IN THE CIRCUIT COURT OF THE
15TH JUDICIAL CIRCUIT, IN AND FOR
PALM BEACH COUNTY

PROBATE DIVISION
CASE NO.: 502014CP003698XXXXNB
DIVISION: IH

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

v.

ALEXANDRA BERNSTEIN; ERIC
BERNSTEIN; MICHAEL BERNSTEIN;
MOLLY BERNSTEIN; 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.
_____/

MOTION FOR PROTECTIVE ORDER AS TO DEPOSITION OF WILLIAM STANSBURY AND APPEARANCE AT EVIDENTIARY HEARING/TRIAL

COMES NOW William Stansbury, by and through his undersigned counsel, and moves this Court for the entry of a Protective Order with regard to two subpoenas served upon him on March 10, 2016 demanding him to appear for the taking of his deposition and to appear at a hearing scheduled for April 8, 2016, and states as follows:

1. On March 10, 2016, non-party William Stansbury was served (through counsel) with two subpoenas:

a. Subpoena Duces Tecum to William Stansbury for appearance at deposition (a copy of which is attached hereto as **Exhibit "A"**); and

b. Subpoena Duces Tecum to appear at evidentiary hearing/trial (a copy of which is attached hereto as **Exhibit "B"**).

--- Statement of the Case ---

2. This is an action brought by TED BERNSTEIN as Successor Trustee of the Shirley Bernstein Trust against all of the beneficiaries of the Shirley Bernstein Trust, plus Eliot Bernstein.

3. This action is a two-count complaint. (A copy of the Complaint is attached hereto as **Exhibit "C."**) The Motion filed by the Trustee on January 28, 2016, which is now set to be heard before the Court on April 8, 2016 at 9:45 a.m., involves the sale of the former homestead of Shirley and Simon Bernstein (Lion's Head property) and requests relief as to Eliot Bernstein concerning holding the proceeds of the sale of the homestead and further injunctive relief against Eliot Bernstein. A copy of the Motion is attached hereto as **Exhibit "D."**

4. William Stansbury is not a party to this action. The trial of this action as to Count II took place on December 15, 2015, and Stansbury was not involved other than as an observer. Stansbury has had no involvement in the administration of the Shirley Bernstein Trust. The Shirley Bernstein Trust is not a defendant in the case pending by William Stansbury against the Simon Bernstein Estate.

--- Retaliatory Subpoenas ---

5. This matter has devolved into retaliatory litigation tactics by Ted Bernstein as he seeks to involve William Stansbury in this action solely in an effort to cause William Stansbury

to incur fees and otherwise become involved in this case because William Stansbury has taken action in collateral matters adverse to that of Ted Bernstein.

6. Ted Bernstein is retaliating against William Stansbury as a result of Mr. Stansbury's issues which are adverse to Ted Bernstein on the following matters:

a. Ted Bernstein is an individual Plaintiff in an action pending in the United States District Court for the Northern District of Illinois (the "Chicago litigation") in which he is claiming that he and the other adult children of Simon Bernstein are beneficiaries of a life insurance policy on the life of Simon Bernstein in the approximate amount of $1,700,000.00. Mr. Stansbury believes that these insurance proceeds actually belong to the Estate of Simon Bernstein against which is pending his approximate $2.5 million dollar claim for unpaid compensation. He therefore attempted to intervene in that action, which was vigorously opposed by Ted Bernstein. The Court denied the intervention but thereafter, after the original Personal Representatives of the Estate of Simon Bernstein (Tescher and Spallina) resigned as Personal Representatives, the Curator, Ben Brown, Esq. and subsequently the Successor Personal Representative, Brian O'Connell, Esq. became convinced that the Estate did have a valid interest in and to the insurance proceeds at issue in the Chicago litigation, and the Estate has now intervened in that case. Mr. Stansbury is funding the fees incurred by the Estate in that action. The intervention of the Estate now threatens Ted Bernstein because the life insurance proceeds of approximately $1.7 million could, now that the Estate has intervened, not go to Ted Bernstein and the adult children, but rather to

the Simon Bernstein Trust, which is the sole monetary beneficiary of the Simon Bernstein Estate. The Estate's attorneys in Chicago feel so strongly about the merits of the Estate's position that they are willing to take this case on a contingency fee basis.

b. Because the Simon Bernstein Trust could be the recipient of the life insurance proceeds coming from Illinois, it clearly puts Ted Bernstein in a conflict of interest position as, on the one hand, he is the Plaintiff in the Chicago litigation where he is trying to keep the funds away from the Simon Bernstein Trust while, on the other hand, he is holding the position of Successor Trustee of the Simon Bernstein Trust, which is the sole beneficiary of the Simon Bernstein Estate where the life insurance proceeds would be paid should he not prevail as Plaintiff. Therefore, he has a clear and direct conflict of interest. Mr. Stansbury filed a Petition to Remove Ted Bernstein as the Successor Trustee of the Simon Bernstein Trust based upon this conflict, as well as the fact that Ted Bernstein is facially not qualified to hold the position of Successor Trustee according to the plain language of the Trust. Simon Bernstein specifically disinherited Ted Bernstein in his Trust, writing that, for all purposes of the Trust, Ted Bernstein was considered to have pre-deceased him.

c. Ted Bernstein has additional reasons to want to harass William Stansbury. Mr. Stansbury has also filed his Amended Petition to account for missing property (furniture and fixtures) from the oceanfront condominium owned by the Shirley Bernstein Trust, but which personal property inside was the property

of the Simon Bernstein Estate, and also to account for missing jewelry of the Simon Bernstein Estate. By Mr. Stansbury's Petition, Ted Bernstein is placed squarely in a position to account for the missing property. This also would give Ted Bernstein incentive to harass Mr. Stansbury.

d. Ted Bernstein's attorney admitted to this Court at the status conference held on March 7, 2016 that the furniture and fixtures contained within the oceanfront condominium in Boca Raton belonged to the Simon Bernstein Estate but was sold along with the condo. He admitted that the Shirley Bernstein Trust, over which Ted Bernstein is the Successor Trustee, needed to reimburse the Estate of Simon Bernstein for the value of that furniture which he had no authority to sell. The sale of that oceanfront condominium took place two years ago and yet no reimbursement has been forthcoming. Mr. Stansbury, among others, brought this to the attention of the Court, further buttressing his position that the Subpoenas issues in this matter are only for harassment purposes.

e. The proceeds of the sale of the oceanfront condominium, which took place two years ago, based on information and belief, were distributed to 7 of the 10 grandchildren of Simon and Shirley Bernstein. However, by the terms of the Shirley Bernstein Trust, Ted Bernstein's children were excluded as beneficiaries but received a share of the proceeds nonetheless. Mr. Stansbury has made the interested parties to this litigation aware of that as well.

--- Stansbury's Conduct is Not Relevant to the Issues Before the Court to be Heard on April 8, 2016 ---

7. Ted Bernstein has seized on one e-mail written by Kevin Hall that mentioned the name of William Stansbury to justify the issuance of the Subpoenas. Mr. Stansbury is clearly not involved as a witness in the matters before the Court on April 8, 2016. He is not a party and there is no justifiable reason to involve Mr. Stansbury other than the desire of Ted Bernstein to harass Mr. Stansbury.

8. The only connection Mr. Stansbury has to this litigation is as set forth in the e-mail from Kevin Hall to Alan Rose, wherein Mr. Stansbury's name is mentioned. A copy of the e-mail is attached hereto as **Exhibit "E."** There is no evidence that Mr. Stansbury has been or is involved in any way with the sale of the Lion's Head property which is the subject of the Motion for which he was subpoenaed, or any involvement after the sale concerning the Lion's Head property.

