

IN THE FIFTEENTH JUDICIAL CIRCUIT COURT
IN AND FOR PALM BEACH COUNTY, FLORIDA
CASE NO. 502012CP004391XXXXNBIH

IN RE:

ESTATE OF SIMON L. BERNSTEIN,

Deceased.

/

PROCEEDINGS BEFORE
THE HONORABLE ROSEMARIE SCHER
VOLUME III

Thursday, March 16, 2017
North County Courthouse
3188 PGA Boulevard
Palm Beach Gardens, Florida 33410
2:00 p.m. - 4:20 p.m.

Reported by:
Joyce A. Halverson, Court Reporter
Notary Public, State of Florida

1	I N D E X	
2	OPENING STATEMENTS	PAGE
3	By Mr. Rose	249
	By Mr. Feaman	255
4	By Mr. Eliot Bernstein	263
5	WITNESS:	PAGE
6	WILLIAM STANSBURY	
7	Direct Examination by Mr. Rose	271
	Cross Examination by Mr. Eliot Bernstein	284
8	Redirect Examination by Mr. Rose	291
9	TED S. BERNSTEIN	
10	Direct Examination by Mr. Rose	294
	Cross Examination by Mr. Eliot Bernstein	303
11	Cross Examination by Mr. Feaman	312
	Redirect Examination by Mr. Rose	316
12	Direct Examination by Mr. Feaman	318
	Cross Examination by Mr. Eliot Bernstein	337
13	Cross Examination by Mr. Rose	343
14	BRIAN O'CONNELL	
15	EXCERPTS OF HEARING TESTIMONY 3-2-17	347
16	BRIAN O'CONNELL	
17	EXCERPTS OF DEPOSITION TESTIMONY 3-13-17	355
18	CLOSING ARGUMENTS	
19	By Mr. Rose	367
20	By Mr. Feaman	369
	By Mr. Rose	371
21		
22		
23		
24		
25		

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

E X H I B I T S

MARKED	PAGE
Trustee's Exhibit No. 1 (Plaintiff's Motion for Case Management Conference to Schedule Depositions)	275
Interested Party's Exhibit No. 1 (Letter dated 6-20-12)	293
Trustee's Exhibit No. 2 (Brian O'Connell Hearing Excerpts 3-2-17)	345
Stansbury's Exhibit No. 1 (Objection to Accounting)	354
Interested Party's Exhibit No. 2 (Brian O'Connell deposition 3-13-17)	362

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25

1 BE IT REMEMBERED that the following
2 proceedings were had in the above-styled and
3 numbered cause in the North County Courthouse, City
4 of Palm Beach Gardens, County of Palm Beach, in the
5 State of Florida, before the Honorable Rosemarie
6 Scher, Judge of the above-named Court, on Thursday,
7 the 16th day of March, 2017, at 2:00 p.m., to wit:

8 - - -

9 THE COURT: Have a seat. Thank you so
10 much. Thank you all for being on time.
11 Appreciate it. I have the wrong document.
12 Sorry. All right. One second. I have left
13 something on my desk.

14 Okay. Appearances for the record, please,
15 starting on the far left.

16 MR. FEAMAN: Thank you. Peter Feaman,
17 Your Honor, on behalf of William Stansbury.
18 With me in court today is my law partner, Jeff
19 Royer, and Mr. Stansbury is here in court today
20 and his wife, Eileen Stansbury.

21 THE COURT: Thank you.

22 MR. ELIOT BERNSTEIN: Eliot Bernstein pro
23 se, Your Honor, and my wife.

24 THE COURT: Okay. Thank you.

25 MR. ROSE: Alan Rose, Your Honor, on

1 behalf of Ted Bernstein as trustee. Along with
2 me is Ted S. Bernstein and my associate,
3 Michael Kranz.

4 MR. ROTHMAN: Zac Rothman just to observe
5 for Brian O'Connell.

6 THE HONORABLE DIANA LEWIS: Diana Lewis,
7 Guardian Ad Litem for the Eliot Bernstein
8 children.

9 CINDY SWINAN: Cindy Swinan and my son
10 Keith and we are here in support of the
11 Bernsteins.

12 THE COURT: Okay. Don't take this wrong.
13 That doesn't narrow it down for me. Which
14 particular Bernsteins?

15 CINDY SWINAN: Eliot.

16 THE COURT: I didn't mean to be
17 disrespectful. Like I always refer to Mr.
18 Eliot as Mr. Eliot and Mr. Ted as Mr. Ted just
19 because, without disrespect, because we have a
20 lot of Bernsteins. All right. Thank you.

21 We are here pursuant to my order that was
22 issued on March 3rd. We'll start with
23 Trustee's Motion to Approve Retention of
24 Counsel -- and we have taken care of that one
25 -- to Appoint Ted S. Bernstein as

1 Administrator Ad Litem to Defend Claim Against
2 Estate by William Stansbury, Docket Entry 471.

3 Mr. Rose, you may begin.

4 MR. ROSE: Thank you. Do you want opening
5 or just witnesses? Five minute opening?

6 THE COURT: Sure. Five minutes per side.
7 I'm going to time it just because we are going
8 to end these two motions today and I am
9 diligently working on an order for you all.

10 MR. ROSE: From the podium?

11 THE COURT: Wherever you're comfortable.
12 Thank you.

13 MR. ROSE: So we are here on the second
14 half of the motion and Mr. O'Connell's
15 testimony -- there is an agreement that Mr.
16 Feaman and I reached on the record at the
17 deposition on Monday that Mr. O'Connell's
18 testimony from the prior hearing is, it's one
19 motion, is usable for the purpose of this
20 hearing. So we are going to --

21 THE COURT: Give it to the clerk,
22 hopefully.

23 MR. ROSE: We could or just the relevant
24 parts. But it was one motion. This is a
25 continuation of the same evidentiary hearing so

1 rather than asking the same questions, we have
2 agreed that his testimony is in the record.

3 THE COURT: Thank you. Good job.

4 MR. ROSE: Mr. O'Connell testified to you
5 as to his reasons for wanting to appoint an
6 administrator ad litem. And he testified that
7 it was mainly because he didn't have any
8 personal involvement in the underlying case.
9 Mr. Ted Bernstein did have direct involvement
10 in the underlying case --

11 THE COURT: I'm sorry. Go ahead. No
12 personal involvement in the underlying case.

13 MR. ROSE: -- whereas Ted Bernstein was a
14 principal of the company, worked with his
15 father and Mr. Stansbury, and is in much better
16 position to be the corporate representative or
17 the estate's representative at the trial and at
18 the same time to hire my law firm. And Mr.
19 O'Connell said those two things, in his mind,
20 went hand in hand and he has testified about
21 his reasons.

22 So what we believe makes the most sense is
23 to have Ted Bernstein appointed as the
24 administrator ad litem to handle the
25 litigation.

1 This is a case that has failed to settle
2 at two mediations and several motions were
3 brought before this Court to approve
4 settlements which motions have failed. And
5 the parties do not seem to be in any position
6 to settle the case so the only other way to
7 resolve the claim if you can't settle it is to
8 try it.

9 At the conclusion of a mediation in which
10 we were unsuccessful in settlement -- and we
11 can't talk about anything other than the fact
12 of unsuccessfulness -- the decision was made we
13 want to try the case as quickly as possible.
14 And the solution was that if Ted will serve as
15 the administrator for no fee and if my law firm
16 steps in, which has extensive knowledge on the
17 case, that was the group think decision.

18 Mr. O'Connell, exercising his business
19 judgment and his legal judgment, decided that
20 was in the best interest of the estate and he
21 has already testified to that.

22 So for the purposes of today, we have two
23 motions pending. The first one, obviously, is
24 on the administrator ad litem and Mr. Stansbury
25 has objected to Ted Bernstein serving as the

1 administrator ad litem. So, again, we have the
2 position where the plaintiff is trying to
3 decide who can represent the estate to defend
4 itself in a two and a half million dollar
5 claim.

6 Mr. Ted Bernstein will testify that he is
7 willing to serve for free because it will be
8 much less work for him if my law firm is
9 handling the matter. We have already
10 extensively worked and prepared the case. We
11 have taken the deposition of Mr. Stansbury.
12 Most of the document production is done. My
13 law firm is handling the case which we have
14 asked Your Honor to approve. Ted Bernstein is
15 the administrator ad litem. He will serve for
16 no fee. Mr. O'Connell said, on the other hand,
17 he would charge his hourly rate and, you know,
18 every hour he is involved in the case is a
19 substantial expense.

20 Another point, Mr. O'Connell is extremely
21 busy. There was a motion filed which we'll put
22 in evidence complaining that Mr. O'Connell was
23 unavailable to move this case forward. Mr.
24 Stansbury filed a motion in the trial court
25 saying I'm unhappy that Mr. O'Connell is

1 unavailable for months at a time and we need to
2 get the case moving.

3 That was also an impetus for this because
4 we want to get the case moving and concluded
5 and until we get the claim of Mr. Stansbury
6 resolved one way or the other, we can't close
7 out the estate and make progress and stop
8 incurring administrative expenses. So at the
9 end of the day, it is our belief and the
10 evidence will demonstrate it's in the best
11 interest of this estate.

12 I don't know how much evidence you need to
13 take on it. It's a fairly simple issue because
14 --

15 THE COURT: Two hours worth. We have two
16 motions. Essentially, I think that fairness
17 would say you're going -- I said five minutes
18 so you're going to sit down soon. I would
19 think we should have this one done by 3:00 --

20 MR. ROSE: I agree.

21 THE COURT: -- then have the last hour for
22 the other motion.

23 MR. ROSE: The arguments that are made by
24 Mr. Stansbury are, one, I think something with
25 this being an inherent conflict in settlement.

1 And Mr. O'Connell can handle the settlement of
2 the case if it's going to settle. We weren't
3 hired to settle the case. We were hired
4 because this was a case that cannot be settled
5 and it needs to be tried and my law firm is a
6 commercial litigation trial firm and, you know,
7 our goal is to try the case.

8 If Mr. Stansbury and Mr. O'Connell make a
9 settlement agreement, great, we'll have to give
10 notices and have hearings. That's a different
11 ball game. But until there is a settlement,
12 the only way to finish the case is to try it.

13 The other argument is conflict of interest
14 and Mr. O'Connell covered that and Mr.
15 Bernstein can, but there is no conflict between
16 the positions we want to take in this
17 courthouse, not this division but in the Palm
18 Beach County Circuit Court, we believe that Mr.
19 Stansbury's claim has no merit. He believes it
20 does.

21 Mr. Ted Bernstein and Mr. O'Connell are
22 100 percent aligned on that and our goals are
23 the same, minimize expenses, get the case tried
24 as quickly as possible and we don't believe
25 that the opposing party should decide who's

1 going to be representing the estate.

2 THE COURT: Thank you very much. Mr.
3 Feaman.

4 MR. FEAMAN: Thank you, Your Honor. May
5 it please the Court:

6 THE COURT: Thank you.

7 MR. FEAMAN: The premise of Mr.
8 Stansbury's objection to the appointment of Ted
9 Bernstein is based upon three points. Point
10 number one, in the Fungess case, which I sent
11 to Your Honor this morning -- I apologize
12 because of the late notice -- we have an extra
13 copy for Your Honor. We have handed them out
14 again today at this hearing. But the case says
15 in the Fourth District an administrator ad
16 litem must represent beneficiaries of the
17 estate with the same degree of neutrality and
18 fidelity as the personal representative of the
19 estate and administrator ad litem is also
20 subject to the supervision of appointing by the
21 court. It means that the administrator ad
22 litem has the same fiduciary duty to the estate
23 that a personal representative does. That is
24 premise number one.

25 Then premise number two is that we go to

1 Florida Statute 733.504 and that discusses the
2 removal of a personal representative and causes
3 for removal. And therein under Subsection 9 it
4 says a personal representative shall be removed
5 if he or she is not qualified to act and may be
6 revoked for any of the following causes.

7 Number 9: Holding or acquiring a conflicting
8 or adverse interest against the estate that
9 will or may interfere with the administration
10 of the estate as a whole.

11 So, therefore, if the administrator ad
12 litem has the same duty as the personal
13 representative to the estate and a conflict
14 would cause removal of the personal
15 representative, we see that Ted Bernstein is
16 clearly conflicted in this case because he is
17 suing, as Your Honor knows, now with the
18 evidence, he is suing the estate in Chicago,
19 both personally and as a purported trustee of a
20 1995 insurance trust.

21 THE COURT: Is he suing the estate or did
22 the estate intervene in his litigation against
23 the life insurance company?

24 MR. FEAMAN: Yes. The estate intervened
25 and now they are adverse, when they were first

1 brought but he is a plaintiff in that
2 personally. He is a plaintiff in that action
3 adverse to the estate because they are both
4 seeking the same pot of money, Mr. Bernstein
5 individually and the estate for its part.

6 So with that conflict and because the
7 administrator ad litem has the same duties as
8 the PR to not have a conflict, there is enough
9 in the record right now, Your Honor, for Your
10 Honor to say, you know what, I can't appoint
11 this gentleman as administrator ad litem
12 because he is suing the very estate that I'm
13 being asked to appoint him to represent and
14 that should be the end of it. I think Your
15 Honor can rule that right now.

16 And we are prepared to also put on
17 additional evidence as to why Mr. Bernstein
18 should not be appointed for reasons in addition
19 to his conflict of interest. But, as a matter
20 of law, I would respectfully suggest to the
21 Court that the fact that he is suing the estate
22 immediately precludes him from being the
23 administrator ad litem for the estate. It
24 doesn't matter what the capacity is. It is
25 simply because of the law.

1 Because the third case that we cite -- the
2 second case that we cited today was the
3 Campbell case and --

4 THE COURT: Just to be clear, he really
5 isn't suing the estate. The estate has
6 intervened and they are an adverse party. I
7 know I'm being particular but --

8 MR. FEAMAN: Okay. I'll rephrase. I'll
9 just quote the statute. In Chicago Mr. Ted
10 Bernstein holds a conflicting or adverse
11 interest against the estate.

12 THE COURT: Okay.

13 MR. FEAMAN: Okay. Because the estate
14 wants 1.7 million dollars and Mr. Ted Bernstein
15 wants part of 1.7 million dollars as an
16 individual plaintiff. Therefore, the Court
17 need inquire no further than already what is in
18 the record to say I'm sorry, I'm statutorily
19 bound not to allow an appointment of this
20 gentleman.

21 THE COURT: I have a question though. I'm
22 thinking if I want to ask it or not. Wouldn't
23 their positions be aligned for purposes of the
24 civil lawsuit?

25 MR. FEAMAN: Are they aligned for purposes

1 of the civil lawsuit?

2 THE COURT: Yes.

3 MR. FEAMAN: On paper, yes.

4 THE COURT: And isn't that the only
5 limited capacity that we are asking to appoint
6 an administrator ad litem?

7 MR. FEAMAN: Yes. But the Court cannot
8 otherwise ignore there is a conflict when, if
9 the administrator ad litem is acting adversely
10 to the estate in a related action.

11 THE COURT: No but that has nothing to do
12 with the civil. They are aligned. I know what
13 you're going to say.

14 MR. FEAMAN: No. It has everything to do
15 with it and I am going to tell you why.

16 THE COURT: Okay.

17 MR. FEAMAN: There is settlement
18 negotiations going on right now in Chicago
19 between the attorney representing Mr. Bernstein
20 and us.

21 THE COURT: Mr. Ted Bernstein?

22 MR. FEAMAN: Mr. Ted Bernstein. And the
23 attorney representing the estate who is
24 communicating with Mr. Stansbury, me and Mr.
25 O'Connell as to whether money should be paid

1 before trial.

2 Now, to have Mr. Ted Bernstein also
3 involved, whether directly or indirectly, in
4 settlement negotiations that may simultaneously
5 be taking place between the estate and Mr.
6 Stansbury's action, puts in effect the fox
7 guarding the hen house because here's Mr. Ted
8 Bernstein wanting to keep 1.7 million dollars
9 out of the estate.

