

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT,  
IN AND FOR PALM BEACH COUNTY, FLORIDA  
CASE NO. 502012-CP-004391 XXXX NB IH

IN RE: THE ESTATE OF:

SIMON L. BERNSTEIN

Deceased.

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PROCEEDINGS BEFORE  
HONORABLE ROGER COLTON

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DATE: APRIL 27, 2017

TIME: 4:35 P.M. - 5:10 P.M.

1 APPEARING PRO SE:

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3 BY: ELIOT BERNSTEIN  
4 BY: CANDICE BERNSTEIN  
2753 NW 34TH STREET  
5 BOCA RATON, FL 33434

6

7 APPEARING ON BEHALF OF TED BERNSTEIN:

8

9 PAGE, MRACHEK, FITZGERALD & ROSE, P.A.  
10 BY: ALAN B. ROSE, ESQUIRE  
505 S. FLAGLER DRIVE, SUITE 600  
11 WEST PALM BEACH, FL 33401  
12 (561) 355-6991

13

14 APPEARING ON BEHALF OF WILLIAM STANSBURY:

15

16 PETER M. FEAMAN, P.A.  
17 BY: JEFFREY ROYER, ESQUIRE  
3695 BOYNTON BEACH BOULEVARD, SUITE 9  
18 BOYNTON BEACH, FL 33436  
19 (561) 734-5552

20

21 APPEARING AS PERSONAL REPRESENTATIVE:

22

23 CIKLIN LUBITZ & O'CONNELL  
24 BY: BRIAN M. O'CONNELL, ESQUIRE  
BY: JOIELLE FOGLIETTA, ESQUIRE  
515 N. FLAGLER DRIVE, 20TH FLOOR  
25 WEST PALM BEACH, FL 33401  
(561) 832-5900

ALSO PRESENT:

Judge Diana Lewis, guardian ad litem

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1           BE IT REMEMBERED, that the following  
2 proceedings were taken in the above-styled cause before  
3 Honorable Roger Colton, Presiding Judge, at the Palm  
4 Beach Gardens Courthouse, 3188 PGA Boulevard, in the  
5 City of Palm Beach Gardens, County of Palm Beach, State  
6 of Florida, on the 27th day of April, 2017, to wit:

7                                 - - -

8           JUDGE COLTON: Good afternoon, folks. How are  
9 you? Judge Lewis, how are you?

10          JUDGE LEWIS: Okay. Thank you.

11          JUDGE COLTON: No, I'm not Judge Scher. My  
12 name is Colton, C-O-L-T-O-N, first name Roger,  
13 middle initial V, and I'm what's referred to as a  
14 senior judge. Which means about 11 years ago they  
15 said to me, "You know, you hit the magic number,  
16 don't let the door hit you on the way out," so I  
17 didn't, but I'm back again, sort of like a  
18 substitute school teacher.

19                 It's my understanding that you've been  
20 allotted 30 minutes at 4:30 in the afternoon. This  
21 is an amended order setting a hearing on the motion  
22 of Eliot L. Bernstein. Who's Eliot?

23          MR. ELIOT BERNSTEIN: I. Bernstein, correct.  
24 Yes, sir.

25          JUDGE COLTON: Eliot I. What's the "I" stand

1 for?

2 MR. ELIOT BERNSTEIN: Ivan.

3 JUDGE COLTON: Ivan. All right, Eliot.

4 MR. ELIOT BERNSTEIN: Thank you.

5 JUDGE COLTON: And, Eliot, are you represented  
6 by counsel?

7 MR. ELIOT BERNSTEIN: No.

8 JUDGE COLTON: Well, who's this?

9 MR. ELIOT BERNSTEIN: Pro se. This is my  
10 wife.

11 JUDGE COLTON: Oh, your wife? You're  
12 Mrs. Eliot?

13 MRS. CANDICE BERNSTEIN: Yes.

14 JUDGE COLTON: All right. Bernstein, okay.  
15 And you're the beneficiary of the Estate of Simon?

16 MR. ELIOT BERNSTEIN: Correct.

17 JUDGE COLTON: Simon's your brother?

18 MR. ELIOT BERNSTEIN: My father.

19 JUDGE COLTON: Your father?

20 MR. ELIOT BERNSTEIN: Deceased.

21 JUDGE COLTON: You're pro se. You don't have  
22 an attorney?

23 MR. ELIOT BERNSTEIN: Correct.

24 JUDGE COLTON: Okay. You're your own  
25 attorney, right?

1 MR. ELIOT BERNSTEIN: Correct.

2 JUDGE COLTON: Okay, Mr. Bernstein. And over  
3 on this side is?

4 MR. O'CONNELL: Brian O'Connell, Your Honor.  
5 Good to see you.

6 JUDGE COLTON: Good to see you. And you're  
7 the attorney for?

8 MR. O'CONNELL: I'm actually the personal  
9 representative of the Estate of Simon Bernstein.  
10 And there's a Shirley Bernstein estate as well that  
11 I'm not the personal representative of, just to try  
12 to acquaint you a little bit with it.

13 JUDGE COLTON: Right. You're the personal  
14 representative of Simon's --

15 MR. O'CONNELL: Simon.

16 JUDGE COLTON: -- estate?

17 MR. O'CONNELL: Yes, sir.

18 JUDGE COLTON: The father of Eliot?

19 MR. O'CONNELL: Correct.

20 JUDGE COLTON: Okay. And you, sir, you are  
21 the attorney for?

22 MR. ROSE: Good afternoon, Your Honor. Alan  
23 Rose. I represent Ted S. Bernstein, who is the  
24 successor trustee of the Simon Bernstein Trust.

