

cause, any persons or corporations, including itself, as ancillary administrators to administer property in other jurisdictions, with the same powers, privileges and immunities as my fiduciary and without bond.

n. Tax Elections. To file tax returns, and to exercise all tax-related elections and options at their discretion, without compensating adjustments or reimbursements between any accounts or any beneficiaries.

3. Survivorship. A beneficiary is not deemed to survive me unless he or she survives me by five days.

4. Death Costs. My fiduciary shall pay (a) from the residuary estate my debts which are allowed as claims against my estate, (b) from the residuary estate my funeral expenses without regard to legal limitations, (c) from the residuary estate the expenses of administering my estate and (d) from the residuary estate other than the portion of the residuary estate qualifying for the marital deduction under the laws then in effect, without apportionment, all estate, inheritance and succession taxes (excluding generation-skipping taxes other than with respect to direct skips), and interest and penalties thereon, due because of my death and attributable to all property whether passing under this Will or otherwise and not required by the terms of the Existing Trust to be paid out of said trust. However, such taxes, penalties and interest payable out of my residuary estate shall not include taxes, penalties and interest attributable to (i) property over which I have a power of appointment granted to me by another person, (ii) qualified terminable interest property held in a trust of which I was the income beneficiary at the time of my death (other than qualified terminable interest property held in a trust for which an election was made under Code Section 2652(a)(3)), and (iii) life insurance proceeds on policies insuring my life which proceeds are not payable to my probate estate. My fiduciary shall not be reimbursed for any such payment from any person or property. However, my fiduciary in its discretion may direct that part or all of said death costs shall be paid by my Trustee as provided in the Existing Trust, and shall give such direction to the extent necessary so that the gifts made in Articles I and II of this Will and the gifts made in any codicil hereto shall not be reduced by said death costs.

5. Reimbursement for Debts and Expenses. My fiduciary shall promptly reimburse my friends and members of my family who have disbursed their own funds for the payment of any debts, funeral expenses or costs of administration of my estate.

6. Expenses of Handling Tangible Personal Property. All expenses incurred by my fiduciary during the settlement of my estate in appraising, storing, packing, shipping, delivering or insuring an article of tangible personal property passing under this Will shall be charged as an expense of administering my estate.

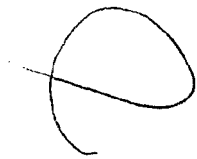
7. Dealing with Estate. Each fiduciary may act under this Will even if interested in my estate in an individual capacity, as a fiduciary of another estate or trust (including any trust identified in this Will or created under the Existing Trust) or in any other capacity. Each fiduciary may in good faith buy from, sell to, lend funds to or otherwise deal with my estate.



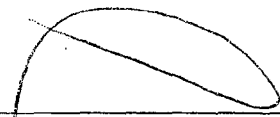
8. **Spouse.** The term "*spouse*" herein means, as to a designated individual, the person to whom that individual is from time to time married.

9. **Other Beneficiary Designations.** Except as otherwise explicitly and with particularity provided herein, (a) no provision of this Will shall revoke or modify any beneficiary designation of mine made by me and not revoked by me prior to my death under any individual retirement account, other retirement plan or account, or annuity or insurance contract, (b) I hereby reaffirm any such beneficiary designation such that any assets held in such account, plan, or contract shall pass in accordance with such designation, and (c) regardless of anything herein to the contrary, any of such assets which would otherwise pass pursuant to this Will due to the beneficiary designation not having met the requirements for a valid testamentary disposition under applicable law or otherwise shall be paid as a gift made hereunder to the persons and in the manner provided in such designation which is incorporated herein by this reference.

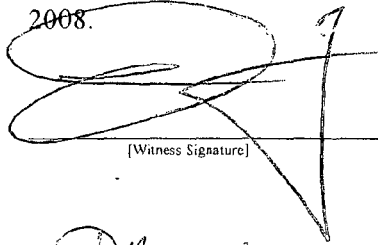
*[remainder of page intentionally left blank]*


A large, handwritten signature or mark, possibly a stylized 'S' or a similar symbol, located in the lower right quadrant of the page.

I have published and signed this instrument as my Will at Boca Raton, Florida, on the 20 day of MAY, 2008.

  
\_\_\_\_\_  
SHIRLEY BERNSTEIN

This instrument, consisting of this page numbered 7 and the preceding typewritten pages, was signed, sealed, published and declared by the Testatrix to be the Testatrix's Will in our presence, and at the Testatrix's request and in the Testatrix's presence, and in the presence of each other, we have subscribed our names as witnesses at Boca Raton, Florida on this 20 day of MAY, 2008.

  
\_\_\_\_\_  
[Witness Signature] residing at 2357 Wisconsin Ave  
\_\_\_\_\_  
[Witness Address] Panama, FL 33076  
\_\_\_\_\_  
[Witness Address]

  
\_\_\_\_\_  
[Witness Signature] residing at 23415 Boca Trace Dr  
\_\_\_\_\_  
[Witness Address] Boca Raton, FL 33433  
\_\_\_\_\_  
[Witness Address]

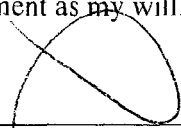


State Of Florida

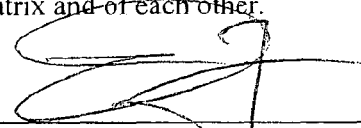

SS.

County Of Palm Beach

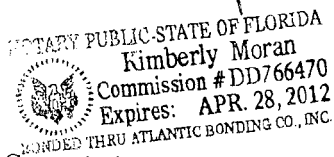
I, SHIRLEY BERNSTEIN, declare to the officer taking my acknowledgment of this instrument, and to the subscribing witnesses, that I signed this instrument as my will.

  
SHIRLEY BERNSTEIN, Testatrix

We, Robert L. Spallina and Diana Banks,  
have been sworn by the officer signing below, and declare to that officer on our oaths that the Testatrix declared the instrument to be the Testatrix's will and signed it in our presence and that we each signed the instrument as a witness in the presence of the Testatrix and of each other.

  
Witness  
  
Witness

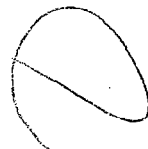
Acknowledged and subscribed before me, by the Testatrix, SHIRLEY BERNSTEIN, who is personally known to me or who has produced \_\_\_\_\_ (state type of identification) as identification, and sworn to and subscribed before me by the witnesses, Robert L. Spallina, who is personally known to me or who has produced \_\_\_\_\_ (state type of identification) as identification, and Diana Banks, who is personally known to me or who has produced \_\_\_\_\_ (state type of identification) as identification, and subscribed by me in the presence of SHIRLEY BERNSTEIN and the subscribing witnesses, all on this 20 day of May, 2008.



Kimberly Moran  
Signature - Notary Public-State of Florida

[Seal with Commission Expiration Date]

Print, type or stamp name of Notary Public



Estate of Simon Bernstein  
Litigation Pleadings

11187.006

**IN THE CIRCUIT COURT IN AND FOR PALM BEACH COUNTY, FLORIDA****IN RE: ESTATE OF SIMON BERNSTEIN, Deceased****CASE NO. 50 2012 CP 004391 IZ XXXX SB**

Judge: MARTIN H. COLIN  
 Room #:  
 Telephone: 561-330-1750  
 Clerk's Office Tel.: 561-274-1588  
 (For **Ex Parte**, request file by **10:00 a.m.**)

DOD: **09/13/2012**  
 SS#: **371-32-5211**  
 Estate ID: **30-6329442**  
 Trust ID: **30-6329441**  
[www.15thcircuit.com/probate](http://www.15thcircuit.com/probate)

**FOR EX PARTE: Request file by 10:00 a.m. the day prior online at [www.15thcircuit.com/probate](http://www.15thcircuit.com/probate)**

Our File No. **11187.006**

No.	Description	Filing Date
	Appoint New Personal Representatives, Investigate Forged and Fraudulent Documents Submitted to This Court and Other Interested Parties, Rescind Signature of Eliot Bernstein in Estate of Shirley Bernstein and More	
9.	Inventory	June 11, 2013
10.	Motion to: Consider In Ordinary Course the Emergency Petition to Freeze Estate Assets, Appoint New Personal Representatives, Investigate Forged and Fraudulent Documents Submitted to this Court and Other Interested Parties...	June 26, 2013
11.	Motion to Respond to the Petitions by the Respondents	July 15, 2013
12.	Motion to Remove Personal Representatives	July 24, 2013
13.	Notice of Motion for: Interim Distribution for Beneficiaries Necessary Living Expenses, Family Allowance, Legal Counsel Expenses to be Paid by Personal Representatives and Reimbursement to Beneficiaries School Trust Funds	August 28, 2013
14.	Notice of Emergency Motion to Freeze Estates of Simon Bernstein Due to Admitted and Acknowledged Notary Public Forgery, Fraud and More...	Sept. 4, 2013
15.	Order Denying Petitioner's Emergency Motion Filed September 4, 2013	Sept. 6, 2013
16.	Petition to Determine and Release Title of Exempt Property	October 10, 2013

**IN THE CIRCUIT COURT IN AND FOR PALM BEACH COUNTY, FLORIDA****IN RE: ESTATE OF SIMON BERNSTEIN, Deceased****CASE NO. 50 2012 CP 004391 IZ XXXX SB**

Judge: David French

Room #:

Telephone: 561-330-1750

Clerk's Office Tel.: 561-274-1588

For **Ex Parte**, request file at [www.15thcircuit.com/probate](http://www.15thcircuit.com/probate) by 2:00 the day prior of UMCDOD: **09/13/2012**SS#: **371-32-5211**Estate ID: **30-6329442**Trust ID: **30-6329441**Our File No. **11187.006**

No.	Description	Filing Date
1.	Will of Simon Bernstein dtd. July 25, 2012	October 2, 2012
2.	Simon L. Bernstein Amended and Restated Trust Agreement dated July 25, 2012	
3.	Proof of Service of Emergency Petition to: Freeze Estate Assets, Appoint New Personal Representatives, Investigate Forged and Fraudulent Documents Submitted to this Court and Other Interested Parties, Rescind Signature of Eliot Bernstein in Estate of Shirley Bernstein and More	May 6, 2013
4.	Order Denying Proof of Service of Emergency Petition to: Freeze Estate Assets, Appoint New Personal Representatives, Investigate Forged and Fraudulent Documents Submitted to this Court and Other Interested Parties, Rescind Signature of Eliot Bernstein in Estate of Shirley Bernstein and More	May 8, 2013
5.	Amended Order Denying Proof of Service of Emergency Petition to: Freeze Estate Assets, Appoint New Personal Representatives, Investigate Forged and Fraudulent Documents Submitted to this Court and Other Interested Parties, Rescind Signature of Eliot Bernstein in Estate of Shirley Bernstein and More	May 8, 2013
6.	Proof of Service of Emergency Petition to: Freeze Estate Assets, Appoint New Personal Representatives, Investigate Forged and Fraudulent Documents Submitted to this Court and Other Interested Parties, Rescind Signature of Eliot Bernstein in Estate of Shirley Bernstein and More	May 14, 2013
7.	Renewed Emergency Petition to: Freeze Estate Assets, Appoint New Personal Representatives, Investigate Forged and Fraudulent Documents Submitted to this Court and Other Interested Parties, Rescind Signature of Eliot Bernstein in Estate of Shirley Bernstein and More	May 29, 2013
8.	Order Denying Renewed Emergency Petition to: Freeze Estate Assets,	May 30, 2013

TO REORDER CALL 954-846-9399



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TO REORDER CALL 954-846-9399



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TO REORDER CALL 954-846-9399



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TO REORDER CALL 954-346-9399



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TO REORDER CALL 954-846-9399



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TO REORDER CALL 954-846-9399



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TO REORDER CALL 954-546-9399



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TO REORDER CALL 954-846-9399



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TO REORDER CALL 954-346-9399



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ORIGINAL RECEIVED

**OCT 10 2013**

SHARON R. BOCK  
CLERK & COMPTROLLER  
PALM BEACH COUNTY

IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL

IN RE: ESTATE OF

PROBATE DIVISION

SIMON L. BERNSTEIN

FILE NO. 502012CP004391XXXXSB

DECEASED

DIVISION: FRENCH

PETITIONER

ELIOT BERNSTEIN

PRO SE

PETITION TO DETERMINE AND RELEASE TITLE OF EXEMPT PROPERTY

Petitioner, Eliot Ivan Bernstein alleges:

1. Petitioner, whose address is 2753 NW 34<sup>th</sup> Street, Boca Raton, FL 33434, is the son of the decedent who, on the date of death, was domiciled in Florida.
2. That Petitioner is the father of the minor who is entitled by law to the exempt property is:

Joshua Bernstein, whose address is 2753 NW 34<sup>th</sup> Street, Boca Raton, FL 33434, and the grandson of Simon L. Bernstein, whose birthday is August 27, 1997 and is a minor.

3. This petition is filed within the time permitted by Section 732.402(6) of the Florida Probate Court.
4. Petitioner alleges the exempt property and the basis on which it is claimed to be exempt are as follows:

That on August 25, 2012, Simon Bernstein purchased, titled, insured and registered an automobile, in his name, from Delray Kia, 2255 S. Federal Hwy, in Delray Beach FL, for the benefit of his grandson, Joshua Bernstein and paid for the car, title and tags in full. The car is described as:

Silver, 2013 Kia Soul, VIN # KNDJT2A50D7497193, license plate # BGFC36

That on August 26, 2012, after Sunday Brunch together, Simon Bernstein, dressed the car in balloons, and gave the car to his grandson Joshua for his birthday as a surprise, of which, there are several witnesses, pictures and a birthday video. The car was then driven home to Joshua and Petitioner's place of residence and driven for the benefit of Joshua thereafter. This was the last time Joshua saw his grandfather alive and will always be a special memory in his heart forever.



That Simon's intentions were to transfer the title of ownership to Joshua when he received the car title via US Postal mail. That on September 13, 2012, Simon Bernstein passed away. Given the short time (2 weeks) in between the two events and the original title to the car not being received in the mail yet, on the date of Simon's death the car was still in his Simon's name and not transferred to Joshua.

Petitioner notified Robert Spallina, the alleged Personal Representative of the Estate of Simon Bernstein, the circumstances and was guaranteed the issue would be resolved.

That at midnight on December 2, 2012 the issue was still not resolved and the registration for the vehicle expired. Petitioner again contacted Robert Spallina and was informed that for no specified reason the postal mail belonging to Simon Bernstein was being forwarded to Joshua's uncle, Ted Bernstein at 880 Berkeley Street in Boca Raton, Florida and to contact him regarding the title and the expired registration notices that were sent in the mail. Immediately after Simon's death, Ted Bernstein took control and possession of all Simon Bernstein's mail, took control and possession of all Simon Bernstein's files, including personal and business related files, including those related to the purchase of the car and is tampering, suppressing and denying them the same. Ted Bernstein refuses to forward the above information to Petitioner after several requests and is in control, refusing to forward, tampering and suppressing the above information to the alleged Personal Representatives, Robert Spallina and Donald Tescher and their law firm Tescher & Spallina, P.A.