10 His settlement judgment in that case and
11 the settlement judgment that he may have in the
12 Stansbury case has to be clouded and conflicted
13 because he has got -- on the other hand, he
14 wants the estate to get the money, you would
15 think, because he is also, by the way, he is
16 also the successor trustee of the pour-over
17 trust, which is the beneficiary of the Simon
18 Bernstein Estate. And as successor trustee,
19 you would want that person to want the estate
20 to get all of the money it can for its
21 beneficiaries who are the grandchildren. Yet
22 at the same time he is suing the estate in
23 Chicago to keep his trust from eventually
24 getting that money where he is successor
25 trustee.

1 So there is conflicts all over the place,
2 which is why we also filed a couple of months
3 ago for Your Honor to sua sponte take a look at
4 the conflict that Mr. Ted has as successor
5 trustee because how can he sue --

6 MR. ROSE: I object. It's not set for
7 hearing and it's an issue that has been ruled
8 on multiple times by Judge Phillips and where
9 he lacks standing --

10 THE COURT: I asked you a question so
11 conclude.

12 MR. FEAMAN: I'll conclude with this, Your
13 Honor. In the Campbell case, the Court held
14 that an administrator, which would be Mr. Ted,
15 stands in the position of a trustee holding the
16 estate in trust for the heirs, distributors and
17 creditors, of which Mr. Stansbury is one, while
18 acting in such trust capacity he cannot deal
19 with the beneficiary trust so as to acquire any
20 advantage onto himself.

21 Taking that language and applying it to
22 the case before Your Honor, he is trying to
23 take an advantage onto himself in the Chicago
24 litigation because he is a named plaintiff and
25 trying to take that money and at the same time

1 acting as an administrator for the very
2 estate.

3 And I don't think the Court is allowed to,
4 respectfully, parse whether, okay, I'll let him
5 represent the estate because in this action we
6 can separate it, especially when it's
7 complicated by the fact that the same attorney
8 --

9 THE COURT: I asked you. That wasn't an
10 unfair response. I did throw that out at you.

11 MR. FEAMAN: So I would conclude with that
12 the conflict is so present that I think that
13 they are asking the Court here to split hairs
14 and ignore what is going on in Chicago to allow
15 this.

16 And we believe that the evidence will show
17 that for that reason and others regarding Mr.
18 Bernstein and with regard to the testimony of
19 Mr. O'Connell, whose deposition we took this
20 week, that the only conclusion this Court can
21 make at the end of the day or even right now is
22 to say I just can't do this; you know, if you
23 want somebody to represent the estate at
24 counsel table at the trial, if it goes that far
25 with Mr. Stansbury, have a junior lawyer from

1 the attorney representing the estate. There is
2 situations where hospitals are defendants; they
3 send an HR person to sit through the trial.
4 That's really not a reason for this Court to
5 ignore, just it doesn't pass the look test of
6 he's adverse to the estate fighting over 1.7
7 million dollars and now is representing the
8 estate and representing the pour-over trust but
9 that's a different issue.

10 Thank you.

11 THE COURT: Thank you. Mr. Eliot.

12 MR. ELIOT BERSTEIN: Okay. In my view, we
13 are here today as part of a new fraud on the
14 Court and there have been prior frauds already
15 proven and admitted. I was here to appear
16 before Your Honor when you found that the
17 pleadings and the testimony before the Court by
18 officers of the Court was false and
19 misleading. I am a beneficiary. That is now
20 established. I have standing. And they don't
21 have the consent of all of the beneficiaries
22 for this little scheme they are pulling. That
23 now has been proven in the past pleadings in
24 all of the courts, the 4th DCA, the Illinois
25 federal complaint. That was thrown out because

1 I am not a beneficiary of Simon's estate,
2 according to Judge Robert Blakey.

3 So this new fraud here designed to allow
4 Ted and his counsel Alan to represent the
5 estate of Simon as a fiduciary and counsel in a
6 lawsuit against William Stansbury while already
7 acting as fiduciary and counsel in the Simon
8 Bernstein Trust in the Stansbury action and
9 already having acted as fiduciary in settling
10 himself out in the Shirley trust in regard to
11 the Stansbury lawsuit.

12 What the Court may not be aware of is the
13 adverse interest and conflict of interest of
14 Ted Bernstein with the Stansbury lawsuit that
15 have allowed Ted to already self deal at the
16 expense of the beneficiaries he claims to
17 represent in trusts where he has no personal
18 interest and thus stands nothing to lose
19 personally if the estate and trust of Simon's
20 beneficiaries are saddled with the entire
21 damages of the lawsuit.

22 The Stansbury lawsuit has Ted Bernstein as
23 an individual defendant and Simon Bernstein
24 individually as a defendant when it was filed.
25 The complaint, in fact, alleges Ted was the one

1 who directly committed the egregious acts of
2 bad faith, including fraud against Stansbury.

3 Now, how, the Court may ask, do these
4 adverse interests and conflict of interest of
5 Ted individually and Ted as a fiduciary allow
6 Ted to remove himself from liability personally
7 in the Stansbury action and shift the entire
8 liability to the Simon Bernstein Trust and
9 Simon Bernstein Estate beneficiaries for a
10 potential 2.5 million dollar damage claim and
11 how did he do this with no objections raised by
12 the fiduciary for the beneficiaries of the
13 estates and trusts of Simon and Shirley?

14 Well, it's obvious. Ted as a fiduciary
15 would have to pursue Ted on behalf of the
16 beneficiaries. So Ted's not going to pursue
17 himself for damages and object to settlement
18 that enabled him to slip out the back door like
19 he did already, acting as a fiduciary or file
20 counter-complaints or lawsuits on behalf of the
21 beneficiaries that allege Ted's the responsible
22 party and should pay all of the damages of 2.5
23 million.

24 This is because Ted Bernstein will not sue
25 or pursue Ted Bernstein. That is the

1 definition of a conflict of interest in adverse
2 interests. So Ted, by not raising any
3 objections as the fiduciary on behalf of
4 beneficiaries, has settled himself out of the
5 complaint already individually, shifting the
6 liabilities, and now the people who would
7 normally have a claim to say that Ted was the
8 responsible party, Ted did this, can't raise a
9 complaint because Ted is the fiduciary.

10 If you allow -- and, by the way, that's
11 why they tried to tell you I had no standing
12 and wasn't a beneficiary because they are
13 afraid of anybody making this argument to the
14 Court which would expose a 2.5 million dollar
15 fraud that is occurring through a breach of
16 fiduciary duties by ignoring conflict of
17 interest which Ted and his counsel are fully
18 aware of. So that's why they came to this
19 Court and lied because it wasn't just an
20 error.

21 And, by the way, if Mr. Rose, who put to
22 Your Honor and claimed that he erred before
23 this Court that I was a beneficiary, if he
24 doesn't know who the beneficiaries are by now
25 and his client doesn't --

1 THE COURT: The only thing I have a
2 problem with is, you know, no disrespect, you
3 can state what you believe but don't be rude.
4 Go ahead. You have been doing good, by not
5 being rude.

6 MR. ELIOT BERNSTEIN: Well, now I forgot
7 where I was. Could you read back my last
8 sentence? Sorry.

9 (Requested colloquy was read by reporter
10 as follows:

11 "And, by the way, if Mr. Rose who put to
12 Your Honor and claimed that he erred before
13 this Court that I was a beneficiary, if he
14 doesn't know who the beneficiaries are by now
15 and his client doesn't --"

16 MR. ELIOT BERNSTEIN: -- then the Court
17 needs to remove him just for incompetence. If
18 you don't know who the beneficiaries are --

19 THE COURT: I won't tolerate that.

20 MR. ELIOT BERNSTEIN: Okay. So that would
21 be a cause for removal, if the --

22 THE COURT: Move on.

23 MR. ELIOT BERNSTEIN: -- if the fiduciary
24 doesn't know who the beneficiaries are in his
25 peppered filing for two years with those claims

1 that I wasn't a beneficiary and had no standing
2 --

3 THE COURT: Move on. You have made your
4 point on that.

5 MR. ELIOT BERNSTEIN: I'm denied due
6 process. Okay. By the way, now, the Court has
7 this information that a fraud has been
8 committed before the Court or pleadings that
9 are full of false and misleading statements
10 that have led to a denial of due process rights
11 over the course of two years.

12 THE COURT: The Court has not made any
13 findings that way. You can go on.

14 MR. ELIOT BERNSTEIN: On the record you
15 stated I was a beneficiary in good standing.

16 THE COURT: I did but I didn't make a
17 finding of denial of anything at that point.

18 MR. ELIOT BERNSTEIN: Okay. That alone
19 contradicts all of the pleadings Mr. Rose has
20 submitted since Judge Phillips in effect had a
21 --

22 MR. ROSE: Objection. This is an improper
23 opening statement for the issue we have. It's
24 factually completely wrong because I have never
25 --

1 THE COURT: Sustained. One more minute.

2 MR. ELIOT BERNSTEIN: The Court should
3 also be aware that the Court has been misled
4 in these cases prior by, in the Shirley estate
5 and trust by Ted and the fiduciary's counsel,
6 Robert Spallina and Donald Tescher, who
7 committed a series of fraudulent acts to change
8 beneficiaries, they have come to the Court and
9 confessed they fraudulently altered my mother's
10 trust and sent it to my childrens' counsel.

11 MR. ROSE: Objection.

12 THE COURT: Sustained. That concludes
13 the openings. Thank you, Mr. Eliot.

14 Mr. Feaman, you said you had a case for
15 me. Do you want to give me that case?
16 Everyone have a copy of that case?

17 MR. ROSE: I think it was e-mailed to me
18 this morning.

19 THE COURT: I haven't read it so --

20 MR. FEAMAN: We e-mailed it at 10:00 and
21 also gave them additional copies today, this
22 afternoon.

23 THE COURT: Do you want the opportunity to
24 provide two cases in response?

25 MR. ROSE: I think this is totally... No.

1 THE COURT: I give you the right. Call
2 your first witness.

3 MR. ROSE: I would with one caveat. This
4 is expensive time and the --

5 THE COURT: I just asked. Call your first
6 witness.

7 MR. ROSE: Mr. Stansbury.

8 THE COURT: I'm very aware of how many
9 people are in the courthouse and the expense of
10 everything.

11 MR. ROSE: I was going to state if you
12 would rule that simply because as trustee, as
13 one trustee litigating in Illinois, he could
14 not possibly be the person to handle the
15 litigation here, like Mr. Feaman suggested, if
16 that's where you would go, we could avoid the
17 evidentiary hearing. I don't think that's
18 where you should go but --

19 THE COURT: I did not make a decision
20 yet. I promised I would not make that decision
21 until I came out and I am unbelievably -- what
22 is the word I want? -- I'm trying to think of
23 a word that is more judicial but compulsive is
24 the word coming to mind. I'm not capable of
25 having somebody say here's a case you need to

1 read and making a ruling without reading it.

2 Proceed.

3 MR. ROSE: That's fine.

4 Thereupon,

5 WILLIAM STANSBURY,

6 a witness, being by the Court duly sworn, was

7 examined and testified as follows:

8 DIRECT EXAMINATION

9 BY MR. ROSE:

10 Q. Would you state your name for the record.

11 A. William Stansbury.

12 Q. You're suing the estate of Simon Bernstein
13 for a substantial sum of money?

14 A. Yes.

15 Q. And Eliot just stated that Ted is the
16 responsible party and should pay all of the damages;
17 that Ted is 100 percent responsible for the claims
18 you have made against Simon's estate. Do you agree
19 with that?

20 A. No, I don't.

21 Q. Do you agree that Ted is responsible for
22 most of the damages and most of the harm that was
23 caused to you by Simon Bernstein?

24 A. Most of my conversations regarding my
25 compensation were had with Simon.

1 Q. So there was a question at a prior hearing
2 in which you did not attend, where Mr. O'Connell was
3 asked if the estate should not be suing Ted
4 Bernstein because the complaint alleges that he did
5 most of the fraud against Mr. Stansbury and Simon
6 Bernstein was just a partner. Is that accurate?

7 MR. FEAMAN: Objection. You can't cross
8 examine or impeach somebody with someone else's
9 testimony. He has to ask for what his view
10 is. You can't say if so and so said this, what
11 do you think about this.

12 THE COURT: Sustained.

13 MR. ELIOT BERNSTEIN: May I object?

14 THE COURT: I sustained the objection.
15 What is your objection?

16 MR. ELIOT BERNSTEIN: My objection is this
17 witness wasn't on any witness list, wasn't
18 discussed during the trial.

19 THE COURT: Overruled. This isn't a
20 trial. You may proceed.

21 BY MR. ROSE:

22 Q. Do you believe your complaint alleges that
23 Ted Bernstein did most of the fraud and Simon
24 Bernstein was just a bystander and a partner?

25 A. No.

1 Q. In fact, you testified -- strike that.

2 You would agree, wouldn't you, that most
3 of your assumptions about your financial
4 arrangements with the companies that are part of the
5 underlying lawsuit, most of those discussions were
6 with Simon Bernstein, correct?

7 A. Correct.

8 Q. Simon was the chairman of the company?

9 A. Yes.

10 Q. You considered Simon to be the leader of
11 the company?

12 A. Yes.

13 Q. And Ted had a lesser role in the company
14 than Simon?

15 A. Yes.

16 Q. You don't recall having much discussion
17 with Ted Bernstein about your financial
18 arrangements, do you?

19 A. No.

20 Q. And part of your claim is fraud, correct,
21 that you were defrauded by Simon Bernstein?

22 A. Yes.

23 Q. And it's your testimony that the person
24 who spoke to you and communicated whatever words
25 would have constituted a fraud was Simon Bernstein?

1 A. Yes.

2 Q. Now, do you recall a time in July of 2016
3 where you filed a motion complaining that Mr.
4 O'Connell was not available to attend to this case
5 because of his other busy schedule?

6 A. I don't recall that, Mr. Rose.

7 MR. FEAMAN: Objection. Relevance.

8 THE COURT: Overruled.

9 MR. ROSE: May I approach?

10 THE COURT: You may.

11 MR. ROSE: I'll mark this as Trustee's
12 Exhibit 1.

13 THE COURT: Okay.

14 MR. ROSE: I have stickers except I have
15 to remove the sticker off my copy.

16 THE COURT: That's okay. I can use my
17 stamp. Whatever you want.

18 MR. ROSE: I'll put the stickers on for
19 now.

20 THE COURT: Trustee's 1?

21 MR. ROSE: Trustee's 1 for this hearing.

22 THE COURT: If you could write 12CP, I
23 think it's 4391 -- I think I memorized the
24 number on it -- that would be great.

25 MR. ROSE: 4391?

1 THE COURT: 4391, yes. Thank you.

2 MR. FEAMAN: Trustee's what?

3 MR. ROSE: For purposes of today is 1.

4 (Trustee's Exhibit No. 1, Plaintiff's

5 Motion for Case Management Conference to

6 Schedule Depositons)

7 BY MR. ROSE:

8 Q. Mr. Stansbury, I have handed you a
9 document that is called Plaintiff's Motion for Case
10 Management Conference to Schedule Depositions. Does
11 it say on the first sentence Comes Now Plaintiff,
12 William Stansbury?

13 A. It does.

14 Q. That would be you?

15 A. That is me. It is I.

16 Q. Were you aware of Mr. Feaman's filing? In
17 other words, did you receive copies, without telling
18 me any communications you had with him?

19 A. I may have. I assume I did. It's just
20 not something that immediately I recall doing.

21 Q. Mr. Feaman is your lawyer; he is
22 authorized to file papers in court asserting
23 positions for you, correct?

24 A. I would assume.

25 MR. ROSE: I move this into evidence as

1 Exhibit 1.

2 MR. FEAMAN: No objection.

3 THE COURT: So received. I have marked
4 this one into evidence.

5 BY MR. ROSE:

6 Q. This suggests Mr. O'Connell was
7 unavailable from July through the end of November
8 for deposition because of his schedule. Does that
9 ring a bell to you?