9. Further, the deposition date of March 29, 2016 was not cleared with counsel for Mr. Stansbury. Counsel for Mr. Stansbury is not available on that day. Finally, the location of the deposition is set for the office of counsel for Ted Bernstein in West Palm Beach. Mr. Stansbury resides in Boynton Beach and his deposition could easily be accomplished at the office of his attorney also located in Boynton Beach.

WHEREFORE, for all the foregoing reasons, William Stansbury requests this Honorable Court to enter a Protective Order protecting him from attending the deposition on March 29, 2016, and quashing the Subpoena on him for the hearing set for April 8, 2016, which does not involve him in any way.

Peter M. Feaman

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was filed electronically and served in the Florida Courts E-Filing Portal to all parties on the service list below on this 15th day of March, 2016:

Eliot Bernstein, individually and Eliot and Candice Bernstein, as Parents and Natural Guardians of D.B., Ja.B. and Jo.B., Minors
2753 Northwest 34th Street
Boca Raton, Florida 33434
Email: iviewit@iviewit.tv

Alan Rose, Esquire
Mrachek, Fitzgerald, Rose, Konopka, Thomas & Weiss, P.A.
505 South Flagler Drive, Suite 600
West Palm Beach, Florida 33401
Email: arose@mrachek-law.com

John P. Morrissey, Esq.
330 Clematis Street, Suite 213
West Palm Beach, Florida 33401
Email: john@jmorrisseylaw.com
Counsel for Molly Simon, Alexandra Bernstein, Eric Bernstein, Michael Bernstein

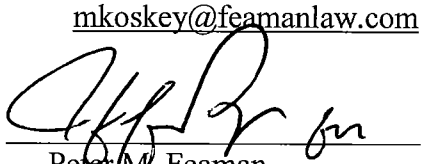
Pamela Beth Simon
303 East Wacker Drive, Suite 2725
Chicago, Illinois 60601
Email: psimon@stpcorp.com

Lisa Friedstein, individually and as trustee for her children, and as natural guardian for M.F. and C.F., Minors; and Max Friedstein
Email: lisa.friedstein@gmail.com

Brian M. O'Connell, Esquire
Joielle A. Foglietta, Esq.
Ciklin, Lubitz, Martens & O'Connell
515 North Flagler Drive, 20th Floor
West Palm Beach, Florida 33401
Email: boconnell@ciklinlubitz.com
jfoglietta@ciklinlubitz.com
service@ciklinlubitz.com
slobdell@ciklinlubitz.com

Jill Iantoni, individually and as trustee for her children, and as natural guardian for J.I. a minor
Email: jilliantoni@gmail.com

PETER M. FEAMAN, P.A.
3695 West Boynton Beach Blvd., #9
Boynton Beach, FL 33436
Telephone: (561) 734-5552
Facsimile: (561) 734-5554
Service: service@feamanlaw.com
mkoskey@feamanlaw.com

By: 
Peter M. Feaman
Florida Bar No. 0260347

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,

Plaintiff,

v.

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.
_____/

Probate Division
Case No.: 502014CP003698XXXXNBIJ

1659LRS
3.10.2016
11:30am

SUBPOENA DUCES TECUM TO WILLIAM STANSBURY FOR APPEARANCE AT DEPOSITION

THE STATE OF FLORIDA

TO: William Stansbury
C/O Peter Feaman, Esq.
PETER M. FEAMAN, P.A.
3695 West Boynton Beach Boulevard, Suite 9
Boynton Beach, FL 33436

YOU ARE COMMANDED to appear before a person authorized by law to take depositions at the law firm of Mrachek, Fitzgerald, Rose, Konopka, Thomas & Weiss, P.A., 505 S. Flagler

EXHIBIT
tabbies
A

Drive, Suite 600, West Palm Beach, FL 33401 (Telephone: (561) 655-2250) on **March 29, 2016 at 10:00 a.m.** for the taking of your deposition in this action, and to have with you at that time and place the documents identified on the attached **Exhibit "A."**

If you fail to appear, you may be in contempt of court.

You are subpoenaed to appear by the following attorneys, and unless excused from this subpoena by these attorneys or the Court, you shall respond to this subpoena as directed.

Dated on March 9, 2016.

ALAN B. ROSE, ESQ.
For the Court

MRACHEK, FITZGERALD, ROSE,
KONOPKA, THOMAS & WEISS, P.A.
505 S. Flagler Drive, Suite 600
West Palm Beach, FL 33401
Phone: 561-655-2250
Fax: 561-655-5537
Attorneys for Plaintiff, Ted Bernstein
Alan B. Rose
Florida Bar Number: 961825

EXHIBIT A

YOU ARE REQUESTED to bring the following documents:

Definitions

"Documents" shall mean and include all writings, drawings, graphs, charts, photographs, sound recordings, images, and other data or data compilations, specifically including all letters, emails, text messages, phone messages, notes, deed, title reports, or written communication of any kind—stored in any medium whether in paper or electronic format.

"Property" shall mean 7020 Lions Head Lane, Boca Raton, Florida 33496.

"Eliot" shall mean Eliot Ivan Bernstein, including any agents, employees or others acting on his behalf.

"Stansbury" shall mean William Elwood "Bill" Stansbury, together with his wife Eileen E. Stansbury and any and all agents, employees or others acting on his behalf, including his attorney, Peter M. Feaman, Esquire, or anyone employed by or affiliated with the Law Offices of Peter M. Feaman. (This request does not seek any documents sent solely between William Stansbury and his counsel, and includes only documents which were sent to or received from a third-party outside of the attorney-client relationship.)

"Hall" shall mean Kevin R. Hall.

"Cox" shall mean Crystal Cox.

Documents Requested

1. All documents sent by Stansbury to Eliot concerning the Property.

2. All documents sent by Eliot to Stansbury concerning the Property.

3. All documents sent by Stansbury to Hall concerning the Property.

4. All documents sent by Hall to Stansbury concerning the Property.

5. All documents sent by Stansbury to Cox concerning the Property.

6. All documents sent by Cox to Stansbury concerning the Property.

7. All documents sent by Stansbury relating to the Property to anyone else other than Eliot, Hall or Cox.

8. All documents sent by Stansbury to Cox, or Cox to Stansbury, on any matter.

9. All documents sent to Cox or Hall by anyone for which copies (bcc: or cc:) were provided to Stansbury.

10. All documents, including checks, canceled checks, credit card receipts or other documents showing any payments made by Stansbury to or on behalf of Eliot or his family, from and after May 6, 2015 to the present.

11. All documents evidencing any oral or written agreements between Stansbury and Eliot concerning (i) the Property; (ii) the Trusts or Estates of Simon Bernstein and/or Shirley Bernstein, (iii) the Illinois litigation; or (iv) any other subject matter.

12. All documents relating to the Property, including any internet research, title reports, deeds, notes, pictures, or otherwise in the possession of Stansbury relating to the Property.

13. All documents concerning Lions Head Land Trust, Lions Head Land Trust, Inc., Mitchell and Deborah Huhem, Leilani Ochoada, Larry Pino, and anyone else involved in any way as an owner, participant, professional, lawyer, title examiner, etc. in the real estate transaction under which title of the Property transferred from the Shirley Bernstein Trust to the Lions Head Land Trust.

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,

Plaintiff,

v.