That as of this date, October 10, 2013, and beginning on December 2, 2012, the above mentioned gifted automobile has been sitting on the street at 2753 NW 34<sup>th</sup> Street, Boca Raton, Florida, unregistered, uninsured (at risk to the estate of the Simon Bernstein) and un-drivable by the rightful owner Joshua Bernstein against the wishes of his grandfather, the decedent, Simon Bernstein. That a sixteen year old boy, Joshua Bernstein, has to walk by his automobile every day and be remembered of his grandfather's special gift and those responsible for preventing him from having it, namely his uncle, Ted Bernstein, who ironically shares the same birthday as Joshua, and Robert Spallina and Donald Tescher.

That Robert Spallina, as Personal Representative and counsel for the estate, has refused to resolve this issue and continues to put the estate at risk and breach their fiduciary duties. Due to the Personal Representatives lack of duty and care and abuse of powers that allow Ted Bernstein control and tampering of Simon Bernstein's mail and documents and therefore aiding in suppression, tampering and mis-handling of original documents and titles is causing severe damages and injury to the beneficiaries of the decedent. This seems to be a conspired effort by Ted Bernstein and the Personal Representatives to interfere with the administration of the estate, create disputes among the beneficiaries, generate more legal fees, and cause harm to all involved as other documents are missing as well, including a Life Insurance Trust that is a beneficiary of a life insurance policy currently in litigation in the State of Illinois where Ted Bernstein is trying to convert the proceeds to himself against the insurers request to get a court order from this court. Other documents have been admittedly forged and fraudulent in the administration of the estate of Shirley Bernstein and Fraud on the Court before Hon Judge Martin H. Colin and continues by these same named fiduciary conspirators. From all these actions, Petitioner has lost all trust and faith and comes to this court to remedy these wrong-doings as no other option is available.



Petitioner prays that this Court can rectify the above matter and resolve this issue and demand the original car title be transferred to Joshua Bernstein so that the automobile can be properly titled, registered, insured and drivable by the rightful owner, Joshua Bernstein and stop the anguish and harm these actions are causing, again to a sixteen year old boy.

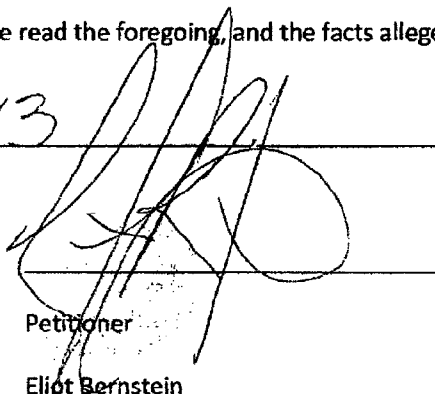
Petitioner requests that all current fiduciaries including but not limited to Personal Representatives, Estate Counsel and Trustees be removed for this willful, wanton, reckless, and gross negligent behavior and disregard of law by the alleged fiduciaries of the estate and estate counsel.

Petitioner requests that a court order be entered determining the persons entitled to the above-described property as exempt property under Section 732.402 of the Florida Probate Code and authorizing and directing the Personal Representatives to deliver and transfer the title of ownership.

Under penalties of perjury, I declare that I have read the foregoing, and the facts alleged are true, to the best of my knowledge and belief.

Signed on

October 10, 2013



Petitioner

Eliot Bernstein

PRO SE

I CERTIFY that a copy hereof has been furnished to:

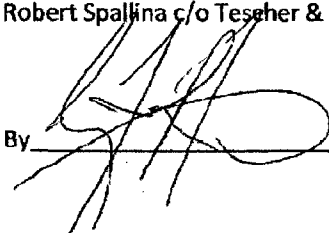
Ted Bernstein

Donald Tescher Co-Personal Representative of the Estate of Simon Bernstein

Robert Spallina, Co-Personal Representative of the Estate of Simon Bernstein

Robert Spallina c/o Tescher & Spallina, P.A. counsel for the Estate of Simon Bernstein

By



on

October 10, 2013



RECYCLED PAPER



TO REORDER CALL 954-846-9399

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT  
IN AND FOR PALM BEACH COUNTY FLORIDA

IN RE THE ESTATE OF:  
SIMON BERNSTEIN,

CASE NO.: 2012CP004391 IX

Deceased,

\_\_\_\_\_  
ELIOT IVAN BERNSTEIN, PRO SE,  
Petitioner,

And

TESCIER & SPALLINA, P.A., (AND ALL PARTNERS,  
ASSOCIATES AND OF COUNSEL); ROBERT L.  
SPALLINA (BOTH PERSONALLY & PROFESSIONALLY);  
DONALD R. TESCHER (BOTH PERSONALLY &  
PROFESSIONALLY); THEODORE STUART BERNSTEIN  
(AS ALLEGED PERSONAL REPRESENTATIVE,  
TRUSTEE, SUCCESSOR TRUSTEE) (BOTH  
PERSONALLY AND PROFESSIONALLY); AND JOHN  
AND JANE DOE'S (1-5000)  
Respondents,

**ORDER DENYING PETITIONER'S EMERGENCY MOTION**  
**FILED SEPTEMBER 4, 2013**

**THIS CAUSE** submitted to the Court on September 4, 2013, the Petitioner's Emergency Motion, filed September 4, and the Court having carefully considered said Motion and the Court file, finds:

The Court hereby determines only that the Motion is legally insufficient. Accordingly, it is

**ORDERED AND ADJUDGED** that the Motion is **DENIED**.

**DONE AND ORDERED** in Chambers this \_\_\_\_ day of September, 2013 at West Palm Beach, Palm Beach County, Florida.

**SIGNED & DATED**  
**SEP 06 2013**  
\_\_\_\_\_  
DAVID FRENCH, JUDGE  
CIRCUIT JUDGE  
DAVID E. FRENCH

cc:

Robert L. Spallina, Esq.  
Tescher & Spallina, P.A.  
Boca Village Corporate Center I  
4855 Technology Way, Suite 720  
Boca Raton, FL 33431

Donald Tescher, Esq.  
Tescher & Spallina, P.A.  
Boca Village Corporate Center I  
4855 Technology Way, Suite 720  
Boca Raton, FL 33431

Life Insurance Concepts  
950 Peninsula Corporate Circle, Suite 3010  
Boca Raton, Florida 33487

Lisa Sue Friedstein  
2142 Churchill Lane  
Highland Park IL 60035

Jill Marla Iantoni  
2101 Magnolia Lane  
Highland Park, IL 60035

Pamela Beth Simon  
950 North Michigan Avenue  
Suite 2603  
Chicago, IL 60611

Eliot Ivan Bernstein  
2753 NW 34th St.  
Boca Raton, FL 33434

Eliot I. Bernstein  
2753 NW 34<sup>th</sup> St.  
Boca Raton, FL 33434

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT  
IN AND FOR PALM BEACH COUNTY FLORIDA

IN RE THE ESTATE OF:  
SIMON BERNSTEIN,

CASE NO.: 2012CP004391 IX

Deceased,

\_\_\_\_\_  
ELIOT IVAN BERNSTEIN, PRO SE,  
Petitioner,

And

TESCIER & SPALLINA, P.A., (AND ALL PARTNERS,  
ASSOCIATES AND OF COUNSEL); ROBERT L.  
SPALLINA (BOTH PERSONALLY & PROFESSIONALLY);  
DONALD R. TESCHER (BOTH PERSONALLY &  
PROFESSIONALLY); THEODORE STUART BERNSTEIN  
(AS ALLEGED PERSONAL REPRESENTATIVE,  
TRUSTEE, SUCCESSOR TRUSTEE) (BOTH  
PERSONALLY AND PROFESSIONALLY); AND JOHN  
AND JANE DOE'S (1-5000)  
Respondents,

**ORDER DENYING PETITIONER'S EMERGENCY MOTION**  
**FILED SEPTEMBER 4, 2013**

**THIS CAUSE** submitted to the Court on September 4, 2013, the Petitioner's Emergency Motion, filed September 4, and the Court having carefully considered said Motion and the Court file, finds:

The Court hereby determines only that the Motion is legally insufficient. Accordingly, it is

**ORDERED AND ADJUDGED** that the Motion is **DENIED**.

**DONE AND ORDERED** in Chambers this \_\_\_\_ day of September, 2013 at West Palm Beach, Palm Beach County, Florida.

**SIGNED & DATED**  
**SEP 06 2013**  
\_\_\_\_\_  
DAVID FRENCH JUDGE  
CIRCUIT JUDGE  
DAVID E. FRENCH

cc:

Robert L. Spallina, Esq.  
Tescher & Spallina, P.A.  
Boca Village Corporate Center I  
4855 Technology Way, Suite 720  
Boca Raton, FL 33431

Donald Tescher, Esq.  
Tescher & Spallina, P.A.  
Boca Village Corporate Center I  
4855 Technology Way, Suite 720  
Boca Raton, FL 33431

Life Insurance Concepts  
950 Peninsula Corporate Circle, Suite 3010  
Boca Raton, Florida 33487

Lisa Sue Friedstein  
2142 Churchill Lane  
Highland Park IL 60035

Jill Marla Iantoni  
2101 Magnolia Lane  
Highland Park, IL 60035

Pamela Beth Simon  
950 North Michigan Avenue  
Suite 2603  
Chicago, IL 60611

Eliot Ivan Bernstein  
2753 NW 34th St.  
Boca Raton, FL 33434

Eliot I. Bernstein  
2753 NW 34<sup>th</sup> St.  
Boca Raton, FL 33434





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TO REORDER CALL 954-946-9399

IN THE CIRCUIT COURT OF THE FIFTEEN JUDICIAL CIRCUIT

IN AND FOR PALM BEACH COUNTY, FLORIDA

IN RE: THE ESTATE OF

CASE NO. 502012CP004391XXXXSB

SIMON BERNSTEIN,

NOTICE OF MOTION

Deceased

JUDGE DAVID E. FRENCH

\_\_\_\_\_  
ELIOT IVAN BERNSTEIN, PRO SE

PETITIONER.

V.

TESCHER & SPALLINA, P.A., (AND ALL PARTNERS,  
ASSOCIATES AND OF COUNSEL); ROBERT L.  
SPALLINA (BOTH PERSONALLY & PROFESSIONALLY);  
DONALD R. TESCHER (BOTH PERSONALLY &  
PROFESSIONALLY); THEODORE STUART BERNSTEIN  
(AS ALLEGED PERSONAL REPRESENTATIVE,  
TRUSTEE, SUCCESSOR TRUSTEE) (BOTH  
PERSONALLY AND PROFESSIONALLY); AND JOHN  
AND JANE DOE'S (1-5000)

RESPONDENTS

\_\_\_\_\_  
**NOTICE OF EMERGENCY MOTION TO FREEZE ESTATES OF SIMON BERNSTEIN  
DUE TO ADMITTED AND ACKNOWLEDGED NOTARY PUBLIC FORGERY,  
FRAUD AND MORE BY THE LAW FIRM OF TESCHER & SPALLINA, P.A., ROBERT  
SPALLINA AND DONALD TESCHER ACTING AS ALLEGED PERSONAL  
REPRESENTATIVES AND THEIR LEGAL ASSISTANT AND NOTARY PUBLIC,  
KIMBERLY MORAN: MOTION FOR INTERIM DISTRIBUTION DUE TO  
EXTORTION BY ALLEGED PERSONAL REPRESENTATIVES AND OTHERS;  
MOTION TO STRIKE THE MOTION OF SPALLINA TO REOPEN THE ESTATE OF**

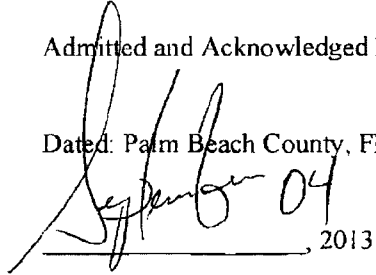
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SHARON R. BOCK  
CLERK & COMPTROLLER  
PALM BEACH COUNTY

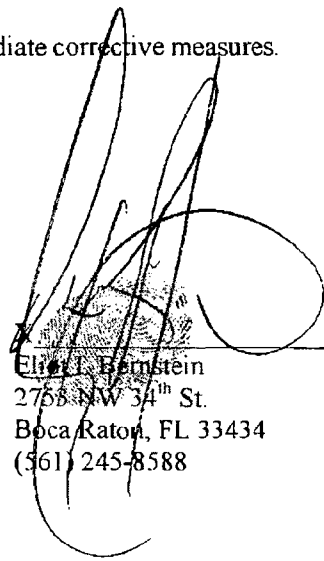
**SHIRLEY; CONTINUED MOTION FOR REMOVAL OF ALLEGED PERSONAL REPRESENTATIVES AND ALLEGED SUCCESSOR TRUSTEE**

**PLEASE TAKE NOTICE** that upon the accompanying affirmation; Pro Se Petitioner Eliot Ivan Bernstein will move this Court before the Honorable Judge David E. French, Circuit Judge, at the South County Courthouse, 200 West Atlantic Ave., Delray Beach, FL 33401, at a date and time to be determined by the Court, for an order to (i) **FREEZE ESTATES OF SIMON BERNSTEIN DUE TO ADMITTED AND ACKNOWLEDGED NOTARY PUBLIC FORGERY, FRAUD AND MORE BY THE LAW FIRM OF TESCHER & SPALLINA, P.A., ROBERT SPALLINA AND DONALD TESCHER ACTING AS ALLEGED PERSONAL REPRESENTATIVES AND THEIR LEGAL ASSISTANT AND NOTARY PUBLIC, KIMBERLY MORAN (ii) FOR INTERIM DISTRIBUTION DUE TO EXTORTION BY ALLEGED PERSONAL REPRESENTATIVES AND OTHERS (iii) TO STRIKE THE MOTION OF SPALLINA TO REOPEN THE ESTATE OF SHIRLEY and (iv) CONTINUED MOTION FOR REMOVAL OF ALLEGED PERSONAL REPRESENTATIVES AND ALLEGED SUCCESSOR TRUSTEE** and such other relief as the Court may find just and proper. That due to extraordinary circumstances defined herein that will cause an immediate lights out situation on Petitioner's family, including three minor children who are Beneficiaries of the estate, due to Admitted and Acknowledged Forgeries and Fraud by the alleged Personal Representatives and their Licensed Notary Public, Kimberly Moran ("Moran") submitted to the Florida Governor's Office Notary Public Investigations Division regarding documents of the estate filed with this Court, Petitioner requests this Court not wait for a hearing to be scheduled but instead act on its own motion immediately to stop these now **LIFE THREATENING EMERGENCIES** and to stop further crimes from being committed and order **EMERGENCY RELIEF AND PROTECTION** to the Beneficiaries to

curtail an attempted Extortion of Petitioner, as described herein. Note that the **ADMITTED FRAUD AND FORGERIES OF DOCUMENTS WAS SUBMITTED AS PART OF FRAUD ON THIS COURT DIRECTLY TO THIS COURT** and therefore these Admitted and Acknowledged Felony crimes detailed herein have been committed directly against this Court in addition to Petitioner, Beneficiaries and Interested Parties. This Court should therefore take immediate Judicial Notice of the facts contained herein, including but not limited to, Admitted and Acknowledged Forgeries and Fraud and take immediate corrective measures.