10 A. I guess. Now that I'm seeing it, it does.

11 Q. Is it important to you that your case,
12 your lawsuit against the estate, move forward at a
13 reasonably quick pace?

14 A. It is.

15 Q. Do you think Mr. O'Connell -- well, strike
16 that.

17 You are aware that Mr. O'Connell has
18 requested that Ted Bernstein be appointed as the
19 administrator solely to defend the claim that you
20 have brought? You are aware of that?

21 A. I have heard that. You know, I don't know
22 beyond what I heard what is going on but I have
23 heard that.

24 Q. But we are here today for the judge to
25 decide whether Ted can serve as the representative

1 of the estate to defend the lawsuit you brought,
2 correct?

3 A. That is why we are here today.

4 Q. And you oppose that?

5 A. I do.

6 Q. Is there any person you can think of,
7 other than yourself or Simon Bernstein, who's
8 deceased, that would have personal knowledge at the
9 same level as Ted Bernstein of the claims that you
10 have raised in this lawsuit?

11 A. Probably not.

12 Q. And you're a claimant in the estate so you
13 have some interest in, if you succeed, being able to
14 collect against the estate, correct?

15 A. Obviously, if I succeed I aim to collect
16 and it's against the estate, as I understand it.
17 The estate has the ability to recover any
18 deficiencies that are in it from other assets that
19 may be in the trust. I'm not sure this is the only
20 recovery option.

21 Q. But you would like there to be as much
22 money in the estate as possible if you win your
23 lawsuit, correct?

24 A. Certainly as much as I would win.

25 Q. So you are aware Mr. Ted Bernstein is

1 willing to serve for no fee as administrator ad
2 litem, whereas Mr. O'Connell is going to charge \$350
3 an hour for the hours he spends? Are you aware of
4 that?

5 MR. FEAMAN: Objection. Not relevant.

6 THE COURT: Overruled.

7 THE WITNESS: I don't know what Mr.
8 O'Connell charges and simply because something
9 is free doesn't necessarily mean it's the right
10 or fair deal.

11 BY MR. ROSE:

12 Q. Would you agree Mr. O'Connell knows
13 nothing about your company from personal knowledge
14 and from having been there in 2006 through 2012,
15 correct?

16 A. Are you referencing the time that I was
17 there in 2006 because it was 2003 through 2012? Is
18 that your line of questioning?

19 Q. You are suing LIC Holdings, correct?

20 A. I did.

21 Q. And your lawsuit arose out of your
22 relationship with LIC Holdings, right?

23 I'll withdraw the question.

24 A. Yes.

25 Q. I'll ask you a different question. From

1 2003 to 2012, was Brian O'Connell involved at all in
2 whatever business you were involved in?

3 A. Not that I'm aware of.

4 Q. Had you ever heard the name Brian
5 O'Connell at that time?

6 A. No.

7 Q. Wouldn't you agree with me that Ted
8 Bernstein knows a lot more about the case than Brian
9 O'Connell?

10 A. I would assume that he would, yes.

11 Q. Do you believe Ted is motivated to
12 adequately defend the estate against your claim; in
13 other words, seeking to defeat your claim?

14 MR. FEAMAN: Objection. Calling for the
15 witness to talk about the motivation of a third
16 party. He can't know that.

17 THE COURT: Sustained.

18 BY MR. ROSE:

19 Q. I'm not really asking about that. Do you
20 think -- do you have any reason to believe that Ted
21 will not adequately, aggressively and vigorously
22 defend the estate's interest against yourself in
23 this lawsuit?

24 A. I would have no way of knowing.

25 Q. And you have no way to believe that he

1 wouldn't, correct?

2 A. I know he is suing the estate so he is
3 trying to keep money out of it.

4 Q. Do you think Ted Bernstein is going to do
5 something to help you win your lawsuit?

6 A. I doubt it.

7 Q. Now, you have settled your dispute with
8 Ted Bernstein by giving him a general release,
9 correct?

10 A. I'm not a lawyer, Mr. Rose. So yes, he
11 was dropped as a defendant.

12 Q. And your counsel stipulated at the last
13 hearing that you gave a general release to Ted
14 Bernstein?

15 MR. FEAMAN: Objection. I don't recall
16 that stipulation. Mischaracterizes what is in
17 the record.

18 THE COURT: It actually was stipulated on
19 the record that a release was given.

20 MR. FEAMAN: Respectfully, I think the
21 stipulation was there was a settlement. The
22 terms of the settlement are not before this
23 court.

24 THE COURT: No. There was a settlement
25 and a release was executed. The terms of the

1 release was not put before the Court. The
2 terms of the settlement wasn't put before the
3 Court.

4 I'm going to ask you to move on to the
5 next question.

6 MR. ROSE: Your Honor, Your Honor's
7 recollection of the record is 100 percent
8 correct. I did not accept the dismissal.

9 MR. FEAMAN: Move to strike.

10 THE COURT: Sustained.

11 BY MR. ROSE:

12 Q. You're adverse to the estate, correct?

13 A. Yes.

14 Q. You're seeking to take all of the money or
15 more than all of the money that is in the estate and
16 the trusts, right, if you win your lawsuit?

17 A. I can't speak to what is there. I'm going
18 to take what I'm due. I have no idea what's there.

19 Q. Now, you were one of the proponents of
20 Brian O'Connell being appointed as the successor
21 personal representative; do you recall that?

22 A. I don't know that I would characterize
23 myself as a proponent. I don't know enough about
24 people or lawyers and what they do and how they do
25 it.

1 Q. You were at the hearing where Mr.
2 O'Connell was appointed PR, correct?

3 A. I was.

4 Q. And your counsel brought Mr. O'Connell to
5 the hearing?

6 A. He did.

7 Q. And Mr. O'Connell was appointed personal
8 representative?

9 A. Yes.

10 Q. And if, in his business judgment and his
11 legal judgment that what he's proposing to happen
12 with Ted as the administrator is in the best
13 interest of the estate, do you feel that he is
14 mistaken?

15 A. Based on what I have heard, I think it's a
16 mistake.

17 Q. You have had multiple chances to settle
18 your claim, correct?

19 MR. FEAMAN: Objection. Outside the
20 scope, whether he has settled. It's also
21 confidential.

22 THE COURT: Sustained.

23 BY MR. ROSE:

24 Q. You attended mediation in July, correct,
25 July 25th?

1 A. Yes.

2 Q. No settlement was reached and an impasse
3 was declared, correct?

4 A. Yes.

5 Q. Okay. So what is left to do with your
6 case now is to get it tried, right?

7 MR. FEAMAN: Objection. No predicate. No
8 foundation.

9 THE COURT: Overruled-. The Court can
10 take judicial notice the case is still going on
11 or we wouldn't be here, correct? If the case
12 isn't settled, it's still going on.

13 BY MR. ROSE:

14 Q. Is there any reason why you couldn't
15 negotiate a settlement with Mr. O'Connell at any
16 time you wanted to while Mr. Bernstein and his
17 counsel prepared to defend the case and get it ready
18 for trial and get it set for the estate to be
19 victorious?

20 A. I was led to believe that the estate's
21 assets were deminimus, which may at that point
22 require the trust to support any judgment or
23 settlement that I would have with the estate.

24 Based upon Mr. O'Connell's statements when
25 he was brought in, he didn't believe that Ted

1 Bernstein was officially qualified to be the trustee
2 of the trust. Therefore, I essentially may have
3 been negotiating for a settlement with a party who
4 didn't have the capacity to provide a settlement.
5 So what I have been asking for is just a hearing to
6 clarify whether Ted is qualified based on the
7 language of the trust or he isn't.

8 Q. So it's your testimony even Mr. O'Connell
9 is not qualified to discuss settlement with you?

10 A. I'm not sure that it's the settlement
11 discussion as much as what happens if there is a
12 settlement agreed to and the money needs to come
13 from another source other than the estate.

14 Q. But is there any reason you can't have
15 discussions with Mr. O'Connell while we get ready to
16 defeat your claim in court?

17 A. Sort of the -- I'll leave that to my
18 attorneys to figure it out.

19 MR. ROSE: Nothing further.

20 THE COURT: Mr. Eliot.

21 CROSS EXAMINATION

22 BY MR. ELIOT BERNSTEIN:

23 Q. Hi, Bill. Did you sue Ted in the lawsuit?

24 A. He was a defendant, yes.

25 Q. What did Ted do according to your lawsuit?

1 A. There was misrepresentation of, you know,
2 what was going on with my money and why I wasn't
3 being paid.

4 Q. Was there anything with your stock that
5 you talked with Ted about that didn't sit well with
6 you, according to your complaint?

7 A. Yes.

8 Q. Could you explain that to the court.

9 A. I was a 10 percent stockholder of the
10 company and Ted approached me in December of 2011
11 and told me that there had been some discussion with
12 the accounting firm that the firm used that might
13 result in an income tax liability to me for money
14 that would not be paid to me. In other words, from
15 other prior years of taxes that may have been
16 challenged. I don't know the details because I
17 didn't interface with the accounting firm.

18 He said if I wrote a letter to him ceding
19 my shares of stock back to the company, he would
20 hold it and it had to be dated in 2011 and if the
21 tax liability happened, then I wouldn't be
22 responsible for owing money for taxes on money that
23 I never received. So he said he would hold it and
24 if that issue didn't arise, then it would just be
25 torn up and thrown in the garbage.

1 Q. And so in your complaint you alleged that
2 Ted basically swindled you out of that stock?

3 A. I don't know that I used the word swindled
4 but I believe --

5 Q. Fraud?

6 A. I believe that it was a misrepresentation
7 of the determination of why I would have just one
8 day signed the stock back to the company for no
9 other reason.

10 Q. Okay. Did Ted cash the alleged checks you
11 claim were fraudulently cashed?

12 A. I don't know who cashed them, Eliot, but
13 they weren't cashed by me.

14 Q. Were you aware of any problems leading up
15 to your lawsuit with Simon and Ted, between those
16 two?

17 MR. ROSE: Objection. Relevance and
18 scope.

19 MR. FEAMAN: Overly broad.

20 THE COURT: Sustained.

21 BY MR. ELIOT BERNSTEIN:

22 Q. If Ted represented the lawsuit for the
23 estate, would Ted make a claim that he was
24 responsible for damages done to you in the lawsuit?
25 Would he sue himself or --

1 A. Doesn't seem like that would be a logical
2 thing for him to do.

3 Q. Because that is the definition of an
4 adverse interest. You are not going to pursue
5 yourself or sue yourself. Okay. Mr. Stansbury --

6 MR. ROSE: Objection. Move to strike.

7 THE COURT: Sustained.

8 MR. ELIOT BERNSTEIN: Do what?

9 THE COURT: The little commentary at the
10 end. You can't make your little comments.

11 BY MR. ELIOT BERNSTEIN:

12 Q. Yes. Okay. All right. Have you seen
13 that letter before?

14 THE COURT: Have you given everyone a copy
15 of whatever it is you're showing him?

16 MR. ELIOT BERNSTEIN: Oh, do we have
17 copies of that? That might take me a minute to
18 find.

19 How many copies are there of that letter?
20 One? Yes. One. Can I make a copy? Do you
21 have a copier, by any chance?

22 THE COURT: I don't have an assistant this
23 week. Trust me, I have my own issues.

24 MR. ELIOT BERNSTEIN: I'll ask questions
25 from my own letter. Can you hand that back to

1 him to see if he knows that letter. It's a
2 June 20th... I'll give it to them.

3 THE WITNESS: Have I seen it before, is
4 that your question?

5 BY MR. ELIOT BERNSTEIN:

6 Q. Yes.

7 A. Yes.

8 MR. FEAMAN: May I approach the witness
9 and look at the letter the witness has?

10 THE COURT: Mr. Rose, if you want to as
11 well.

12 MR. ROSE: I think it's an exhibit to the
13 complaint. It's already in evidence. Mr.
14 Feaman wrote the letter. He has surely seen it
15 before.

16 MR. FEAMAN: Thank you.

17 BY MR. ELIOT BERNSTEIN:

18 Q. Good to go. I'll just ask him... Sorry,
19 Bill. This is a June 20th, 2012 letter. It's
20 certified mail and it's marked personal and
21 confidential and it's to Ted Bernstein and it was
22 authored by your attorney, Mr. Feaman.

23 MR. ROSE: I think he misstates the
24 addressee of the letter though.

25 MR. ELIOT BERNSTEIN: Okay. Can you hand

1 it back to him?

2 BY MR. ELIOT BERNSTEIN:

3 Q. Who is it addressed to?

4 A. Mr. Ted Bernstein, President, LIC
5 Holdings, Inc., 950 Peninsula Circle, Boca Raton,
6 Florida 33487.

7 Q. Anybody else?

8 THE COURT: Mr. Eliot, just to explain the
9 objection, when you say Ted, if it's as
10 president, you just have to say that.

11 MR. ELIOT BERNSTEIN: If it's what?

12 THE COURT: As president of the company.
13 That was the objection.

14 MR. ELIOT BERNSTEIN: Okay.

15 THE COURT: Next question?

16 BY MR. ELIOT BERNSTEIN:

17 Q. Nobody else?

18 A. No one else is listed on this.

19 Q. Okay. Fine. I'll take it back.

20 So in this letter -- prior to your
21 lawsuit, you write a letter to Ted Bernstein that
22 describes issues and concerns to Ted Bernstein of
23 Ted Bernstein's acts against you. In efforts to
24 stage this whole thing off at the pass, I guess, you
25 wrote a letter timely requesting that these

1 egregious acts be resolved and you contacted Ted.
2 Would you say that Ted Bernstein is responsible for
3 any teeny tiny amount of damages done to you? Is
4 that why you sued him?

5 A. Yes.

6 Q. Okay. So there would be, in your view, a
7 -- if Ted represented the estates and trusts that
8 you sued, there would be a possibility that those
9 estates and trusts were represented by a non adverse
10 party would raise a claim stating, hey, we shouldn't
11 pay all of the damages, Ted apportioned at least a
12 certain part, correct?

13 MR. ROSE: Objection. Calls for legal
14 conclusion.

15 THE COURT: Sustained.

16 I need you to wrap it up, Mr. Eliot. I
17 haven't let Mr. Feaman ask questions yet. So
18 one more question.

19 BY MR. ELIOT BERNSTEIN:

20 Q. To your knowledge, have you gotten
21 discovery of all of the records of LIC Holdings and
22 Arbitrage, International?

23 MR. ROSE: Objection. Relevance and
24 beyond scope.

25 THE COURT: I got hung up on the name.

1 Let me hear the question again, if you would
2 read back the question.

3 (Pending question read by reporter as
4 follows:)

5 "Q. To your knowledge, have you gotten
6 discovery of all of the records of LIC Holdings
7 and Arbitrage, International?"

8 THE COURT: Sustained.

9 MR. ELIOT BERNSTEIN: Those are parties to
10 the action.

11 THE COURT: It's not relevant to this
12 proceeding. All right. So thank you very
13 much, Mr. Eliot. Mr. Feaman.

14 MR. FEAMAN: No questions, Your Honor.

15 THE COURT: Thank you, sir. Redirect.

16 REDIRECT EXAMINATION

17 BY MR. ROSE:

18 Q. One question. Your stock claim is only
19 against Ted Bernstein and the company; isn't that
20 true? Let me hand you Count IV of the second
21 amended complaint. Can you take a look at it and
22 then after you have looked at it, I have a question
23 for you.

24 A. How much of this am I reading?

25 Q. Just the title.

1 A. Fraud in the inducement...

2 Q. I want you to read that. Do you see that
3 part there?

4 A. Do you want me to read it for myself or --

5 Q. Read it for yourself and take a look at
6 it. Have you done that?

7 A. I did.

8 Q. Does that refresh your recollection that
9 the only defendants in Count IV relating to the
10 stock are Ted Bernstein and the company?