25 JUDGE COLTON: You said successor trustee?

1 MR. ROSE: Right. The original trustee was  
2 Simon Bernstein while he was alive.

3 MR. ELIOT BERNSTEIN: Oh, and that was two  
4 attorneys who were removed but --

5 JUDGE COLTON: Wait a minute. Don't interrupt  
6 him.

7 MR. ELIOT BERNSTEIN: Oh, okay. Sorry.

8 JUDGE COLTON: Tell me again now, you are?

9 MR. ROSE: I represent Ted Bernstein as  
10 trustee of the Simon Bernstein Trust.

11 JUDGE COLTON: And you said he was the  
12 successor --

13 MR. ROSE: Correct.

14 JUDGE COLTON: -- of the Simon Bernstein  
15 Trust?

16 MR. ROSE: Correct. The Simon Bernstein Trust  
17 is the sole residuary beneficiary of the estate --

18 JUDGE COLTON: Okay.

19 MR. ROSE: -- that Mr. O'Connell is the  
20 personal representative of.

21 JUDGE COLTON: So why are we here today,  
22 Eliot?

23 MR. ELIOT BERNSTEIN: Well, Judge --

24 MR. ROSE: Also, just for the record, Judge  
25 Lewis is here. She's the guardian ad litem who is

1 appointed by orders of Judge Phillips and not  
2 reversed on appeal to the 4th District. She's the  
3 guardian ad litem for the three children -- for the  
4 interest of the three children of Eliot Bernstein,  
5 so she should probably just formally appear.

6 JUDGE COLTON: All right. So we'll show that  
7 she's here.

8 MR. ELIOT BERNSTEIN: Your Honor --

9 JUDGE COLTON: For your three children?

10 MR. ELIOT BERNSTEIN: Well, two of them are  
11 adults --

12 JUDGE COLTON: Well, that's okay.

13 MR. ELIOT BERNSTEIN: -- and these were  
14 guardianships placed on them when they were adults.

15 JUDGE COLTON: Until such time the  
16 guardianship has been dissipated or dissolved,  
17 she's still the guardian unless some judge comes  
18 along and says they're adults now --

19 MR. ELIOT BERNSTEIN: We're moving to vacate  
20 it because he was an adult when the guardian was  
21 improperly placed, but that's okay.

22 JUDGE COLTON: Where are the three children?  
23 Are they going to be here?

24 MR. ELIOT BERNSTEIN: No.

25 JUDGE COLTON: Yes, sir. You are?

1 MR. ROYER: Your Honor, my name is Jeff Royer.  
2 I'm here for Peter Feaman, who is the attorney for  
3 William Stansbury, who is the predominant creditor  
4 or, excuse me, claimant of the Estate of Simon  
5 Bernstein and an interested party.

6 JUDGE COLTON: An interested party?

7 MR. ROYER: Correct.

8 JUDGE COLTON: Okay. Well, we got some other  
9 people here. How about the lady in the front row,  
10 who are you here for?

11 MS. FOGLIETTA: Joielle Foglietta, Judge --

12 MR. O'CONNELL: My office.

13 MS. FOGLIETTA: -- on behalf of Brian  
14 O'Connell, the personal representative.

15 MR. O'CONNELL: She's with my office, Your  
16 Honor.

17 JUDGE COLTON: Oh, I see. Okay. How about  
18 you, young man?

19 AUDIENCE MEMBER: I'm a good looking man. I'm  
20 just looking at you and listening.

21 JUDGE COLTON: You don't want to listen to me.  
22 You're just here? You didn't have anything else to  
23 do? You're just here off the street?

24 AUDIENCE MEMBER: Yes. I'm looking.

25 JUDGE COLTON: Okay. And your name, sir, is?



1           AUDIENCE MEMBER:   Kenneth Francis Santarosio  
2           (phonetic).

3           JUDGE COLTON:   Ken?   And you're just here as  
4           an observer?   You're here as an observer?

5           MR. ROSE:   He's a friend of Mr. Bernstein.

6           AUDIENCE MEMBER:   I'm just a friend.

7           JUDGE COLTON:   Oh, you're a friend of Eliot's?  
8           Oh, okay.   And you're going out afterwards with  
9           your friend here?   He's going to pick up the tab he  
10          said.

11          Okay.   Now --

12          MR. O'CONNELL:   Your Honor, I want to make  
13          aware that's a procedural order that had been  
14          entered by Judge Colin.   I'm handing a copy to  
15          Mr. Eliot.

16          JUDGE COLTON:   Judge Colin?

17          MR. O'CONNELL:   Its terms of how adversary  
18          proceedings would be handled because I thought the  
19          Court should be aware of that procedure.

20          JUDGE COLTON:   Who's going to tell me why I'm  
21          here?   Eliot, why am I here?

22          MR. ELIOT BERNSTEIN:   Okay.   That's a great  
23          question.   Judge Scher called this hearing, if you  
24          read the order for today, as the matter came before  
25          her I guess in chambers, she said.   I wasn't in her

1 chambers at that time, so I don't know what that  
2 means.

3 JUDGE COLTON: Well, I'll tell you what it  
4 means so you don't think that somebody was sitting  
5 there with her. It just means she wrote it in her  
6 office.

7 MR. ELIOT BERNSTEIN: Okay. So she ordered  
8 that. I didn't put in for a notice of hearing on  
9 this, and I would have certainly scheduled a lot  
10 more time because I have a number of witnesses and  
11 this should really be an evidentiary hearing, and I  
12 was going to discuss that with her.

13 She took two months to get to this hearing and  
14 scheduled it up on her own, so I think it should be  
15 before her and I move to, you know, delay and  
16 reschedule and hear this properly before her.  
17 She's done a lot of research on the case. She's  
18 aware of some of the frauds that have occurred by  
19 attorneys in this case.

20 And I just want to really quickly clarify,  
21 Mr. Rose was a little bit misleading saying that my  
22 brother was the successor trustee to my father in  
23 the Simon trust. There were two attorneys who  
24 admitted to fraudulently altering estate  
25 documents --

1 JUDGE COLTON: Really?

2 MR. ELIOT BERNSTEIN: -- and sending them to  
3 my children's counsel.

4 JUDGE COLTON: Are they still lawyers?

5 MR. ELIOT BERNSTEIN: Yeah. Actually, we're  
6 working on getting them -- putting them in prison  
7 instead of disbarring them because --

8 JUDGE COLTON: How about disbarring and  
9 prison?

10 MR. ELIOT BERNSTEIN: No. Prison with no  
11 disbarring because then they're valued in prison by  
12 all the prisoners. They'll become loved over  
13 there.

