officer of the Court Peter Feaman
- k. Former Palm Beach County 15th Judicial Judge Judge Martin Colin
- l. Former Palm Beach County 15th Judicial Judge John Phillips
- m. PBSO (Palm Beach Sheriff Office) officers - Detectives to be named later;

RESERVATION OF RIGHTS TO AMEND:

Eliot I. Bernstein reserves any and all rights to Amend and supplement this list as law and justice allow.

WHEREFORE,

Dated: February 16, 2017

By: /S/ Eliot Ivan Bernstein

Eliot Ivan Bernstein, Pro Se
2753 NW 34th Street
Boca Raton, FL 33434
561.245.8588
iviewit@iviewit.tv

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished to counsel of record and the proper parties on the attached Service List via the Court's e-portal system or Email Service on this 16th day of February, 2017.

By: /S/ Eliot Ivan Bernstein

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