11 A. Yes.

12 Q. And you have released both of those
13 entities in your settlement, right?

14 A. I guess.

15 Q. You are not suing Simon Bernstein's estate
16 for anything having to do with stock?

17 A. No, I am not.

18 MR. ROSE: Okay.

19 MR. ELIOT BERNSTEIN: Can I get redirect?

20 THE COURT: No. We don't go back again.

21 Thank you.

22 MR. ELIOT BERNSTEIN: Can I submit that as
23 evidence to the Court?

24 THE COURT: Any objection to the letter?

25 I think we have already got it in evidence

1 because it was attached to the complaint but --

2 MR. ROSE: No objection, Your Honor.

3 MR. FEAMAN: No objection.

4 THE COURT: This will be marked as
5 Interested Party's Number 1, without objection,
6 into evidence and Mr. Stansbury may step down.

7 (Interested Party's Exhibit No. 1, Letter
8 dated 6-20-12)

9 THE WITNESS: Thank you, Your Honor.

10 (Witness stepped down)

11 THE COURT: Thank you. Give me one second
12 to complete marking this.

13 Okay. Mr. Rose, next witness.

14 MR. ROSE: At the risk of turning this
15 into a circus, I'll call Ted Bernstein.

16 THE COURT: Are you guys going to hand me
17 some portions of Mr. O'Connell's deposition at
18 some point because you said that you have
19 agreed? I was hoping I would actually have a
20 hard copy of that testimony.

21 MR. ROSE: Not his deposition. I don't
22 care about the deposition. The testimony he
23 gave.

24 THE COURT: The testimony from the last
25 hearing?

1 MR. ROSE: I can provide that. I can read
2 it in closing. Actually, the same pages we
3 cited in our final arguments. His statement is
4 in the best interest.

5 THE COURT: I would still like a written
6 copy. I can make copies of that if you have
7 it. That would be awesome. Mr. Ted.

8 Thereupon,

9 TED S. BERNSTEIN,
10 a witness, being by the Court duly sworn, was
11 examined and testified as follows:

12 DIRECT EXAMINATION

13 BY MR. ROSE:

14 Q. State your name for the record.

15 A. Ted Bernstein.

16 Q. Now, you do not currently have a fiduciary
17 role in the Estate of Simon Bernstein; is that
18 correct?

19 A. Correct.

20 MR. FEAMAN: Objection. Calls for a legal
21 conclusion.

22 THE COURT: Overruled.

23 BY MR. ROSE:

24 Q. Mr. O'Connell is the personal
25 representative of the estate?

1 A. That's correct.

2 Q. Now, you are serving as the trustee of the
3 Simon Bernstein Trust?

4 A. I am.

5 Q. And the beneficiaries of the Simon
6 Bernstein Trust are 10 trusts created by your
7 father's trust?

8 A. 10 subtrusts, yes.

9 Q. And the trustee -- who are the trustees of
10 those subtrusts supposed to be?

11 A. The parents for the children.

12 Q. And other than Eliot, are the other
13 parents serving as trustees?

14 A. They are.

15 Q. All right. Now, at some point in time Mr.
16 O'Connell and yourself had discussions about how
17 best to handle the Stansbury case; is that true?

18 A. Yes, we did.

19 Q. And can you tell -- well, we have heard
20 what Mr. O'Connell has said about that. Do you
21 disagree with his version of those events?

22 MR. FEAMAN: Objection. Improper
23 question.

24 THE COURT: Sustained.

25 THE WITNESS: I agree with what Mr.

1 O'Connell said.

2 MR. FEAMAN: Move to strike.

3 THE COURT: Sustained.

4 BY MR. ROSE:

5 Q. In your own words, can you tell the judge
6 what the arrangement should be?

7 A. Sure. His firm is unable to tend to the
8 matter as quickly as everybody wanted it to be
9 tended to so he asked if I would help him manage the
10 litigation.

11 MR. FEAMAN: Objection. Hearsay.

12 THE COURT: Sustained on the last portion,
13 the portion that is asked if he would help
14 you. That's hearsay.

15 BY MR. ROSE:

16 Q. You reviewed the motion that has been
17 filed to appoint you as administrator ad litem?

18 A. Yes, I have.

19 Q. Do you believe you would do a good job
20 representing the interest of the estate against Mr.
21 Stansbury?

22 A. I do believe I would do an excellent job,
23 yes.

24 Q. Is there anyone else alive that knows more
25 about the facts and could take that role than

1 yourself?

2 A. No, there is not.

3 Q. And you have agreed to serve for what
4 compensation?

5 A. I agreed to do it for no cost.

6 Q. Why did you agree to do it for no cost?

7 A. Well, I don't think there is anybody else
8 that knows the matter as well as I do. I think that
9 I'm going to be involved in the case anyway and I
10 believe that most of my time has been spent in
11 preparing for, you know, what the case would involve
12 so there is really no big extra amount of time on my
13 part that would be required to do what is asked of
14 me.

15 Q. Do you have an opinion as to which law
16 firm should be defending the estate?

17 A. I do.

18 Q. Which law firm?

19 A. That would be your law firm.

20 Q. Why do you have that opinion?

21 A. Because nobody else can represent us in
22 that case more effectively than your firm because
23 you have already done what I consider to be a huge
24 amount of work in that case. Any other firm would
25 have to get up to speed and it's not a simple case;

1 this happened to be quite complex, and you're what I
2 consider to be up to speed.

3 Q. Now, assuming that the guardian ad litem
4 is representing the interest of Eliot's three
5 children in the trust for which there currently is
6 no serving trustee, is it accurate that all of the
7 trustees of the 10 trusts under Simon's trust are in
8 favor of this?

9 A. They are in favor of this, yes.

10 Q. Unanimously?

11 A. Yes, unanimously.

12 Q. Is it your belief that if the Court does
13 not remove my law firm and does appoint you, it will
14 result in any benefits to the estate?

15 A. Could you ask me that question again?

16 Q. If the judge does not disqualify or remove
17 our firm and appoints you so that what Mr. O'Connell
18 has asked for actually happens, will the estate
19 benefit by having lower expenses?

20 A. Yes, it will.

21 Q. Will it benefit by having the Stansbury
22 claim resolved faster?

23 MR. FEAMAN: Objection. Speculation.

24 THE WITNESS: Yes, it will.

25 THE COURT: The last objection is

1 sustained.

2 BY MR. ROSE:

3 Q. Did you see the motion Mr. Feaman filed
4 last summer that is in evidence, when it was filed
5 in July?

6 A. I'm sure I have seen it.

7 Q. Did it cause you concern to see that Mr.
8 O'Connell wasn't available for months to schedule
9 depositions?

10 A. Yes, it did.

11 Q. Is that one of the factors that led to the
12 discussion of appointing you as administrator?

13 A. Yes; very much so.

14 Q. Are you generally available to assist in
15 the defense?

16 A. Yes, I am.

17 Q. Are you willing to sit at trial, at
18 counsel table and assist in the defense?

19 A. Yes, I am.

20 Q. Would the estate have the same opportunity
21 to defend itself if you weren't sitting at counsel
22 table during the trial?

23 MR. FEAMAN: Objection. Speculation.

24 THE COURT: Could I hear the question
25 again?

1 (Pending question read by reporter as
2 follows:

3 "Q. Would the estate have the same
4 opportunity to defend itself if you weren't
5 sitting at counsel table during the trial?"

6 THE COURT: Okay. I'm sorry. The
7 objection?

8 MR. FEAMAN: Speculation.

9 THE COURT: Sustained.

10 BY MR. ROSE:

11 Q. If I was trying the case, would I want
12 anybody other than you next to me to defend the case
13 against Mr. Stansbury?

14 MR. FEAMAN: Objection. Calls for the
15 state of mind of Mr. Rose.

16 THE COURT: Sustained. The Court is
17 pretty clear on your state of mind. Not to
18 worry. You can move forward.

19 BY MR. ROSE:

20 Q. In your role as the trustee of the Simon
21 Trust, would you want anyone else other than you
22 sitting at that table?

23 A. No, I wouldn't.

24 Q. Third time was the charm so...

25 Now, in Illinois there is a dispute over

1 an alleged 1995 irrevocable life insurance trust
2 that was alleged to have been created by Simon
3 Bernstein. That's one claim and the other claim is
4 the estate; is that accurate?

5 A. Yes, it is accurate.

6 Q. And do you consider that you're personally
7 adverse to the estate, trying to take money out of
8 the estate?

9 MR. FEAMAN: Objection. His personal
10 opinion as to whether he holds interests I
11 don't think is proper or relevant.

12 THE COURT: Sustained.

13 BY MR. ROSE:

14 Q. What is your -- what do you believe --
15 well, strike that.

16 Do you believe that what is happening in
17 Illinois is determining what your father's intent
18 was with respect to his life insurance proceeds?

19 MR. FEAMAN: Objection to his commenting
20 on his deceased father's intent.

21 THE COURT: Sustained.

22 MR. ROSE: I am not asking for his
23 intent. I'm asking if that is the proceeding
24 to determine --

25 THE COURT: At this point it's not the

1 State of Illinois decision anyway.

2 BY MR. ROSE:

3 Q. That's fine. Is there any way that what
4 is happening in Illinois would, in your view, impact
5 your ability to adequately represent the interest of
6 the estate against Mr. Stansbury?

7 MR. FEAMAN: Objection.

8 THE COURT: Overruled.

9 THE WITNESS: No, I do not believe that
10 there is anything to be benefitted by it. They
11 are doing the best job they can.

12 THE COURT: Would you either push the mic
13 forward or move it closer to you?

14 BY MR. ROSE:

15 Q. If you're appointed administrator ad
16 litem, would you in any way interfere with Mr.
17 O'Connell's ability to settle the case?

18 A. No, I would not.

19 Q. Now, any settlement would still have to be
20 approved by the Court so you might have a say in the
21 approval process?

22 MR. FEAMAN: Objection. Leading.

23 THE COURT: Sustained.

24 BY MR. ROSE:

25 Q. Other than any role you play in an

1 approval process, would you in any way interfere or
2 impede Mr. Stanbury's ability to communicate with
3 Mr. O'Connell or Mr. O'Connell's ability to
4 communicate with Mr. Stansbury?

5 A. I would not.

6 MR. ROSE: I have nothing further.

7 THE COURT: Thank you. Mr. Eliot.

8 CROSS EXAMINATION

9 BY MR. ELIOT BERNSTEIN:

10 Q. Ted, did you settle with Stansbury
11 individually in the Stansbury action?

12 A. I did.

13 Q. Did you settle Shirley's trust as trustee,
14 settle her out of the Stansbury lawsuit?

15 A. It has been a while but I believe I did.

16 Q. Were you adverse to the beneficiaries of
17 Shirley's trust when you did that?

18 A. I'm sorry. I don't understand what you
19 mean.

20 Q. You don't understand what an adverse
21 interest is?

22 A. I don't understand what the question was.

23 Q. Did you have an adverse interest with the
24 beneficiaries of the estate when you settled
25 Shirley's trust?

1 A. I don't believe that I ever had an adverse
2 interest.

3 Q. Do you know what that is?

4 A. I think I understand what the word adverse
5 means.

6 Q. Okay. So you don't know what an adverse
7 interest is technically?

8 MR. ROSE: Objection. Asked and
9 answered.

10 BY MR. ELIOT BERNSTEIN:

11 Q. You were sued by Mr. Stansbury you heard
12 here and you're cognizant of -- and you heard Mr.
13 Stansbury say that you had, according to his
14 complaint, possible liability for the actions done
15 to him; is that correct?

16 MR. ROSE: Objection. In light of the
17 settlement he has no liability to Mr.
18 Stansbury.

19 THE COURT: Sustained.

20 BY MR. ELIOT BERNSTEIN:

21 Q. Prior to the settlement, did you have
22 liability in the Stansbury lawsuit?

23 MR. ROSE: Objection. Relevance and
24 materiality as to timing. We are not asking
25 him to be appointed back in when he was a

1 defendant.

2 THE COURT: Overruled.

3 THE WITNESS: I don't believe I had
4 liability, no.

5 BY MR. ELIOT BERNSTEIN:

6 Q. Well, you were sued so wouldn't that
7 represent a liability to you?

8 A. No.

9 Q. Okay. Let me ask you another question.
10 While you were representing Shirley's trust to
11 settle her out, could you have raised the claim that
12 you were the responsible party for the acts against
13 Mr. Stansbury?

14 MR. ROSE: Objection. Relevance and
15 materiality.

16 THE COURT: Sustained.

17 BY MR. ELIOT BERNSTEIN:

18 Q. You settled Shirley's trust as the
19 trustee. Did you make any investigation as to the
20 apportionment of damages to the parties of the
21 complaint?

22 MR. ROSE: Objection. Same, relevance and
23 materiality.

24 THE COURT: Sustained.

25 BY MR. ELIOT BERNSTEIN:

1 Q. Have you done any investigation into the
2 apportionment of damages to the parties you
3 represented in the Stansbury lawsuit?

4 MR. ROSE: Objection. Same objection.

5 THE COURT: To the parties he represented?

6 MR. ELIOT BERNSTEIN: Yes. He represented
7 Shirley's trust. They were sued, all these
8 parties.

9 THE COURT: I asked because I didn't
10 understand the question. That's why.

11 MR. ROSE: Objection. Relevance and
12 materiality.

13 THE COURT: Sustained.

14 BY MR. ELIOT BERNSTEIN:

15 Q. Have you, Ted, or your counsel provided
16 the Court with a full and complete inventory of all
17 LIC and Arbitrage records from 2008 to present?

18 MR. ROSE: Objection. Relevance.

19 THE COURT: Sustained.

20 BY MR. ELIOT BERNSTEIN:

21 Q. In June of 2012, did you receive a demand
22 letter addressed to you only from Peter Feaman on
23 behalf of William Stansbury; yes or no?

24 MR. ROSE: Objection. Leading.

25 THE COURT: Overruled.

1 THE WITNESS: Eliot, I honestly can't
2 remember the details of these things but about
3 that time I believe that I received a letter
4 from Mr. Feaman.

5 BY MR. ELIOT BERNSTEIN:

6 Q. Do you recall the allegations in that
7 letter?

8 A. Hardly.

9 Q. Do you recall the allegations against you
10 and your office for missing and opening mail and
11 forged checks?

12 A. I remember something about that, yes.

13 Q. When did you first read the will of Simon
14 Bernstein, the 2012 will?

15 MR. ROSE: Objection. Relevance. Clearly
16 beyond the scope.

17 THE COURT: Sustained.

18 BY MR. ELIOT BERNSTEIN:

19 Q. As a child of Simon Bernstein --

20 THE COURT: Last two questions.

21 BY MR. ELIOT BERNSTEIN:

22 Q. -- am I a beneficiary, am I a beneficiary
23 of Simon Bernstein or am I a child of Simon
24 Bernstein? Yes?

25 A. Pardon me?

1 Q. Am I a child of Simon Bernstein?

2 A. Are you his son, yes, you are.

3 Q. Are you familiar with any filings, letters
4 or petitions made by your counsel on your behalf to
5 the Court claiming I am not a beneficiary of
6 anything?

7 MR. ROSE: Object to the form.

8 THE COURT: Sustained.

9 One more question, Mr. Eliot.

10 MR. ELIOT BERNSTEIN: Can I ask why I'm
11 being limited? It's very important if he
12 should become a fiduciary here because we are
13 trying to establish that Ted Bernstein is
14 misusing fiduciary roles.

15 THE COURT: Ask him a question about him.
16 I told you one more question.

17 MR. ELIOT BERNSTEIN: I asked him if he is
18 aware of pleadings he made to the Court.

19 THE COURT: Pleadings?

20 MR. ELIOT BERNSTEIN: That claim I am not
21 a beneficiary which would materially affect --

22 THE COURT: All right. I'll allow it.

23 THE WITNESS: I'm sorry. Now, could you
24 please ask me the question again?

25 (Pending question read by reporter as

1 follows:)

2 "Q. Are you familiar with any filings,
3 letters or petitions made by your counsel on
4 your behalf to the Court claiming I am not a
5 beneficiary of anything?"