14 So anyways, I just think it's proper to hear  
15 it before her. She's spent a lot of time on this,  
16 and I don't really know -- I had some questions for  
17 her on why she scheduled it this way. So if we  
18 could, that would be the best move.

19 JUDGE COLTON: All right. And what says this  
20 side of the room?

21 MR. O'CONNELL: Your Honor, with regard to the  
22 estate, I know that's kind of a lengthy order that  
23 I just handed you. There is a procedure that's  
24 supposed to be followed before an adversary  
25 proceeding gets filed, and here we sort of have

1 cart before horse. That pleading has already been  
2 filed and it's supposed to be reviewed -- in that  
3 case it was Judge Colin presiding at the time, so  
4 now it would be Judge Scher or of course yourself.  
5 But before it's allowed to be filed, if you'll see,  
6 there's some requirements that Judge Colin set  
7 forth in terms of pleadings, exhibits, items of  
8 that nature because there have been, as is  
9 referenced in there, voluminous filings that have  
10 occurred, so he did that in a case management  
11 fashion as to how things should proceed --

12 JUDGE COLTON: All right.

13 MR. O'CONNELL: -- in this case. I just  
14 wanted you to know that.

15 JUDGE COLTON: He's retired, too, you know.

16 MR. ELIOT BERNSTEIN: Oh, he's gone now?

17 JUDGE COLTON: Yes, he's gone.

18 MR. ELIOT BERNSTEIN: Oh, good.

19 JUDGE COLTON: It's yesterday's news.

20 MR. ROSE: Your Honor, if I could be heard on  
21 that. I think Judge Scher set this to be heard.  
22 It's a frivolous motion. This case has been going  
23 on -- Shirley Bernstein died in the end of 2010.  
24 Her estate started in '11. Simon died in 2012, so  
25 this is a 2012 estate which has been going on for

1 years.

2 We had a trial before Judge Phillips, which  
3 some of it's discussed in the motion.

4 JUDGE COLTON: He's gone. Phillips is gone.

5 MR. ROSE: Right.

6 MR. ELIOT BERNSTEIN: Knocking them off one by  
7 one.

8 MR. ROSE: And the order that he entered was  
9 affirmed today at the 4th District.

10 JUDGE COLTON: Today?

11 MR. ROSE: Today.

12 JUDGE COLTON: You mean yesterday?

13 MR. ROSE: I mean today.

14 JUDGE COLTON: Well, I thought they only heard  
15 them on Wednesdays.

16 MR. ROSE: Well, the issue for procurement  
17 permits is on Thursdays now.

18 JUDGE COLTON: Oh.

19 MR. ELIOT BERNSTEIN: And we're moving for a  
20 rehearing on that because of new fraud that was  
21 discovered before --

22 JUDGE COLTON: Okay.

23 MR. ELIOT BERNSTEIN: -- Judge Scher --

24 MR. ROSE: I thought I was talking.

25 MR. ELIOT BERNSTEIN: -- by Mr. Rose.

1 JUDGE COLTON: Eliot, let him finish.

2 MR. ELIOT BERNSTEIN: Oh, okay.

3 JUDGE COLTON: Just so you know, I'm going --

4 MR. ELIOT BERNSTEIN: I'm sorry.

5 JUDGE COLTON: -- to deny any continuance.

6 I'm going to hear it. You have from now until --

7 I'll give you until a little bit after 5:00. I'm

8 going to hear from you and then you can take it

9 from there.

10 MR. ELIOT BERNSTEIN: Well, then I'd like to  
11 make my opening.

12 JUDGE COLTON: Well now hold on. I'm going to  
13 hear it when he's done.

14 MR. ELIOT BERNSTEIN: Okay.

15 JUDGE COLTON: Go ahead.

16 MR. ROSE: My only point is at issue were the  
17 validity of five documents, five testamentary  
18 documents.

19 JUDGE COLTON: Okay.

20 MR. ROSE: And so Judge Phillips heard it. He  
21 ruled that they were valid. There was a sixth  
22 document that he determined to be invalid. You've  
23 heard some discussion about an invalid document  
24 that Judge Phillips determined was invalid. So we  
25 have five valid documents that's been affirmed by

1 procurement permits, which was not unexpected, but  
2 coincidentally was today, and so we think the  
3 motion should go forward and you should deny it.

4 JUDGE COLTON: Okay. Now I'm going to give  
5 Eliot all the rest of the time since you told me  
6 what your position is.

7 MR. ROSE: Thank you, Your Honor.

8 MR. ELIOT BERNSTEIN: Well, if you're moving  
9 for witness testimony and trying to --

10 JUDGE COLTON: No, I'm not moving for witness  
11 testimony.

12 MR. ELIOT BERNSTEIN: Oh, okay.

13 JUDGE COLTON: This is --

14 MR. ELIOT BERNSTEIN: Okay.

15 JUDGE COLTON: Eliot, listen to me. This is  
16 your opportunity.

17 MR. ELIOT BERNSTEIN: Okay. Yeah.

18 JUDGE COLTON: Make the most of it.

19 MR. ELIOT BERNSTEIN: Okay. Great.

20 JUDGE COLTON: Okay. Go ahead.

21 MR. ELIOT BERNSTEIN: So I object to this  
22 hearing, that 30 minutes is improper and an  
23 insufficient amount of time for this hearing on the  
24 motion. There was -- no written opposition's been  
25 filed or received and the motion's, therefore,

1 unopposed.

2 Further, critical witnesses of Peter Feaman,  
3 attorney at law, and William Stansbury became  
4 unavailable. Mr. Stansbury was called out of the  
5 country after Scher scheduled this for an unknown  
6 amount of time, but prior to his parting he had  
7 represented that Peter Feaman would be here  
8 directly and he claimed -- who has claimed he's an  
9 attorney at law with Mr. Royer -- he has claimed on  
10 a phone call with several parties to be aware of a  
11 conspiracy amongst the parties in this court  
12 against my rights that even pre-date this validity  
13 hearing that we're going to be challenging.