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Defendants.
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Probate Division
Case No.: 502014CP003698XXXXNBIJ

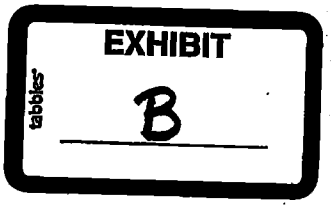
1659 LND
3.10.2014
11:30am

SUBPOENA DUCES TECUM TO WILLIAM STANSBURY FOR APPEARANCE AT EVIDENTIARY HEARING/TRIAL

THE STATE OF FLORIDA

TO: William Stansbury
C/O Peter Feaman, Esq.
PETER M. FEAMAN, P.A.
3695 West Boynton Beach Boulevard, Suite 9
Boynton Beach, FL 33436

YOU ARE COMMANDED to appear before the Honorable John L. Phillips, Judge of the Circuit Court, at the North Branch of the Palm Beach County Courthouse, 3188 PGA Boulevard,



Palm Beach Gardens, FL 33410 *Courtroom 3* on **April 8, 2016** at **9:45 A.M.** to testify in this action and to have with you at that time, the documents outlined in **Exhibit A** attached to this Subpoena. If you fail to appear, you may be in contempt of court.

You are subpoenaed to appear by the following attorneys and unless excused from this subpoena by these attorneys or the Court, you shall respond to this subpoena as directed.

DATED this 9th day of March, 2016.

ALAN B. ROSE, ESQ.
For the Court

MRACHEK, FITZGERALD, ROSE,
KONOPKA, THOMAS & WEISS, P.A.
505 S. Flagler Drive, Suite 600
West Palm Beach, FL 33401
Phone: 561-655-2250
Fax: 561-655-5537
Attorneys for Plaintiff, Ted Bernstein
Alan B. Rose
Florida Bar Number: 961825

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7. All documents sent by Stansbury relating to the Property to anyone else other than Eliot, Hall or Cox.

8. All documents sent by Stansbury to Cox, or Cox to Stansbury, on any matter.

9. All documents sent to Cox or Hall by anyone for which copies (bcc: or cc:) were provided to Stansbury.

10. All documents, including checks, canceled checks, credit card receipts or other documents showing any payments made by Stansbury to or on behalf of Eliot or his family, from and after May 6, 2015 to the present.

11. All documents evidencing any oral or written agreements between Stansbury and Eliot concerning (i) the Property; (ii) the Trusts or Estates of Simon Bernstein and/or Shirley Bernstein, (iii) the Illinois litigation; or (iv) any other subject matter.

12. All documents relating to the Property, including any internet research, title reports, deeds, notes, pictures, or otherwise in the possession of Stansbury relating to the Property.

13. All documents concerning Lions Head Land Trust, Lions Head Land Trust, Inc., Mitchell and Deborah Huhem, Leilani Ochoada, Larry Pino, and anyone else involved in any way as an owner, participant, professional, lawyer, title examiner, etc. in the real estate transaction under which title of the Property transferred from the Shirley Bernstein Trust to the Lions Head Land Trust.

Filing # 19008717 Electronically Filed 10/03/2014 05:43:10 PM

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,

Plaintiff,

v.

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.
_____/

Probate Division
Case No.: 502014CP003698XXXXSB

AMENDED COMPLAINT

Plaintiff, TED BERNSTEIN, as trustee of the Shirley Bernstein Trust Agreement dated May 20, 2008, as amended (the "Trust"), pursuant to leave granted by and instructions from this Court to file an Amended Complaint, hereby files this Amended Complaint against and provides notice to those interested in the Trust and in the testamentary documents of Simon L. Bernstein and Shirley Bernstein, namely Defendants, 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. (collectively, "Defendants").

Plaintiff hereby sues Defendants, and states:

1. Plaintiff Ted Bernstein is over the age of 18, a resident of Palm Beach County, Florida and is the Trustee of the Shirley Bernstein Trust Agreement dated May 20, 2008, as amended, under Article IV.C.1 of the Trust ("Trustee.")

2. Shirley Bernstein died on December 8, 2010, and at the time of her passing was a resident of Palm Beach County, Florida.

3. Prior to her death, Shirley Bernstein created a trust known as the Shirley Bernstein Trust Agreement dated May 20, 2008 ("Shirley's Trust").

4. Shirley Bernstein was a resident of Palm Beach County, Florida when she created Shirley's Trust.

5. An authentic copy of Shirley's Trust is attached as Exhibit "A".

6. Shirley's Trust, Exhibit A, is clear and unambiguous.

7. Shirley Bernstein was survived by her husband, Simon L. Bernstein.

8. The marriage between Shirley and Simon L. Bernstein was the first and only marriage for each of them.

9. The marriage lasted 52 years, and during that time Shirley and Simon had five natural born children. Neither Simon nor Shirley had any other children.

10. The five children of Shirley and Simon are Plaintiff Ted Bernstein, and Defendants Pamela B. Simon, Eliot Bernstein, Jill Iantoni and Lisa Friedstein, each of whom is living, over the age of 18 and a lineal descendant of Shirley.

11. Shirley Bernstein was the original sole trustee of Shirley's Trust and, upon her death, was succeeded as sole trustee by Simon L. Bernstein.

12. Simon L. Bernstein died on September 13, 2012.

13. Simon L. Bernstein was succeeded as sole trustee of Shirley's Trust by son Ted Bernstein, who presently serves as sole trustee of Shirley's Trust.

14. It is believed that Shirley Bernstein amended Shirley's Trust by executing a document titled "First Amendment to Shirley Bernstein Trust Agreement" dated November 18, 2008. An authentic copy of the First Amendment to Shirley Bernstein Trust Agreement dated November 18, 2008 is attached as Exhibit "B". This First Amendment has no bearing on the issue in this case.

15. There is another document which purports to have the same title, "First Amendment to Shirley Bernstein Trust Agreement", which also purportedly is dated November 18, 2008. Such document, which the Trustee first learned of in mid-January 2014, is not a valid amendment to Shirley's Trust, and has no bearing on this issue in this case.

16. With regard to the Shirley Trust, the only genuine and authentic trust documents signed by Shirley during her lifetime are Exhibits "A" and "B".

17. Pursuant to Shirley's Trust, upon Shirley's death, a "Family Trust" is created pursuant to Article II, ¶ C.1.

18. Pursuant to Shirley's Trust, no "Marital Trust" is created, as that term is used in Article II of Shirley's Trust.

19. Article II, ¶ E. 1. of Shirley's Trust granted to Shirley's surviving spouse, Simon L. Bernstein, a limited or special power of appointment over the Family Trust to or for the benefit of Shirley Bernstein's "lineal descendants and their spouses."

20. The Shirley Trust was funded by assets transferred to it during Shirley's life and also was funded by the residue of her estate.

21. After Shirley's death, the beneficiary of the Shirley Trust was Simon L. Bernstein during the remainder of his life.

22. Upon Simon's death, the Shirley Trust provided to Simon a Limited Power to appoint the trust's assets "to or for the benefit of one of more of my [Shirley's] lineal descendants and their spouses."

23. The Shirley Trust provides an alternate or default disposition for any parts of the trust that Simon does not or cannot effectively appoint: such assets "shall be divided among and held in separate Trusts for my [Shirley] lineal descendants then living, *per stirpes*."

24. Simon exercised his Special Power in Article II in the Will of Simon L. Bernstein dated July 25, 2012 ("Simon's Will").