6 MR. ROSE: Objection. Relevancy. There
7 is no issue that he did not have standing for
8 the purpose of substantial personal property.
9 I didn't ask him any questions about whether he
10 had standing.

11 THE COURT: He's asking him on the stand
12 though. Overruled.

13 THE WITNESS: I'm not familiar enough with
14 the, whatever you characterize those things as,
15 to know what is inside of them. Just about you
16 being a beneficiary. That is my answer.

17 BY MR. ELIOT BERNSTEIN:

18 Q. Did you read the pleadings before the
19 Court that are filed on your behalf as a fiduciary?

20 A. Yes, I did.

21 Q. Have you taken any direct, or have you
22 found out through these proceedings that it was
23 claimed that I was not a beneficiary with no
24 standing by your counsel?

25 MR. ROSE: Objection. Relevancy, scope.

1 THE COURT: Overruled. Can you answer the
2 question, please, Mr. Bernstein?

3 THE WITNESS: Sure. I believe there was
4 some mention of documents filed that you were
5 not a beneficiary and in some limited way you
6 have been deemed as a beneficiary.

7 MR. ELIOT BERNSTEIN: Okay.

8 THE COURT: Okay. That was the last
9 question.

10 MR. ELIOT BERNSTEIN: Can I ask one last
11 follow-up?

12 THE COURT: Okay. One last follow-up.
13 That's it.

14 MR. ELIOT BERNSTEIN: That's a follow-up.
15 I want to say I feel and put on the record that
16 I'm being limited in my ability to question
17 witnesses.

18 BY MR. ELIOT BERNSTEIN:

19 Q. Have you ever, since finding that out,
20 have you corrected any of the filings that you filed
21 or were filed on your behalf that claimed to any
22 courts of law that I am not a beneficiary in Simon's
23 estate?

24 MR. ROSE: Objection. I think it's an
25 improper question. In the actual document he

1 is referring to, which is in evidence, at a
2 later point --

3 THE COURT: You are asking him for
4 information that is an attorney/client
5 privilege so I'm going to sustain the
6 objection. We're good. Last question. Thank
7 you.

8 Mr. Feaman, you're next. Thank you very
9 much.

10 MR. FEAMAN: Your Honor, I have this
11 witness under subpoena so I'll ask the Court's
12 permission to exceed the scope of direct and
13 handle him as my witness now at one time.

14 THE COURT: Rather than call him up again
15 as a separate witness?

16 MR. FEAMAN: Yes.

17 THE COURT: As long as everybody
18 understands that you're actually doing your
19 direct of your witness. But first I want to
20 know, before you do that, do you have any other
21 witnesses, Mr. Rose? No. Okay.

22 MR. ROSE: No, Your Honor.

23 THE COURT: The other thing, he would be
24 entitled to redirect.

25 MR. ROSE: I have no objection, to speed

1 things up, if Mr. Feaman does the examination
2 and I don't mind if he exceeds the direct, as
3 long as he stays within the scope of the narrow
4 issue we are deciding.

5 MR. FEAMAN: Now that I know he has no
6 other witnesses, I have one or two, and I can
7 call him to the stand.

8 THE COURT: Perfect.

9 CROSS EXAMINATION

10 BY MR. FEAMAN:

11 Q. Thank you. Good afternoon, sir.

12 A. Hello.

13 Q. Now, there was a chart here that was
14 referred to in your direct examination by your
15 counsel. Do you have that chart, Mr. Rose? This
16 one?

17 Okay. Now, there is a reference that the
18 trustees of the Simon trust were in an agreement
19 with the trustees of the subtrust for the
20 grandkids.

21 By the way, many of the grandkids are
22 adults now; are they not?

23 A. Yes.

24 Q. The trustees of the subtrusts, I believe
25 you testified as far as they exist, are in agreement

1 with you becoming the administrator ad litem,
2 correct?

3 A. That's correct. That's what I testified
4 to.

5 Q. Those other trustees, those are your other
6 siblings other than Mr. Eliot, correct?

7 A. Yes.

8 Q. And all of those other siblings are also
9 plaintiffs with you in the Chicago action; are they
10 not?

11 A. I believe so.

12 Q. Okay. So as far as any potential conflict
13 of interest that may exist that I know you deny,
14 they are in the same position as you relative to
15 being adverse to the estate in the Chicago action,
16 Bernstein estate, correct, sir?

17 MR. ROSE: Object to the form. A, calls
18 for legal conclusion. B, it's contrary to the
19 terms of the trust that we have talked about,
20 which Exhibit, paragraph 4J allows the
21 fiduciary to serve as a fiduciary even though
22 they are interested in some other aspects of
23 the estate or trust.

24 THE COURT: I'm just deciding as to the
25 appropriate question. I'm going to overrule

1 it. You can answer, if you can.

2 THE WITNESS: I'm sorry. Can you please
3 ask me that question again or --

4 BY MR. FEAMAN:

5 Q. I'll ask it again. All of these other
6 trustees of the subtrusts are your three other
7 siblings, not including Mr. Eliot, because there is
8 five of you, correct?

9 A. That's correct.

10 Q. So the four of you are all the trustees of
11 the subtrusts, correct?

12 A. Yes.

13 Q. Other than Mr. Eliot. And the four of you
14 are also plaintiffs in the Chicago litigation,
15 correct?

16 A. Yes.

17 Q. And the plaintiffs in that Chicago
18 litigation are adverse to the estate of Simon, of
19 your dad, in that litigation; is that correct?

20 A. Not correct. I'm not saying yes or no. I
21 feel like I'm being put in a box about this word
22 adverse. So my understanding of that word I feel is
23 a rock solid understanding of that word, but I feel
24 like I'm being put in a box today about what you're
25 trying to get me to say something about this

1 adversity. I don't think they are adverse. I don't
2 think my siblings are adverse other than they are
3 trying to collect the proceeds of a life insurance
4 policy.

5 Q. Right. If they don't collect, the money
6 is going to go to the estate, isn't it?

7 A. I'm not sure of that.

8 Q. Okay. Is that -- are you aware that's
9 what the estate is seeking in that action?

10 A. Well, I know that's what they're seeking
11 but you are asking me if I was aware if they were
12 going to go there.

13 MR. FEAMAN: That's all I have on cross,
14 Your Honor.

15 THE COURT: Direct. No, you don't get
16 redirect because he called him as a witness.

17 MR. ROSE: I need one second to think.

18 THE COURT: Sure. How it works, the
19 person calls the witness and everybody gets to
20 cross and the person that calls the witness
21 gets to question again.

22 MR. ELIOT BERNSTEIN: Do I get to question
23 again on this stuff?

24 THE COURT: No. No. When Mr. Feaman asks
25 his direct, you'll get an opportunity to do

1 whatever Mr. Feaman's questions are about.

2 MR. ELIOT BERNSTEIN: What does that mean,
3 the direct?

4 THE COURT: The person that calls the
5 witness is the direct.

6 MR. ELIOT BERNSTEIN: Mr. Feaman --

7 THE COURT: I'm sorry, sir. I want to
8 finish and then I'll explain. Go ahead.

9 REDIRECT EXAMINATION

10 BY MR. ROSE:

11 Q. In seeking to uphold your father's
12 testamentary documents in Florida, were you
13 attempting to carry out what you believed to be his
14 wishes?

15 A. Yes.

16 Q. Is that what you're doing in Illinois?

17 A. Yes.

18 Q. And whatever your father's wishes were is
19 how the Illinois case will resolve?

20 MR. FEAMAN: Objection. Calls for
21 speculation, legal conclusion.

22 THE COURT: Sustained.

23 BY MR. ROSE:

24 Q. Whatever the ruling is in Illinois as to
25 what your father's wishes or intent were, will you

1 abide by that in your role, whatever roles you have
2 in this estate?

3 A. Yes, I will.

4 MR. ROSE: Nothing further. We rest --

5 THE COURT: Okay. Let me quickly answer
6 your question.

7 MR. ROSE: -- with the caveat that Mr.
8 O'Connell's testimony from the last hearing is
9 in evidence.

10 THE COURT: Which hasn't been given to
11 me.

12 MR. ROSE: I will give it to you.

13 THE COURT: When you subpoena a witness or
14 you call a witness or you represent a party --
15 and you can't because you are not a lawyer --
16 but when you call a witness to the witness
17 stand, like Mr. Rose called his own client to
18 the witness stand, he, because he is calling
19 his own client, gets the first round of
20 questions. Then you all get to ask questions
21 and he gets the last round and then that's it.

22 Now, Mr. Feaman has subpoenaed Mr. Ted so
23 now he is asking me to now call his subpoenaed
24 witness so he will get the first round of
25 questions and everyone will get to ask

1 questions and he will get the final hit. So
2 does that make sense?

3 MR. ELIOT BERNSTEIN: Called him from the
4 subpoena, right?

5 THE COURT: Yes. He subpoenaed him before
6 the first hearing and now he wants to call
7 him. We could have him technically walk back
8 down and walk back up.

9 MR. ELIOT BERNSTEIN: Is there a play book
10 on this direct, redirect or something that I
11 can be reading maybe? Rules of civil
12 procedure?

13 THE COURT: I don't want to be insulting.
14 Okay. You're still under oath. You're
15 up, Mr. Feaman. I want to remind you, you have
16 got until four and, Mr. Feaman, your motion is
17 next so if we get to it, we get to it. If we
18 don't get to it, we don't get to it.

19 MR. FEAMAN: Before I ask any questions, I
20 move for a directed finding based upon my
21 opening statement.

22 THE COURT: Denied. Go ahead.

23 MR. FEAMAN: Thank you, Your Honor.

24 DIRECT EXAMINATION

25 BY MR. FEAMAN:

1 Q. Okay. So please state your name.

2 A. Ted Bernstein.

3 Q. And your relationship to Simon is his son,
4 correct?

5 A. Yes.

6 MR. FEAMAN: And, Your Honor, I ask
7 permission to lead because he is a hostile
8 witness.

9 THE COURT: So granted.

10 BY MR. FEAMAN:

11 Q. The five adult children of Mr. Simon
12 Bernstein, your father, are Eliot and who are the
13 others?

14 A. You are asking me my siblings' names?

15 Q. Yes.

16 A. Pam Simon, Lisa Friedstein, Jill Iahtoni.

17 Q. Now, your father died in September of
18 2012, correct, sir?

19 A. That's right, yes.

20 THE COURT: September or December?

21 THE WITNESS: September.

22 BY MR. FEAMAN:

23 Q. September 2012. And the personal
24 representatives appointed by your father of the
25 estate were two gentlemen by the name of Robert

1 Spallina and Donald Tescher; is that correct?

2 MR. ROSE: Objection. Materiality and
3 beyond the scope of issues for today. We have
4 already got a personal representative.

5 MR. FEAMAN: I'm trying to lay a
6 foundation and predicate for my questions that
7 come later.

8 THE COURT: I need you to proffer where
9 you're going with this.

10 MR. FEAMAN: Okay. And then I am going to
11 then use information about their conduct as
12 personal representative and Ted's involvement
13 in their conduct as personal representative as
14 grounds to impeach Mr. Ted's character, his
15 honesty and his judgment because he is asking
16 this Court to appoint him as a fiduciary.
17 Therefore, I am delving into the, if you will,
18 the prior bad acts of both Messrs. Tescher,
19 Spallina and Mr. Bernstein with reference to
20 the Simon Bernstein estate in order to impeach
21 his character, judgment and honesty so that I
22 can argue, in addition to the conflict, he
23 otherwise should not be appointed by this Court
24 to hold a fiduciary position in the Estate of
25 Simon Bernstein.

1 THE COURT: And what authority are you --
2 I'm not saying this disrespectfully. I'm
3 asking what authority are you relying on that
4 allows you to do that?

5 MR. FEAMAN: What authority am I relying
6 on?

7 THE COURT: To go to the further prior bad
8 acts?

9 MR. FEAMAN: The Court is being asked to
10 make an appointment of somebody to be fiduciary
11 which entails positions of trust and honesty
12 and the Court can perfectly delve into the
13 proposed fiduciary's background in terms of
14 honesty, trustworthiness, character and
15 judgment. As it relates to the various estates
16 that he is asking to be the fiduciary for and
17 as it relates to his mother's estate, where he
18 did act as a fiduciary because if he was
19 dishonest in connection with his duties as a
20 fiduciary in his mother's estate, that's
21 relevant for the Court to consider in whether
22 this gentleman should be appointed as a
23 fiduciary in this lawsuit.

24 THE COURT: Do you have any proof of
25 dishonesty; in other words, any charges, any

1 removals, anything of that nature, or is this
2 just bantering and fighting amongst the
3 parties?

4 MR. FEAMAN: I have --

5 THE COURT: Do you see what I'm saying? I
6 know the other two were removed but he has not
7 been removed to the best of the Court's
8 knowledge.

9 MR. ROSE: No one was removed. Resigned.
10 If you look at the final judgment dated
11 December 16th when Judge Phillips heard the
12 trial which included the validity of the trusts
13 of Simon Bernstein, this Court specifically
14 made a finding that he played no role in
15 anything that those prior lawyers did.

16 MR. FEAMAN: That's not true. You're
17 misrepresenting things on the record, Mr. Rose.

18 THE COURT: Wait. I don't want you
19 arguing about what it says.

20 MR. FEAMAN: Thank you, Your Honor.

21 THE COURT: Give me one second, please. In
22 case -- the Shirley trust --

23 MR. ROSE: The Shirley trust construction,
24 we call it the trust construction case but it
25 was the one about the validity --

1 THE COURT: That's 2012.

2 MR. ROSE: It's a 2014 case.

3 THE COURT: Apparently she died after
4 him.

5 MR. ROSE: No. This is the trust
6 construction. She does die after him in 2012.
7 I'm sorry. She died first. I'm sorry. Yes.

8 THE COURT: All right. December 2015,
9 correct?

10 MR. FEAMAN: Correct.

11 MR. ROSE: Correct. December 16th.

12 MR. FEAMAN: That was not a trial of the
13 complete case, by the way, Your Honor. I might
14 add, it was only as to, I believe, Count II or
15 Count I, one or the other, involving the
16 validity of the underlying estate documents,
17 period.

18 THE COURT: The testamentary documents.

19 MR. FEAMAN: Correct.

20 THE COURT: I can read it. I just can't
21 pronounce it. Ted S. Bernstein played no role
22 in any questionable acts of the law firm
23 Tescher & Spallina. Move on. I'm sustaining
24 the objection. Next question, please.

25 BY MR. FEAMAN:

1 Q. Now, Mr. Spallina was your attorney before
2 you introduced him to your father, correct?

3 MR. ROSE: Objection. Relevance.

4 THE COURT: Sustained.

5 BY MR. FEAMAN:

6 Q. Now, Tescher & Spallina, specifically Mr.
7 Spallina, was also representing you personally
8 before the lawsuit in Chicago was filed, correct?

9 MR. ROSE: Objection. Relevance.

10 MR. FEAMAN: This is going to relate to
11 the Chicago action.

12 THE COURT: Overruled on that one.

13 THE WITNESS: Could you please ask me that
14 question again?

15 BY MR. FEAMAN:

16 Q. Mr. Spallina was representing you
17 personally and your siblings in negotiating with the
18 insurance company before the lawsuit in Chicago
19 first filed in state court and now in federal court
20 was commenced, correct?

21 A. Well, I don't recall him representing me
22 personally but it's going back years and years now
23 so...

24 Q. Did he represent -- was he your attorney
25 during that time period in connection with dealings

1 with the lead-up to the filing of the Chicago
2 litigation?