14 And he also has knowledge of due process  
15 violations in the proceedings, and he has allegedly  
16 filed with state authorities and federal criminal  
17 complaints --

18 JUDGE COLTON: Now tell me --

19 MR. ELIOT BERNSTEIN: -- involving --

20 JUDGE COLTON: Eliot, tell me who this is that  
21 you're telling me.

22 MR. ELIOT BERNSTEIN: It's Jeff Royer's  
23 partner.

24 JUDGE COLTON: What's his name?

25 MR. ELIOT BERNSTEIN: Peter Feaman.



1 JUDGE COLTON: F-E-A-M-O-N?

2 MR. ELIOT BERNSTEIN: M-A-N.

3 JUDGE COLTON: M-A-N?

4 MR. ELIOT BERNSTEIN: Correct.

5 JUDGE COLTON: And he's the one that's made  
6 the allegations according to you --

7 MR. ELIOT BERNSTEIN: Correct.

8 JUDGE COLTON: -- that you're referring to  
9 now?

10 MR. ELIOT BERNSTEIN: And we would be bringing  
11 him up with other witnesses. We'd be bringing up  
12 Diana Lewis as a witness about the guardianship  
13 issues. We'll be calling Mr. Rose about the  
14 fraudulent statements he's made in putting 40 --

15 JUDGE COLTON: And this is Mr. Rose?

16 MR. ELIOT BERNSTEIN: Yeah. In fact, in Judge  
17 Scher's order today she calls me a beneficiary and  
18 you so politely did. There's about 47 different  
19 times Mr. Rose has moved several courts that I am  
20 not a beneficiary of anything. He conceded in the  
21 hearing before Judge Scher now that I am changing  
22 all of these pleadings.

23 Now just for one point, a federal judge in  
24 Illinois has claimed that in the Estate of Simon,  
25 because Florida ruled that I was not a beneficiary

1 of Simon's estate, even though Scher just put in  
2 her order today that I am, that he issued a summary  
3 judgment removing my rights in that case.

4 You're walking into a very large fraud that  
5 has been ongoing. There are multiple parties.  
6 There have been arrests made for forging documents  
7 in this court by the very people Mr. Rose brought  
8 in to this court, or brought him in to this court.

9 The onion started to peel when Judge Scher,  
10 just at the last hearing, and these guys all  
11 admitted I was a beneficiary after they put in all  
12 these pleadings to all these different courts: The  
13 4th DCA, the Supreme Court of Florida, the Illinois  
14 federal courts, stating that I was a beneficiary of  
15 nothing, it had been ruled on, and there's a fraud  
16 upon a fraud upon a fraud going on here.

17 So, you know, truly, if you're hearing this,  
18 this Court's order that was issued today, which  
19 appears to be dated for April 3rd but then was  
20 written today April 27th and received today  
21 April 27th by --

22 JUDGE COLTON: The order I just saw?

23 MR. ELIOT BERNSTEIN: The order --

24 JUDGE COLTON: You're talking about the 4th  
25 DCA order? What order are you talking about?

1 MR. ELIOT BERNSTEIN: No. The one Scher  
2 ordered today.

3 JUDGE COLTON: She signed it April 7th.

4 MR. ELIOT BERNSTEIN: April 27th.

5 JUDGE COLTON: Oh, that -- no, no, no.  
6 April 27th is today.

7 MR. ELIOT BERNSTEIN: Yeah.

8 JUDGE COLTON: She set -- on April 7th she set  
9 a hearing today --

10 MR. ELIOT BERNSTEIN: No, no.

11 JUDGE COLTON: -- for 4:30.

12 MR. ELIOT BERNSTEIN: Yes, sir.

13 JUDGE COLTON: On April 11th she set a hearing  
14 today at 4:30, but it was an amended order as to  
15 the time only.

16 MR. ELIOT BERNSTEIN: Yes, Your Honor, but  
17 today she issued another order.

18 JUDGE COLTON: She did?

19 MR. ELIOT BERNSTEIN: Yes, sir.

20 JUDGE COLTON: How? Well, where is it? Who  
21 gave it to me?

22 MR. ELIOT BERNSTEIN: Nobody.

23 MR. ROSE: It's completely -- it's an order on  
24 a motion that we heard months ago. It's unrelated  
25 to this motion today.

1           MR. ELIOT BERNSTEIN: Oh, no, it's highly  
2 related to this motion. In fact, it supports my  
3 case if you'd let me finish.

4           JUDGE COLTON: Go ahead. I'll let you finish.

5           MR. ELIOT BERNSTEIN: So she issued an order  
6 today. If you look it up in the computer, on  
7 paragraph 17 of that order, she says that I, Eliot  
8 Bernstein, am a beneficiary of the Estate of Simon  
9 Bernstein, giving me standing -- which they have  
10 both argued that I did not have for two years and  
11 kept me out of proceedings, denying me due process  
12 and procedure. And because of that, that  
13 sufficient basis can now modify the order of the  
14 scheduling of hearings. Because when the hearings  
15 were first scheduled, that order they gave, you  
16 know, scheduling with Judge Scher, she was told  
17 that I wasn't a beneficiary of the estate.

18           So now she's overruled all that, and it's  
19 causing a cataclysm with state and federal,  
20 criminal authorities, as well as going to the  
21 Illinois federal court, Judge Blakey, whose father  
22 wrote the RICO Act, dismissed --

23           JUDGE COLTON: Is that John Blakey?

24           MR. ELIOT BERNSTEIN: It is.

25           JUDGE COLTON: Oh, okay.

1           MR. ELIOT BERNSTEIN: Northwestern. And he  
2 dismissed an action saying that because Florida  
3 said I wasn't a beneficiary of the Simon Bernstein  
4 Estate, he was issuing summary judgment against me  
5 saying I didn't have standing there.

6           This now changes everything, so understand  
7 that. And her order proves the fraud. Meaning, it  
8 proves that they've been telling the courts  
9 factually incorrect things. And I believe that  
10 falls under -- oh, God. I'll think of that  
11 criminal term in a minute, but it's moving the  
12 court falsely with knowledge of what they were  
13 doing.

14           And, like I said, 47 times that's repeated in  
15 orders that denied me -- I couldn't even speak at  
16 hearings with Judge Phillips because he was on the  
17 same rant.

