

You should Respectfully Request (Respectfully Demand) a Fair Opportunity to be Heard at the outset and Wish to make an Introductory Statement to the Court.

The Fraud which is Now Proven by the Admissions of PR -Attorney Brian O'Connell are So Serious showing a Fraud Upon the Court and You as a Beneficiary that the PR of the Estate has "Gone along with" for Nearly a year or more that the Court Should STRIKE ALL Motions by Ted Rose and O'Connell and Remove them from Representation of the Trusts and Estates.

IF the Court or Others try to Knock you Down as "Untimely" in your Motions, you Say - Fraud on the Court has No Limitations Period and can be Raised at Any Time and that it is the Misconduct of the Fiduciaries Ted Alan and OConnell who "Sat on" and "Withheld" this PR O'Connell Statement for 49 Days (Dec. 22nd 2016 according to the Alan Rose Email until it was Disclosed to you and the Court on Feb. 9th, in the Afternoon on the Last Day of Submissions. thus the Entire Case Management was SET up in Fraud and Shows OConnell going along with Fraud on the Court since Jan of 2016 by Ted and Alan FALSELY claiming you are Not a Beneficiary when you ARE as Proven by O'Connell's now discloses Statement.

Then you can Simply READ this INTO the Record from your Motion Papers -

ELIOT I. BERNSTEIN, AS A BENEFICIARY OF THE ESTATE OF SIMON L. BERNSTEIN WITH STANDING AND AN INTERESTED PERSON UNDER LAW, MAKES THIS MOTION TO;

A. 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;

B. Establish the Orderly Structure for Evidentiary Hearings including Discovery and Depositions, Witness Lists, Exhibits and proper time allotted for the Evidentiary Hearings;

C. In Opposition to the Motions by Trustee Ted Bernstein, Attorney Alan Rose and PR O'Connell to Retain Alan Rose and the "Rose law firm" to Represent the Estate in any capacity and in opposition to Appointment of Ted Bernstein as Administrator Ad litem for the Estate in any capacity and in opposition to all relief sought by Trustee Ted Bernstein, Alan Rose, the Rose law firm and PR O'Connell on behalf of the Estate of Simon Bernstein;

D. Motion for Continuance under Florida Rules of Civil Procedure _____ to permit Discovery and Depositions in advance of the Hearings and based upon ongoing severe Medical-Dental issues of Eliot I. Bernstein.

E. Motion to Stay and Freeze all Assets and Discovery;

F. Granting leave to permit Eliot I. Bernstein sufficient time to file comprehensive Motions to Vacate prior Orders and Judgments of Judge Phillips and-or Judge Colin including the Removal of Ted Bernstein in any Fiduciary capacity and removal of PR Brian O'Connell in any fiduciary capacity;

G. And for such other relief as law and justice requires.

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:

I am Eliot I. Bernstein acting pro se.

1. I am a natural born child to Shirley and Simon Bernstein, now deceased and a beneficiary of the Estate of Simon Bernstein upon the express terms of a purported 2012 Will of Simon Bernstein purported to be "valid" at a Dec. 15, 2015 "Validity" Trial held by Northern Branch Judge John Phillips.
2. It is noted for this Court that no reference to the purported 2012 Will of Simon Bernstein allegedly "validated" at a "Validity Trial" of Dec. 15, 2015 shall be deemed or construed

as an admission by Eliot Bernstein that proper Testamentary documents and Trusts have been provided to this Court and Eliot I. Bernstein reserves any and all rights to file further motions herein challenging such “Testamentary” documents and moving to Vacate other Judgments and Orders herein based upon fraud upon the Court and that such Orders and Judgments are void under law.

