

IN THE CIRCUIT COURT IN AND FOR THE 15<sup>TH</sup> JUDICIAL CIRCUIT IN AND FOR  
PALM BEACH COUNTY, FLORIDA

IN RE: ESTATE OF:

PROBATE DIVISION

SIMON L. BERNSTEIN,

FILE NO: 502012CP4391XXXXNB/IH

Deceased.

**MOTION FOR PROTECTIVE ORDER AND OBJECTION TO NOTICE OF TAKING  
DEPOSITION DUCES TECUM OF BRIAN M. O'CONNELL**

COMES NOW, BRIAN M. O'CONNELL, as Successor Personal Representative of the Estate of SIMON L. BERNSTEIN ("Mr. O'Connell," "Estate" and "Decedent", respectively), by and through undersigned counsel, and objects to and moves this Court for a protective order regarding William E. Stansbury's Notice of Taking Deposition Duces Tecum of Brian M. O'Connell, on the following bases, including, but not limited to:

1. On or about March 10, 2017, Mr. O'Connell was served with the Notice of Taking Deposition Duces Tecum, which noticed Mr. O'Connell's deposition duces tecum and requested the following to be produced: "all documents in your possession pertaining to the above-styled Estate of Simon L. Bernstein" ("Notice" and "Duces Tecum," respectively). A copy of the Notice and Duces Tecum is attached hereto as "Exhibit A."

2. Mr. O'Connell files this motion for protective order with regard to the Duces Tecum request for deposition that is scheduled for Monday, March 13, 2017 at 1:00 PM.

3. Mr. O'Connell objects and asks this Court to enter a protective order as the Notice with the attached Duces Tecum request was received on March 10, 2017 at 11:13 AM. The time period from the date of the Notice of March 10, 2017, to the date of the deposition on March 13, 2017, is one (1) business day notice and is not sufficient notice.

4. Additionally, William E. Stansbury ("Stansbury") previously served a Request for Production in an action against the Estate (Case No.: 502012CA013933XXXXMB) to which Mr. O'Connell, in his capacity as personal representative, made available for review, inspection and copying his entire non-privileged file to Stansbury and his counsel and they did in fact inspect and copy to the extent requested the non-privileged materials.

5. Furthermore, Mr. O'Connell objects as the Duces Tecum requests "all documents in your possession pertaining to the above-styled Estate of Simon L. Bernstein" and as such is extremely overbroad, unduly burdensome, annoying, harassing, not reasonably calculated to lead to the discovery of admissible evidence, irrelevant, and is not reasonably limited in time or scope.

6. Mr. O'Connell further objects as the Duces Tecum seeks information and documents that may be protected from disclosure as such are privileged, including but not limited to the attorney – client privilege, the work – product doctrine, and the joint – defense privilege.

7. For the foregoing reasons, Mr. O'Connell objects and requests this Court to enter a protective order regarding the Duces Tecum.

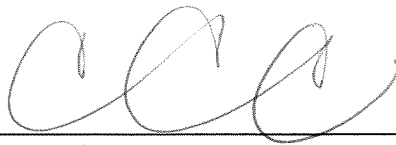
WHEREFORE, BRIAN M. O'CONNELL, as Successor Personal Representative of the Estate of SIMON BERNSTEIN, by and through his undersigned counsel, respectfully objects and requests this Court enter its order of protection, pursuant to Fla.R.Civ.P. 1.280(c), regarding William E. Stansbury's Notice of Taking Deposition Duces Tecum of Brian M. O'Connell, award Mr. O'Connell his attorneys' fees and costs incurred in the preparation, filing and attendance at a hearing on this Motion pursuant to Fla.R.Civ.P. 1.280 and 1.380(a)(4), and under

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any other applicable entitlement provisions of Florida's Civil Rules and related case law, and any other relief this Court deems appropriate under the circumstances.

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via the Court's e-filing portal to all persons listed on the attached Service List this 10<sup>th</sup> day of March, 2017.



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BRIAN M. O'CONNELL  
Florida Bar No: 308471  
ASHLEY CRISPIN ACKAL  
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of Taking Deposition Duces Tecum of  
Brian M. O'Connell*