18           In fact, if you read any of the four documents  
19 they say are valid, I'm the beneficiary in every  
20 single one. So we'll get to that part in a minute,  
21 but let me continue.

22           That fraud that's been going on since Phillips  
23 issued these orders saying I wasn't a beneficiary  
24 that Scher just overturned, it's gone on for over a  
25 year and it's been going on with Brian O'Connell.

1 And I want to state on the record, Your Honor, take  
2 judicial notice of this: In Mr. O'Connell's  
3 deposition leading up to the hearings that Judge  
4 Scher just had, I asked him about a conflict of  
5 interest with his law firm and a partner of his,  
6 Jerald Beer. And he declined -- in his deposition  
7 he said he didn't know anything about it. And I  
8 said I had sent him the information. He said,  
9 "Well, if you send it to me again, I'll, you know,  
10 obviously resolve it immediately." That's in his  
11 deposition.

12 So I sent him the very next day the letter I  
13 had sent him a year before. Now this is about an  
14 asset in this estate that Mr. Rose has claimed is  
15 worth a trillion dollars. So -- yes.

16 JUDGE COLTON: A trillion dollars?

17 MR. ELIOT BERNSTEIN: A trillion dollars.

18 MR. ROSE: Am I allowed to say --

19 JUDGE COLTON: Not yet.

20 MR. ELIOT BERNSTEIN: Other people have --

21 JUDGE COLTON: Let him finish.

22 MR. ROSE: Okay.

23 MR. ELIOT BERNSTEIN: So Mr. O'Connell, I sent  
24 that over to him the next day, and that's weeks  
25 ago. He's refused to acknowledge if he has

1 conflict. He shouldn't even be here because the  
2 conflict is so egregious, that he just keeps  
3 avoiding it and showing up at court and making  
4 pleadings, and that continues the fraud.

5 Okay. I believe the Court needs to, you know,  
6 review the records of the proceedings to find  
7 sufficient cause based upon this continuing and  
8 ongoing pattern and practice of fraud upon the  
9 court to issue discovery compliance and related  
10 discovery proceedings. There should be an order  
11 issued placing an injunction against Alan Rose, Ted  
12 Bernstein, and Brian O'Connell to separately  
13 catalog, identify, and preserve all discovery,  
14 including the time of receipt of such discovery,  
15 the source and location of such discovery, where it  
16 was derived from, whether the discovery is an  
17 original or a copy, and related protective measures  
18 to preserve the integrity of the proceedings, and  
19 that's because all of the documents that were  
20 ordered by Judge Colin to be turned over when the  
21 other attorneys were removed for fraud, they didn't  
22 turn over. They turned over only alleged copies,  
23 so all the original documents of my father,  
24 business records and everything, are missing at  
25 this point, including the trusts and wills.

1           So, nobody has them that we're aware of, and  
2 this is one of the big things we've been moving on  
3 in our papers, and I believe that's why Judge Scher  
4 called this up today. If she wanted to quash it,  
5 she would have done that.

6           This Court should further issue an immediate  
7 injunction prohibiting any and all further  
8 disposition of any asset of any kind of the estate  
9 and trust. There's been allegations by Mr. Feaman,  
10 just prior to Judge Phillips leaving, that he was  
11 aware of fraud and missing assets and theft of  
12 assets and theft of jewelry, and it's all on the  
13 record in the September 1st hearing where Judge  
14 Phillips said, "We'll get to that." Mr. -- and  
15 then he left right after that, so we haven't got to  
16 that order yet. And there's been all kinds of  
17 allegations in the papers of missing assets.

18           There's been no accounting in my mom's trust  
19 since she died in 2010. There's no complete  
20 records. Right. See, there's a lot of fraud going  
21 on here.

22           All evidentiary hearings should be scheduled  
23 in accordance with procedural and substitute due  
24 process; including, but not limited to, the  
25 exchange of witness and exhibit lists. Because for



1 this hearing I was calling witnesses and, you know,  
2 I figured proper pretrial procedures would be heard  
3 if we were going to have an evidentiary hearing  
4 here and so -- and that would take me a lot longer.  
5 I put in, you know, 10, 15 witnesses just to get  
6 through, you know, calling them up.

7 The Court has sufficient evidence before it  
8 now to move on the Court's own motion, if you have  
9 reviewed the files, for the removal based on the  
10 fraud that just occurred in the last hearings of  
11 Ted Bernstein, Brian O'Connell, and for appropriate  
12 discipline, whether you want to take it to the bar  
13 or not or Judge Scher.

14 Well, Judge Scher has now become a witness to  
15 the fraud. She's now overruled the past issue that  
16 I'm not a beneficiary. Remember, I was stifled  
17 with a bag over my head at these hearings because  
18 supposedly I wasn't a beneficiary. This is after  
19 years where Judge Colin, you know, and everybody  
20 said I was a beneficiary, but Mr. Rose needed to  
21 shut it down, and somehow he got Judge Phillips --  
22 who didn't seem that much lucid at the time he was  
23 here of what hearings he was in, what cases he was  
24 in, and that's all in the record -- got him to  
25 believe all this crazy stuff, and it ended up in a

1 federal court and it ended up -- on the stand both  
2 these guys admitted last time I was a beneficiary.  
3 It was like pulling teeth, but they finally, if you  
4 read the transcripts, you know, cough it up and  
5 Mr. Rose concedes that he's misrepresented the  
6 Court.

7 MR. ROSE: I object to that. That's not true  
8 at all.

9 JUDGE COLTON: Sustained.

10 MR. ELIOT BERNSTEIN: And it's in --

11 MR. ROSE: This is still his opening. That's  
12 not evidence --

13 MR. ELIOT BERNSTEIN: Right.

14 MR. ROSE: -- but it is still a little  
15 offensive.

16 JUDGE COLTON: This is not going to be an  
17 evidentiary hearing.

18 MR. ELIOT BERNSTEIN: Well, it needs to be.

19 JUDGE COLTON: Well, you can say it needs to  
20 be, but you got about five more minutes.

21 MR. ELIOT BERNSTEIN: Okay. I'm saying that.

22 JUDGE COLTON: So I'm just letting you talk.

23 MR. ELIOT BERNSTEIN: Okay. And I think it  
24 should be an evidentiary hearing.

25 JUDGE COLTON: I understand that.

1 MR. ELIOT BERNSTEIN: Okay. This Court --

2 JUDGE COLTON: That you feel that you need --

3 and your wife agrees. She's shaking her head. She  
4 always agrees.

