

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.

_____ /

PROCEEDINGS BEFORE
HONORABLE ROGER COLTON

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

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7 APPEARING ON BEHALF OF TED BERNSTEIN:

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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

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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

23

24

25

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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