Dated: Palm Beach County, FL

 2013

  
 Eli J. Bernstein  
 2755 NW 34<sup>th</sup> St.  
 Boca Raton, FL 33434  
 (561) 245-8588

To:

**Respondents sent US Mail, Fax and Email**

Robert L. Spallina, Esq.  
 Tescher & Spallina, P.A.  
 Boca Village Corporate Center I  
 4855 Technology Way  
 Suite 720  
 Boca Raton, FL 33431  
[rspallina@tescherspallina.com](mailto:rspallina@tescherspallina.com)

Donald Tescher, Esq.  
 Tescher & Spallina, P.A.  
 Boca Village Corporate Center I  
 4855 Technology Way  
 Suite 720  
 Boca Raton, FL 33431  
[dtescher@tescherspallina.com](mailto:dtescher@tescherspallina.com)

Theodore Stuart Bernstein



Life Insurance Concepts  
950 Peninsula Corporate Circle, Suite 3010  
Boca Raton, Florida 33487  
[tbernstein@lifeinsuranceconcepts.com](mailto:tbernstein@lifeinsuranceconcepts.com)

**Interested Parties and Trustees for Beneficiaries**

Lisa Sue Friedstein  
2142 Churchill Lane  
Highland Park IL 60035  
[Lisa@friedsteins.com](mailto:Lisa@friedsteins.com)  
[lisa.friedstein@gmail.com](mailto:lisa.friedstein@gmail.com)

Jill Marla Iantoni  
2101 Magnolia Lane  
Highland Park, IL 60035  
[jilliantoni@gmail.com](mailto:jilliantoni@gmail.com)  
[Iantoni\\_jill@ne.bah.com](mailto:Iantoni_jill@ne.bah.com)

Pamela Beth Simon  
950 North Michigan Avenue  
Suite 2603  
Chicago, IL 60611  
[psimon@stpcorp.com](mailto:psimon@stpcorp.com)

Eliot Ivan Bernstein  
2753 NW 34th St.  
Boca Raton, FL 33434  
[iviewit@iviewit.tv](mailto:iviewit@iviewit.tv)  
[iviewit@gmail.com](mailto:iviewit@gmail.com)



IN THE CIRCUIT COURT OF THE FIFTEEN JUDICIAL CIRCUIT  
IN AND FOR PALM BEACH COUNTY, FLORIDA

IN RE: ESTATE OF  
SIMON BERNSTEIN,  
DECEASED

CASE NO. 502012CP004391XXXXSB  
PROBATE DIVISION  
JUDGE DAVID E. FRENCH

ELIOT IVAN BERNSTEIN, PRO SE

**AFFIRMATION**

PETITIONER,

V.

TESCHER & SPALLINA, P.A., (AND ALL PARTNERS,  
ASSOCIATES AND OF COUNSEL); ROBERT L.  
SPALLINA (BOTH PERSONALLY & PROFESSIONALLY);  
DONALD R. TESCHER (BOTH PERSONALLY &  
PROFESSIONALLY); THEODORE STUART BERNSTEIN  
(AS ALLEGED PERSONAL REPRESENTATIVE,  
TRUSTEE, SUCCESSOR TRUSTEE) (BOTH  
PERSONALLY AND PROFESSIONALLY); AND JOHN  
AND JANE DOE'S (1-5000)

RESPONDENTS.

\_\_\_\_\_ /

**AFFIRMATION**

I, Eliot Ivan Bernstein, make the following affirmation under penalties of perjury:

I, Eliot Ivan Bernstein, am the Pro Se Petitioner ("Petitioner") in the above entitled action, and respectfully move this Court to issue an order to, Freeze the Estate of both Simon Bernstein ("Simon") and Shirley Bernstein ("Shirley") due to **ADMITTED AND ACKNOWLEDGED**

Page 5 of 58  
Motion to Freeze Estates and More

**CRIMINAL ACTS, INCLUDING BUT NOT LIMITED TO, FORGERY, NOTARY PUBLIC FRAUD, FRAUD ON THIS COURT, FRAUD ON THE BENEFICIARIES AND INTERESTED PARTIES AND INTERSTATE MAIL & WIRE FRAUD IN SHIRLEY'S ESTATE DOCUMENTS** and such other relief as the Court may find just and proper. These Criminal Acts were committed in the estate by the Law Firm of Tescher & Spallina, P.A. ("TSPA"), Robert Spallina ("Spallina") and Donald Tescher ("Tescher") acting as alleged Personal Representatives, acting further as Employer to their Legal Assistant and Licensed Notary Public, Kimberly Moran ("Moran") and finally acting in collusion with Theodore Bernstein ("Ted"), all acting under alleged Fiduciary Powers illegally gained through alleged Fraud as evidenced herein.

The reasons why I am entitled to the relief I seek are the following, based on information and belief:

#### INTRODUCTION

- I. That on May 6, 2013 Petitioner filed Docket #23 an **"EMERGENCY PETITION TO: FREEZE ESTATE ASSETS, APPOINT NEW PERSONAL REPRESENTATIVES, INVESTIGATE FORGED AND FRAUDULENT DOCUMENTS SUBMITTED TO THIS COURT AND OTHER INTERESTED PARTIES, RESCIND SIGNATURE OF ELIOT BERNSTEIN IN ESTATE OF SHIRLEY BERNSTEIN AND MORE"** ("Petition 1").

- i. [www.rviewit.tv/20130506PetitionFreezeEstates.pdf](http://www.rviewit.tv/20130506PetitionFreezeEstates.pdf) 15th Judicial Florida Probate Court and

ii. [www.iviewit.tv/20130512MotionRehearReopenObstruction.pdf](http://www.iviewit.tv/20130512MotionRehearReopenObstruction.pdf) US District Court  
Pages 156-582

2. That on May 29, 2013, Petitioner filed Docket #28 **“RENEWED EMERGENCY PETITION”** (“Petition 2”)

i. [www.iviewit.tv/20130529RenewedEmergencyPetitionSimon.pdf](http://www.iviewit.tv/20130529RenewedEmergencyPetitionSimon.pdf)

3. That on June 26, 2013, Docket #31 Petitioner filed a **“MOTION TO: CONSIDER IN ORDINARY COURSE THE EMERGENCY PETITION TO FREEZE ESTATE ASSETS, APPOINT NEW PERSONAL REPRESENTATIVES, INVESTIGATE FORGED AND FRAUDULENT DOCUMENTS SUBMITTED TO THIS COURT AND OTHER INTERESTED PARTIES, RESCIND SIGNATURE OF ELIOT BERNSTEIN IN ESTATE OF SHIRLEY BERNSTEIN AND MORE FILED BY PETITIONER”** (“Petition 3”)

i. [www.iviewit.tv/20130626MotionReconsiderOrdinaryCourseSimon.pdf](http://www.iviewit.tv/20130626MotionReconsiderOrdinaryCourseSimon.pdf)

4. That on July 15, 2013, Petitioner filed Docket #32 **“MOTION TO RESPOND TO THE PETITIONS BY THE RESPONDENTS”** (“Petition 4”)

i. [www.iviewit.tv/20130714MotionRespondPetitionSimon.pdf](http://www.iviewit.tv/20130714MotionRespondPetitionSimon.pdf)

5. July 24, 2013 Docket #33 **“MOTION TO REMOVE PERSONAL REPRESENTATIVES”** for insurance fraud and more. (“Petition 5”)

i. [www.iviewit.tv/20130724SimonMotionRemovePR.pdf](http://www.iviewit.tv/20130724SimonMotionRemovePR.pdf)

A handwritten signature in black ink is written over a circular stamp. The stamp contains the text "Page 7 of 58".

Motion to Freeze Estates and More



6. That on August 28, 2013, Petitioner filed Docket #TBD **“NOTICE OF MOTION FOR: INTERIM DISTRIBUTION FOR BENEFICIARIES NECESSARY LIVING EXPENSES, FAMILY ALLOWANCE, LEGAL COUNSEL EXPENSES TO BE PAID BY PERSONAL REPRESENTATIVES AND REIMBURSEMENT TO BENEFICIARIES SCHOOL TRUST FUNDS”** (“Petition 6”)

i. [www.iviewit.tv/20130828MotionFamilyAllowanceShirley.pdf](http://www.iviewit.tv/20130828MotionFamilyAllowanceShirley.pdf)

**MOTION TO FREEZE ESTATES OF SHIRLEY BERNSTEIN DUE TO ADMITTED AND ACKNOWLEDGED NOTARY PUBLIC FRAUD BY THE LAW FIRM OF TESCHER & SPALLINA, P.A., ROBERT SPALLINA AND DONALD TESCHER ACTING AS ALLEGED PERSONAL REPRESENTATIVES AND THEIR LEGAL ASSISTANT AND NOTARY PUBLIC, KIMBERLY MORAN**

7. That in the aforesaid Petitions 1-6, Petitioner prayed to this Court already to Freeze the Estates of both Simon and Shirley on various grounds of alleged criminal activity claimed in Petitions 1-6. Petitioner requests this Court to consider allegations stated in those Petitions as part of this Motion and now reconsider them in light of the newly **ADMITTED AND ACKNOWLEDGED CRIMINAL ACTS, INCLUDING BUT NOT LIMITED TO, FORGERY<sup>1</sup>, NOTARY PUBLIC FRAUD<sup>2</sup>, FRAUD ON THIS COURT<sup>3</sup>, FRAUD ON**

<sup>1</sup> 831.02 Uttering forged instruments.—Whoever utters and publishes as true a false, forged or altered record, deed, instrument or other writing mentioned in s. 831.01 knowing the same to be false, altered, forged or counterfeited, with intent to injure or defraud any person, shall be guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.  
History.—s. 2, ch. 1637, 1868; RS 2480; GS 3360; RGS 5208; CGL 7326; s. 2, ch. 59-31; s. 2, ch. 61-98; s. 960, ch. 71-136.

<sup>2</sup> 117.105 False or fraudulent acknowledgments; penalty.—A notary public who falsely or fraudulently takes an acknowledgment of an instrument as a notary public or who falsely or fraudulently makes a certificate as a notary public or who falsely takes or receives an acknowledgment of the signature on a written instrument is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

<sup>3</sup> “Fraud on the Court as a Basis for Dismissal with Prejudice or Default: An Old Remedy Has New Teeth”



RECYCLED PAPER



TO REORDER CALL 954-846-9399

IN THE CIRCUIT COURT OF THE FIFTEEN JUDICIAL CIRCUIT  
IN AND FOR PALM BEACH COUNTY, FLORIDA

IN RE: ESTATE OF  
SIMON BERNSTEIN,  
DECEASED

CASE NO. 2012CP004391 LX  
PROBATE DIVISION

JUDGE DAVID E. FRENCH

ELIOT IVAN BERNSTEIN, PRO SE  
PETITIONER,

**NOTICE OF MOTION**

V.

TESCHER & SPALLINA, P.A., (AND ALL PARTNERS,  
ASSOCIATES AND OF COUNSEL), ROBERT L.  
SPALLINA (BOTH PERSONALLY & PROFESSIONALLY),  
DONALD R. TESCHER (BOTH PERSONALLY &  
PROFESSIONALLY), THEODORE STUART BERNSTEIN,  
AS PERSONAL REPRESENTATIVES ET AL., TRUSTEES,  
SUCCESSOR TRUSTEES AND ESTATE COUNSEL AND  
JOHN AND JANE DOES,

RESPONDENTS.  
\_\_\_\_\_ /

**COPY**  
SOUTH COUNTY BRANCH OFFICE  
ORIGINAL RECEIVED

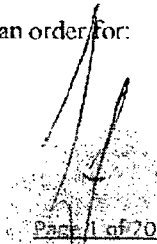
AUG 28 2013

SHARON R. BOCK  
CLERK & COMPTROLLER  
PALM BEACH COUNTY

**NOTICE OF MOTION FOR: INTERIM DISTRIBUTION FOR BENEFICIARIES  
NECESSARY LIVING EXPENSES, FAMILY ALLOWANCE, LEGAL COUNSEL  
EXPENSES TO BE PAID BY PERSONAL REPRESENTATIVES AND  
REIMBURSEMENT TO BENEFICIARIES SCHOOL TRUST FUNDS**

PLEASE TAKE NOTICE that upon the accompanying affirmation; Pro Se Petitioner Eliot Ivan Bernstein will move this Court before the Honorable Judge David E. French, Circuit Judge, at the South County Courthouse, 200 West Atlantic Ave., Delray Beach, FL 33401, at a date and time to be determined by the Court, for an order for:

- i. Family Allowance;



Page 1 of 70  
Wednesday, August 28, 2013

IN THE CIRCUIT COURT OF THE FIFTEEN JUDICIAL CIRCUIT  
IN AND FOR PALM BEACH COUNTY, FLORIDA

IN RE: ESTATE OF  
SIMON BERNSTEIN,  
DECEASED

CASE NO. 2012CP004391 IX  
PROBATE DIVISION

JUDGE DAVID E. FRENCH

ELIOT IVAN BERNSTEIN, PRO SE  
PETITIONER,

**NOTICE OF MOTION**

V.

TESCHER & SPALLINA, P.A., (AND ALL PARTNERS,  
ASSOCIATES AND OF COUNSEL), ROBERT L.  
SPALLINA (BOTH PERSONALLY & PROFESSIONALLY),  
DONALD R. TESCHER (BOTH PERSONALLY &  
PROFESSIONALLY), THEODORE STUART BERNSTEIN,  
AS PERSONAL REPRESENTATIVES ET AL., TRUSTEES,  
SUCCESSOR TRUSTEES AND ESTATE COUNSEL AND  
JOHN AND JANE DOES,

RESPONDENTS.

\_\_\_\_\_ /

**NOTICE OF MOTION FOR: INTERIM DISTRIBUTION FOR BENEFICIARIES  
NECESSARY LIVING EXPENSES, FAMILY ALLOWANCE, LEGAL COUNSEL  
EXPENSES TO BE PAID BY PERSONAL REPRESENTATIVES AND  
REIMBURSEMENT TO BENEFICIARIES SCHOOL TRUST FUNDS**

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- i. Family Allowance;

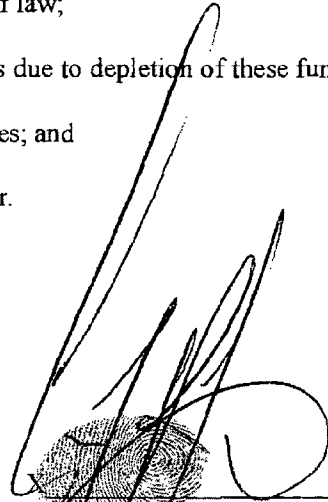


Wednesday, August 28, 2013

- ii. Interim Distributions for Beneficiaries immediate needs of School Tuition and Living Expenses;
- iii. Legal Counsel Expenses to be paid by Spallina & Tescher, Robert Spallina and Donald Tescher (collectively herein the "Personal Representatives"), as all of these needs are a result of their misconduct and violations of law;
- iv. Reimbursement of the beneficiaries school trust funds due to depletion of these funds caused by further fraud by the Personal Representatives; and
- v. Such other relief as the Court may find just and proper.