5 MR. ELIOT BERNSTEIN: But we're ready for  
6 everything from this Court, so trust me.

7 JUDGE COLTON: I do.

8 MR. ELIOT BERNSTEIN: This Court should  
9 further transmit notice of its order issued today  
10 to be Illinois District Court. So Judge Scher  
11 should be sending that to Judge Blakey because it  
12 shows that the Illinois Federal Court has been  
13 seriously misrepresented fraudulently by officers  
14 of the court.

15 Remember, all these crimes that are occurring  
16 to us have occurred by officers of the court:  
17 Committing forgery, fraudulent signatures of six  
18 separate parties in the case. It's mind-boggling.

19 And, again, we'll peel the onion. But they  
20 claim that same fraud in the Illinois courts, so he  
21 should be noticed. And I believe it's Canon 3, you  
22 guys got some kind of obligation, when you're aware  
23 of fraud, to be notifying the proper state,  
24 federal, civil, and criminal authorities of the  
25 misconduct of attorneys at law who come in and

1 misrepresent the record.

2 Now, by the way, if you look at Mr. Feaman and  
3 Mr. Royer's written closing statements, they start  
4 out with -- "In opening statement by Mr. Rose, the  
5 Court heard numerous" -- this is from a lawyer,  
6 it's his partner. "In opening statement by  
7 Mr. Rose, the Court heard numerous misstatements of  
8 fact and unsubstantiated assertions which are  
9 contradicted by the evidence and not supported by  
10 the record." So they're saying they have --

11 JUDGE COLTON: Now is that pursuant to an  
12 order you're reading from?

13 MR. ELIOT BERNSTEIN: This was a part of what  
14 went into Judge Scher's order today.

15 MR. ROSE: That's the written final argument  
16 for the motion that she denied today and ruled for  
17 us.

18 JUDGE COLTON: Okay.

19 MR. ROSE: But that's the written final  
20 argument.

21 MR. ELIOT BERNSTEIN: Well, I'm not sure she  
22 ruled for them.

23 MR. ROSE: That's the written --

24 JUDGE COLTON: That's your written --

25 MR. ROSE: No, no. That's the written final

1 argument by Mr. Royer and Mr. Feaman --

2 JUDGE COLTON: It's your final argument?

3 MR. ROSE: -- in support of their motion, and  
4 she denied it today.

5 MR. ROYER: His final arguments. His  
6 statements and his final arguments.

7 JUDGE COLTON: Okay.

8 MR. ELIOT BERNSTEIN: And he lists a host of  
9 things like they said "Eliot is not a beneficiary."  
10 They walked in the court with that argument.

11 JUDGE COLTON: Now, Eliot, I know that you're  
12 reading from a piece of paper there too.

13 MR. ELIOT BERNSTEIN: Yes, sir.

14 JUDGE COLTON: That's your summary, your  
15 notes --

16 MR. ELIOT BERNSTEIN: Guidelines.

17 JUDGE COLTON: -- guidelines as to your  
18 opening that you want me to hear, right?

19 MR. ELIOT BERNSTEIN: Well, I was just going  
20 to open with Judge Scher to get it to an  
21 evidentiary hearing as well but...

22 JUDGE COLTON: That's what you're asking me?

23 MR. ELIOT BERNSTEIN: But if I had to go to  
24 opening statement --

25 JUDGE COLTON: Now what page are you on?

1 MR. ELIOT BERNSTEIN: I'm on 2, and I only  
2 have one more paragraph or two.

3 JUDGE COLTON: Speak fast.

4 MR. ELIOT BERNSTEIN: Sure. Am I in a rush?

5 JUDGE COLTON: Yeah.

6 MR. ELIOT BERNSTEIN: Okay.

7 JUDGE COLTON: Because at 5:15 it's over with,  
8 and I'm going to give Mr. Rose an opportunity --

9 MR. ELIOT BERNSTEIN: I've got to go at 5:00.

10 JUDGE COLTON: Huh?

11 MR. ELIOT BERNSTEIN: She only -- I got to  
12 leave again at 5:00. I got to go.

13 JUDGE COLTON: You got to leave at 5:00?

14 MR. ELIOT BERNSTEIN: Yeah. It's only  
15 scheduled --

16 JUDGE COLTON: You want to just leave that  
17 with me?

18 MR. ELIOT BERNSTEIN: Yeah. It was only  
19 scheduled --

20 JUDGE COLTON: Do you have a copy of it?

21 MR. ELIOT BERNSTEIN: Yeah. It was only  
22 scheduled for a half hour.

23 JUDGE COLTON: Right.

24 MR. ELIOT BERNSTEIN: So, again, this will be  
25 kind of infringing on our due process --

1 JUDGE COLTON: Why don't you --

2 MR. ELIOT BERNSTEIN: -- but, yeah, I got to  
3 go.

4 JUDGE COLTON: You got to go? No, don't leave  
5 yet because Mr. Rose has an opportunity to talk,  
6 unless you want him to talk in your absence.

7 MR. ELIOT BERNSTEIN: Well, I don't want  
8 anybody to talk in my absence, but it was scheduled  
9 for a half hour. If we've used it up, we're going  
10 to have to continue.