25. An authentic copy of Simon's Will is attached as Exhibit "C".

26. Simon's Will specifically references Shirley's Trust and the power given to him under subparagraph E.1 of Article II of Shirley's Trust. The relevant provision of Simon's Will reads:

> Under Subparagraph E.1. of Article II of the SHIRLEY BERNSTEIN TRUST AGREEMENT dated May 20, 2008, (the "Shirley Trust"), I was granted a special power of appointment upon my death to direct the disposition of the remaining assets of the Marital Trust and Family Trust established under the Shirley Trust. Pursuant to the power granted to me under the Shirley Trust, upon my death, I hereby direct the then serving Trustees of the Marital Trust and the Family Trust to divide the remaining assets into equal shares for my then living grandchildren and distribute said shares to the then serving Trustees of their respective trusts established under Subparagraph II.B. of my Existing Trust, as referenced below, and administered pursuant to Subparagraph II.C. thereunder.

27. In essence, through his Special Power, Simon directed Shirley's Trustee to divide the remaining trust assets into equal shares for his then living grandchildren, to be added to trusts established for each such grandchild under Simon's Trust.

28. The persons identified by Simon, "his then living grandchildren," all appear to be among the class of permitted appointees as defined in the Shirley Trust to be Shirley's "lineal descendants and their spouses".

29. Because Simon exercised his power of appointment, the assets in the Shirley Trust do not pass under the Shirley Trust to the alternate, default beneficiaries: "my lineal descendants then living, *per stirpes*."

30. The class of permissible appointees for Simon's power (Shirley's "lineal descendants and their spouses") is different that the class of alternate/default beneficiaries (Shirley's "lineal descendants ***then living***, per stirpes").

31. Because Simon L. Bernstein exercised his Special Power in favor of his [and also Shirley's] grandchildren, none of Shirley's and Simon's children is a beneficiary under the Shirley Trust. Thus, it appears that neither Ted, Pam, Eliot, Lisa or Jill are to receive any portion of the assets in the Shirley Trust.

32. Pursuant to Article IV.C.1., upon Simon's death, Ted became the Successor Trustee of the Shirley Trust. Ted also serves as the Successor Personal Representative of Shirley's Estate.

33. Sometime after Simon's death, a significant asset of Shirley's Trust (a condominium) was sold. The decision was made to make a partial interim distribution to all of the beneficiaries of the Shirley Trust. At the time of this decision, the Trustee was not aware of any question or issue as to Simon's right to appoint the assets to his ten grandchildren.

34. The Trustee attempted to make a partial interim distribution to the trusts for all ten living grandchildren of Simon, into a separate trust for each grandchild under the Simon L. Bernstein Trust Dtd 9/13/12, with the respective parent of each grandchild as the trustee.

35. The Trustee was able to complete the partial interim distributions to the trusts for seven of the ten living grandchildren of Simon, but not to Eliot's children. Despite having tried on numerous occasions, the Trustee was unable to make a partial interim distribution to the trusts for the other three living grandchildren (Eliot's minor children) because Eliot refused to accept these distributions.

36. The Trustee believes that there is a disagreement between and among the children and grandchildren of Shirley Bernstein as to effect of the exercise of the power of appointment

by Simon L. Bernstein and which persons are entitled to receive a distribution from the Shirley Trust.

37. The disagreement and dispute involves the interpretation of the Shirley Trust and the construction of Article III.E.1 of Shirley's Trust, which defines who is Shirley Bernstein's "child", "children", and "lineal descendant" "for the purposes of the dispositions made under this Trust."

38. Article III.E.1 of Shirley's Trust states that, "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 shall be deemed to have predeceased the survivor of my spouse and me [Shirley]".

39. At the time of Simon's death, there were ten grandchildren who were alive: Alexandra Bernstein, Eric Bernstein, Michael Bernstein, Molly Simon, D.B., Ja. B., Jo. B., J.I., Max Friedstein and C.F.

40. If the exclusionary language of Article III.E.1 of Shirley's Trust applies to Simon's exercise of his Special Power, then Simon's then living grandchildren, at the time of his death, could be construed to include only D.B., Ja. B., Jo. B., J.I., Max Friedstein and C.F.

41. If the exclusionary language of Article III.E.1 of Shirley's Trust does not apply to Simon's exercise of his Special Power, then the appointment would be in favor of all ten grandchildren identified in ¶40.

42. A telephone conference occurred in May 2012 between and among Simon L. Bernstein, his lawyer Robert Spallina, each of Shirley's and Simon's children (Ted, Pam, Eliot, Jill and Lisa), and some or all of their spouses.

43. Based upon the discussions during that telephone call, there is no uncertainty that Simon L. Bernstein advised each of his children that Shirley's and Simon's wealth was going to be divided equally among all ten grandchildren.

44. Each of Simon's children, including Eliot, acknowledged and agreed with Simon's stated decision to leave all of his and Shirley's wealth to the ten grandchildren.

45. Despite Simon L. Bernstein's stated intentions and his actual exercise of his Special Power through his Will, the Trustee presently is uncertain whether to distribute assets in favor of ten or only six grandchildren, or otherwise.

46. Palm Beach County, Florida is where the Trustee administers Shirley's Trust, is the location where the books and records of Shirley's Trust are kept, and is the principal place of administration of Shirley's Trust.

47. This proceeding seeks the intervention of this Court in the administration Shirley's Trust by an interested person, the Trustee, and declaratory relief.

48. This Court has subject matter jurisdiction pursuant to Sections 736.0203 and 736.0201, Florida Statutes.

49. Pursuant to Article III.I, Shirley's Trust is governed by the laws of the State of Florida.

50. This is a judicial proceeding concerning Shirley's Trust pursuant to Section 736.0201, Florida Statutes.

51. Venue is proper in this Court pursuant to Section 736.0204, Florida Statutes.

52. Venue is appropriate in the Probate Division of this Court pursuant to Administrative Order 6.102-9/08.

53. Plaintiff Trustee is entitled to retain counsel pursuant to Article IV.A.29 of Shirley's Trust and Section 736.0816 (20), Florida Statutes.

54. Plaintiff Trustee has retained the undersigned counsel, and has agreed to pay it reasonable attorney's fees and to reimburse it for costs and may do so from Shirley's Trust.

Defendants and Potential Beneficiaries

55. Defendants Alexandra Bernstein, Eric Bernstein, and Michael Bernstein are lineal descendants of Ted S. Bernstein.[1] Each is over the age of 18 and claims a beneficial interest in the Shirley Trust.

56. Defendant Molly Simon is a lineal descendant of Defendant Pamela B. Simon. She is over the age of 18 and claims a beneficial interest in the Shirley Trust.

57. Defendant Pamela B. Simon, Individually and as Trustee f/b/o Molly Simon under the Simon L. Bernstein Trust Dtd 9/13/12, is over the age of 18. As Trustee, she claims a beneficial interest in the Shirley Trust, and individually also may claim a beneficial interest in the Shirley Trust.

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[1] Ted S. Bernstein is the Trustee of three separate trusts created f/b/o Alexandra, Eric and Michael Bernstein under the Simon L. Bernstein Trust Dtd 9/13/12. Solely in the capacity as Trustee of each of these three trusts, each of which received an partial interim distribution, Ted S. Bernstein has signed a Receipt of Partial Distribution, agreeing to return the distribution if the Court determines that the distribution should not have been made. Ted S. Bernstein believes that the power of appointment was validly exercised by Simon L. Bernstein and that the prior partial interim distributions were proper; however, individually he takes no position in this lawsuit and agrees to abide by any final, non-appealable order entered by this Court with respect to the construction of the Shirley Trust. Ted S. Bernstein, individually, makes no claim of entitlement to any individual right to receive any devise, bequest, inheritance or beneficial interest in any portion of the Shirley Trust or her estate.

