

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
FOURTH DISTRICT

CASE NO. 4D16-222

ELIOT BERNSTEIN

L.T. CASE NOS. 2014CP003698XXXXNB  
2011CP000653XXXXNB

Appellant,

v.

TED S. BERNSTEIN, AS TRUSTEE,  
et al.

Appellee.

---

**APPELLEE'S, TED S. BERNSTEIN, AS SUCCESSOR TRUSTEE,  
RESPONSE TO APPELLANT'S MOTION FOR EXTENSION OF TIME  
TO FILE RULE 9.330 MOTION AFTER *PER CURIAM* AFFIRMANCE**

Appellee, Ted S. Bernstein, as Successor Trustee of the Shirley Bernstein Trust ("Trustee"), submits his opposition to the motion for extension of time to file a motion for rehearing filed Appellant, Eliot Bernstein ("Eliot").

1. This most recent motion for extension of time – the latest of numerous motions for extension of time filed by Eliot in this Court in a series of appeals related to the same trusts and estates – should be denied.

2. In this appeal, this Court, by way of a *per curiam* affirmance, upheld the final probate order validating the testamentary documents signed by Eliot's parents, and determining the beneficiaries of his parent's trusts.

3. It has been nearly five years since the death of Simon Bernstein (Eliot's father), which triggered the Trust's directions to liquidate the trust assets and distribute them into ten separate trusts, one for each of Simon's grandchildren. At great expense to the Trust and at great delay to the grandchildren – three of whom are Eliot's children – Eliot had the opportunity to prove his claims that Simon's Will and Trust were invalid at trial, and he failed to present any proof. On appeal, he has sought and been granted numerous extensions, at further cost and delay to the beneficiaries. This Court has considered the merits of Eliot's position, and summarily rejected his appellate issues in an unelaborated decision. Thus, this Court has afforded Eliot all the process he is due.

4. Now, at a mere five minutes to midnight on the 15th day after the PCA issued, Eliot has filed yet another motion for extension, this time seeking to extend the deadline to file a motion for rehearing, clarification, written opinion, etc. The motion should be denied, as it has no merit. There is no explanation of any meritorious ground for rehearing of the PCA, nor any legitimate reason why a rehearing motion could not have been filed timely. Despite Eliot's unfounded criticism of the trial judge and his outlandish accusations against the undersigned, this Court already has been extremely patient and generous with extensions for Eliot, time and time again. A simple review of the docket in this and a series of related appeals

demonstrates this point far better than the Trustee can.<sup>1</sup> Eliot has abused the privileges afforded to him in these case,<sup>2</sup> and continues to waste everyone's time and money. The real losers are the true beneficiaries, including the trusts for Eliot's own children.

5. The Trustee request that this Court no longer indulge Eliot. The pending Motion for Extension should be denied and the Mandate issued forthwith. If the Court has any inclination to extend Eliot's time, the Trustee hopes any extension granted will be for a very short window of time – no more than a few extra days – so this frivolous appeal can finally come to end with the issuance of a mandate.

WHEREFORE, the Trustee respectfully requests the Court deny the pending Motion and issue the Mandate forthwith.

---

<sup>1</sup> Every court may take judicial notice of its own records. *See Tower Credit Corp. v. State*, 183 So. 2d 255, 256 (Fla. 4th DCA 1966). Eliot's pattern of abuse is seen in this case and the following cases 4D16-1449; 4D16-1476; 4D16-1478; 4D16-2249; 4D16-3162; 4D16-3314; 4D16-4120.

<sup>2</sup> In this appeal, after granting multiple extensions, the Court ultimately denied Eliot more time to file a reply brief and submitted the case to the merits panel.

**CERTIFICATE OF SERVICE**

I CERTIFY that a copy of the foregoing has been served by e-mail on all parties listed on the attached service list, this 15th day of May, 2017.