Dated: Palm Beach County, FL

 2013

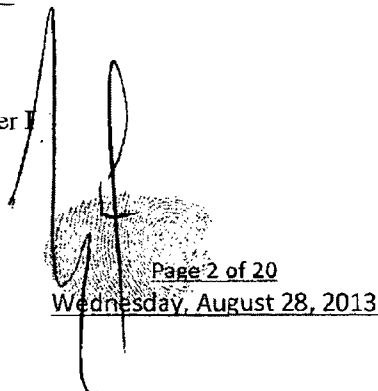
  
 Elio Weinstein  
 7755 NW 34<sup>th</sup> St.  
 Boca Raton, FL 33434  
 (561) 245-8588

To:

**Respondents sent US Mail, Fax and Email**

Robert L. Spallina, Esq.  
 Tescher & Spallina, P.A.  
 Boca Village Corporate Center I  
 4855 Technology Way  
 Suite 720  
 Boca Raton, FL 33431  
[rspallina@tescherspallina.com](mailto:rspallina@tescherspallina.com)

Donald Tescher, Esq.  
 Tescher & Spallina, P.A.  
 Boca Village Corporate Center I  
 4855 Technology Way  
 Suite 720

  
 Page 2 of 20  
 Wednesday, August 28, 2013

Boca Raton, FL 33431  
[dtescher@tescherspallina.com](mailto:dtescher@tescherspallina.com)  
Theodore Stuart Bernstein  
Life Insurance Concepts  
950 Peninsula Corporate Circle, Suite 3010  
Boca Raton, Florida 33487  
[tbernstein@lifeinsuranceconcepts.com](mailto:tbernstein@lifeinsuranceconcepts.com)

**Interested Parties and Trustees for Beneficiaries**

Lisa Sue Friedstein  
2142 Churchill Lane  
Highland Park IL 60035  
[Lisa@friedsteins.com](mailto:Lisa@friedsteins.com)

Jill Marla Iantoni  
2101 Magnolia Lane  
Highland Park, IL 60035  
[jilliantoni@gmail.com](mailto:jilliantoni@gmail.com)

Pamela Beth Simon  
950 North Michigan Avenue  
Suite 2603  
Chicago, IL 60611  
[psimon@stpcorp.com](mailto:psimon@stpcorp.com)

Eliot Ivan Bernstein  
2753 NW 34th St.  
Boca Raton, FL 33434  
[iviewit@iviewit.tv](mailto:iviewit@iviewit.tv)



Page 3 of 20  
Wednesday, August 28, 2013



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TO REORDER CALL 954-846-9399





Trustee, Personal Representative and any other fiduciary capacities they claim to have in the estates of Simon Bernstein ("Simon") and Shirley Bernstein ("Shirley"). Further, this Court should have them all immediately deliver all Estates assets, records, documents, accountings, inventories, papers, and other property of or concerning the Simon and Shirley Estates in the removed Personal Representatives, Trustees, Successor Trustees possession or control to the next Personal Representative or Successor Fiduciary and this Court. That this Court then turn all *relevant original documents over to the appropriate state and federal authorities for further investigation of alleged Forgery and Fraud<sup>1</sup> and now Insurance Fraud (as defined herein) and for such other relief as the Court may find just and proper.*

The reasons why I am entitled to the relief I seek are the following:

**I. INTRODUCTION:**

1. That due to, including but not limited to, all of the following reasons, Breach of Trust and Fiduciary Responsibilities, Conflict of Interests, Self-Dealings, Violating Court Orders, Committing Crimes including Forgery, Fraud, Insurance Fraud, Mishandling of Estate Assets, Failing to Provide Accounting to Beneficiaries and this Court, Hiding Assets, Not Handling Duties in Proper Legal Matters which have resulted in Financial Losses to the Estate and Concealing Financial Information from Beneficiaries and Interested Parties as fully described in the May 06, 2013 Petition filed by Petitioner and additionally herein, the *Personal Representatives and other acting Fiduciaries should immediately be removed and sanctioned by this Court.*

---

<sup>1</sup> Formal Criminal Complaints have been filed with the Florida Governor Notary Public Division and the Palm Beach County Sheriff's Office. The Palm Beach County Sheriff claimed jurisdiction since the Forged and Fraudulent documents were submitted to this Court directly in the Del Ray Beach courthouse as part of a Fraud on the Court and the Beneficiaries. Petitioner will also be filing Insurance Fraud complaints based on the evidence presented herein.

2. That on May 6, 2013 Petitioner filed an **EMERGENCY PETITION TO: FREEZE ESTATE ASSETS, APPOINT NEW PERSONAL REPRESENTATIVES, INVESTIGATE FORGED AND FRAUDULENT DOCUMENTS SUBMITTED TO THIS COURT AND OTHER INTERESTED PARTIES, RESCIND SIGNATURE OF ELIOT BERNSTEIN IN ESTATE OF SHIRLEY BERNSTEIN AND MORE** (“Petition”) to appoint new personal representatives, investigate Forged and Fraudulent documents submitted to the Court by the Personal Representative to the Beneficiaries and other Interested Parties and to rescind the signature of Eliot Bernstein on documents that are alleged Forged and part of a larger series of Frauds against the Estates of Shirley and Simon.
3. That in the aforesaid Petition, Petitioner prayed to this Court already to remove the Personal Representatives on multiple legal grounds stated in said Petition. In addition to the grounds stated in the Petition known at that time, the Petitioner has recently found new grounds and evidence to immediately remove the purported Personal Representatives and any purported Trustees to preserve assets and reduce the chance for further criminal acts to take place.

**II. NEW EVIDENCE OF FIDUCIARY BREACHES AND ALLEGED CRIMINAL ACTS BY PURPORTED PERSONAL REPRESENTATIVES AND SUCCESSOR TRUSTEES:**


**A. Insurance Fraud and More**

4. That without notice and knowledge of Petitioner and other Beneficiaries, Simon’s son Ted, claims to be the “Trustee” of a lost trust, **The Simon Bernstein Irrevocable Insurance Trust Dtd 6/21/95** (“Simon Trust”) and filed a lawsuit in such presumed fiduciary capacity, Case No. 13 cv 3643 in the United States District Court for the Northern District of Illinois

  
Motion to Remove PR

Eastern Division, against Heritage Union Life Insurance Company ("Heritage"), in efforts to claim the benefits of Simon. L. Bernstein's Insurance Policy No. 1009208 ("Policy"). Simon Bernstein's daughter, Pamela Simon ("Pam") and her husband David Simon ("David") and his brother Adam Simon ("Adam") through the Simon Law Firm ("SLF"), believed to be Adam and David Simon's firm, worked with Ted and Spallina to attempt to get the life insurance benefits of the Policy paid to a post mortem trust they created and named themselves as partial beneficiaries by claiming the Simon Trust was lost and the new trust and new beneficiaries would replace the unknown ones. The Simon Trust that Tescher & Spallina, Spallina, Tescher, Ted and Pam were responsible for keeping, Tescher & Spallina who did the estate planning work concerning the Policy and Ted and Pam because they too had possession of the Simon Trust, as the Bernstein family insurance agency sold the Policy and administered trusts concerning the Policy and now suddenly everyone claims it to be missing. Petitioner instead alleges that Spallina & Tescher, Ted and Pam have suppressed said Simon Trust because Ted and Pam are excluded as beneficiaries of the Policy, as they were wholly excluded from the estates of Simon and Shirley. The Personal Representatives have worked exclusively with Ted and Pam who are both wholly excluded from benefits of the Estates and have completely shut out all of the true Beneficiaries and Interested from ALL administration, information and assets of the Simon and Shirley estates for over two years in the Shirley Estate and eleven months in the Simon estate.

5. That since claiming the Simon Trust is "lost/suppressed" they are demanding in their lawsuit that Heritage pay the benefits to a newly created post mortem trust that Tescher & Spallina, Spallina, David, Pam and Ted created and whereby they are electing new beneficiaries after Simon has passed, yes, a post mortem trust designating new beneficiaries.

  
Page 43 of 62  
07/24/2013  
Motion to Remove PR

That the insurance carrier has rejected their claim, stating they cannot prove the assertions made as to whom the beneficiaries are claimed to be. Whereby Ted claims in the lawsuit to be the “purported” Trustee of the missing Simon Trust but cannot prove such claim causing the carrier to counter sue and not pay the claim until a court decides. Ted is misusing his “alleged” legal powers in the estate of Shirley, as already described in the Petition with this Court and now Ted makes efforts to assume fiduciary powers in handling assets of Simon’s estate in an attempt to obtain all the benefits of the Heritage Policy by deceiving Beneficiaries, attempting to deceive an insurance company and now perpetrating a Fraud on not only this Court but the US District Court in Illinois.

6. That Tescher & Spallina, Spallina, SLF, Pam, David, Adam and Ted have filed this lawsuit without proper notice to all of the potential beneficiaries of their US District Court lawsuit. Both SLF and Ted have conflicts of interest in acting in any legal capacities in the lawsuit, since Ted would be getting benefits directly to himself while acting as the “purported” Trustee of the missing Simon Trust and Pam would get benefits directly to her from the efforts of her husband’s law firm SLF’s efforts if they are successful. Neither Ted nor Pam would gain any benefits of the Policy without their attempted scheme. If the Policy benefits were paid to the Estate due to the missing/suppressed named Beneficiary, the Simon Trust and then tendered to this Probate Court, the benefits would be paid to either three of five of Simon and Shirley’s children (Eliot Bernstein, Jill “Bernstein” Iantoni and Lisa “Bernstein” Friedstein) or to Simon and Shirley’s ten grandchildren in equal shares, the Beneficiaries will be determined by this Court’s ruling on if the Forged and Fraudulent documents exhibited in the Petition stand or fail. In either scenario, NO benefits would go to Ted and Pam, only their adult children and only if the near deathbed Forged and Fraudulent

documents created weeks before Simon passed prevail in this Court. It should be noted again that without the Forged and Fraudulent documents submitted to this Court, Tescher & Spallina, Spallina, Tescher and Ted would have NO legal capacities to act as Personal Representatives or otherwise over any estate assets and Ted and Pam and their children would be wholly excluded from the estates of Simon and Shirley. The legal course in the event of a missing Beneficiary(ies) appears to be that the death benefits of the Policy would flow to this Court as part of the probate estate to be divided amongst the estate Beneficiaries.

7. That the problem created is that the Simon Trust that is claimed to be lost by Tescher & Spallina, Spallina, Ted, Pam and David, is now the plaintiff in the US District Court lawsuit and where it seems impossible that the plaintiff suing the carrier could be a missing/suppressed Simon Trust, as apparently there is no such Simon Trust existing, as they themselves claim. Since the Simon Trust is lost/suppressed, Ted in his unfounded suit claims to be Trustee of the lost/suppressed Simon Trust based on his self-professed claim that he recalls seeing it once upon a time and remembers he was the Trustee. Petitioner claims since Pam, Ted and David were involved in the creation, implementation and control of the Simon Trust at various times, in capacities with Fiduciary Responsibilities and Liabilities, they have chosen instead to **suppress** the documents and thereby hide the true and proper Beneficiaries from the insurance carriers and the Beneficiaries since allegedly they were wholly excluded from the policy, as they were wholly excluded from any interests in the estates of Simon and Shirley.
8. That Ted, Pam, David and Adam all are in the life insurance business, are life insurance agents and inherited ALREADY in part the Simon insurance businesses, agencies that wrote

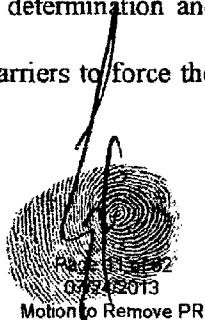


PR

the Simon Trust and issued the policy and administered the VEBA Trust that controlled the Policy and know this lawsuit is an unprecedented attempt to convert Policy proceeds to a purported Trustee of a missing/suppressed Simon Trust that is being replaced by a post mortem trust created after Simon's death and designating new beneficiaries to receive the benefits that now includes them as direct beneficiaries and trustees. The attempt to deceive the insurance carrier via Ted acting as a self-purported "Trustee" of the missing Simon Trust, attempts also to have the Policy proceeds circumvent this Court and the Beneficiaries of the Simon Trust and get the Policy benefits paid to the new post mortem trust whose beneficiaries are presumably Ted, Pam, Eliot, Lisa and Jill, instead of the Estates Beneficiaries of either Eliot, Jill and Lisa or the ten grandchildren. The newly created trust is presumably the same trust that was exhibited in the Petition, as part of a proposed Settlement and Mutual Agreement between the estate Beneficiaries that would have created this post mortem trust to pay new Beneficiaries. In the Petition (Pages 34-41 under Section VII. INSURANCE PROCEED DISTRIBUTION SCHEME) the proposed settlement agreement that creates a new trust is contained in the Petition on Pages 173-179 "Settlement Agreement and Mutual Release ("SAMR"), see Exhibit 7 [of the Petition] - Settlement Agreement and Mutual Release, drafted on or about December 06, 2012 by an unknown Attorney at Law or Law Firm, as no law firm markings are again on the pages.") The new trust that was to be created if the SAMR was signed is termed hereinafter as the ("SAMR Trust") and would be the first of its kind post mortem insurance trust created. That the SAMR was never signed by Petitioner and without knowledge of any of the other Beneficiaries and Petitioner rejected such SAMR and SAMR Trust as a scheme that constituted Insurance Fraud and more and therefore refused to sign the SAMR. In the

Petition the SAMR is alleged to be an attempt by Ted and Pam to redirect the Policy proceeds from their very own adult children to themselves, as they were excluded if it flowed through the estate and all of these acts were aided by the purported Personal Representatives.

9. That upon the first attempt to have the benefits paid without proper proof of beneficial interests, Reassure America Life Insurance Company informed Tescher & Spallina P.A. (who originally created the SAMR and SAMR Trust), Robert Spallina, Ted, Pam and David to get a **court order** from this Court stating whom to release the funds to, after determining who the true and proper Beneficiaries were, as the **Simon Trust** was declared missing from the estate of Simon. Petitioner herewith produces the said letter dated January 08, 2013 from Reassure America Life Insurance Company Letter, as **Exhibit 1**. The attempt to release the funds to their proposed post mortem SAMR Trust scheme due to their losing the *Simon Trust that was the named beneficiary, is all a result of Tescher & Spallina P.A., Tescher and Spallina failing to legally document the beneficiaries of the Policy, then losing/suppressing the missing Simon Trust while they were the Estates lawyers and is more fully defined already in the Petition filed with this Court.*
10. That instead of seeking this Court's determination of the beneficiaries by order as demanded by the carrier, and knowing that Petitioner refused to sign the SAMR, Ted and Pam with the aid initially of Tescher & Spallina P.A., Spallina and Tescher and then later in the US District Court with Adam Simon, Esq., replacing Tescher & Spallina P.A., they attempted an end around of this Court, its determination and the estate Beneficiaries, by filing an undisclosed lawsuit against the carriers to force them to pay the SAMR Trust. First they

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first filed the lawsuit with a Cook County, Illinois state court and then re-filed said suit with the Federal US District Court Northern Illinois.

11. That Petitioner was only notified of this new lawsuit to convert the death benefits through this scheme when he received a summons regarding this lawsuit from the Attorney at Law for Jackson National Life Insurance Company (“JNL”), successor in interest to Heritage, and where Petitioner was added as a Counter Defendant in the Counter Complaint<sup>2</sup> filed by the carrier. Petitioner herewith produces JACKSON'S (1) ANSWER TO COMPLAINT AND (2) COUNTERCLAIM AND THIRD-PARTY COMPLAINT FOR INTERPLEADER, as **Exhibit 2**. Many interesting facts are presented in the Answer and Counter Complaint filed by JNL that support Petitioner's claims of foul play, including but not limited to,

- i. JNL counter sues Ted and defines him using the following language “TED BERNSTEIN, individually and as purported Trustee of the Simon Bernstein Irrevocable Insurance Trust Dtd. 6121/95.” It is evident that Ted has not proven his capacity to act as Trustee of the missing Simon Trust to the carrier either and is claimed instead to be a “purported Trustee.”
- ii. The suit claims “Heritage has breached its obligations under the Policy by refusing and failing to pay the Policy's death benefits to the Bernstein Trust as beneficiary of the Policy despite Heritage's receipt of due proof of the Insured's death.”