58. D.B., Ja. B. and Jo. B. are minors and are lineal descendants of Defendant Eliot Bernstein, who is their father and claims on behalf of each minor child a beneficial interest in the Shirley Trust.

59. 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., is over the age of 18. As Trustee, he claims a beneficial interest in the Shirley Trust, and individually also may claim a beneficial interest in the Shirley Trust.

60. J.I. is a minor and a lineal descendant of Jill Iantoni, who is her mother and claims on behalf of her minor child a beneficial interest in the Shirley Trust

61. Jill Iantoni, Individually, as Trustee f/b/o J.I. under the Simon L. Bernstein Trust Dtd 9/13/12, is over the age of 18. As Trustee, she claims a beneficial interest in the Shirley Trust, and individually also may claim a beneficial interest in the Shirley Trust.

62. Defendant Max Friedstein is a lineal descendant of Defendant Lisa Friedstein. He is over the age of 18 and claims a beneficial interest in the Shirley Trust

63. C.F. is a minor and lineal descendant of Lisa Friedstein, who is her mother and claims on behalf of her minor child a beneficial interest in the Shirley Trust.

64. 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., is over the age of 18. As Trustee, she claims a beneficial interest in the Shirley Trust, and individually also may claim a beneficial interest in the Shirley Trust.

65. Each of the Defendants is subject to personal jurisdiction pursuant to Section 736.0202, Florida Statutes.

COUNT I –DECLARATORY AND OTHER RELIEF

66. Trustee restates the allegations contained in Paragraphs 1 to 65.

67. This is a cause of action to ascertain beneficiaries, to determine a question arising in the administration or distribution of Shirley's Trust, to obtain a declaration of rights, and to instruct and discharge the trustee.

68. This cause of action seeks a declaration and other relief or intervention by this Court as to who should receive Shirley's Trust; whether and to what extent Simon L. Bernstein's exercise of his limited or special power of appointment pursuant to his will should be given effect; which if either of the documents titled First Amendment of Shirley's Trust is valid; to whom the Trustee should distribute the assets of Shirley's Trust; and a discharge of the Trustee.

69. It is in doubt as to whether Eliot Bernstein adequately represents the interests of his minor children and whether there are conflicts of interest between Eliot and the interests of his minor children, each of whom is expressly named in the Special Power.

70. This is an action for declaratory relief pursuant to Chapter 86 of the Florida Statutes and seeking the intervention of the Court in the administration of the Trust, pursuant to Section 736.0201, Florida Statutes.

71. The Trustee, and the Trust, will suffer irreparable harm if relief is not granted.

72. There is no other adequate remedy at law.

73. The relief sought constitutes and deals with a bona fide question between the Trustee and the Defendants.

74. The declaration sought deals with a present state of facts or presents a controversy as to a state of facts.

75. The Trustee has a justiciable question and has a bona fide, actual, and present practical need for a declaration from this Court.

76. The Trustee's rights, duties, and obligations are dependent upon the facts or law applicable to the facts.

77. The seeds of litigation are ripening such that a declaration from this Court will benefit the Trust.

78. Further, to the extent that the Court determines any prior interim distribution to have been improper, Plaintiff seeks supplemental relief in the form of an order directing and compelling the recipients of the any and all such distributions to return the funds. To date, funds were distributed to Lisa Friedstein, as Trustee for Max Friedstein and C.F.; Jill Iantoni, as Trustee for J.I.; Pamela B. Simon, as Trustee for Molly; and Ted S. Bernstein, as Trustee for Alexandra, Eric and Michael. Eliot as Trustee for his three children refused the interim distribution, even though it appears that his minor children should receive some distribution under the exercise of the Special Power. Each of the trustees who received a distribution for their children signed a Receipt of Partial Distribution, agreeing to return the distribution of the Court determines that the distribution should not have been made.

WHEREFORE, Plaintiff prays that this Court: (i) make a declaration and otherwise intervene in the administration of the Trust, as aforesaid; (ii) instruct the trustee to whom to distribute the assets of Shirley's Trust; (iii) declare whether the power of appointment was validly exercised by Simon in accordance with his stated wishes; (iv) determine who are the proper recipients of distributions of the assets of the Shirley Trust pursuant to the power of

appointment, and if appropriate, direct the return of any funds distributed; (v) grant the Plaintiff Trustee his attorneys' fees and costs and other relief as may be just and proper.

COUNT II – DECLARATORY JUDGMENT AS TO VALIDITY OF TESTAMENTARY DOCUMENTS

79. Trustee restates the allegations contained in paragraphs 1-65 and 70-78.

80. This is an action, filed at the direction of the Court, for declaratory judgment to determine the validity, authenticity and enforceability of certain wills and trusts executed by Simon Bernstein and Shirley Bernstein, as follows:

a. Shirley Bernstein Trust Agreement dated May 20, 2008 ("Shirley Trust", attached as Exhibit "A");

b. First Amendment to Shirley Bernstein Trust Agreement dated November 18, 2008 ("Shirley First Amendment", Exhibit "B");

c. Will of Simon L. Bernstein dated July 25, 2012 ("Simon Will", Exhibit "C");

d. Simon L. Bernstein Amended and Restated Trust Agreement dated July 25, 2012 ("Simon Trust", Exhibit "D");

e. Will of Shirley Bernstein dated May 20, 2008 ("Shirley Will", Exhibit "E").

(collectively, the "Testamentary Documents").

81. Certain of the potential beneficiaries named herein have raised questions concerning the validity, authenticity and enforceability of the Testamentary Documents, including issues relating to the authenticity and genuineness of the signatures; the formalities of execution; and other issues.

82. The Trustee asserts that the Testamentary Documents are valid, genuine and enforceable, and requests that the Court enter a Final Judgment determining that the documents are valid, genuine and enforceable.

83. Specifically, Exhibits "A" and "E" were properly signed and executed by Shirley Bernstein on May 20, 2008, in the presence of two subscribing witnesses and a notary.

84. The Shirley Will has been admitted to probate.

85. Exhibit "B" was properly signed and executed by Shirley Bernstein on November 18, 2008, in the presence of two subscribing witnesses and a notary.

86. Exhibits "C" and "D" were properly signed and executed by Simon L. Bernstein on July 25, 2012, in the presence of two subscribing witnesses and a notary.

87. The Simon Will has been admitted to probate.

88. At the time of signing their respective Testamentary Documents, Shirley Bernstein and Simon L. Bernstein were competent and legally able to execute testamentary documents, and were not acting under any such undue influence or other disability as could cause the documents to be unenforceable under Florida law.

WHEREFORE, Plaintiff prays that this Court: (i) make a declaration and otherwise intervene in the administration of the Will and Trust as aforesaid; (ii) enter a judgment under the claim set forth in Count II for declaratory judgment that the Testamentary Documents are genuine, valid and fully enforceable according to their terms; (iii) determine who are the proper recipients of distributions and if appropriate, direct the return of any funds distributed; (iv) grant the Plaintiff Trustee his attorneys' fees and costs and other relief as may be just and proper.