3 MR. ROSE: Objection. In what capacity
4 because he clearly was --

5 BY MR. FEAMAN:

6 Q. Any capacity?

7 A. Maybe counsel in his capacity as trustee
8 of the --

9 MR. ROSE: The objection is --

10 THE COURT: Excuse me. I'm hearing his
11 objection. Complete your objection.

12 MR. ROSE: My objection is I think he has
13 got to clarify the question because it's not
14 fair to ask him if he was his personal lawyer.

15 MR. FEAMAN: I'll clarify.

16 THE COURT: Thank you.

17 BY MR. FEAMAN:

18 Q. Did Mr. Spallina communicate in writing
19 with the Heritage Union Life Insurance Company in
20 connection with the life insurance policy that is at
21 issue in the Chicago litigation?

22 MR. ROSE: Objection to that as
23 relevancy.

24 THE COURT: Overruled.

25 THE WITNESS: I believe Mr. Spallina

1 corresponded with the insurance company.

2 BY MR. FEAMAN:

3 Q. And when he corresponded with the
4 insurance company, was he doing that on behalf of
5 you and your brothers and sisters, other than Mr.
6 Eliot, or was he doing it on behalf of the Estate of
7 Simon Bernstein?

8 A. I'm not sure. I can't tell you. I don't
9 know.

10 Q. Do you recall that in connection with the
11 1995 life insurance trust, which is the subject
12 matter of the Chicago litigation, that Mr. Spallina
13 represented to Heritage Union Life Insurance Company
14 that he was, in fact, the trustee of that 1995 life
15 insurance trust?

16 MR. ROSE: Objection. Relevance.

17 THE COURT: Sustained.

18 BY MR. FEAMAN:

19 Q. Did anybody other than you ever, to your
20 knowledge, ever represent to the Heritage Life
21 Insurance Company that they were the trustee and not
22 you?

23 MR. ROSE: Objection. Relevancy.

24 THE COURT: Sustained.

25 BY MR. FEAMAN:

1 Q. Were you aware that Mr. Spallina
2 represented to Heritage that he was the trustee?
3 Have you ever been aware of that?

4 MR. ROSE: Objection. Relevance.

5 THE COURT: Sustained.

6 BY MR. FEAMAN:

7 Q. Now, in the lawsuit in Chicago, you're
8 representing to the Court that you're the trustee
9 there, correct?

10 A. Yes.

11 Q. Did that change from November of 2012 to
12 the time that the lawsuit was filed in April of
13 2013?

14 MR. ROSE: Objection. Relevance. We are
15 not here to try the Illinois case.

16 THE COURT: Overruled. Back to the
17 alleged conflict so let me hear the response,
18 please.

19 THE WITNESS: Could you please ask me that
20 question again or read that back?

21 (Pending question read by reporter as
22 follows:)

23 "Q. Did that change from November
24 of 2012 to the time that the lawsuit was filed
25 in April of 2013?"

1 THE WITNESS: I think it changed because
2 the lawsuit was filed in Illinois and
3 Spallina's conversations with the insurance
4 company were out of Florida. So yes, to answer
5 your question, it changed. Something changed.

6 BY MR. FEAMAN:

7 Q. And did you become trustee in -- when did
8 you become trustee?

9 MR. ROSE: Objection. Relevance.

10 THE COURT: Overruled.

11 THE WITNESS: I think I was always the
12 trustee of the Illinois trust.

13 BY MR. FEAMAN:

14 Q. Do you know why Mr. Spallina would have
15 represented to the life insurance company that he
16 was the trustee?

17 MR. ROSE: Objection. Speculation.

18 THE COURT: Sustained.

19 BY MR. FEAMAN:

20 Q. Are you aware that Mr. Spallina asked the
21 life insurance company to send the money into his
22 trust account --

23 MR. ROSE: Objection. Hearsay.

24 BY MR. FEAMAN:

25 Q. -- in December of 2014?

1 MR. ROSE: Relevance.

2 BY MR. FEAMAN:

3 Q. December of 2012?

4 THE COURT: Sustained.

5 BY MR. FEAMAN:

6 Q. Do you recall when the personal
7 representatives of your father's estate, Simon
8 Bernstein's estate, withdrew?

9 MR. ROSE: Objection. Relevance.

10 THE COURT: What's the relevance?

11 MR. FEAMAN: I am laying a predicate that
12 he had knowledge and I'm going to impeach him
13 with some of his acts, Mr. Bernstein's acts as
14 trustee of the Shirley Bernstein Trust. So,
15 again, it goes -- I'm laying a predicate for
16 impeachment of the witness.

17 THE COURT: Could you read the question
18 back for me?

19 (Pending question read by reporter as
20 follows:)

21 "Q. Do you recall when the personal
22 representative of your father's estate, Simon
23 Bernstein's estate, withdrew?"

24 THE COURT: I'll allow that question.
25 Overruled.

1 THE WITNESS: Are you asking me for a
2 specific date?

3 BY MR. FEAMAN:

4 Q. Yes. Month and year?

5 A. I don't know.

6 Q. Okay. Let me see if I can refresh your
7 recollection.

8 MR. ROSE: January 2014 --

9 THE WITNESS: Sounds about right.

10 MR. ROSE: -- to speed things up.

11 BY MR. FEAMAN:

12 Q. Let me hand you what I have had premarked
13 for identification as Stansbury's Exhibit 16, which
14 appears to be a letter written by Donald Tescher
15 dated January 14th, 2014 withdrawing. Does that
16 refresh your recollection?

17 A. Yes, it does.

18 Q. And are you aware that under your mother's
19 trust, the Shirley Bernstein Trust by which you
20 became the trustee, that you were disinherited,
21 along with your children?

22 MR. ROSE: Objection. Relevance.

23 THE COURT: Sustained.

24 MR. ROSE: Also goes to the issue of the
25 final judgment.

1 THE COURT: Sustained.

2 BY MR. FEAMAN:

3 Q. And do you recall when -- do you recall
4 that the Shirley Bernstein Trust owned a condominium
5 on the ocean in Boca Raton called the Aragon? Do
6 you recall that?

7 MR. ROSE: Objection. Relevance.

8 THE COURT: Sustained.

9 BY MR. FEAMAN:

10 Q. Do you recall that the condominium was
11 sold and you were given a legal opinion by your
12 attorneys as to how to distribute -- without telling
13 me what that opinion was -- as to how to distribute
14 the proceeds of the sale of that condominium?

15 MR. ROSE: Objection. Relevance and,
16 further, there is a motion pending to approve
17 settlement of that case, if we could ever get
18 there.

19 THE COURT: Sustained. I'll strike the
20 last comment.

21 MR. ROSE: I'll withdraw it and I'll
22 apologize.

23 BY MR. FEAMAN:

24 Q. Did you distribute the proceeds of the
25 sale of the Aragon Condominium to your children?

1 MR. ROSE: Objection. Relevancy.

2 BY MR. FEAMAN:

3 Q. In part?

4 MR. ROSE: Objection.

5 THE COURT: Sustained.

6 BY MR. FEAMAN:

7 Q. Did your attorneys at that time ever
8 advise you not to do that?

9 MR. ROSE: Objection. Calls for
10 attorney/client privilege --

11 THE COURT: Sustained.

12 MR. ROSE: -- and also relevance.

13 THE COURT: Mr. Feaman, how many more
14 witnesses do you have?

15 MR. FEAMAN: I have a portion of the
16 transcript, of about two minutes, of the
17 O'Connell deposition, and that's it.

18 THE COURT: Thank you. Can I ask you be
19 done within five minutes so I can let everyone
20 else get a chance, to conclude this matter?

21 MR. FEAMAN: Okay.

22 THE COURT: Thank you very much.

23 BY MR. FEAMAN:

24 Q. Now, let's get back to the Chicago
25 litigation. You agree, do you not, that your

1 position in the lawsuit is such that if you were to
2 prevail as a plaintiff, then the proceeds of the
3 life insurance policy would go to you eventually, I
4 guess you and your four siblings; is that correct?

5 A. Yes.

6 Q. That's what you're seeking, correct?

7 A. Yes.

8 Q. And you are aware that the estate has
9 intervened in that case, correct, the Estate of
10 Simon Bernstein?

11 A. Yes. I am aware of that, yes.

12 Q. Have you read any of the pleadings that
13 have been filed by your attorney or the attorney for
14 the estate in that case?

15 A. Yes. At some point I read them, yes.

16 Q. So you are aware then that the estate is
17 making a claim in that action that the Estate of
18 Simon Bernstein should be awarded the 1.7 million
19 dollars and not you and your siblings, correct?

20 MR. ROSE: Objection. Cumulative.

21 THE COURT: Sustained.

22 BY MR. FEAMAN:

23 Q. Now, so the beneficiary of the estate of
24 Simon Bernstein, should it prevail in the Chicago
25 litigation, is the pour-over trust which is of Simon

1 Bernstein, correct?

2 MR. ROSE: Objection.

3 THE COURT: I'm sorry. I need that
4 question read back before you even say the
5 objection. I don't think I follow you.

6 BY MR. FEAMAN:

7 Q. Let me try to rephrase. The Estate of
8 Simon Bernstein that would receive the 1.7 million
9 if it prevailed, according to this, the beneficiary
10 of the estate, the monetary beneficiary is the Simon
11 Bernstein Trust that was created down here in
12 Florida, correct?

13 A. Yes. You are asking me if the trust of
14 Simon was the --

15 Q. Yes.

16 A. Yes.

17 Q. And assume for the moment that Mr.
18 Stansbury is not successful or is unsuccessful in
19 his lawsuit against the estate, then that 1.7
20 million dollars would, in fact, pass through the
21 estate and go to the trust, correct?

22 A. I'm not sure that the money goes --

23 MR. ROSE: Objection. Calls for legal
24 conclusion. He said he is not sure and the
25 Court is well aware of the proceeds of the

1 estate.

2 THE COURT: I'll let him answer if he
3 knows.

4 THE WITNESS: So I believe that what
5 you're asking me is if the estate prevails, do
6 the proceeds, I think you said automatically go
7 into the trust, and if you did say that, then I
8 understood what you're asking me and I'm not
9 sure that is what happens.

10 BY MR. FEAMAN:

11 Q. I don't think I used the word
12 automatically. I think what I said was that after
13 the payment of all claims, creditors, the money, the
14 1.7 million dollars would then pass from the estate
15 to the Simon Bernstein Trust; is that correct?

16 A. That is my understanding, after those
17 payments.

18 Q. So that would not go to you in the Chicago
19 litigation, correct, or would not go to you as
20 plaintiffs in the Chicago litigation; it would go to
21 the trust, correct?

22 A. That's correct.

23 Q. Okay. And none of those adult children
24 who are plaintiffs in the Chicago litigation are
25 beneficiaries of the trust, are they?

1 A. No, they are not.

2 Q. And, in fact, it's all of their kids that
3 are beneficiaries of the trust through the
4 subtrusts, correct?

5 A. Yes.

6 MR. ROSE: Objection to the form.

7 THE COURT: Overruled. Mr. Feaman, last
8 question.

9 BY MR. FEAMAN:

10 Q. So if the money goes to the 10
11 grandchildren of Mr. Simon Bernstein that is being
12 litigated in Chicago and not the five adult
13 children, okay, and you are the successor trustee
14 for the trust where the money goes to the
15 grandchildren and yet at the same time you are the
16 plaintiff in the Chicago action, don't you see that
17 as a conflict?

18 A. No.

19 Q. Let me ask one more. Are you watching out
20 for you as a plaintiff in the Chicago litigation or
21 are you watching out for the 10 grandchildren of
22 your father as successor trustee of the trust that
23 is the beneficiary of the estate down here in
24 Florida?

25 MR. ROSE: Objection. Argumentative.

1 THE COURT: Sustained. It doesn't have
2 parameters.

3 Okay. Mr. Eliot.

4 CROSS EXAMINATION

5 BY MR. ELIOT BERNSTEIN:

6 Q. Ted, your counsel stated that there is 10
7 subtrusts that are the beneficiaries of Simon and
8 Shirley for the grandchildren; is that correct? Is
9 that what you believe?

10 A. Yes. That's what he said.

11 Q. Are you serving as a subtrustee of your
12 childrens' trust?

13 A. Yes, I am.

14 Q. Okay. Did you sue the subtrust in your
15 Shirley trust lawsuit?

16 MR. ROSE: Objection.

17 MR. ELIOT BERNSTEIN: This is very
18 important, Your Honor.

19 THE COURT: I get to hear his objection.
20 Don't tell me how important it is.

21 MR. ROSE: First of all, it's a matter of
22 public record. He is required in our lawsuit,
23 which you looked at, 3698 of the complaint, we
24 had to sue every single person that could
25 potentially be a beneficiary.

1 THE COURT: You can answer the question.

2 Overruled. Answer, if you can.

3 THE WITNESS: Yes.

4 BY MR. ELIOT BERNSTEIN:

5 Q. Okay. So can I show you -- and there is
6 your complaint, Mr. Rose, so if you need a copy, let
7 me know.

8 THE COURT: In which case for the record?

9 MR. ELIOT BERNSTEIN: The 3698 complaint
10 that was served, the amended complaint.

11 BY MR. ELIOT BERNSTEIN:

12 Q. Ted, on that complaint --

13 THE BAILIFF: Sir, behind the podium.

14 BY MR. ELIOT BERNSTEIN:

15 Q. Sorry. -- you sued Alexandra Bernstein.
16 Do you know who that is?

17 MR. ROSE: Objection. Relevance.

18 THE COURT: Sustained. Move on.

19 BY MR. ELIOT BERNSTEIN:

20 Q. Okay. Did you sue your children's
21 subtrusts as beneficiaries?

22 A. Was that the last question that you asked
23 me? Yes.

24 Q. You did. Can you point out in the caption
25 where you sued them?

1 A. Can I point out in the caption where I
2 sued the defendants?

3 Q. The subtrusts for your children. Mr. Rose
4 just said you had to sue all of the potential
5 beneficiaries.

6 MR. ROSE: Objection. Docket speaks for
7 itself, if you read the caption. This is just
8 improper questioning.

9 MR. ELIOT BERNSTEIN: I can't see where he
10 sued the subtrusts so I'm asking him if maybe
11 he could show me.

12 THE COURT: I'm wondering how it relates
13 to this hearing.

14 MR. ELIOT BERNSTEIN: Oh, it relates.

15 THE COURT: That's not good enough.

16 MR. ELIOT BERNSTEIN: Let me explain.
17 What is being argued here is that these
18 beneficiaries exist that all of this affects,
19 all of these hearings, obviously, and what I'm
20 establishing is the groundwork that the 10
21 subtrusts don't factually exist.

22 THE COURT: Move on.

23 BY MR. ELIOT BERNSTEIN:

24 Q. Okay. Ted, in your lawsuit you sued a
25 Simon Bernstein Trust dated 9-13-12; is that

1 correct? Do you see that there?

2 A. I see that there.

3 Q. Okay. Are you aware of your father on
4 9-13-12, the day he died, between the hours of 12
5 and two a.m., when he was code blue, that he
6 formulated any trust on that date?

7 MR. ROSE: Objection. It's an improper
8 question on a couple of grounds, but if I can
9 help the Court, the trust creates 10 subtrusts
10 on the date of his death so he didn't create
11 anything new. It's based upon the 7-25-12
12 trust that the Court has already validated.

13 THE COURT: I got it.

14 BY MR. ELIOT BERNSTEIN:

15 Q. You didn't sue the 7-25 trust; you signed
16 a Simon Bernstein Trust dated on the day he died.
17 Do you have a trust in your possession of Simon
18 Bernstein's dated 9-13-12?

19 MR. ROSE: Objection. Relevance.

20 THE COURT: Sustained.

21 BY MR. ELIOT BERNSTEIN:

22 Q. Well, you --

23 THE COURT: No. I made the ruling. Next
24 question, please.

25 MR. ELIOT BERNSTEIN: I'm getting to the

1 next question.

2 THE COURT: Excellent.

3 BY MR. ELIOT BERNSTEIN:

4 Q. You sued me as trustee of the Simon
5 Bernstein Trust dated 9-13-12; are you aware of
6 that? Is that what it says in that caption?