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<sup>2</sup> Docket Entries from US District Court Northern District of Illinois

06/26/2013 18 NOTICE by Heritage Union Life Insurance Company re answer to complaint, third party complaint, counterclaim, (Marks, Alexander) (Entered: 06/26/2013)

06/26/2013 17 SUMMONS Issued as to Third Party Defendants Bank of America, Eliot Bernstein, Ted Bernstein, First Arlington National Bank, Simon Bernstein Trust, N.A., United Bank of Illinois (ym, ) (Entered: 06/26/2013)

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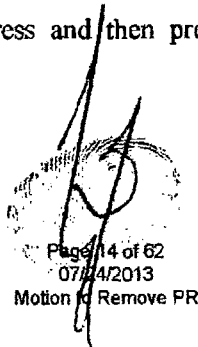


“ANSWER: Jackson lacks sufficient information and knowledge to form a belief as to the true beneficiary of the Policy, resulting in it tendering the death benefit funds to the Court and filing its interpleader counterclaim and third-party complaint, and thus it denies the allegation of this paragraph.”

- iii. JNL states, “Jackson admits it, as a successor to Heritage, is obligated to pay the death benefits to the beneficiary(ies) of the Policy, but denies that the remainder of paragraph 13 accurately and fully states the obligations of a beneficiary in submitting a claim under the Policy” clearly showing that there is no legal validity to the claimed beneficiaries assertion and that the beneficial interests were not proven based on the claim filed.
- iv. JNL states, “Ted S. Bernstein is a resident and citizen of Florida. **He is alleged** in the underlying suit to be the “trustee” of the Bernstein Trust. Ted Bernstein is further, individually, upon information and belief a beneficiary of the Bernstein Trust (as Simon Bernstein's son).”
- v. JNL states in Paragraph 9 of the counter complaint, “The ‘Simon Bernstein Trust’ is, upon information and belief, the Bernstein Trust listed in paragraph 3, above, and was a named contingent beneficiary of the Policy. **However, based on the variance in title, to the extent it is a separate trust from the Bernstein Trust referenced above, it is named separately.**” Paragraph 3 states, “The Simon Bernstein Irrevocable Insurance Trust Dtd 6/21/95 (the Bernstein Trust”) is alleged in the underlying suit to be a “common law trust established in Chicago, Illinois by the

settlor, Simon L. Bernstein, and was formed pursuant to the laws of the state of Illinois."

This Court should note that this variance in the titles of the trust(s) is alleged herein not to be the same trust but that through a crafty name game appears similar but instead is two separate trusts with confusingly similar names. Petitioner states the "Bernstein Trust" referenced and listed in Paragraph 3 is the missing/suppressed "Simon Bernstein Irrevocable Insurance Trust Dtd 6/21/95" and that the "Simon Bernstein Trust" is the **POST MORTEM CREATED SAMR** Trust that is being substituted for the Simon Trust, with a similar name as the missing Simon Trust, so as to confuse the carrier, which obviously according to the carrier, as evidenced further herein, such efforts have worked in confusing them enough to deny the claim and counter sue. Again, the SAMR Trust is believed to be a post mortem trust created by Tescher & Spallina P.A., Robert Spallina, Donald Tescher, Ted, Pam, David and Adam with no legal standing to make a claim to the proceeds of the Policy as it is legally invalid, as it was created after the Policy owner's death. The fact that this "Simon Bernstein Trust" is claimed to have been a "contingent beneficiary" elected by Simon in the Policy would appear impossible if the "Simon Bernstein Trust" aka SAMR Trust was not created until after Simon had died. Dead men do not assign new contingent beneficiaries, yet we also find in the estates of Simon and Shirley that the same dead man also notarizes and signs documents months after being deceased that make major near changes to long established estate plans, while under extreme physical and emotional duress and then present them to this Court, as exhibited

  
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already in the Petition<sup>3</sup>. This Simon Bernstein Trust aka SAMR Trust scheme may represent Insurance Fraud and more.

- vi. JNL states on Page 8 Paragraph 18 of the Answer and Counter Complaint, "Subsequent to the Insured's death, Ted Bernstein, through his Florida counsel (**who later claimed Bernstein did not have authority to file the instant suit in Illinois on behalf of the Bernstein Trust and withdrew representation**), submitted a claim to Heritage seeking payment of the Death Benefit Proceeds, **purportedly as the trustee** of the Bernstein Trust. Ted Bernstein claimed that the Lexington Trust was voluntarily dissolved in 1998, **leaving the Bernstein Trust as the purported sole surviving Policy beneficiary** at the time of the Decedent's death."

That Petitioner is flabbergasted by this claim that Ted was advised by counsel, presumably Tescher & Spallina P.A., Tescher and Spallina acting as Personal Representatives who concocted this scheme originally, whom suddenly withdrew as counsel in the lawsuit and had ADVISED Ted that he did not have authority or basis to file this suit and yet Ted, David, Pam, SLF and Adam then pursued the Federal lawsuit, despite Estate Counsel/Personal Representatives advice?

This brings up several fascinating questions, such as why is the estate counsel again legally advising Ted as if he were his personal counsel while retained by the estate as counsel and purported Personal Representative? Then the question becomes if estate

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<sup>3</sup> Petition Pages 44-47 Section, "IX. FORGED AND FRAUDULENT DOCUMENTS FILED IN THE EST ATE OF SHIRLEY IN THIS COURT BY TESCHER AND SPALLINA CONSTITUTING A FRAUD ON THIS COURT AND THE BENEFICIARIES AND MORE" and in the Petition Pages 47-48 Section, "X. INCOMPLETE NOTARIZATION IN THE ALLEGED 2012 AMENDED TRUST OF SIMON AND MORE" and in the Petition Pages 48-49 "XI. INCOMPLETE NOTARIZATION IN THE 2012 WILL OF SIMON AND MORE."



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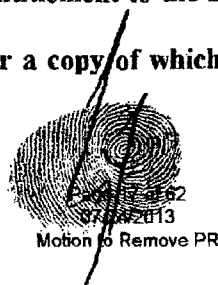
counsel and Personal Representatives Tescher & Spallina P.A., Tescher and Spallina were aware that this lawsuit was being filed on an assets of the Estate, why have they not filed a response on behalf of the Beneficiaries of the estate to protect their interests??? The conflicting relationship between Tescher, Spallina and Ted has already been exposed in the Petition already filed with this Court, Pages 88-94, Section "XIX. CONFLICTS OF INTEREST BY PERSONAL REPRESENTATIVES, ESTATE COUNSEL AND TRUSTEES DISCOVERED" and this adds additional circumstantial evidence of a special relationship that exists between Ted and Tescher & Spallina P.A., Tescher and Spallina, whereby they are acting in alleged criminal conspiracy in all of the alleged crimes taking place.

- vii. JNL states, "However, Ted Bernstein could not locate (nor could anyone else) a copy of the Bernstein Trust. Accordingly, on January 8, 2013, Reassure, successor to Heritage, responded to Ted Bernstein's counsel [Tescher & Spallina P.A.] stating: In as much as the above policy provides a large death benefit in excess of \$1.6 million dollars and the fact that the trust document cannot be located, we respectfully request a court order to enable us to process this claim." That on the first FAILED attempt to convert the benefits through this type of scheme, Tescher & Spallina P.A., Tescher, Spallina, Ted and Pam proposed the SAMR scheme for the Beneficiaries to sign and then they stated they would file the SAMR Trust with this Court for approval and an order to then take to the carrier. Petitioner and Petitioner's children counsel refused to sign the SAMR without first having a copy of the Policy, a copy of the trusts involved, a copy of all loans against the policies and more, yet Petitioner and Petitioner's children counsel were both refused these documents by Tescher & Spallina, Tescher,

  
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Spallina, Pam, Ted and Heritage despite repeated requests, therefore Petitioner never executed a signature on the SAMR and believed the issue was dropped.

- viii. JNL further states, "Presently, the Bernstein Trust still has not been located. Accordingly, **Jackson is not aware whether the Bernstein Trust even exists**, and if it does whether its title is the 'Simon Bernstein Insurance Trust dated 6/21/1995, Trust,' as captioned herein, or the 'Simon Bernstein Trust, N.A.', as listed as the Policy's contingent beneficiary (or otherwise), **and/or if Ted Bernstein is in fact its trustee. In conjunction, Jackson has received conflicting claims as to whether Ted Bernstein had authority to file the instant suit on behalf of the Bernstein Trust.**"
- ix. JNL states, "In addition, it is not known whether "LaSalle National Trust, N.A. was intended to be named as the primary beneficiary in the role of a trustee (of the Lexington and/or Bernstein Trust), or otherwise. **Jackson also has no evidence of the exact status of the Lexington Trust, which was allegedly dissolved.**"
- x. JNL states, "Due to: (a) the inability of any party to locate the Bernstein Trust and uncertainty associated thereunder; (b) the uncertainty surrounding the existence and status of 'LaSalle National Trust, N.A.' (the primary beneficiary under the Policy) and the Lexington Trust; and (c) the potential conflicting claims under the Policy, Jackson is presently unable to discharge its admitted liability under the Policy."
- xi. JNL states, "Justice and equity dictate that Jackson should not be subjected to disputes between the defendant parties and competing claims **when it has received a non-substantiated claim for entitlement to the Death Benefit Proceeds by a trust that has yet to be located, nor a copy of which produced.**" Here we see that as they

  
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were unable to produce satisfactory evidence to Petitioner and Petitioner's children counsel showing a clear path to the beneficial interest, they too could not prove their claims to the carrier to claim the benefits.

12. That only after receiving said lawsuit from JNL was Petitioner informed about the case filed by Tescher & Spallina, Spallina, Ted, Pamela, David and Adam Simon. This is new prima facie evidence of a **Breach of Fiduciary Duty and Law** by the Personal Representatives and Ted, representing possible further, **Fraud on the Beneficiaries, Fraud on courts and now Insurance Fraud**. All of these problems are due to the lack of duty and care and alleged criminal and civil violations of law by Tescher & Spallina, Spallina and Tescher in failing to protect the rightful Beneficiaries of the Policy and delineating a clear legal path to the Policy proceeds for them in preparing the estate of Simon and Shirley. The loss/suppression of an insurance trust, insurance policy, etc. with no documentation to show reason for such failure to document the Beneficiaries or retain a copy of the trust included in the estate plans of Simon and Shirley that they paid top dollar to have executed and now claim to have missing essential pieces of the estates by Tescher & Spallina that expose all the Beneficiaries to liabilities represents further incomprehensible errors, alleged violations of law and further intentional torts. Therefore, all legal costs and other costs resulting from the acts described in the Petition and herein, encumbered by any/all parties, should therefore be paid for by Tescher & Spallina, Spallina and Tescher and NOT from the estate proceeds or individually by the Beneficiaries or Interested Parties. That any financial losses to the Estates and Beneficiaries be recovered from the Personal Representatives and Successor Trustee as they are both personally and professionally liable. These costs are all a result of



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the failures of the Estate Counsel and Personal Representatives and appear to have been done with scienter.

**B. Abuse of Attorney / Abuse of Legal Process**

13. That Christine P. Yates, Esq., (“Yates”) is a Partner at Tripp Scott law firm and the attorney initially for the Eliot Bernstein family and then later, due to conflicts caused by the lost Simon Trust and the new beneficiaries created, which caused Petitioner and his children to have conflicting interests, from that point forward, Yates represented only Petitioner’s children and Petitioner has been unable to secure counsel for reasons already explained in the Petition. Recently, Tripp Scott has resigned as counsel to the children, for all of the following reasons:

- i. the inability to gain documents from Tescher & Spallina, Tescher and Spallina after extensive efforts to obtain such documents and doubling their anticipated costs in merely trying to get information necessary to ascertain the beneficial interests of Petitioner’s children,
- ii. the enormous billings caused as a result of Tescher & Spallina, Tescher and Spallina’s evasions, suppressed/lost documents, Forged and Fraudulent documents, lost/suppressed trusts and an insurance Policy and more,
- iii. the guilt of finding that Tripp Scott billings were being paid by a school trust account. From a letter to another Attorney at Law, Yates claimed, “the reasons for the termination of my representation were due to the insufficiency of funds in the trust accounts...” That this statement refers to depleting all of the trust funds to pay for




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legal counsel. To be more specific to this Court, the trust funds Yates refers to are Petitioner's children school trust funds that have been depleted through further Fraud by Spallina to pay Petitioner's living expenses. Where these school trusts were set up several years prior to the death of Simon and Shirley and were funded to pay for Petitioner's children school tuitions. Initially after Simon passed, Spallina took possession of a Legacy Bank of Florida account that Simon had been paying Petitioner's family expenses of \$100,000.00 per year for approximately 6 years per an agreement between Petitioner and Simon, as fully exhibited already in the Petition (Pages 86-89 Section "XVI. THE ADVANCED INHERITANCE AGREEMENT ("AIA")", which was for \$100,000.00 per year. Simon paid the home expenses per the AIA for the home purchased by Petitioner's children through the Legacy account. The home was purchased outright through Petitioner's children's already established and funded investment trust accounts at that time.

Several months after Simon passed Spallina directed Eliot and Candice "Candice" Bernstein to take over the Legacy Bank account and write checks for expenses out of it. Petitioner refused such request to write checks from an account that was Simon's without first getting authorization from Legacy Bank. Eliot and Rachel Walker ("Walker") (Simon's assistant who was handling the Legacy Account but who was fired by Spallina and therefore turning the account over to Eliot and Candice at Spallina's request) called Legacy Bank together and Legacy claimed that not only was Walker not authorized to sign checks or listed in any capacity on the account or Petitioner but that Legacy was shocked that no one had notified them that Simon had

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passed, that his bank accounts were being used post mortem and therefore Legacy instantly froze the account. Spallina was the only person they could talk to further.