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**SERVICE LIST**

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| <p>Peter Feaman, Esq.<br/> Peter M. Feaman, P.A.<br/> 3695 Boynton Beach<br/> Blvd., Suite 9<br/> Boynton Beach, FL 33436<br/> <a href="mailto:pfeaman@feamanlaw.com">pfeaman@feamanlaw.com</a></p> <p><b>Attorney for William Stansbury</b></p>  | <p>Shendell &amp; Pollock, P.L.<br/> 2700 N. Military Trail, suite 150<br/> Boca Raton, FL 33431<br/> 241-2323 Fax: 241-2330<br/> Gary R. Shendell, Esq.<br/> <a href="mailto:gary@shendellpollock.com">gary@shendellpollock.com</a><br/> <a href="mailto:estella@shendellpollock.com">estella@shendellpollock.com</a><br/> <a href="mailto:grs@shendellpollock.com">grs@shendellpollock.com</a><br/> Kenneth S. Pollock, Esq.<br/> <a href="mailto:ken@shendellpollock.com">ken@shendellpollock.com</a><br/> <a href="mailto:britt@shendellpollock.com">britt@shendellpollock.com</a><br/> <a href="mailto:grs@shendellpollock.com">grs@shendellpollock.com</a><br/> Matthew A. Tornincasa, Esq.<br/> <a href="mailto:matt@shendellpollock.com">matt@shendellpollock.com</a><br/> <a href="mailto:robyne@shendellpollock.com">robyne@shendellpollock.com</a><br/> <a href="mailto:grs@shendellpollock.com">grs@shendellpollock.com</a></p> <p><b>Attorney for Tescher and Spallina</b></p> | <p>Max Friedstein<br/> 2142 Churchill Lane<br/> Highland Park, IL 60035</p> <p><b>Beneficiary</b></p>   |
| <p>Eliot Bernstein and<br/> Joshua, Jacob and Daniel<br/> Bernstein, Minors<br/> c/o Eliot and Candice<br/> Bernstein, Parents and<br/> Natural Guardians<br/> 2753 N.W. 34<sup>th</sup> St.<br/> Boca Raton, FL 33434<br/> <a href="mailto:iviewit@iviewit.tv">iviewit@iviewit.tv</a></p> <p><b>Pro Se</b></p>   | <p>Pamela Beth Simon<br/> 950 N. Michigan Ave., Apt. 2603<br/> Chicago, IL 60611<br/> <a href="mailto:psimon@stpcorp.com">psimon@stpcorp.com</a></p> <p><b>Beneficiary</b></p>  | <p>Lisa Friedstein and<br/> Carley Friedstein, Minor<br/> c/o Jeffrey and Lisa Friedstein<br/> Parent and Natural Guardian<br/> 2142 Churchill Lane<br/> Highland Park, IL 60035<br/> <a href="mailto:Lisa@friedsteins.com">Lisa@friedsteins.com</a><br/> <a href="mailto:Lisa.friedstein@gmail.com">Lisa.friedstein@gmail.com</a></p> <p><b>Beneficiary</b></p>          |

In Re: Estate of Simon L. Bernstein  
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| <p>Jill Iantoni and<br/>Julia Iantoni, a Minor<br/>c/o Guy and Jill Iantoni, her<br/>Parents &amp; Natural Guardians<br/>2101 Magnolia Lane<br/>Highland Park, IL 60035<br/><a href="mailto:jilliantoni@gmail.com">jilliantoni@gmail.com</a></p> <p><b>Beneficiary</b></p> | <p>Robert Spallina, Esq.<br/><a href="mailto:rspallina@comcast.net">rspallina@comcast.net</a></p> <p><b>Former PR of the Estate of<br/>Simon L. Bernstein</b></p> | <p>Diana Lewis<br/>ADR &amp; Mediation Services,<br/>LLC<br/>2765 Tecumseh Drive<br/>West Palm Beach, FL 33409<br/>(561) 758-3017<br/><a href="mailto:dzlewis@aol.com">dzlewis@aol.com</a><br/><b>Guardian Ad Litem for<br/>Joshua, Jacob and Daniel<br/>Bernstein, Minors</b></p> |
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IN THE CIRCUIT COURT OF THE 15TH  
JUDICIAL CIRCUIT IN AND FOR PALM  
BEACH COUNTY, FLORIDA

CASE NO. 502012CP004391XXXXNB (IH)

IN RE: ESTATE OF SIMON L.  
BERNSTEIN,

Deceased.

**NOTICE OF TAKING DEPOSITION DUCES TECUM**

PLEASE TAKE NOTICE that the undersigned attorney for WILLIAM E. STANSBURY, will take the deposition of the following:

NAME: Brian O'Connell, Personal Representative

DATE: March 13, 2017

TIME: 1:00 p.m.

LOCATION: Ciklin Lubitz Martens & O'Connell  
515 North Flagler Drive, 20<sup>th</sup> Floor  
West Palm Beach, FL 33401

**DUCES TECUM:** All documents in your possession pertaining to the above-styled Estate of Simon L. Bernstein.

upon oral examination before MUDRICK COURT REPORTING, a Notary Public or any other officer authorized by law to take depositions in the State of Florida. Said deposition will be taken before an officer authorized to administer oaths by the laws of the State of Florida, and a person who is neither a relative nor employee of such attorney of counsel, and who is not financially interested in the action. The oral examinations of the deponent will continue from hour to hour and from day to day until completed. This deposition is being taken for the purpose of discovery, for use at trial, or for such other purposes as are permitted under the applicable Florida Rules of Civil Procedure.

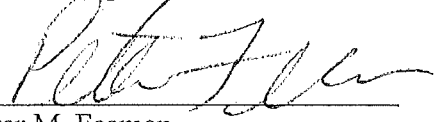
**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the above and foregoing has been forwarded via e-mail service through the Florida E-portal system to those listed on the attached service list, on this 10<sup>th</sup> day of March, 2017.

**EXHIBIT "A"**

PETER M. FEAMAN, P.A.  
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By: \_\_\_\_\_

  
Peter M. Feaman  
Florida Bar No. 0260347

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