11 JUDGE COLTON: No, you don't. This is it.  
12 This is it, Eliot. I'm done.

13 MR. ELIOT BERNSTEIN: Well, the order's for a  
14 half hour, sir.

15 JUDGE COLTON: That's right. And I've gone  
16 out of my way to give more time. Do you want me to  
17 have that?

18 MR. ELIOT BERNSTEIN: Well, I don't have the  
19 time. I have plans. We have --

20 JUDGE COLTON: I got plans too, Eliot.

21 MR. ELIOT BERNSTEIN: Okay.

22 JUDGE COLTON: I'm making my plans so that you  
23 can have enough --

24 MR. ELIOT BERNSTEIN: But you're getting paid.  
25 I'm not getting paid for this.

1 JUDGE COLTON: You know what? I'm not either  
2 because at 4:30 I was done. I'm staying here just  
3 for you.

4 MR. ELIOT BERNSTEIN: Okay. Well --

5 JUDGE COLTON: Now my question is --

6 MR. ELIOT BERNSTEIN: -- I don't have time for  
7 it.

8 JUDGE COLTON: -- do you have copies of that?

9 MR. ELIOT BERNSTEIN: No, but I can give you  
10 this one.

11 JUDGE COLTON: Well --

12 MR. ELIOT BERNSTEIN: But I'd like to finish  
13 putting the rest on the record.

14 JUDGE COLTON: Well, I want you to finish.

15 MR. ELIOT BERNSTEIN: Okay.

16 JUDGE COLTON: That's why I'm saying talk  
17 fast.

18 MR. ELIOT BERNSTEIN: Yeah, but then I don't  
19 have time for anything else. Okay.

20 JUDGE COLTON: Well, you don't because I'm  
21 going to give Mr. Rose time to rebut it and that  
22 will be it.

23 MR. ELIOT BERNSTEIN: With respect to the  
24 order of the hearings, I request 15 days based on  
25 the appellate calendars at the 4th DCA and actions



1 necessary in Illinois at the 7th Circuit to file  
2 with this Court formal motions to remove Ted  
3 Bernstein and Brian O'Connell, as attorney for the  
4 trust and estates and fiduciaries, based upon  
5 direct misconduct against the named beneficiary and  
6 extensive fraud in the proceedings.

7 After the removal of the fiduciaries, the next  
8 order of hearings should be setting a time for  
9 formal motions to vacate the fraud in other orders  
10 and judgments, including the final judgment from  
11 the validity trial.

12 JUDGE COLTON: Okay. Now why don't you -- can  
13 you leave that with me?

14 MR. ELIOT BERNSTEIN: I can.

15 JUDGE COLTON: Okay. Now I'm going to ask my  
16 deputy to make copies of it --

17 MR. ELIOT BERNSTEIN: Okay.

18 JUDGE COLTON: -- for everyone who wants a  
19 copy. Make about four or five copies just so we  
20 can have it.

21 MR. ELIOT BERNSTEIN: I got to go.

22 JUDGE COLTON: Now you have to leave, Eliot?

23 MR. ELIOT BERNSTEIN: Yeah.

24 JUDGE COLTON: Okay. Goodbye. I'm going to  
25 hear from Mr. Rose now. You want to stick around

1 and hear what he has to say, fine. If not, you're  
2 free to go.

3 Mr. Rose, you may address the Court, and we're  
4 going to leave here at 5:15.

5 MR. ROSE: I would like --

6 JUDGE COLTON: Mr. Rose, where do I start?

7 MR. ROSE: Well, I think you start by -- if I  
8 could hand you two orders that are entered already  
9 by Judge Phillips, both of which were appealed and  
10 the appeals are over.

11 Judge Phillips has made a determination that  
12 Eliot Bernstein's actions were adversely  
13 destructive to his children. He was representing  
14 his children who are beneficiaries of the trusts.

15 And just to give you briefly just to -- there  
16 are two estates: Mom's estate, Shirley; dad's  
17 estate, Simon. They both died within a couple of  
18 years of each other, so there's two estates. Each  
19 estate pours into the same trusts, the Simon  
20 Bernstein Trust.

21 So Judge Phillips, in December of 2015, by a  
22 final judgment which was affirmed today, determined  
23 that the beneficiaries of the trusts, which is  
24 where all the money is going into the trusts, the  
25 beneficiaries of the trusts are ten grandchildren,

1 so that's where you have beneficiaries. Three of  
2 ten grand --

3 The grandchildren are not direct  
4 beneficiaries. The grandchildren are indirect  
5 beneficiaries. The beneficiaries are technically  
6 ten newly created trusts, so there's ten trusts  
7 created by Simon's testamentary documents. Those  
8 ten trusts are the beneficiaries of all the money.

9 Other than some tangible personal property,  
10 Eliot Bernstein is the beneficiary, along with his  
11 five siblings, so one-fifth each, of furniture and  
12 jewelry. According to the inventories, the total  
13 of the furniture and the jewelry is less than 100,  
14 plus or minus, 100,000. So his interest in this  
15 whole thing is less than \$20,000.

16 I believe the furniture is going to sell for  
17 substantially less than even the appraised value,  
18 but assuming it's sold at the appraised value --

19 MR. ELIOT BERNSTEIN: Thank you, Your Honor.

20 MR. ROSE: -- he's the beneficiary of about  
21 \$20,000 of stuff --

22 (Thereupon, Mr. Eliot Bernstein and Mrs.  
23 Candice Bernstein leave the courtroom.)

24 MR. ROSE: -- assuming that Mr. Royer and  
25 Mr. Feaman's client doesn't prevail and get a huge

1 judgment and take everything in the estate.  
2 Because obviously if they become a creditor, you  
3 pay administrative expenses, then you pay  
4 creditors. But his maximum best day is to be a  
5 beneficiary one-fifth of some personal property  
6 worth less than 100.

7 So for his \$20,000 maximum interest, he's made  
8 us spend hundreds of thousands, if not a half  
9 million or more, on these kinds of proceedings  
10 starting before Judge Colin, continuing to Judge  
11 Phillips, and after Judge Phillips' retirement,  
12 Judge Scher. Every order has been appealed to the  
13 4th District. All the appeals have been resolved.  
14 This motion is just rehashing things that have  
15 already been finally decided, and we think you  
16 should just summarily deny it. And there's been no  
17 evidence. He didn't present any evidence.