Spallina then directed Candice to send over the Legacy Account checkbooks, credit cards, etc. to Janet Craig ("Craig") at Oppenheimer and that she would now be paying the expenses, replacing the recently fired Walker. Craig stated that the funds had been unfrozen by Legacy to Spallina and she would now be paying the expenses. That only later was it learned that the Legacy Bank funds were not paying the expenses but that somehow the funds were now coming out of school trust funds of Petitioner's children, trusts that Spallina had not shown Petitioner and therefore he had to get them from Craig. That all these actions were directed by Spallina, who had told Petitioner at that time not to worry that the expenses were covered in the estate plans and trusts for the children and it would take a few weeks before they were funded and there would be *no discontinuity in the monthly expenses as Simon and Shirley had planned for the special circumstances of Petitioner's family, as fully defined in the Petition.* That Spallina is now claiming that there is no money in the estates and telling Petitioner he will receive virtually nothing in inheritance and is further executing a foreclosure on the Petitioner's children's home in another complete Fraud and Hoax, as more fully defined in the Petition, Section "XIII. THREATENED FORECLOSURE ON SIMON'S GRANDCHILDREN'S HOME BY SIMON'S ESTATE POST MORTEM", Pages 52-55. There is now virtually no money left in the school trust funds and at the burn rate of the living expenses for the children and their school expenses being depleted for these, one can see the calamity this will cause Petitioner and his family in a few days, the children will be forced out of the school and without



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necessary and fundamental living expenses. This is quite to the opposite of what Simon and Shirley intended for Petitioner and Petitioner's children, if actions are not taken instantly by this Court to protect and preserve the assets and Beneficiaries. Petitioner Exhibits herein a recent letter from Janet Craig of Oppenheimer describing the emergency this presents to Petitioner and his family caused by Spallina with scienter, as **Exhibit 3**. As with Craig, Yates recently became aware that the funds for school and living expenses are almost wholly exhausted by Spallina and that her legal bill for problems almost wholly created by Spallina were being paid from these school accounts and this is truly an uncompromising position. That Spallina was not even paying legal costs encumbered by Petitioner and Petitioner's children caused by his failures, including but far from limited to,

- iv. the lost/suppressed Simon Trust and need for counsel caused by his failures to maintain a clear path to the beneficial interest in the Policy,
- v. two sets of lawyers needed, independent counsel for Petitioner and a separate counsel for Petitioner's children, due to the conflicting beneficial interests created by the lost Simon Trust and the costs to legally analyze the SAMR scheme they concocted to replace such "lost" or suppressed trust,
- vi. the need for counsel to Revoke a Forged and Fraudulent signature in the estate of Shirley,
- vii. the cost of counsel to analyze Fraudulent and Legally Deficient documents in the estates created by Tescher & Spallina, Tescher and Spallina

  
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- viii. the cost in failed efforts by Yates for months to get documents and information from Tescher & Spallina and Spallina. As Yate's states in her letters exhibited herein,
- ix. the need for counsel now as Yates claims in her letters that both the Petitioner and his children would now have to litigate Spallina and the estates.
- x. Further in correspondences between Yates and Attorney at Law Marc Garber who referred Yates to Petitioner, claims are made that Spallina must be reported to the Court and more. Petitioner herewith produces the email of Yates and Garber as **Exhibit 4**. In the said emails Marc states,
  - a. "Further, and as you [Christine Yates, Esq.] implied, with all the time you expended, Spallina gave us very little, in terms of everything; from documents to involvement in the administration." This statement clearly indicates that in spite of repeated request and continuous efforts made by Yates, Spallina did not provide documents to Yates who is counsel to certain Beneficiaries. This is clear evidence of breach of Fiduciary duty.
  - b. "I had difficulty sleeping, as I was sorting through our conversation. What troubles me has troubled me in prior situations. Spallina is not the first 'bully lawyering' situation I have seen or heard about."
  - c. "It truly troubles me [Marc Garber, Esq.] that Spallina continues to spin his web of deceit, and I believe this conduct is further circumstantial evidence that "something is very wrong". I am very glad Eliot filed whatever he filed and I do hope he prevails. I also hope Spallina is removed and perhaps punished for all he is doing."

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### C. Improper Sale of Real Estate Property

14. That without the knowledge and notice to Petitioner and other Beneficiaries, Ted acting in his presumed capacity as purported Successor Trustee in the estate of Shirley has sold a condominium owned by the estates of Simon and Shirley (it remains unclear due to missing documents suppressed by Spallina which estate the real estate was in at the time of their deaths) a property located at 2494 S Ocean Blvd APT C5, Boca Raton, FL 33432 ("Condo"). Petitioner and other Beneficiaries had rights in this Condo and Ted had no beneficial interest in the property. Yet, Ted has sold it at major price reduction of approximately 30% below market value without consent of the Beneficiaries or even notification to the Beneficiaries of any details of the transaction. In fact, until all the original estate documents can be analyzed for further evidence of Fraud and Forgeries, all these fiduciaries acting in the estates are suspect. Finally, Petitioner and other Beneficiaries not only do not have any information about the said transaction but also where the sale funds have gone. Petitioner herewith produces the Zillow estimate of the properties immediately after the sale showing an increase in value of \$500,000 over the purchase price days after sale as **Exhibit 5**, which clearly shows sale of said Condo far below market value and the realtor who sold the property is not revealed.
15. That the real estate was removed from the listing agent Nestler Poletto Sotheby's International Realty after months of them listing the property for Simon, two weeks prior to the sale and then brokered by an unknown party.
16. That prior to the sale Petitioner and Petitioner's children counsel Tripp Scott had requested that any transactions of any properties of the estates be transacted only after first notifying

  
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the Beneficiaries of all terms and conditions and instead this sale was done behind the backs of Petitioner, Beneficiaries and Petitioner's children counsel Yates and without any prior notice.

#### **D. Exposing Estate to Potential Liabilities from Failure to Distribute Automobile**

17. That the estate remains at risk due to the retained ownership of an automobile fully paid for that was given as a gift from Simon to his grandson Joshua for his 15<sup>th</sup> birthday, two week before Simon's passing<sup>4</sup>. As more fully described in the Petition, Spallina has known this automobile was in the possession of 15 year old Joshua as a gift and that the paperwork to transfer title and ownership was in the process of being completed when Simon passed suddenly and unexpectedly. That since the time of Simon's passing Spallina has refused to tender the title and make proper transfer and to Petitioner's knowledge maintain insurance on the vehicle or even maintain the vehicle for the estate. Instead Spallina has left the entire estate at risk, as in the State of Florida if the car for any reason were involved in accident of any sort the estate could be liable for damages and without proper insurance this further could be damaging to the Beneficiaries of the estate.

### **III. CONCLUSION**

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<sup>4</sup> <http://statewideprobate.com/blog/comments/move-cars-out-of-estate-quickly>

Under Florida law the owner of a vehicle is normally liable for accidents caused by the car, and that liability is not limited to the car insurance limits. So an estate with \$200,000 in stocks and bonds can see all of that disappear in the event of an auto accident claim exceeding policy limits. Given that many auto owners carry liability coverage of \$300,000 or less, many serious personal injury claims can exceed the coverage and threaten the estate assets.

"Move Cars Out of Estate Quickly" Posted by Bruce McDonald September 12, 2011



That Tescher & Spallina for all the reason stated herein and in the Petition have failed to properly administer the Estates and have instead worked with adverse interest to the Beneficiaries to keep them in the dark while various assets appear to go missing with every turn. That Tescher & Spallina have already tendered Forged and Fraudulent documents in the Estates of Simon and Shirley. Documents that enabled their powers as Personal Representatives and therefore all actions they have done may have been executed with legal powers that were gained through Forged documents as part of a Fraud on this Court and the Beneficiaries. That it appears that every minute this Court delays in removing Personal Representatives and Successor Trustees a new theft of Estate assets is taking place.

#### IV. ARGUMENTS

##### FLORIDA ESTATE RULES

I. Under RULE 5.310. DISQUALIFICATION OF PERSONAL REPRESENTATIVE: NOTIFICATION, since Tescher & Spallina P.A., Donald Tescher and Robert Spallina all appear to be acting Personal Representatives and Ted acting as purported "Successor Trustee" and where Petitioner claims none of them were qualified to act at the time of appointment and whose appointments were made through Fraudulent and Forged and incomplete documentation submitted to this Court and Petitioner as described herein and in the Petition. Petitioner believes none of them would be qualified for appointment at that time, this time or any time. That Petitioner files and serves herein on all parties this notice describing why the Personal Representatives and Successor Trustee should be removed due to the alleged unlawful acts and violations of fiduciary responsibilities evidenced herein and in the Petition, which show that Tescher & Spallina, Spallina and Tescher were not

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qualified at the time of appointment to be Personal Representatives for the Estates. For the reasons already stated herein and in the Petition these Personal Representatives would not be qualified for appointment if application for appointment were again made based on the recently uncovered facts and evidence contained herein and in the Petition. That the Court should instantly remove and replace these Personal Representations and grant Petitioner immediate monetary and injunctive relief that this Court deems just in light of the damages already done described herein and in the Petition and any other relief this Court deems just.

2. This Court should sanction and report to the appropriate authorities all those alleged to have gained fiduciary powers through a series of Forged and Fraudulent documents tendered to this Court as part of a Fraud on this Court and any subsequent transactions of the assets using such illegally gained fiduciary powers as evidence of further civil and criminal violations of law in the administration of the estate.
3. Under RULE 5.320. OATH OF PERSONAL REPRESENTATIVE, the Court should note that at no time before the granting of letters of administration, did Ted, one of the "acting" Personal Representatives/Successor Trustee in the Estates, file an oath to faithfully administer the estate of the decedents with this Court or to the Beneficiaries or the Trustees for the Beneficiaries and this Court should take all steps necessary to remedy this failure, including but not limited to making null and void any actions or sales of Ted as Personal Representative/Successor Trustee in Shirley's estate or as Personal Representative in Simon's estate or any capacity whatsoever in these matters and any other relief this Court sees fit. Ted and Pam have NO beneficial interests in the estates and in fact have adverse and conflicting interests.

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4. Under RULE 5.235. ISSUANCE OF LETTERS, BOND, due to the problems caused by the Personal Representatives, Estate Counsel and Ted with the missing/lost/suppressed Simon Trust, the Forged and Fraudulent documentation already exhibited in the Petition to this Court in the Estates and unlawful activities alleged and evidenced herein and in the Petition, Petitioner requests the Court consider requiring the Personal Representatives to give bond to require additional surety great enough to cover all potential losses and all *immediate legal fees to the Beneficiaries and other Interested Parties.*
  
5. Under RULE 5.340. INVENTORY, the Personal Representatives, Tescher & Spallina P.A., Tescher and Spallina have failed to serve a copy of the inventory and all supplemental and amended inventories to each heir at law, each residuary beneficiary and did not serve a copy to Petitioner who requested it both orally and in writing for the Estates and acting as Guardian and Trustee for his children. Therefore, this Court should take appropriate actions for this violation and demand all inventories prepared by the Personal Representatives, Goldstein Lewin/CBIZ MHM, LLC, Ted or any other party that has made or maintains an inventory of any assets of the Estates, be instantly turned over to this Court and that all inventories submitted to this Court that may be sealed or marked confidential in any way in the Estates be turned over to Petitioner and all Beneficiaries and Interested Parties.
  
6. There is an inventory for the personal property of Simon and Shirley that was submitted by Ted to Pam, Jill, Lisa and Petitioner, whereby Ted was acting in an unauthorized capacity as a Personal Representative in the estate of Simon. That this inventory was not verified by the Personal Representatives, Tescher and Spallina that were supposedly designated by Simon in the Amended Trust and therefore this Court should take appropriate actions for

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this failure of the Personal Representatives to verify this inventory and discard the inventory by Ted and have these items re-evaluated by a new firm and new Personal Representative(s).

7. That there is an inventory list of Jewelry that was removed from the Estates by Pamela, Jill and Lisa along with millions of dollars of Jewelry and these properties and inventories should be immediately secured by this Court from any parties in possession and all assets returned to the Court for proper distribution to the proper Beneficiaries.
8. Under RULE 5.341. ESTATE INFORMATION, the Personal Representatives Tescher, Spallina and Theodore have failed on reasonable and numerous requests in writing, to provide interested persons, including but not limited to, Petitioner and Petitioner's children's counsel, information about the Estates and its administration and therefore this Court should take all actions necessary to rectify this violation and force them to immediately turn over all records in the Estates of Simon and Shirley and all of their records regarding any party named herein, in entirety, to review by this Court and Petitioner for further evidence of Fraud, Theft, Forgery and more.
9. Under RULE 5.341. ESTATE INFORMATION, records this Court should demand and tender to Petitioner and Petitioner's children's counsel, include but are not limited to,
  - a. 1995 Insurance Trust / Simon Trust
  - b. 2008 Trust of Simon that was executed prior to the 2012 Amended Trust that was completed with Forged and Fraudulent Documents immediately prior to Simon's death as evidenced in the Petition.



Motion to Remove PR

- c. Full documentation for Proskauer Rose's Will Exhibit in the Will of Simon Bernstein and all estate work Proskauer has for Simon and Shirley their children and grandchildren and Petitioner and Candice and their children and grandchildren.
- d. All trusts created by any party named herein for the Beneficiaries, children or grandchildren of the decedents Simon and Shirley.
- e. All records for both Estates, including but not limited to, banking, investment, business, accounting, real estate, transfers, titles, deeds, insurance, IRA's, pensions, retirement plans and any other records necessary to ascertain the assets in the Estates.
- f. All investment account records from Stanford, JP Morgan, Legacy and Oppenheimer and any banking accounts or other asset accounts, with any beneficiary designations for Transfer on Death "TOD" accounts.
- g. All medical records of Simon and Shirley from all doctors involved in their care for the years 2007-2012.
- h. All post mortem medical records, coroner records and hospital records.

10. Under Title XLII ESTATES AND TRUSTS Chapter 733 PROBATE CODE: ADMINISTRATION OF ESTATES 733.509 this Court enter an order removing the Personal Representatives and have them immediately deliver all Estates assets, records, documents, papers, and other property of or concerning the Estates in the removed personal representative's possession or control to the remaining personal representative or successor fiduciary or this Court and this Court turn relevant documents over to the appropriate state and federal authorities for further investigation of alleged Forgery and Fraud.

## V. PRAYER FOR RELIEF

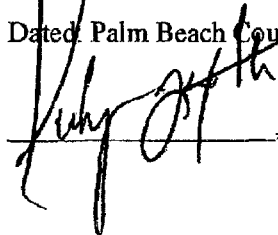
WHEREFORE, for the reasons set forth in detail herein, Petitioner respectfully requests that this Court in the interest of justice issue an immediate order to remove the Personal Representatives, Tescher & Spallina P.A., Tescher & Spallina and Ted as Trustee, Successor



Motion to Remove PR

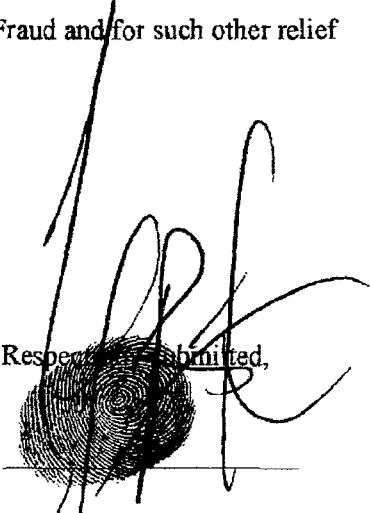
Trustee, Personal Representative and any other capacity they claim in the estates of Simon and Shirley and have them immediately deliver all Estates assets, records, inventories, accountings, documents, papers, and other property of or concerning the Estates in the removed Personal Representatives possession or control to a new personal representative or successor fiduciary or this Court. Then this Court then turn the relevant documents over to the appropriate state and federal authorities for further investigation of alleged Forgery and Fraud and for such other relief as the Court may find just and proper.