CERTIFICATE OF SERVICE

I CERTIFY that a copy of the foregoing has been furnished to parties listed on attached Service List by: □ Facsimile **and** U.S. Mail; □ U.S. Mail; ■ Email Electronic Transmission; □ FedEx; □ Hand Delivery this 3rd day of October, 2014.

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By: /s/ Alan B. Rose
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Filing # 37154761 E-Filed 01/28/2016 04:50:19 PM

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,

Plaintiff,

v.

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.,

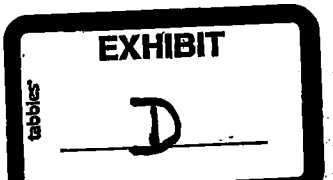
Defendants.
_____/

Probate Division
Case No.: 502014CP003698XXXXNBIJ

MOTION TO MODIFY FINAL ORDER APPROVING SALE DATED MAY 6, 2015 AND FOR FURTHER INJUNCTIVE RELIEF

Plaintiff, Ted S. Bernstein (the "Trustee"), as Successor Trustee, moves for entry of an Order modifying in part the *Final Order Granting Successor Trustee's Motion to Approve Sale of Trust Property* dated May 6, 2015 (the "Sale Order"), and for further injunctive relief, and states:

1. On May 6, 2015, this Court approved the Trustee's Motion to sell the Trust's property located within the St. Andrews Country Club community in Boca Raton. The sale was initially scheduled to close on or before March 31, 2015, in an all cash transaction, with the buyer accepting



the property "as is." The urgency was created because the St. Andrews Country Club was raising the required equity membership fee from $95,000 to $125,000, an increase of $30,000. Upon learning of the possible sale, Eliot Bernstein objected to it and threatened to file a lis pendens.

2. This Court held a hearing on the Trustee's motion to approve sale on March 25, at uniform motion calendar. Based upon Eliot Bernstein's objections, the Court deferred ruling and scheduled an evidentiary hearing for the next day. At the evidentiary hearing, the Trustee and the Trustee's licensed realtor testified as to: the lengthy marketing process that had been undertaken in an effort to sell this property; the listing was more than 1,000 days old; the offer received was by far the highest and best received to date and likely in the near future; the offer was consistent with an appraisal, which was admitted into evidence; there were extensive carry costs associated with the property; and the announced $30,000 increase in the club equity membership contribution was a significant factor in this deal. After hearing this testimony, and again based upon Eliot Bernstein's objections and request for time to obtain counter-evidence, the trial court denied the Motion to Approve the Sale on an emergency basis, and deferred the ruling pending a second evidentiary hearing.

3. At an evidentiary hearing held on May 6, 2015, the Court afforded Eliot Bernstein the opportunity to present evidence, through documents or testimony. Despite already having delayed the sale for more than five weeks, Eliot Bernstein presented no witnesses at the evidentiary hearing. Nor did he testify himself. Further, Eliot Bernstein produced no documentary evidence to refute the testimony of the Trustee's licensed real estate agent or the appraisal that was in evidence. Eliot did present a single piece of paper printed off the internet, purporting to be from the Zillow website. The trial court sustained the Trustee's objection to this document. At the conclusion of the

hearing on May 6, the trial court entered the Sale Order, a final order approving the sale of the property and authorizing the Trustee to take all reasonable steps to conclude the transaction. Eliot has never appealed the Sale Order, but he did file a Petition for All Writs with the Florida Supreme Court prior to the closing, which prevented the title company from issuing clear title until that appeal was resolved.

4. As part of the Sale Order, Judge Colin required the Trustee to provide all beneficiaries with a copy of the closing statement and bank records confirming the receipt of funds, and ordered the Trustee's counsel to hold the funds in a separate escrow account. By this Motion, the Trustee seeks to modify the Sale Order with regard to these requirements.

5. First, it is impractical and of no benefit to the trust to require counsel to open a separate escrow account to hold these sale proceeds. Having conferred with the undersigned's bank, the interest to be earned on the monies if placed in a separate account outside of the law firm's IOTA account is 0.15%. Over the course of a year, assuming all of the net sales proceeds sat in that account for a full year, the interest to be earned would be $500. It is anticipated the funds will not sit in the account for anywhere near a year, meaning there will be virtually no benefit to the estate from imposing this requirement on the Trustee's counsel, and there will be expense incurred by the Trustee's counsel in setting up and maintaining a separate escrow account. Thus, the Trustee requests that the Court modify the Order to allow the proceeds to remain in the law firm's IOTA account until such time as the Court orders their release and disbursement to the Trustee, to be held with the other assets of the Trust.

6. Second, the Sale Order requires the funds be held pending further order of the Court. Now that the sale is concluded, and once the Trustee has provided the beneficiaries documents

relating to the transaction, there is no reason for the funds to be segregated away from the general trust assets.

7. Third, to conclude this sale the Trust was forced to incur substantial attorneys' fees, solely as a result of the obstructionist and delay tactics of Eliot Bernstein. The Trustee and the Trustee's counsel request permission to have those legal fees paid from the sale proceeds. In total, the Trustee incurred more than $50,000 in attorneys' fees alone to conclude the transaction, including four hearing and appellate work; working with the title company; dealings and interactions with the buyer caused by Eliot's filings which continually delayed potential closing; and advising and representing the Trustee. The Trustee has reviewed the invoices submitted by counsel and believes the time and expense are reasonable, valuable and provided a substantial benefit to the Trust. The Trustee requests permission to pay the sum of $40,000 immediately from the sale proceeds, which the law firm has agreed to accept if the matter is resolved without the need for an extensive evidentiary hearing or retention of experts. These fees should be approved. If there is an objection of Eliot Bernstein, which might necessitate an evidentiary hearing, the Trust and its counsel will incur additional attorneys' fees, negating the opportunity for a discount.

8. Fourth, while the Trustee has no opposition to providing a copy of the HUD-1 and proof of receipt of funds to all beneficiaries, these documents are personal, private and confidential, and should not be shared with anyone in the world. In particular, these documents should not be posted on the internet. The buyer is a private citizen which entered into an arms length contract to purchase property the Trust was anxiously trying to sell for more than three years. The buyer now owns Fee Simple Title, which is both marketable and insurable, as evidenced by the title insurance policy purchased by seller as part of the closing of the transaction. Further, as a condition of buyer

closing, seller was required to escrow $25,000 as a limited indemnity fund, in the event that buyer is subjected to any litigation or harassment by Eliot Bernstein, as defined in the sale contract. Notwithstanding his disappointment over being disinherited by his parents and his apparent disappointment with the sale amount, there is no legitimate reason why Eliot Bernstein should have any further involvement with this property, contact with the buyer, or interference with the buyer's quiet and peaceful enjoyment of the property. In the Sale Order, Judge Colin provided the following:

> All beneficiaries and persons subject to the jurisdiction of this Court, including Eliot Bernstein, are ordered to take no action to interfere with or otherwise hinder or delay the sale of the House.

9. The buyer has witnessed firsthand the devastating attacks by Eliot Bernstein through the internet on his brother (the Trustee) and others. As part of the final closing negotiations, once Eliot had exhausted all of his extraordinary writ and appellate maneuvers, buyer and its counsel insisted on a limited indemnity[1] to protect the buyer from litigation, interference or harassment by Eliot Bernstein. To assuage concerns of the buyer and induce it to close, the Sale Contract was amended to include the following:

> INJUNCTIVE PROTECTION AND/OR LIMITED INDEMNITY FOR ATTORNEYS' FEES. Seller agrees to file a motion, and participate in any hearing set by the Court, at Seller's sole expense, seeking a permanent injunction after the closing to bar and prevent Eliot Bernstein and those acting in concert with him from having any contact of any kind with the Buyers, including no contact by mail, email or telephone; to forbid Eliot from attempting to learn their identities; to forbid Eliot from publishing or publicizing their identities anywhere in the world, including online or anywhere on any internet website, webpage, blog or otherwise; and to enjoin Eliot from filing any action against Buyers anywhere in the world (the "Injunction"). If successful, thereafter upon request of Buyer, Seller will take necessary and reasonable action to enforce the Injunction.