18 JUDGE COLTON: Well, that was just his  
19 opening. He wants another week to present his 16  
20 witnesses.

21 MR. ROSE: We would ask you to deny --

22 JUDGE COLTON: Do you have a horse in this?

23 MR. ROYER: Not directly, Your Honor.

24 JUDGE COLTON: Okay. So I don't have to hear  
25 from you?

1 MR. ROYER: No.

2 JUDGE COLTON: Diana, do you have a horse in  
3 this?

4 JUDGE LEWIS: Judge, I'm here to protect the  
5 assets of the children, and that's the only role I  
6 play.

7 JUDGE COLTON: Okay. And ten grandchildren?

8 JUDGE LEWIS: Eliot's three.

9 JUDGE COLTON: Eliot's three children?

10 MR. ROSE: And just so you know, the other  
11 seven children, their parents are serving as  
12 trustees of their trusts in accordance with the  
13 documents. Eliot has refused to serve as trustee,  
14 and those two orders show that he was acting -- he  
15 was acting as the natural guardian so with some  
16 standing on behalf of his children, and then Judge  
17 Phillips entered orders that he was acting adverse  
18 and destructive to his children's interests and  
19 appointed a guardian ad litem.

20 MR. O'CONNELL: Your Honor?

21 JUDGE COLTON: Last question. Yes, go ahead.

22 MR. O'CONNELL: Do you want to hear from me or  
23 not?

24 JUDGE COLTON: I don't know. Do you want to  
25 tell me anything? I got another three or four

1 minutes. What do you want to tell me?

2 MR. O'CONNELL: Well, besides being --

3 JUDGE COLTON: Of course I always want to hear  
4 from you, you know that. I want to hear from  
5 everybody. I'm waiting for the young lady there,  
6 the blonde in the first row.

7 MR. O'CONNELL: She knows all of this case.  
8 All of the volumes that are sitting there on that  
9 chair, that's not even a fraction of it.

10 JUDGE COLTON: What do you want to tell me?

11 MR. O'CONNELL: Just that this case has been  
12 going on for years. Mr. Bernstein has participated  
13 fully in this case. There's no fraud certainly on  
14 anything we've done.

15 He is the beneficiary as to tangible personal  
16 property. We haven't denied that. And the reason  
17 I'm mentioning all that, his motion -- looks like a  
18 1.540 motion based on fraud to -- actually to  
19 vacate an order of Judge Scher that did nothing but  
20 schedule other hearings, so it isn't even a  
21 substantive type of order. But there's certainly  
22 no fraud. There's certainly no basis. There's no  
23 evidence. There's nothing to grant such a motion.

24 And the other things that are in here also are  
25 procedurally improper. Removal, items of that

1 nature have to be accompanied by proper pleadings.  
2 That's one reason I presented that one order that I  
3 did to you earlier. There's no such pleading. He  
4 asked for an injunction, you heard that. There's  
5 no bases for injunction even set forth in here,  
6 more or less evidence.

7 JUDGE COLTON: Well, I sort of feel like I'm  
8 in a harder position now because Eliot is going to  
9 be able to classify me along with Colin and  
10 Phillips and Scher and now he's got me.

11 MR. O'CONNELL: That's a very distinguished  
12 group, Your Honor.

13 JUDGE COLTON: What a group, huh? Only one  
14 last question. How does the state of Illinois get  
15 involved in this?

16 MR. O'CONNELL: Do you want to explain that?

17 MR. ROSE: There's a life insurance policy.  
18 The proceeds of which were interpled in Illinois,  
19 and there's a fight between the estate,  
20 Mr. O'Connell who's one claimant, and an insurance  
21 trust from Illinois, that's this other claimant.  
22 And in that lawsuit, I believe Eliot Bernstein  
23 filed his own individual claims --

24 JUDGE COLTON: Okay.

25 MR. ROSE: -- to try to take the policy for

1 himself. And I think those were disposed of via a  
2 federal court judge by way of a summary judgment.

3 JUDGE COLTON: I'm going to pass out what  
4 Mr. Eliot left with me here. These are his notes.

5 MR. ROSE: And I brought a proposed order that  
6 just denies the motion.

7 JUDGE COLTON: Okay. Give me a proposed  
8 order. I want to take it under advisement.

9 MR. ROSE: That's fine. And I gave a copy --  
10 for the record, I gave a copy of the order to  
11 Mr. Bernstein when I first arrived, Mr. Eliot  
12 Bernstein.

13 JUDGE COLTON: Does it show addresses of all  
14 who gets a copy on there?

15 MR. ROSE: It does. It has a service list.

16 JUDGE COLTON: Okay. That's all I need.

17 MR. ROSE: Okay. I didn't bring envelopes, I  
18 apologize.

19 JUDGE COLTON: That's okay. I guess what you  
20 do now is you just send it through some kind of a  
21 doorway or a portal or whatever and it gets all out  
22 there in the cyber world and, wow, look at that.

23 MR. ROSE: That's just the style of the  
24 motion.

25 JUDGE COLTON: That's just the style of the



1 case.

2 MR. ROSE: Of the motion.

3 JUDGE COLTON: Has Mr. Eliot Bernstein ever  
4 been represented by an attorney?

5 MR. O'CONNELL: Not that I'm aware of.

6 MR. ROSE: For a very short period of time in  
7 this case I believe there was an attorney. I don't  
8 know if the attorney was representing Mr. Bernstein  
9 individually or his children or both.

10 JUDGE COLTON: Okay.

11 MR. ROSE: There was at least one lawyer who  
12 appeared. I believe that -- I believe it was a  
13 Mr. Pratt, but I'm not --

14 JUDGE COLTON: Well, thank you very much. I  
15 appreciate you being here.

16 MR. ROSE: Thank you.

17 JUDGE COLTON: And let me say that I think I  
18 understand, and I've reviewed certain things, and I  
19 think I know what's going on.

20 MR. O'CONNELL: Thank you, Your Honor.

21 JUDGE COLTON: Thank you.

22 MR. O'CONNELL: I appreciate it.

23 MR. ROYER: Thank you, sir.

24 JUDGE COLTON: Diana, it's always a pleasure  
25 to see you.

1           JUDGE LEWIS: Always a pleasure to see you,  
2 Judge.

3           JUDGE COLTON: We're in recess.

4           (Whereupon, the hearing was concluded at 5:10  
5 p.m.)

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Dated this 30th day of May, 2017.

  
\_\_\_\_\_  
Angela Campanella, R.P.R.

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