MRACHEK, FITZGERALD, ROSE, KONOPKA,  
THOMAS & WEISS, P.A.  
505 South Flagler Drive, Suite 600  
West Palm Beach, FL 33401  
(561) 655-2250 Telephone/(561) 655-5537 Facsimile  
email: [arose@mrachek-law.com](mailto:arose@mrachek-law.com)  
Attorneys for Ted S. Bernstein

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

**SERVICE LIST** - CASE NO. 4D16-222

Eliot Bernstein  
2753 NW 34th Street  
Boca Raton, FL 33434  
(561) 245-8588 - Telephone  
(561) 886-7628 - Cell  
(561) 245-8644 - Facsimile  
Email: Eliot I. Bernstein  
([iviewit@iviewit.tv](mailto:iviewit@iviewit.tv))

Peter M. Feaman, Esq.  
Peter M. Feaman, P.A.  
3695 W. Boynton Beach Blvd., Suite 9  
Boynton Beach, FL 33436  
(561) 734-5552 - Telephone  
(561) 734-5554 - Facsimile  
Email: [service@feamanlaw.com](mailto:service@feamanlaw.com);  
[mkoskey@feamanlaw.com](mailto:mkoskey@feamanlaw.com)  
Counsel for William Stansbury

John P. Morrissey, Esq.  
330 Clematis Street, Suite 213  
West Palm Beach, FL 33401  
(561) 833-0766 - Telephone  
(561) 833-0867 - Facsimile  
Email: John P. Morrissey  
([john@jmorrisseylaw.com](mailto:john@jmorrisseylaw.com))  
Counsel for Molly Simon, Alexandra  
Bernstein, Eric Bernstein, Michael  
Bernstein

Jill Iantoni  
2101 Magnolia Lane  
Highland Park, IL 60035  
[jilliantoni@gmail.com](mailto:jilliantoni@gmail.com)  
Individually and as trustee for her  
children, and as natural guardian for  
J.I. a minor

Lisa Friedstein  
2142 Churchill Lane  
Highland Park, IL 60035  
[lisa@friedsteins.com](mailto:lisa@friedsteins.com)  
Individually and as trustee for her  
children, and as natural guardian for  
M.F. and C.F., Minors

Diana Lewis, Esq.  
ADA & Mediations Services, LLC  
2765 Tecumseh Drive  
West Palm Beach, FL 33409  
(561) 758-3017 - Telephone  
Email: [dzlewis@aol.com](mailto:dzlewis@aol.com)  
Guardian *Ad Litem* for  
Eliot Bernstein's minor children,  
Jo.B., Ja.B., and D.B.

Pam Simon  
303 E. Wacker Drive, Suite 2725  
Chicago, IL 60601  
[psimon@stpcorp.com](mailto:psimon@stpcorp.com)

Gary R. Shendell, Esq.  
Kenneth S. Pollock, Esq.  
Matthew A. Tornincasa, Esq.  
Shendell & Pollock, P.L.  
2700 N. Military Trail, Suite 150  
Boca Raton, FL 33431  
(561) 241-2323 - Telephone  
(561) 241-2330 - Facsimile  
Email: [gary@shendellpollock.com](mailto:gary@shendellpollock.com)  
[ken@shendellpollock.com](mailto:ken@shendellpollock.com)  
[matt@shendellpollock.com](mailto:matt@shendellpollock.com)  
[estella@shendellpollock.com](mailto:estella@shendellpollock.com)  
[britt@shendellpollock.com](mailto:britt@shendellpollock.com)  
[grs@shendellpollock.com](mailto:grs@shendellpollock.com)  
[robyne@shendellpollock.com](mailto:robyne@shendellpollock.com)

Brian M. O'Connell, Esq.  
Joielle A. Foglietta, Esq.  
Ciklin Lubitz Martens & O'Connell  
515 N. Flagler Dr., 20th Floor  
West Palm Beach, FL 33401  
561-832-5900 - Telephone  
561-833-4209 - Facsimile  
Email: [boconnell@ciklinlubitz.com](mailto:boconnell@ciklinlubitz.com);  
[jfoglietta@ciklinlubitz.com](mailto:jfoglietta@ciklinlubitz.com);  
[service@ciklinlubitz.com](mailto:service@ciklinlubitz.com);  
[slobdell@ciklinlubitz.com](mailto:slobdell@ciklinlubitz.com)