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[1] The indemnity is limited to $25,000 to pay legal expenses incurred by buyer dealing with any Eliot issue. This money is held in escrow, but is able to be released immediately to the Trustee upon entry of an injunctive relief order.

The Trustee requests the Court enter an Order enjoining all beneficiaries and Eliot Bernstein, over whom this Court has jurisdiction, together with all persons acting in concert with them, from doing any of the above described actions or taking any action against the buyer. The Trustee believes that paragraph 3 of the Sale Order covers this, but so there is clarity and lack of any possible confusion, the Trustee requests that the Court enter the additional injunctive relief sought herein.[2]

10. Finally, to the extent that the Trustee provides an accounting, copies of the HUD-1 and bank records, the Trustee requests that those documents be ordered to remain confidential and to not be shared with anyone, and be subject to the same injunctive relief entered above. Eliot's delay tactics in this particular instance were financially devastating to the Trust. In addition to the extra $30,000 club membership that Trust was required to pay when the closing was delayed past March 31, the Trust incurred substantial additional expenses and fees between March 31 and the final closing date of January 15, 2016. In particular, the Trust received reduced proceeds and incurred additional expenses totaling more than $230,000 as shown in Appendix A.

11. Because Eliot is not individually a beneficiary, it is unclear whether these amounts could be surcharged against Eliot (who is indigent according to all of his court filings) or surcharged

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[2] In between the evidentiary hearings from March 25 to May 6, and beyond, Eliot published a number of inflammatory articles on the internet which list the address of the property with the heading "buyer beware." These tactics were designed to prevent the sale or discourage any potential buyers from having interest in the property. This information serves no public purpose, and only could cause harm or embarrassment to the Trustee or to the buyer. In addition, now that the buyer has paid its money, there is no reason to allow materials to be on the internet which could impair the buyer's ability to sell the property to someone else, at present or in the future. The Court has afforded Eliot due process, and should enforce its orders and prevent further tactics designed to thwart those valid, final and non-appealable orders. Thus, the Trustee requests that the Court order Eliot Bernstein to remove all materials from the internet that reference the address of this property or otherwise mention it in any way, shape or form.

against the interest of Eliot's minor children, for whom he purported to serve as guardian. Because the Trustee does not believe Eliot is a suitable or competent guardian to represent the interest of his children, which is the subject of an evidentiary hearing to be held on February 25, 2016, the Trustee believes it will be appropriate to defer making any decision on a surcharge action until after the Court decides whether or not to appoint a guardian ad litem for Eliot's children.

12. Moving forward, however, there is no reason to allow Eliot Bernstein to burn additional Trust assets by harassing the buyers or trying to educate the world on the "alleged fraud" that has occurred within this Court system. No one, and certainly not the buyer, has any interest in this matter becoming public, as it was the subject of multiple evidentiary hearings in the trial court and full appellate review to the extent such was sought. In other words, Eliot Bernstein has received all the process he is due with regard to the Sale Order, which is now final and non-appealable, and that should be the end of it for all time. To the extent Eliot does action calculated and virtually guaranteed to cost the Trust $25,000, the Court should hold him accountable and the Trustee certainly reserves the right to seek surcharge against the inheritance of the minors for whom he purports to serve as guardian.

WHEREFORE, the Trustee requests that the trial court modify the Sale Order and enter additional injunctive relief as requested in this Motion.

CERTIFICATE OF SERVICE

I CERTIFY that a copy of the foregoing has been furnished to parties listed on attached Service List by: ☐ Facsimile **and** U.S. Mail; ☐ U.S. Mail; ■ Email Electronic Transmission; ☐ FedEx; ☐ Hand Delivery this 28th day of January, 2016.

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Attorneys for Ted S. Bernstein

By: /s/ Alan B. Rose
Alan B. Rose (Fla. Bar No. 961825)

SERVICE LIST Case No.: 502014CP003698XXXXNBIJ

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C.F., Minors; and Max Friedstein
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Appendix A

Description	Amount
Increased Club equity contribution	$30,000.00
Additional interest on Trust's secured line of credit	$28,332.45
Additional property taxes	$16,062.76
Additional insurance	$19,162.40
Mandatory club dues and expenses	$26,151.14
Mandatory HOA Fees	$10,005.55
Utilities and maintenance	$5,317.98
Repair costs[3]	$31,902.50
Legal fees: Buyer	$15,000.00
Legal fees: Seller	$50,000.00
TOTAL	**$231,934.78**

[3] Although the original contract was scheduled to close "as is, where is," the buyers had the right to inspect the property before closing. In the extended gap between the original closing date and late summer, serious additional issues were discovered with the house. These issues, again, are of no concern to anyone other than the buyer, and the issues should remain confidential subject to injunctive relief to prevent Eliot Bernstein from publicizing them on the internet.

Attn: Alan Rose from Kevin Hall 3.7.16 Re: Lions Head Land Trust

Kevin Hall

Mon 3/7/2016 3:55 PM

To: arose@mrachek-law.com <arose@mrachek-law.com>; wesgator@msn.com <wesgator@msn.com>; pfeaman@feamanlaw.com <pfeaman@feamanlaw.com>; leilaniochoada@gmail.com <leilaniochoada@gmail.com>; leilani@cmrei.com <leilani@cmrei.com>; schwagerlawfirm@live.com <schwagerlawfirm@live.com>; iviewit@gmail.com <iviewit@gmail.com>; iviewit@iviewit.tv <iviewit@iviewit.tv>; tourcandy@gmail.com <tourcandy@gmail.com>; caroline@cprogers.com <caroline@cprogers.com>; marc.garber@flastergreenberg.com <marc.garber@flastergreenberg.com>; marcrgarber@gmail.com <marcrgarber@gmail.com>; mmulrooney@venable.com <mmulrooney@venable.com>;

Cc: Kevin Hall <kh.itconsultingsalesoffices@gmail.com>;

1 attachment (20 MB)

KRHResearchLEILANIOCHOADALIONSHEADBOCA2016_02_18 12-33-12 kh.itconsultingsales Outgoing to +14076085448 .mp3;

Mr. Rose,

Leilani Ochoada was not contacted on "behalf" of Eliot I. Bernstein.

As you may recall, I came in to Eliot Bernstein's life as a "related" case person in New York after being introduced to other "related case" persons from someone from Washington, D.C., that I had first come into contact with on or around Sept. 2007 who was part of a group that was investigating complaints from persons who had contact with the U.S. Attorneys and FBI in New York.

Prior to my first call with this person from Washington, DC, I had already had direct personal experience and done work and events with Executive Detail of the NYS Police, a Governor (Mario Cuomo), US Secret Service Agents and persons protected by the US Secret Service, members of the US Senate including the US Senate Intelligence and Judiciary Committee person Diane Feinstein, other members of the US Judiciary Committee, US Armed Services Committee, US House Intelligence Committee, other former Governors and more. I also maintain a variety of relatives in State law enforcement positions and contacts in both law enforcement and the military as well.