Dated: Palm Beach County, FL



\_\_\_\_\_, 2013

Respectfully submitted,



Eliot I. Bernstein  
2753 NW 34<sup>th</sup> St.  
Boca Raton, FL 33434  
(561) 245-8588



Case: 1:13-cv-03643  
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Motion to Remove PR

**PROOF OF SERVICE BY MAIL**

I, Eliot Ivan Bernstein, the Petitioner, certify that I served this notice by mailing a copy to

Robert L. Spallina, Esq.  
Tescher & Spallina, P.A.  
Boca Village Corporate Center I  
4855 Technology Way  
Suite 720  
Boca Raton, FL 33431

Donald Tescher, Esq.  
Tescher & Spallina, P.A.  
Boca Village Corporate Center I  
4855 Technology Way  
Suite 720  
Boca Raton, FL 33431

Theodore Stuart Bernstein  
880 Berkley Street  
Boca Raton, FL 33487

**Interested Parties and Trustees for Beneficiaries**

Lisa Sue Friedstein  
2142 Churchill Lane  
Highland Park IL 60035

Jill Marla Iantoni  
2101 Magnolia Lane  
Highland Park, IL 60035

Pamela Beth Simon  
950 North Michigan Avenue  
Suite 2603  
Chicago, IL 60611

Eliot Ivan Bernstein  
2753 NW 34th St.  
Boca Raton, FL 33434

and depositing the same in the U.S. Mail on the 27<sup>th</sup> day of

July 2013



with proper postage prepaid.

Date

X

Signature

*[Handwritten signature]*  
*[Handwritten date: 00/13]*



**EXHIBIT 1**

**JANUARY 08, 2013 REASSURE AMERICA LIFE INSURANCE COMPANY LETTER  
RE SIMON BERNSTEIN POLICY**



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**Reassure America Life  
Insurance Company**

J. L. McDonald, ALHC, LTCP  
Vice President

12760 Merit Drive  
Suite 500  
Dallas, TX 75251

Telephone (972) 778-8535  
Fax (260) 435-8773

**January 8, 2013**

Mr. Robert Spallina  
Attorney at Law  
Tescher & Spallina, P.A.  
Boca Village Corporate Center I  
4855 Technology Way, Suite 720  
Boca Raton, FL 33431

Re: Simon Bernstein, Dec's  
Policy # 1009208

Dear Mr. Spallina:

This will acknowledge your letters the most recent of which is dated December 21, 2012.

In as much as the above policy provides a large death benefit in excess of \$1.6 million dollars and the fact that the trust document cannot be located, we respectfully request a court order to enable us to process the claim.

Please let us know how we may assist you in this process.

Sincerely,

Jim McDonald, ALHC, LTCP  
Vice President  
Claims Oversight



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Motion to Remove PR

# FAX

To: Robert Spallina  
Company:  
Fax: 915619977308

From: Kellie Walker  
Phone:

---

**NOTES:**

Insured Simon Bernstein #1009208

**CONFIDENTIALITY**

This fax and any attachments are confidential and may also be privileged. If you are not the named recipient, or have otherwise received this communication in error, please notify the sender immediately, and do not disclose its contents to any other person, use them for any purpose, or store or copy them in any medium. Thank you for your cooperation.

---

Date and time of transmission: Tuesday, January 15, 2013 11:49:30 AM

Number of pages including this cover sheet: 02



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Motion to Remove PR



**EXHIBIT 2**

**JACKSON'S (1) ANSWER TO COMPLAINT AND (2) COUNTERCLAIM  
AND THIRD-PARTY COMPLAINT FOR INTERPLEADER**



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Motion to Remove PR

## BURKE, WARREN, MACKEY & SERRITELLA, P.C.

330 NORTH WABASH AVENUE  
22ND FLOOR  
CHICAGO, ILLINOIS 60611-3607  
TELEPHONE (312) 840-7000  
FACSIMILE (312) 840-7900  
www.burkelaw.com

ALEXANDER DAVID MARKS  
DIRECT DIAL NUMBER  
(312) 840-7022  
amarks@burkelaw.com

July 1, 2013

### VIA FEDEX REQUIRING SIGNATURE RECEIPT

Eliot Bernstein  
2753 N. W. 34<sup>th</sup> Street  
Boca Raton, FL 33434

**Re: Simon Bernstein Irrevocable Insurance Trust Dtd 6/21/95 v. Heritage Union  
Life Insurance Company, et al.  
Case No. 2013 cv 03643**

Dear Mr. Bernstein:

We represent Jackson National Life Insurance Company, successor in interest to Heritage Union Life Insurance Company in the above-matter. Please find enclosed a copy of a *counterclaim and third-party complaint that was filed on June 26, 2013 in the United States District Court for the Northern District of Illinois under the case number shown above. You were named as a party in this suit because of a potential interest you have in an insurance policy of which Simon Bernstein was the insured.*

#### **Why are you getting this?**

This is not a summons, or an official notice from the court. It is a request that, to avoid expenses, you waive formal service of a summons by signing and returning the enclosed waiver. To avoid these expenses, you must return the signed waiver within 30 days from the date shown above, which is the date this notice was sent. Two copies of the waiver form are enclosed, along with a stamped self-addressed envelope or other prepaid means for returning one copy. You may keep the other copy.

#### **What happens next?**

If you return the signed waiver, I will file it with the court. The action will then proceed as if you had been served on the date the waiver is filed, but no summons will be served on you and you will have 60 days from the date this notice is sent (see the date above) to answer the third-party complaint.



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**BURKE, WARREN, MACKAY & SERRITELLA, P.C.**

Eliot Bernstein

July 1, 2013

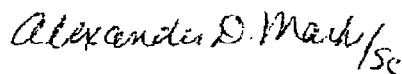
Page 2

If you do not return the signed waiver within the time indicated, I will arrange to have the summons and complaint served on you. And I will ask the court to require you to pay the expenses of making service.

Please read the enclosed statement about the duty to avoid unnecessary expenses.

I certify that this request is being sent to you on the date above.

Very truly yours,



Alexander D. Marks

Enclosures

cc: Frederic A. Mendelsohn  
1449378.1



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Case: 1:13-cv-03643 Document #: 17 Filed: 06/26/13 Page 1 of 11 PageID #:40

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

SIMON BERNSTEIN IRREVOCABLE )  
INSURANCE TRUST DTD 6/21/95, )

Plaintiff, )

v. )

HERITAGE UNION LIFE INSURANCE )  
COMPANY, )

Defendant. )

----- )  
HERITAGE UNION LIFE INSURANCE )  
COMPANY, )

Counter-Plaintiff, )

v. )

SIMON BERNSTEIN IRREVOCABLE )  
INSURANCE TRUST DTD 6/21/95, )

Counter-Defendant, )

and, )

FIRST ARLINGTON NATIONAL BANK, )  
as Trustee of S.B. Lexington, Inc. Employee )  
Death Benefit Trust, UNITED BANK OF )  
ILLINOIS, BANK OF AMERICA, )  
successor in interest to LaSalle National )  
Trust, N.A., SIMON BERNSTEIN TRUST, )  
N.A., TED BERNSTEIN, individually and )  
as purported Trustee of the Simon )  
Bernstein Irrevocable Insurance Trust Dtd. )  
6/21/95, and ELIOT BERNSTEIN, )

Third-Party Defendants. )

Case No. 13 cv 3643

Honorable Amy J. St. Eve  
Magistrate Mary M. Rowland

**JACKSON'S (1) ANSWER TO COMPLAINT AND (2) COUNTERCLAIM  
AND THIRD-PARTY COMPLAINT FOR INTERPLEADER**

Defendant, Jackson National Life Insurance Company ("Jackson"), as successor in  
interest to Reassure America Life Insurance Company, successor in interest to Heritage Union



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Life Insurance Company, makes the following (1) answer to Plaintiff's complaint and (2) counterclaim and third-party complaint for interpleader:

ANSWER

1. At all relevant times, the Bernstein Trust was a common law trust established in Chicago, Illinois by the settlor, Simon L. Bernstein, and was formed pursuant to the laws of the State of Illinois.

ANSWER: Jackson lacks sufficient information and knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies the same.

2. Ted S. Bernstein is the Trustee of the Bernstein Trust.

ANSWER: Jackson lacks sufficient information and knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies the same.

3. At all relevant times, the Bernstein Trust was a beneficiary of a life insurance policy insuring the life of Simon L. Bernstein, and issued as policy number 1009208 (the "Policy").

ANSWER: Jackson lacks sufficient information and knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies the same.

4. The Policy was originally purchased by the S.B. Lexington, Inc 501(c)(9) VEBA Trust (the "VEBA") from Capital Bankers Life Insurance Company ("CBLIC") and was delivered to the original owner in Chicago, Illinois on or about December 27, 1982.

ANSWER: Jackson lacks sufficient information and knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies the same.

5. At the time of issuance and delivery of the Policy in 1982, CBLIC was an insurance company licensed and doing business in the State of Illinois, and the insured, Simon L. Bernstein, was a resident of the state of Illinois.



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ANSWER: Jackson lacks sufficient information and knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies the same.

6. Heritage subsequently assumed the Policy from Capital Bankers and thus became the successor to CBLIC as "Insurer" under the Policy.

ANSWER: Jackson lacks sufficient information and knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies the same.

7. In 1995, the VEBA, as owner of the Policy, executed a beneficiary change form naming LaSalle National Trust, N.A., as Trustee of the VEBA, as primary beneficiary of the Policy, and the Bernstein Trust as the contingent beneficiary.

ANSWER: Jackson lacks sufficient information and knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies the same.

8. S.B. Lexington, Inc. and the VEBA were voluntarily dissolved on or about April 3, 1998

ANSWER: Jackson lacks sufficient information and knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies the same.

9. Upon the dissolution of the VEBA in 1998, the Policy ownership was assigned and transferred from the VEBA to Simon L. Bernstein, individually.

ANSWER: Jackson lacks sufficient information and knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies the same.

10. At the time of his death, Simon L. Bernstein was the owner of the Policy, and the Bernstein Trust was the sole surviving beneficiary under the Policy.

ANSWER: Jackson lacks sufficient information and knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies the same



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11. The insured under the Policy, Simon L. Bernstein, passed away on September 13, 2012, and on that date the Policy remained in force.

ANSWER: Jackson admits the allegation of this paragraph.

12. Following Simon L. Bernstein's death, the Bernstein Trust, by and through its counsel in Palm Beach County, FL, submitted a death claim to Heritage under the Policy including Simon L. Bernstein's death certificate and other documentation.

ANSWER: Jackson admits the allegation of this paragraph.

13. The Policy, by its terms, obligates Heritage to pay the death benefits to the beneficiary of the Policy upon Heritage's receipt of the due proof of the insured's death.

ANSWER: Jackson admits it, as a successor to Heritage, is obligated to pay the death benefits to the beneficiary(ies) of the Policy, but denies that the remainder of paragraph 13 accurately and fully states the obligations of a beneficiary in submitting a claim under the Policy, and/or when the obligation for Jackson to make such payment becomes due and therefore denies the same.

14. Heritage has breached its obligations under the Policy by refusing and failing to pay the Policy's death benefits to the Bernstein Trust as beneficiary of the Policy despite Heritage's receipt of due proof of the Insured's death.

ANSWER: Jackson lacks sufficient information and knowledge to form a belief as to the true beneficiary of the Policy, resulting in it tendering the death benefit funds to the Court and filing its interpleader counterclaim and third-party complaint, and thus it denies the allegation of this paragraph.

15. Despite the Bernstein Trust's demands Heritage has not paid out the death benefits on the policy to the Bernstein Trust.



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ANSWER: Jackson lacks sufficient information and knowledge to form a belief as to the true beneficiary of the Policy, resulting in it tendering the death benefit funds to the Court and filing its interpleader counterclaim and third-party complaint, and thus it denies the allegation of this paragraph.

16. As a direct result of Heritage's refusal and failure to pay the death benefits to the Bernstein Trust pursuant to the Policy, Plaintiff has been damaged in an amount equal to the death benefits of the Policy plus interest, an amount which exceeds \$1,000,000.

ANSWER: Jackson denies the allegation of this paragraph.

WHEREFORE, Defendant, Jackson National Life Insurance Company, as successor in interest to Reassure America Life Insurance Company, successor in interest to Heritage Union Life Insurance Company, respectfully requests that it be dismissed from this lawsuit, and requests such other and further relief as the Court deems just and proper.

**COUNTER-CLAIM AND THIRD-PARTY COMPLAINT FOR INTERPLEADER**

**INTRODUCTION**

1. Jackson National Life Insurance Company ("Jackson") brings this counter-claim and third-party complaint for Interpleader pursuant to 28 U.S.C. § 1335(a) and Federal Rule of Civil Procedure 14, as it seeks a declaration of rights under a life insurance policy for which it is responsible to administer. The proceeds from the policy (the "Death Benefit Proceeds") have been tendered to this Court.

**PARTIES AND VENUE**

2. Jackson, successor in interest to Reassure America Life Insurance Company ("Reassure"), successor in interest to Heritage Union Life Insurance Company ("Heritage"), is a corporation organized and existing under the laws of the State of Michigan, with its principal place of business located in Lansing, Michigan. Jackson did not originate or administer the

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Motion to Revoke PR



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subject life insurance policy, Policy Number 1009208 (the "Policy"), but inherited the Policy and the Policy records from its predecessors.

3. The Simon Bernstein Irrevocable Insurance Trust Dtd 6/21/95 (the "Bernstein Trust") is alleged in the underlying suit to be a "common law trust established in Chicago, Illinois by the settlor, Simon L. Bernstein, and was formed pursuant to the laws of the state of Illinois."

4. Ted S. Bernstein is a resident and citizen of Florida. He is alleged in the underlying suit to be the "trustee" of the Bernstein Trust. Ted Bernstein is further, individually, upon information and belief, a beneficiary of the Bernstein Trust (as Simon Bernstein's son).

5. Eliot Bernstein is a resident and citizen of Florida. He has asserted that he and/or his children are potential beneficiaries under the Policy as Simon Bernstein's son, presumably under the Bernstein Trust.

6. First Arlington National Bank is, upon information and belief, a bank in Illinois that was, at one point, and the purported trustee for the "S.B. Lexington, Inc. Employee Death Benefit Trust" (the "Lexington Trust"). The Lexington Trust was, upon information and belief, created to provide employee benefits to certain employees of S.B. Lexington, Inc., an insurance agency, including Simon Bernstein, but it is unclear if such trust was properly established.

7. United Bank of Illinois is, upon information and belief, a bank in Illinois that was, at one point, a named beneficiary of the Policy. To date, Jackson has not determined the current existence of this bank.

8. Bank of America, N.A., is a national banking association with its principal place of business in Charlotte, North Carolina. Bank of America, N.A. is the successor in interest to LaSalle National Trust, N.A., which was a named beneficiary of the Policy.



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9. The "Simon Bernstein Trust" is, upon information and belief, the Bernstein Trust listed in paragraph 3, above, and was a named contingent beneficiary of the Policy. However, based on the variance in title, to the extent it is a separate trust from the Bernstein Trust referenced above, it is named separately.

10. Subject matter jurisdiction is proper in accordance with 28 U.S.C. § 1335(a).

11. Personal jurisdiction is proper over Ted Bernstein because he, purportedly as Trustee of the Bernstein Trust, caused this underlying suit to be filed in this venue.

12. Personal jurisdiction is proper over First Arlington National Bank, United Bank of Illinois, and Bank of America in accordance with 735 ILCS 5/2-209(a)(1) because each, upon information and belief, transacts business in Illinois.

13. Personal jurisdiction is proper over Ted and Eliot Bernstein in accordance with 735 ILCS 5/2-209(a)(13) as each are believed to have an ownership interest in the Bernstein Trust, which is alleged in the underlying complaint to exist underneath laws of and to be administered within this State.

14. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) in that a substantial part of the events giving rise to this interpleader action occurred in this District.