7 A. Yes. That's what it says.

8 Q. Okay. So am I the trustee of the Simon
9 Bernstein Trust dated 9-13-12, that you are aware
10 of?

11 MR. ROSE: Objection. May I be heard
12 because --

13 THE COURT: Sure.

14 MR. ROSE: -- he would be the trustee
15 under the terms of the trust agreement if he
16 had accepted his role.

17 THE COURT: I know.

18 MR. ROSE: On the basis to accept his
19 role, we have a guardian. It's cumulative and
20 there is no point in asking the question.

21 THE COURT: Sustained.

22 BY MR. ELIOT BERNSTEIN:

23 Q. Did you sue yourself as trustee of your
24 childrens' trust under the 9-13-12 trust?

25 MR. ROSE: Objection. Cumulative,

1 relevance.

2 THE COURT: Sustained.

3 BY MR. ELIOT BERNSTEIN:

4 Q. Okay. Has there been a construction
5 hearing to determine the beneficiaries of the Simon
6 or Shirley Trust that you're representing?

7 MR. ROSE: Objection. Relevance.

8 THE COURT: Sustained.

9 BY MR. ELIOT BERNSTEIN:

10 Q. Did you file a pleading in the Illinois
11 Court stating that I wasn't a beneficiary of the
12 Simon Bernstein Estate?

13 A. I don't think so.

14 Q. Okay. Are you aware of a ruling by Judge
15 John Robert Blakey of Illinois that states that
16 based on your pleading claiming that I wasn't a
17 beneficiary of Simon's estate, that I was being
18 removed from that federal lawsuit?

19 MR. ROSE: Objection. Relevance.

20 THE COURT: Sustained.

21 BY MR. ELIOT BERNSTEIN:

22 Q. Were you the fiduciary of Shirley's estate
23 and trust when your counsel filed fraudulent
24 documents with the court?

25 MR. ROSE: Objection.

1 THE COURT: Okay. That will be the last
2 question after this one. Overruled. Excuse
3 me. Sustained.

4 MR. ELIOT BERNSTEIN: Okay.

5 THE COURT: Last question.

6 BY MR. ELIOT BERNSTEIN:

7 Q. Were fraudulent documents submitted to the
8 court while you were a fiduciary?

9 MR. ROSE: Objection. Relevance,
10 materiality, beyond the scope of the
11 examination.

12 MR. ELIOT BERNSTEIN: Well, definitely due
13 to the fact whether he qualifies or not to
14 become a fiduciary.

15 THE COURT: It's an inappropriate
16 question. Sustained. All right. Thank you.
17 Mr. Rose.

18 MR. ELIOT BERNSTEIN: Can I state on the
19 record that I have been denied my access to the
20 witness.

21 THE COURT: You may. Go ahead, Mr. Rose.

22 MR. ELIOT BERNSTEIN: I will.

23 CROSS EXAMINATION

24 BY MR. ROSE:

25 Q. Assuming the Illinois lawsuit results in

1 the money coming into the estate, that would leave a
2 lot of money available to pay Mr. Stansbury's claim;
3 would it not?

4 A. Yes, it would.

5 Q. All the more reason to have Mr. O'Connell
6 as the personal representative represented by the
7 people that give you the best chance of winning that
8 case, right?

9 A. That's right.

10 MR. ROSE: Nothing further.

11 MR. FEAMAN: No redirect.

12 THE COURT: You may step down. Thank
13 you.

14 (Witness stepped down)

15 THE COURT: All right. Now, at this time
16 Mr. O'Connell's testimony from the last
17 hearing, is it being submitted in its entirety
18 to the Court?

19 MR. ROSE: I'm only going to put a few
20 passages in. I'm going to read them. I can
21 hand them to the Court.

22 THE COURT: I'll mark them into evidence
23 if Mr. Feaman is of the same mindset and he can
24 hand me the pages. Did you have any pages?

25 MR. ELIOT BERNSTEIN: I would like to

1 submit the full thing.

2 THE COURT: Do you have the full thing of
3 his testimony? If you have all of his
4 testimony, I'll take all of it.

5 MR. ROSE: I have underlined the parts I
6 wanted to put in evidence so I think it would
7 be easier to read. I could read for the first
8 two or three minutes and you would get
9 everything you needed and then you wouldn't
10 have to read the entire transcript.

11 THE COURT: If you do that again, Mr.
12 Eliot, I will have you leave. You continue to
13 laugh and snarf and I do not tolerate that in
14 my courtroom. I don't allow anyone to do it to
15 you.

16 MR. ELIOT BERNSTEIN: Okay.

17 THE COURT: Do you have the pages prepared
18 here today that you wish to submit, Mr. Eliot?
19 This is the time.

20 MR. ELIOT BERNSTEIN: No. I'll submit
21 them afterwards.

22 THE COURT: If you have them here today,
23 this is the time when we submit evidence.

24 (Trustee's Exhibit No. 2, Brian O'Connell
25 Excerpts of 3-2-17 Hearing Testimony)

1 THE COURT: Mr. Feaman, do you have what
2 you wish to submit?

3 MR. FEAMAN: I do. For the record, if
4 Your Honor wants to take notes, it's Mr.
5 O'Connell's deposition taken this past Monday,
6 on March 13th. And as it relates to the
7 appointment of Mr. Ted Bernstein as
8 administrator ad litem, we are doing this in
9 the interest of time rather than calling the
10 witness and having -- I was going to call Mr.
11 Royer and have him read --

12 THE COURT: I think I'm confused. Did you
13 all agree on the deposition or his testimony at
14 the prior hearing?

15 MR. FEAMAN: I said he could put in
16 whatever he wanted from the prior hearing. I'm
17 not seeking to put in anything from the prior
18 hearing of Mr. O'Connell, but if he wants to, I
19 said I have no objection.

20 MR. ROSE: Prior hearing?

21 THE COURT: Yes, prior hearing first.

22 MR. ROSE: Do you want me to read it
23 quickly? It's not many passages.

24 THE COURT: No. I actually want them in
25 my hand, to be honest with you. Just identify

1 it for the record.

2 MR. ROSE: I have page 1, which just is
3 the cover page. I'll take out the appearances
4 of counsel. So there's designations on pages
5 14, 15, 16, 22, 23, 24, 25, 26, 27, 28 and 31,
6 which I have circled or underlined.

7 THE COURT: Now you can read it. Now go
8 ahead and read it. So I'll take the hard copy
9 but go ahead and read it.

10 MR. ROSE: I'll read it first. Okay.

11 THE COURT: Take your time.

12 MR. ROSE:

13 "Q. Now, you have not gotten -- you said
14 that you wanted to retain Mr. Rose to represent
15 the estate here in Florida, correct?

16 "A. Yes. But I want to state my position
17 precisely, which is as now has been pled that
18 Ted Bernstein should be the administrator ad
19 litem to defend that litigation. And then if
20 he chooses, which I expect he would, employ
21 Mr. Rose and Mr. Rose would operate as his
22 counsel."

23 Picking up on line 15 -- page 15, line
24 14:

25 "A. Here's why, yes, because of events.

1 You have an apple and an orange with respect to
2 Illinois. Mr. Rose and Ted Bernstein is not
3 going to have any -- doesn't have any
4 involvement in the prosecution by the estate of
5 its position to those insurance proceedings.
6 That's not on the table."

7 "THE COURT: Say it again, Ted has no
8 involvement.

9 "THE WITNESS: Ted Bernstein and Mr. Rose
10 have no involvement in connection with the
11 estate's position in the Illinois litigation,
12 Your Honor. I am not seeking that. If someone
13 asked me that, I would say absolutely no.

14 Page 22, line 15:

15 "Q. And notwithstanding the fact that in
16 Illinois Ted as the trustee of this insurance
17 trust wants the money to go into this 1995
18 insurance trust, right?

19 "A. Right.

20 "Q. And he has got an affidavit from
21 Spallina that says that's what Simon wanted, or
22 he's got some affidavit he filed, whatever it
23 is? And you have your own lawyer up there,
24 Stamos and Trucco, right?

25 "A. Correct.

1 "Q. And notwithstanding that, you still
2 believe that it's in the best interests of the
3 estate as a whole to have Ted to be
4 administrator ad litem and me" -- Alan Rose was
5 asking the question -- "to represent the estate
6 given our prior knowledge and involvement in
7 the case, right?

8 "A. It's based on maybe three things.
9 It's the prior knowledge and involvement that
10 you had, the amount of money, limited amount of
11 funds that are available in the estate to
12 defend the action, and then a number of the
13 beneficiaries, or call them contingent
14 beneficiaries because they are trust
15 beneficiaries, have requested that we consent
16 to what we have just outlined, ad litem and
17 your representation, those items?

18 "Q. And clearly you are adverse to Mr.
19 Stansbury, right?

20 "A. Yes."

21 Page 24, line 5:

22 "Q. So he hasn't paid in full, right?
23 You know he is \$40,000 in arrears with the
24 lawyer?

25 "A. Approximately, yes."

1 MR. ROSE: That's referring to Mr.
2 Stansbury.

3 Page 25:

4 "Q. Okay. So despite that order, you
5 have personal knowledge that he is \$40,000 in
6 arrears with the Chicago counsel?

7 A. I have knowledge from my counsel."

8 26, line 5:

9 "Q. Would you--"

10 MR. FEAMAN: Objection as to relevancy as
11 to the administrator ad litem issue. Mr.
12 Stansbury , whether he owes money or not,
13 supposedly Chicago counsel might go to the
14 discharge issue but not to the administrator
15 ad litem with regard to Ted Bernstein.

16 MR. ROSE: I believe if you're in contempt
17 of a, or in violation of a court order, the
18 court has the power to disregard your filings
19 and your objections if you violate a court
20 order which as Mr. --

21 MR. FEAMAN: There is no finding of
22 violation of a court order.

23 THE COURT: I need the question again.

24 MR. ROSE: I'll withdraw the question for
25 the purposes of this hearing.

1 THE COURT: Thank you. Mark through it,
2 if you would, and identify what page and line
3 that was.

4 MR. ROSE: 24, 5 through 9 and 25, 22
5 through 25, would you like me to remove them?

6 THE COURT: Excellent. If you provide the
7 Court the hard copy that has been read into
8 evidence, it will just be for my records.

9 MR. ROSE: I agree.

10 Page 26:

11 "Q. Would you agree with me that you have
12 spent almost no money defending the estate so
13 far as the Stansbury litigation?

14 "A. Well, there's been some money spent.
15 I wouldn't say no money. I have to look at the
16 billings to tell you.

17 "Q. Very minimal? Minimal?

18 "A. Not a significant amount.

19 "Q. Okay. Minimal in comparison to what
20 it's going to cost to try the case?

21 "A. Yes."

22 Page 27:

23 "Q. And if Ted is not the administrator
24 ad litem, you are going to have to spend money
25 to sit through a two-week trial?

1 "A. Yes."

2 Line 9:

3 "Q. Would you agree with me that you know
4 nothing about the relationship, personal
5 relationship between Ted, Simon and Bill
6 Stansbury, personal knowledge? Were you in any
7 of the meetings between them?

8 "A. No, not personal knowledge."

9 MR. ROSE: I want to withdraw page 28
10 because it's not -- it goes to the last
11 hearing.

12 On page 31:

13 "Q. You agreed to this procedure that I
14 would become counsel and Ted would become the
15 administrator ad litem because you thought it
16 was in the best interests of the estate as a
17 whole, right?

18 "A. For the reasons stated previously,
19 yes.

20 "Q. And other than having to go through
21 this expensive procedure to not be
22 disqualified, you still agree that it's in the
23 best interests of the estate that our firm be
24 counsel and that Ted Bernstein be administrator
25 ad litem?

1 "A. For the defense of the Stansbury
2 civil action, yes.

3 "Q. And that's the only thing we are
4 asking to get involved in, correct?

5 "A. Correct."

6 MR. ROSE: And that's it. Nothing
7 further.

8 THE COURT: Thank you.

9 MR. ROSE: I'll tender to the Court the
10 hard copy.

11 THE COURT: Thank you. These are just for
12 my records.

13 MR. FEAMAN: May I approach Your Honor?

14 THE COURT: You may.

15 MR. FEAMAN: The excerpts that I'm going
16 to identify on the record and copies for you of
17 Mr. O'Connell's deposition deal with the
18 exhibit marked at the deposition.

19 THE COURT: Hold on one second. Again,
20 this is just a copy for my reference of what
21 you will be reading into the record?

22 MR. FEAMAN: Yes, Your Honor.

23 THE COURT: And this I'll receive into
24 evidence which is just as the exhibit to those
25 pages. It is the Objection to Accounting of

1 the Simon Bernstein Trust. So that will be on
2 Stansbury's 1. What's going on?

3 (Stansbury's Exhibit No. 1, Objection to
4 Accounting)

5 MR. ELIOT BERNSTEIN: Can I enter that
6 into evidence?

7 THE COURT: After I'm complete with him.

8 MR. ROSE: Might I see a copy of the
9 transcript that he is going to rely upon?

10 MR. FEAMAN: It's on your desk. There is
11 a copy right there.

12 MR. ROSE: Thank you, sir. Appreciate it.

13 THE COURT: You may proceed.

14 MR. FEAMAN: Thank you. For Your Honor's

15 --

16 THE COURT: I'm sorry. We have an
17 emergency I need to sign.

18 MR. FEAMAN: This will be quick.

19 THE COURT: No. I have to sign the
20 emergency.

21 MR. FEAMAN: Okay.

22 THE COURT: Thank you. You may proceed.

23 MR. FEAMAN: We are submitting for the
24 record page 20 of the deposition taken of Brian
25 O'Connell on March 13th, page 22, line 14

1 through page 27, line 1. And then within that
2 I want to read a subpart into the record.

3 THE COURT: Okay.

4 MR. FEAMAN: Specifically page 25, line
5 18:

6 "Handing you what's been marked as
7 Exhibit 3, can you identify that for the
8 record, please, Mr. O'Connell?

9 "A. That's an objection that I filed as
10 the personal representative of the Estate of
11 Simon Bernstein to an accounting that was
12 prepared and served by Ted Bernstein as trustee
13 of the Simon Bernstein Trust.

14 "Q. All right. And that's your signature
15 on page 3?

16 "A. Yes.

17 "Q. On Exhibit 3? Or is that Joy
18 Foglietta? Is that yours or is that Joy's
19 initials for you?

20 "A. They have all been hers."

21 Line 11:

22 "Q. Will you stipulate that Joy signed on
23 your behalf with your full knowledge and
24 consent?"

25 MR. FEAMAN: Joy Foglietta, Your Honor,

1 is another lawyer.

2 "A. That's correct.

3 "Q. These objections to the accounting,
4 was there ever a hearing on these objections?

5 "A. No.

6 "Q. These objections, are they still
7 pending?

8 "A. Still pending.

9 "Q. Do you know if there was a revised
10 accounting ever done in response to the
11 objection that you filed on behalf of the
12 estate?

13 "A. I am not sure."

14 Thank you.

15 MR. ROSE: Just briefly, page --

16 THE COURT: Go ahead.

17 MR. ROSE: -- page 94, line 16:

18 "Q. Now, do you know anybody alive, other
19 than Bill Stansbury, who has more knowledge of
20 the facts and circumstances surrounding the
21 independent action of Ted Bernstein?"

22 MR. FEAMAN: Objection. Repetitive,
23 cumulative.

24 THE COURT: I think it has to be taken
25 from a different vein from than was asked of

1 Mr. Bernstein but this is the PR. So
2 overruled. Thank you.

3 MR. ROSE:

4 "A. Not that I can think of. It would be
5 the two of them would seem to have the most
6 knowledge of their dispute with one another
7 most personal knowledge at least.

8 "Q. Now, if the Court did not want to
9 appoint Ted Bernstein as administrator ad
10 litem, would you still want the court to
11 appoint someone else as administrator ad
12 litem?