During this first call this person from Washington, DC indicated he had done work for the US Justice Department, specifically the IRS and the US Postal Inspector's Office, asked me if I was aware of DOJ Agents with greater powers and authority over regular FBI Agents, and this person was directly involved in corruption between the NYS Discipline and Bar Committees and Appellate Division Departments specifically focusing on Manhattan and Wall Street attorneys and, to the best of my recollection, inquired during this first call if I had knowledge of the "Iviewit" case which at that time in 2007 I had never heard of before. This person from Washington, DC was later determined to have also been involved in cases out of Chicago and Boston and other cases in Florida including Estate cases in Palm Beach county. I have maintained communications with this person from Wash, DC. as needed since 2007 and was on the phone with him and others in relation to activities of the US Attorney for the Southern District of New York as recently as late January 2016 and was on the phone with him in relation to Estate corruption cases with Florida and NY ties just a week or so ago with several parties having been involved with NY's Moreland Commission.

I am sure by now you have reviewed my Linkedin profile and determined I maintain rights in "Iviewit" interests and perhaps have reviewed the Complaint to the SEC of 2009 and Petition to the White House and White House Counsel's Office and the US Attorney General's Office and Federal agencies I have been involved with in furtherance of my interests in "Iviewit"

I was just on the phone today, Monday, March 7, 2016 at or around 2 pm EST with the FBI and specifically provided Leilani Ochoada's name and phone number as someone I had spoken to on or about Feb. 18th, 2016 and that several days after this the body of Mitch Huhem was allegedly found deceased at the St. Andrews Boca Raton, Fl property and where issues of Witnesses who may be in danger etc were raised as Eliot Bernstein previously had his mini-van Car-bombed and apparently or allegedly your client Ted Bernstein raised a suggestion in Sept. of 2012 that Simon Bernstein may have been poisoned or murdered on the night of his passing and sought an autopsy and coroner's

EXHIBIT

investigation and allegedly reported this to the Palm Beach County Sheriff's Dept.

For the record, Eliot I. Bernstein never asked, instructed, authorized or directed me to have any contact with Leilani Ochoada or had any knowledge I was doing so at the time. I did this on my own initiative after getting information from William Stansbury about the Deed Transfer on file that you apparently signed as a Notary and Witness regarding the St. Andrews Boca Raton, Florida property and then from information I personally looked up at www.sunbiz.org where I quickly found:

1) www.sunbiz.org showed the name of the Registered Agent for Lions Head Land Trust Inc. as a dissolved company since 1997; I then had a subsequent call to the Florida Secretary of State where a person confirmed this Filing of Lions Head Land Trust Inc. should "not have been overlooked" by Internal Florida Secretary of State examiners and was initiating a request to the Examiner and an investigation with her Director as she worked in the Director's Office;

2) My own initiated google searches showed the Tallahasee, Fl address listed with the Secretary of State for Lions Head Land Trust Inc came up to a business with a DIFFERENT name and a phone call to that Business initiated again by myself at my own direction on Feb. 18th had the person working there claiming Any use of their Tallahasee, Fl address was not proper by Lions Head Land Trust, Inc. and that their company was not ISL, Inc. as indicated in the Lions Head Land Trust Inc filings;

3) whereupon a further google search that I, KRH, personally did and made of my own free will and volition and upon my own direction having Interests in "Iviewit", I then reached a business named CMREI in Orlando, Fl whereupon I spoke with a person who went by the name of Leilani Ochoada who claimed to know Nothing about the Lions Head Land Trust filing, thought it may be Identity theft, had not Authorized this at all, had never lived in Boca Raton, Fl , never bought any property and was not aware of it etc etc.

4) I informed Eliot Bernstein that Leilani Ochoada said she would come forward with a Sworn Statement and even do a Recorded call giving proper consent to the call later that day as she claimed she was Not a Buyer of this property and had no knowledge of it and provided no consent to anyone to do so in her name.

Thus, later that same day at my Suggestion Leilani Ochoada agreed to get on a Recorded Call whereupon I INITIATED a Call to Eliot Bernstein after Leilani Ochoada was on the call and Eliot Bernstein already had reason to believe this person was NOT a Buyer or Involved with Lions Head Land Trust Inc. and instead was a Victim of some type of Fraud.

Leilani Ochoada agreed to have a draft of her statement typed up of the call she was having with myself and Eliot Bernstein who I initiated on to the call and the draft of her Statement was as follows:

Leilani Statement which she confirmed was correct by email:

Leilani has:

* no knowledge of Lions Head Land Trust, Inc. at all

* never authorized anyone to use her name as an Incorporator

* until Feb. 18th 2016 had no knowledge any entity was incorporated by filings at the Fla Secretary of State under her name and had no involvement with any land transaction involving 7020 Lions Head Lane, Boca Raton, Fl

* initially believed it was some form of identity theft

* never lived at any Boca Raton, Fl address in general and never at 7020 Lions Head Land Trust Inc.

* never knew about any land deal with Mitch Huhem Laurence Pino or anything related to this property

* no absolutely nothing about the Articles of Incorporation and the addresses and companies named there

* consider it unauthorized fraudulent use of her name

* attorney Laurence Pino never had Leilani's permission to incorporate any entity using her name as an Incorporator either by signed document or Electroncially

* Pino has not been able to produce any written document that you allegedly signed with his office

* Pino's Exec Assistant Cathy can not find Any document signed by Leilani after reviewing the files

So, Mr. Rose, I have been told you have been suggesting in legal papers that Leilani Ochoada is a "Buyer" at the St. Andrew's property? Is this True? She certainly never claimed to me that she was a "Buyer" in any sense and as shown by her statement drafted above quite to the contrary. Thus, are you claiming Leilani is the "Buyer" in this situation? To facilitate review, I have attached the MP3 Recording of the Call that both Leilani Ochoada and Eliot Bernstein agreed and consented to have Recorded.

Please note that I have copied this communication to William Stansbury and his attorney Peter Feaman and Leilani herself and Eliot and the attorney from Texas Candice Schwager and other attorney contacts of Eliot and others in order to quickly clarify matters and put the issues to rest.

I am curious, however, if you found any of the "Iviewit Stock" that Simon Bernstein had when you were at the 7020 Lions Head Lane Boca Raton, Fl home or if you know where all those Files and Records went?

Thank you in advance for your cooperation.

Glad I could be of assistance.

Regards,

Kevin R. Hall
IT Consulting Sales Offices
P.O. Box 756
Kinderhook, NY 12106
518-755-8128 Cell
518-635-0668 office
Skype ID = kh.itconsultingsales
kh.itconsultingsalesoffices@gmail.com

On Mon, Mar 7, 2016 at 12:55 PM, Alan Rose <ARose@mrachek-law.com> wrote:

Kevin R. Hall

IT Consulting Sales Offices

P.O. Box 756

Kinderhook, NY 12106

Dear Mr. Hall:

You may recall that I represent Ted S. Bernstein, Trustee.

I am writing to confirm that you were you involved in contacting Leilani Ochoada on behalf of Eliot Bernstein to obtain information on the trust which purchased the Bernstein residence at 7020 Lions Head Lane?

Can you share you confirm that? And, are you authorized to advise what you learned from that call or would we need to depose Mr. Eliot Bernstein?.

Also, can you confirm that Eliot Bernstein was on the telephone with you and spoke directly to Ms. Ochoada?

Thanks in advance for responding.

Alan Rose

Counsel for Successor Trustee of Shirley Bernstein Trust Agreement