3. Thus, all references to any estate and trust documents that were produced or referenced herein by former Fiduciaries and counsel Tescher and Spallina are not deemed validated and confirmation of such documents is not admitted to by Eliot I., Bernstein of the authenticity of said documents or the force and effect of such documents as there are No “Original” documents at this time to validate them against despite a Court Order of Feb. 18, 2014 by former Judge Martin Colin for the prior co-Personal Representatives and Counsel-Attorneys at law Robert Spallina and Donald Tescher of the Tescher & Spallina law firm and CO-TRUSTEES and Fiduciaries of the Trusts to turn over all records upon their resignation which was steeped in admissions of Fraud Upon the Court and Fraud upon the Beneficiaries and where fraudulent documents have already been proven to be used in these proceedings by Court appointed Fiduciaries and counsel,
4. I first respectfully remind this Court of its duties and obligations under the Canons of Judicial Conduct and under the Statewide Court Fraud Policy and **as shown herein by clear and convincing evidence** as this Case Management Order itself of Dec. 13, 2016 was issued upon Fraud upon the Court by attorney Alan Rose, Fiduciary Trustee Ted Bernstein, and PR Fiduciary Brian O’Connell, **this Court must now Vacate in substantial part the Case Management Conference Order and grant Discovery to Eliot I. Bernstein and Hearings based upon the fraud prior to any further action according to the existing Case Management Order.**
5. “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)".

6. ("[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."
7. The requisite fraud on the court occurs where "it can be demonstrated, clearly and convincingly, that a party has sentiently set in motion some unconscionable scheme calculated to interfere with the judicial system's ability impartially to adjudicate a matter by improperly influencing the trier of fact or unfairly hampering the presentation of the opposing party's claim or defense." Aoude v. Mobil Oil Corp., 892 F.2d 1115, 1118 (1st Cir. 1989) .
8. The trial court has the inherent authority, within the exercise of sound judicial discretion, to dismiss an action when a plaintiff has perpetrated a fraud on the court, or where a party refuses to comply with court orders. See, Kornblum v. Schneider, 609 So. 2d 138, 139 (Fla. 4th DCA 1992).
9. The plaintiff's false or misleading statement given under oath concerning issues central to her case amounted to fraud. See Cox v. Burke, 706 So. 2d 43, 47 (Fla. 5th DCA 1998).
10. Courts throughout this state have repeatedly held "that a party who has been guilty of fraud or misconduct in the prosecution or defense of a civil proceeding should not be permitted to continue to employ the very institution it has subverted to achieve her ends." Metropolitan Dade County v. Martinsen, 736 So. 2d 794, 795 (Fla. 3d DCA 1999) (quoting Hanono v. Murphy, 723 So. 2d 892, 895 (Fla. 3d DCA 1998)); see also Cox v. Burke, 706 So. 2d 43, 47 (Fla. 5th DCA 1998); O'Vahey v. Miller, 644 So. 2d 550, 551 (Fla. 3d DCA 1994); Kornblum v. Schneider, 609 So. 2d 138, 139 (Fla. 4th DCA 1992).

11. Respectfully, this Court is shown herein by *clear and convincing evidence* that Fiduciaries and Officers of the Court Attorney Alan M. Rose and PR Fiduciary Attorney Brian M. O'Connell and alleged Fiduciary Ted Bernstein have "sentiently set in motion some unconscionable scheme calculated to interfere with the judicial system's ability impartially to adjudicate a matter by improperly influencing the trier of fact or unfairly hampering the presentation of the opposing party's claim or defense." See, *Aoude v. Mobil Oil Corp.*, 892 F.2d 1115, 1118 (1st Cir. 1989) .

This Court must now perform its Mandatory Duties and obligations to address and correct such Frauds and Vacate in substantial part the Case Management Order of Dec. 13, 2016 and should in fact DISMISS the Motions Filed by Ted Bernstein, Alan Rose and Brian O'Connell *in their entirety, issue a Stay and Continuance in the case and a Stay and Injunction over all Assets and Discovery and remove such Fiduciaries from the Cases and Report the Attorneys-Officers of the Court to proper authorities according to law and grant such other relief as is just and proper.*