13 "A. I haven't given that any
14 consideration. But probably in the interests
15 of trying to move the case along I would have
16 to have sort of an internal discussion to see
17 who could advance that defense the quickest,
18 in-house, getting an ad litem involved, getting
19 another law firm involved. So those are the
20 things I am giving you the conditions I would
21 have to weigh if that happened but we would do
22 something to keep the case going."

23 95, line 5:

24 "Q. Anything Ted Bernstein would be
25 doing, attending a deposition or reviewing

1 documents or meeting with witnessess, he would
2 not be charging?"

3 "A. That's my understanding of the setup.

4 "Q. And that would result in lower costs
5 to the estate?

6 "A. It should.

7 "Q. Which would not only be in the best
8 interest of the beneficiaries but also really
9 in the best interest of Mr. Stansbury because
10 it would lower the amount of money that would
11 be drained from the estate to defend his claim?

12 "A. True."

13 MR. ROSE: No further questions.

14 MR. FEAMAN: All right. My turn, Your
15 Honor. Page 98, line 13:

16 THE COURT: 98, 13.

17 MR. FEAMAN: Yes. Question by Mr.
18 Feaman:

19 "All right. Now, in response to a
20 question asked by Mr. Rose, you said that you,
21 Mr. O'Connell, would be handling any settlement
22 discussions arising out of the independent
23 action by Mr. Stansbury against the estate,
24 correct?

25 "A. Correct. Because that's what you

1 have and I have actually done that.

2 "Q. But if the case got rolling and
3 discovery was taken, depositions were taken,
4 documents were produced, all of which has not
5 taken place yet, you would have to speak to Mr.
6 Rose and Ted Bernstein to get their opinion on
7 how the case is going, wouldn't you?

8 "A. Well, I'd speak to them and I'd take
9 a look at the discovery or motions. I know
10 there's a motion for summary judgment that was
11 pending, for example. So I would speak and
12 then take a look at the record. I would do
13 both.

14 "Q. And how many lawyers do you
15 presently have in your law firm, sir?

16 "A. Approximately 32.

17 "Q. Okay. And of those how many are
18 commercial or business litigators?

19 "A. Primarily? Because some people --

20 "Q. Primarily?

21 "A. There's some overlap.

22 "Q. Yes, of course.

23 "A. Even in our own department. So
24 there's -- I'd say principally two for sure.

25 "Q. Okay.

1 "A. But that's primarily what they do.

2 "Q. Do you think that they are, in your
3 opinion, competent and capable of defending the
4 estate in connection with Mr. Stansbury's
5 claims in his independent action?"

6 THE COURT: There is an objection by you.
7 I just overruled it but you can continue.

8 MR. FEAMAN: Page 100, line 4:

9 "Q. You can answer."

10 Line 5:

11 "A. Yes, I think they have the skill set
12 to do that. It's the other instances that I
13 don't want to repeat because they are already
14 sort of in our pleading as to why we chose this
15 course of action."

16 MR. FEAMAN: Nothing further.

17 THE COURT: Mr. Eliot, what do you want to
18 submit?

19 MR. ELIOT BERNSTEIN: I wanted to submit
20 the deposition of Mr. O'Connell in full. I
21 hate to be --

22 THE COURT: I have to mark that -- hold on
23 -- because it's going into evidence.
24 Objections?

25 MR. ELIOT BERNSTEIN: And then --

1 THE COURT: Hold on. Objections?

2 MR. ROSE: To the whole deposition coming
3 in?

4 THE COURT: Yes.

5 MR. ROSE: I don't think it's appropriate
6 to just enter a deposition in evidence but to
7 speed things up...

8 MR. ELIOT BERNSTEIN: I will be relying on
9 parts of it too.

10 THE COURT: No. If you're putting in the
11 whole thing, there is no need to be relying on
12 parts.

13 MR. ELIOT BERNSTEIN: Okay. I got what
14 you're saying. Okay. Great.

15 THE COURT: Mr. Feaman.

16 MR. FEAMAN: No objection.

17 MR. ELIOT BERNSTEIN: Your Honor --

18 THE COURT: Wait. I'm still waiting for
19 Mr. Rose.

20 MR. ROSE: If Your Honor is willing to
21 read the whole transcript, to save time --

22 THE COURT: I'll read it.

23 MR. ROSE: Then I would allow you to read
24 it, preserving our objections for the record.

25 THE COURT: To any further hearings. I

1 got it.

2 MR. ROSE: To the form objections that are
3 stated in there. I can trust Your Honor to
4 rule on those as you read it.

5 THE COURT: Okay. Give me a second, Mr.
6 Eliot. I have to mark everything
7 appropriately. This is Interested Party's
8 Number 2. Yes.

9 (Interested Party's Exhibit No. 2, Brian
10 O'Connell deposition 3-13-17)

11 MR. ELIOT BERNSTEIN: I'm sorry. We are
12 six minutes over and I am going to be six
13 minutes late to a commitment that my kids are
14 relying on. And I believe you only scheduled
15 two hours again and I base my life and
16 childrens' life on those two hours. So I have
17 to fly but I want to make sure that I get a
18 chance to call witnesses at some point to this
19 hearing.

20 THE COURT: Now is the time.

21 MR. ELIOT BERNSTEIN: I don't have time.
22 You scheduled two hours.

23 THE COURT: Who are you going to call and
24 did you subpoena witnesses to be here today?

25 MR. ELIOT BERNSTEIN: I was going to call

1 Diana Lewis.

2 THE COURT: Has she been subpoenaed for
3 today? Answer my question.

4 MR. ELIOT BERNSTEIN: No.

5 THE COURT: So she wouldn't be --

6 MR. ELIOT BERNSTEIN: Well, they have
7 called other witnesses that weren't subpoenaed
8 and you allowed that.

9 THE COURT: They called parties.

10 MR. ELIOT BERNSTEIN: What?

11 THE COURT: They called parties.

12 MR. ELIOT BERNSTEIN: She is a party.

13 THE COURT: She is not considered a party.

14 MR. ELIOT BERNSTEIN: She is not a
15 trustee.

16 THE HONORABLE DIANA LEWIS: I'm a
17 guardian.

18 THE COURT: She is a guardian of the trust
19 of the children. How long was your --

20 MR. ELIOT BERNSTEIN: Probably 15, 20
21 minutes. And then I have Ted Bernstein that I
22 was going to call and Alan Rose perhaps.
23 Probably 30, 40 minutes more at least.

24 THE COURT: You didn't tell me that until
25 right now.

1 MR. ELIOT BERNSTEIN: You gave two hours.

2 THE COURT: Let's finish it. Go ahead and

3 --

4 MR. ELIOT BERNSTEIN: I have got to leave.

5 THE COURT: This is the second time you
6 have done that but I'm willing to today. I
7 made it clear we are going to conclude this
8 hearing. If you want to call Diana Lewis today
9 she is here. We can conclude this. You said
10 20 minutes.

11 MR. ELIOT BERNSTEIN: I don't have time.

12 THE COURT: By 5:00.

13 MR. ELIOT BERNSTEIN: Your order said two
14 hours.

15 THE COURT: Wait, Mr. Bernstein. We are
16 not going to play this game because I want to
17 conclude this hearing. When you're telling me
18 there is other commitments, everyone in here
19 has other commitments. I want to conclude this
20 hearing because this has been set for this
21 time, this particular motion as well, is my
22 recollection. So I don't want to misstate. At
23 the last hearing I set this one. We had two
24 matters set. I want to conclude this today.
25 Last time I continued it because you told me

1 you had other commitments.

2 MR. ELIOT BERNSTEIN: And I do again. I'm
3 sorry. But, listen, you can go on without me.

4 THE COURT: Wait but I want to be very
5 clear. I'll stay and let you call your
6 witnesses that are here.

7 MR. ELIOT BERNSTEIN: You scheduled it for
8 two hours. I told you at the hearing that it
9 would take longer probably and you said no. So
10 now we are at the point where everybody used
11 all of the time. I hardly had any time.

12 THE COURT: You had equal time throughout
13 every witness.

14 MR. ELIOT BERNSTEIN: Okay.

15 THE COURT: As long as you understand the
16 Court is willing to stay. Are all of the other
17 attorneys willing to stay?

18 MR. ROSE: Yes.

19 MR. FEAMAN: Yes.

20 THE COURT: I want you to know I'll stay
21 for you.

22 MR. ELIOT BERNSTEIN: We should have
23 scheduled a proper time for the hearing.

24 THE COURT: I do appreciate your
25 position.

1 MR. ELIOT BERNSTEIN: Okay.

2 THE COURT: The Court will then be
3 ruling.

4 MR. ELIOT BERNSTEIN: Thank you,
5 everyone.

6 THE COURT: As you understand, Mr. Feaman,
7 we didn't get to your other hearing. I don't
8 have a JA today. I'm going to put it on the
9 table. I can't give you a date because when I
10 touch my calendar, I do bad things. I'll issue
11 another order, okay. I'll get these two orders
12 out. The Court is very aware that you all want
13 orders. I haven't had it that long so bear
14 with me. In fact --

15 MR. ROSE: Can we do that hearing now,
16 discharge administrator ad litem? It's to
17 discharge his funding obligations --

18 THE COURT: I am not going to do that
19 because I would have concluded, giving Mr.
20 Eliot time on the other one. I'm not going to
21 do the other one outside of his presence. I
22 wanted to finish this one which I made clear
23 from the beginning of this hearing.

24 Thank you very much. We're in recess.

25 THE BAILIFF: Court's in recess.

1 MR. FEAMAN: Could we do a two minute
2 closing?

3 THE COURT: I can do that.

4 MR. FEAMAN: I'm serious about two
5 minutes. I'm not going to go to five.

6 THE COURT: I can do that, absolutely.

7 Mr. Rose, do you want to start with
8 closing?

9 MR. ROSE: Sure. I will be very brief.
10 It's the same argument we made in our written
11 final argument, you know, these are proceedings
12 to administer an estate. I think, as I said in
13 my written final argument, I think your choice
14 is fairly simple and binding one way or the
15 other.

16 Are you going to let O'Connell run the
17 estate the way he thinks is best? You have
18 heard testimony of O'Connell and Bernstein as
19 to what is best for the estate, to reduce
20 costs, speed things up, and it's what Mr.
21 O'Connell wants to do.

22 You have seen that Mr. Stansbury even
23 moved the Court to speed up the case because
24 Mr. O'Connell wasn't available. He's a busy
25 trial lawyer. It's in evidence. He blocked

1 off months at a time because he had other
2 cases. So in order to move the cases along --
3 and you can't close this estate until we try to
4 understand Mr. Stansbury's claim. So we
5 respectfully request that you allow Mr.
6 O'Connell's plan that we support to go into
7 effect.

8 This idea of a conflict of interest is
9 really a red herring. Clearly everyone has a
10 conflicting interest. Mr. Stansbury is aligned
11 with the estate in Illinois because he wants
12 the money to come in and he wants to take it
13 out at the other end.

14 But you should not allow the person who is
15 suing the estate for two and a half million
16 dollars to get to choose who sits at the table
17 to defend him. He wants a less qualified, less
18 experienced attorney, or a less knowledgeable
19 attorney. And Mr. O'Connell's testimony is
20 that he has two commercial litigators in his
21 firm. That is not a lot of commercial
22 litigators in a firm. We are a litigation
23 boutique with 14 lawyers but only do commercial
24 litigation.

25 And you heard from Mr. Bernstein. He is

1 trying to do what is in the best interest of
2 his family, who are the beneficiaries, to
3 protect them from Mr. Stansbury and we would
4 like you to allow that plan to go into effect.

5 THE COURT: Mr. Eliot.

6 MR. ELIOT BERNSTEIN: I object to
7 everything. I have got to go. I object that
8 the hearing is going on without me.

9 THE COURT: It's not. If you don't want
10 to do a closing, Mr. Feaman.

11 MR. ELIOT BERNSTEIN: No. I was denied
12 time to do this by the Court.

13 THE COURT: Again, we'll stay until five.
14 Call your witnesses.

15 MR. ELIOT BERNSTEIN: No. It's okay.

16 (Mr. Eliot Bernstein left the courtroom)

17 THE COURT: Okay. Mr. Feaman.

18 MR. FEAMAN: In order to try to
19 crystallize for the Court why there is a
20 conflict that precludes Mr. Ted Bernstein from
21 becoming the administrator ad litem -- and, by
22 the way, it's not that Mr. Stansbury wants to
23 tell the Court who it should be. First of all,
24 there doesn't have to be an administrator ad
25 litem.

1 Mr. O'Connell never said he's not
2 available to sit at counsel table coming up.
3 There has been no testimony on the record
4 prospectively, only retrospectively that
5 somehow he can't attend. No testimony that he
6 couldn't. There is no lawyer from his office
7 but the lawyer is a different thing.

8 So to crystallize the conflict, let's
9 reverse the order of things. Let's say that
10 Mr. Ted was appointed administrator ad litem
11 first before the Chicago action existed and he
12 is representing the estate in connection with
13 Mr. Stansbury's action against the estate.
14 Okay. He is also the successor trustee to the
15 pour-over trust. Okay. No argument there.

16 Now, let's say that Mr. Ted Bernstein then
17 decides that he is going to bring an action to
18 fight over this 1.7 million dollars that the
19 estate says that's our money. Mr. Ted
20 Bernstein says no, that's my money. And so
21 then all of a sudden he's now becoming
22 plaintiff up there.

23 The personal representative or anybody,
24 any beneficiaries, interested person of the
25 estate could now easily say now, wait a minute,

1 Mr. Personal Representative, you need to take a
2 look at this because where once Mr. Ted
3 Bernstein had no conflict, now he is fighting
4 over this 1.7 million dollars. He's clearly
5 adverse to the estate. How can he hold a
6 fiduciary position as administrator ad litem on
7 behalf of the estate because now it's changed.
8 Now he is adverse.

9 So I think it crystallizes if you reverse
10 the chronological order of things to show that,
11 gee, now he clearly holds a conflict of
12 interest and he should step down as the
13 administrator ad litem. It makes no difference
14 what order it comes in but it does crystallize
15 the fact that Mr. Ted Bernstein and that has
16 nothing to do with Mr. Rose. But just, Mr. Ted
17 Bernstein, you're trying to keep 1.7 million
18 dollars out of the hands of the estate. On
19 paper that is a conflict. Under the law that I
20 mentioned in opening statement and under the
21 statute that a person holding fiduciary duty
22 should not, that position should not be blessed
23 by this Court. Thank you.

24 MR. ROSE: Just if you look at his cases,
25 they are situations where you're actually suing

1 the estate. We are not suing the estate. We
2 are both parties in an interpleader trying to
3 determine what did Simon Bernstein intend to
4 happen to his life insurance proceeds. That
5 case is going to happen whatever happens.

6 Mr. O'Connell is correct, it's apples and
7 oranges, and you have got to look at what's in
8 the best interest of these estates to get the
9 case done quickly, cheaply and efficiently.
10 And I don't know how you're going to, you know,
11 not think it's in the best interest to have the
12 guy that knows the facts sitting at the table
13 for free defending the estate and there is no
14 one that has suggested he's going to do a bad
15 job or not going to do it wholeheartedly.

16 I believe we -- obviously, it's your
17 decision. We think that if you go the path of
18 letting them set this course, that I don't know
19 where the estate goes from here because the
20 case was floundering.

21 THE COURT: All right. We got it. Thank
22 you, everyone, very much. Court is in recess.

23 (At 4:20 p.m., Court stood in recess)
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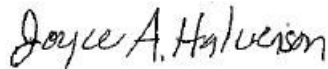
C E R T I F I C A T E

STATE OF FLORIDA

COUNTY OF PALM BEACH

I, JOYCE A. HALVERSON, Court Reporter,
certify that I was authorized to and did
stenographically report the foregoing
proceedings and that the transcript is a true
record.

Dated this 23rd day of March 2017.



JOYCE A. HALVERSON
Court Reporter