#### FACTS

15. On December 27, 1982, upon information and belief, Capitol Bankers Life Insurance Company issued the Policy, with Simon L. Bernstein as the purported insured (the "Insured").

16. Over the years, the Policy's owner(s), beneficiary(ies), contingent beneficiary(ies) and issuer changed. Among the parties listed as Policy beneficiaries (either primary or contingent) include: "Simon Bernstein"; "First Arlington National Bank, as Trustee of S.B. Lexington, Inc. Employee Death Benefit Trust"; "United Bank of Illinois"; "LaSalle National



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Trust, N.A., Trustee"; "LaSalle National Trust, N.A."; "Simon Bernstein Insurance Trust dated 6/21/1995, Trust"; and "Simon Bernstein Trust, N.A."

17. At the time of the Insured's death, it appears "LaSalle National Trust, N.A." was the named primary beneficiary of the Policy, and the "Simon Bernstein Trust, N.A." was the contingent beneficiary of the Policy. The Policy's Death Benefit Proceeds are \$1,689,070.00, less an outstanding loan.

18. Subsequent to the insured's death, Ted Bernstein, through his Florida counsel (who later claimed Bernstein did not have authority to file the instant suit in Illinois on behalf of the Bernstein Trust and withdrew representation), submitted a claim to Heritage seeking payment of the Death Benefit Proceeds, purportedly as the trustee of the Bernstein Trust. Ted Bernstein claimed that the Lexington Trust was voluntarily dissolved in 1998, leaving the Bernstein Trust as the purported sole surviving Policy beneficiary at the time of the Decedent's death.

19. However, Ted Bernstein could not locate (nor could anyone else) a copy of the Bernstein Trust. Accordingly, on January 8, 2013, Reassure, successor to Heritage, responded to Ted Bernstein's counsel stating:

In as much as the above policy provides a large death benefit in excess of \$1.6 million dollars and the fact that the trust document cannot be located, we respectfully request a court order to enable us to process this claim.

20. Presently, the Bernstein Trust still has not been located. Accordingly, Jackson is not aware whether the Bernstein Trust even exists, and if it does whether its title is the "Simon Bernstein Insurance Trust dated 6/21/1995, Trust," as captioned herein, or the "Simon Bernstein Trust, N.A.", as listed as the Policy's contingent beneficiary (or otherwise), and/or if Ted Bernstein is in fact its trustee. In conjunction, Jackson has received conflicting claims as to whether Ted Bernstein had authority to file the instant suit on behalf of the Bernstein Trust.



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21. In addition, it is not known whether "LaSalle National Trust, N.A." was intended to be named as the primary beneficiary in the role of a trustee (of the Lexington and/or Bernstein Trust), or otherwise. Jackson also has no evidence of the exact status of the Lexington Trust, which was allegedly dissolved.

22. Further, Jackson has received correspondence from Eliot Bernstein, attached as *Exhibit 1*, asserting that he and/or his children are potential beneficiaries under the Policy, (presumably under the Bernstein Trust, but nonetheless raising further questions as to the proper beneficiaries of the Policy), and requesting that no distributions of the Death Benefit Proceeds be made.

**COUNT I- INTERPLEADER**

23. This is an action of interpleader brought under Title 28 of the United States Code, Section 1335.

24. Jackson does not dispute the existence of the Policy or its obligation to pay the contractually required payment Death Benefit Proceeds under the Policy, which it has tendered into the registry of this Court.

25. Due to: (a) the inability of any party to locate the Bernstein Trust and uncertainty associated thereunder; (b) the uncertainty surrounding the existence and status of "LaSalle National Trust, N.A." (the primary beneficiary under the Policy) and the Lexington Trust; and (c) the potential conflicting claims under the Policy, Jackson is presently unable to discharge its admitted liability under the Policy.

26. Jackson is indifferent among the defendant parties, and has no interest in the benefits payable under the Policy as asserted in this interpleader other than to pay its admitted liability pursuant to the terms of the Policy, which Jackson has been unable to do by reason of uncertainty and potential competing claims.

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27. Justice and equity dictate that Jackson should not be subject to disputes between the defendant parties and competing claims when it has received a non-substantiated claim for entitlement to the Death Benefit Proceeds by a trust that has yet to be located, nor a copy of which produced.

WHEREFORE, counter- and third-party plaintiff Jackson National Life Insurance Company respectfully requests pursuant to 28 U.S.C. 1335 that this Court enter an Order:

- a. That counter-defendants be temporarily enjoined during the pendency of this suit and thereafter permanently and perpetually enjoined from commencing any proceedings or prosecuting any claim against Jackson in any state or federal court or other forum with respect to the Policy;
- b. That judgment be entered in favor of Jackson on the Complaint in Interpleader;
- c. That upon determination that the proper parties have been made subject to this suit, Jackson be excused from further attendance upon this case, be dismissed from this case with an express finding of finality pursuant to Rule 54(b) of the Federal Rules of Civil Procedure;
- d. That Jackson be awarded actual court costs and reasonable attorneys' fees incurred in connection with this interpleader action to be paid out of the admitted liability deposited by it with the Clerk of the Court; and
- e. That Jackson be granted such other and further relief as this Court deems just and appropriate.

**JACKSON NATIONAL LIFE INSURANCE  
COMPANY,**

By: /s/ Alexander D. Marks  
One of Its Attorneys

Frederic A. Mendelsohn (ARDC No. 6193281)  
Alexander D. Marks (ARDC No. 6283455)  
Burke, Warren, MacKay & Serritella, P.C.  
330 N. Wabash Ave., 22<sup>nd</sup> Floor  
Chicago, Illinois 60611  
312-840-7000  
312-840-7900 (facsimile)

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Motion to Remove PR

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CERTIFICATE OF SERVICE

The undersigned, an attorney, states that on June 26, 2013 he caused a copy of the foregoing Answer to Complaint and Counter-Claim and Third-Party Complaint for Interpleader to be filed electronically with the Northern District of Illinois electronic filing system, and electronically served upon the following:

Adam M. Simon  
The Simon Law Firm  
303 E. Wacker Drive, Suite 210  
Chicago, IL 60601

/s/ Alexander D. Marks

1434759 1

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Friday, May 3, 2013

Reassure America Life Insurance Company  
J. L. McDonald, ALHC LTCP  
Vice President  
12750 Merit Drive  
Suite 600  
Dallas, TX 75251  
Telephone (972) 778-8536  
Fax (260) 435-8773

RE: URGENT RE Policy #1009208

Dear Mr. McDonald,

I, Eliot I. Bernstein, son of Simon I. Bernstein, and my children have been notified that we are possible beneficiaries of the life insurance policy on my deceased father. I am in receipt of your attached letter and I have retained counsel, Christine Yates at Tripp Scott in FL, for my children's interests in the policy and am currently seeking counsel regarding my interest in the policy and request that you send me and Yates a copy of the policy and all pertinent policy information immediately at the addresses below

I have been told by the estate planning attorney, Robert Spallina, that he does not have a copy of the policy, schedules, riders, loans, attachments etc. and that he is also missing a trust document that may have been the beneficiary. I am requesting that your company make NO distribution of any policy proceeds without both my written personal consent and my children's counsel consent, to any party. I am aware of claims that there is also a missing trust of Simon that may have been a beneficiary and any information you maintain regarding the beneficiaries would be helpful in trying to establish who the rightful beneficiaries are. I, nor my children have consented to any agreements for distribution and have no proper paperwork to rely on.

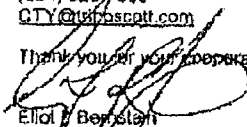
I have been informed that parties are attempting to make distribution without my or my children's counsel knowledge and consent.

Please contact me at your earliest convenience so that we may discuss this further or you can write or email at my addresses below.

Address information for Christine Yates,

Christine P. Yates  
Tripp Scott  
110 Southeast 6 Street  
Fort Lauderdale, FL 33301  
(954) 525-7500  
CTY@trippscott.com

Thank you for your cooperation in these matters.

  
Eliot I. Bernstein  
Investor  
2750 N.W. 34th St.  
Boca Raton, Florida 33434-3459  
(561) 245-8588 (o)  
(561) 886-7628 (c)  
(561) 245-6844 (f)  
iviewit@vixwit.tv



Motion to Remove PR







**EXHIBIT 3**

**LETTER FROM JANET CRAIG OF OPPENHEIMER DESCRIBING THE  
EMERGENCY**

A handwritten signature in black ink is written over a circular stamp. The signature is slanted and appears to be 'J. Craig'. The stamp is a circular seal with a textured, grainy appearance.

Page 54 of 62  
07/24/2013  
Motion to Remove PR

**Eliot Bernstein**

---

**From:** Craig, Janet <Janet.Craig@opco.com>  
**Sent:** Tuesday, July 16, 2013 1:56 PM  
**To:** 'Robert Spallina (rspallina@tescherspallina.com)'; 'Eliot Ivan Bernstein (iviewit@gmail.com)'; 'Candice Bernstein (tourcandy@gmail.com)'  
**Cc:** Worth, Hunt; Sigalos, Janet; Vereb, Patricia  
**Subject:** Bernstein Family Realty

Robert, Eliot and Candice,

As you are aware, during his lifetime, Simon Bernstein paid the household expenses for Eliot and Candace. Upon his death those funds were frozen and the only funds available to pay the household expenses were the education trusts that Simon set up for Daniel, Jacob and Joshua.

We are now at a point where the education trusts have insufficient assets to pay the 2013/2014 tuition for the three boys and will soon be depleted to the point where the household expenses cannot be paid. The market values of the four accounts are listed below.

Please let me know as soon as possible if the Estate of Simon Bernstein intends to reimburse the education trusts for the household expenses paid to date. If this is not possible, for any reason, Oppenheimer Trust Company will have no recourse but to Resign as Trustee in favor of Eliot and Candice Bernstein and to name them as the Successor Manager of Bernstein Family Realty. At that point we will present an Accounting for all the trusts, request a Release and Receipt for our period of administration and transfer all funds to the management of the Successor Trustee and Manager and terminate the trusts.

Please note I will be out of the office from July 20<sup>th</sup> through July 29<sup>th</sup>. I will be addressing this matter upon my return.

S. Bernstein Trust fbo Daniel	\$19,465.15
S. Bernstein Trust fbo Jacob	\$19,267.41
S. Bernstein Trust fbo Joshua	\$ 9,268.52
<u>Bernstein Family Realty</u>	<u>\$12,311.94</u>
Total	\$60,313.02

Thank you for your prompt attention to this matter.

Janet Craig, CTFA  
Senior Vice President & Compliance Officer  
Oppenheimer Trust Company  
18 Columbia Turnpike  
Florham Park, NJ 07932  
Tel: 973-245-4635  
Fax: 973-245-4699  
Email: [Janet.Craig@opco.com](mailto:Janet.Craig@opco.com)

This communication and any attached files may contain information that is confidential or privileged. If this communication has been received in error, please delete or destroy it immediately. Please go to [www.opco.com/EmailDisclosures](http://www.opco.com/EmailDisclosures)

1  
Page 55 of 62  
07/24/2013  
Motion to Remove PR

**EXHIBIT 4**

**EMAIL BETWEEN YATES AND MARC**

From: [marcgarber@gmail.com](mailto:marcgarber@gmail.com)

To: [cty@trippscott.com](mailto:cty@trippscott.com)

Subject: RE: Bernstein - E/O Shirley Bernstein & E/O Leon Bernstein: FW: Bernstein - E/O Shirley Bernstein & E/O Leon Bernstein: Status

Date: Thu, 13 Jun 2013 11:02:40 -0400

Christine:

I had difficulty sleeping, as I was sorting through our conversation. What troubles me has troubled me in prior situations. Spallina is not the first "bully lawyering" situation I have seen or heard about. "If you scream loud enough and pound the table hard and often, the other side will cave". It troubles me that many times this approach works. Sometimes it becomes a fee and time matter, other situations result in the good lawyer becoming tired of dealing with "hard headed" uncompromising opponent. I have heard some people actually seek out a bully lawyer for these reasons. The reasons include the fact that they win using this approach. Further, and as you implied, with all the time you expended, Spallina gave us very little, in terms of everything; from documents to involvement in the administration.

It truly troubles me that Spallina continues to spin his web of deceit, and I believe this conduct is further circumstantial evidence that "something is very wrong". I am very glad Eliot filed whatever he filed and I do hope he prevails. I also hope Spallina is removed and perhaps punished for all he is doing. It also troubles me that once he learns of your withdrawal, Spallina will celebrate his victory. If I was licensed in Florida, I would take this on pro bono. Simply out of principal, and I would make certain a probate judge learns of Spallina's behavior. Unfortunately, I am not a Florida lawyer. If Eliot is able to get his motions before a probate judge, I hope he asks and you agree to testify as to how Spallina treated you. A judge may take real notice of that testimony.

Thanks,

Marc

Regards,

**MARC R. GARBER**



Date: Thu, 13 Jun 2013 13:05:50 +0000

From: [cty@TrippScott.com](mailto:cty@TrippScott.com)

Subject: RE: Bernstein - E/O Shirley Bernstein & E/O Leon Bernstein: FW: Bernstein - E/O Shirley Bernstein & E/O Leon Bernstein: Status

To: [marcgarber@gmail.com](mailto:marcgarber@gmail.com); [jviewit@jviewit.tv](mailto:jviewit@jviewit.tv); [jviewit@gmail.com](mailto:jviewit@gmail.com)

Marc, it was nice to speak with you yesterday. As we discussed, the reasons for the the termination of my representation were due to the insufficiency of funds in the trust accounts and the the corresponding increase in litigation that would need to be filed in order to move this case forward. It is always a difficult decision as an attorney to proceed with litigation, using all funds in a trust to do so without a guarantee of results. This leaves the attorney in a difficult position with the trust beneficiary, their client. Also, I was concerned that attorney/client communications via email were being filed in court proceedings by Eliot in his case. I want to be able to be assured that information on behalf of my client's remains confidential.

Thank you again for you time in speaking with me yesterday.



110 SE Sixth Street, Suite 1500  
Fort Lauderdale, FL 33301  
954-525-7500

**Christine T. Yates**

*Director*

Direct: (954) 760-4916

Fax: (954) 761-8475

[cty@trippscott.com](mailto:cty@trippscott.com)

---

**From:** Marc Garber [<mailto:marcgarber@gmail.com>]  
**Sent:** Saturday, June 08, 2013 11:15 AM  
**To:** Christine Yates  
**Subject:** Fwd: FW: Bernstein - E/O Shirley Bernstein & E/O Leon Bernstein: Status

Christine please call me about this. Marc Garber. 856 236 6567

----- Forwarded message -----

From: "Eliot Ivan Bernstein" <[jviewit@jviewit.tv](mailto:jviewit@jviewit.tv)>  
Date: Jun 8, 2013 10:12 AM  
Subject: FW: Bernstein - E/O Shirley Bernstein & E/O Leon Bernstein: Status  
To: "Marc R. Garber, Esquire @ Flaster Greenberg P.C." <[marc.garber@flastergreenberg.com](mailto:marc.garber@flastergreenberg.com)>, "Marc R. Garber Esq. @ Flaster Greenberg P.C." <[marcgarber@verizon.net](mailto:marcgarber@verizon.net)>, "Marc R. Garber Esq." <[marcgarber@gmail.com](mailto:marcgarber@gmail.com)>  
Cc:

A handwritten signature in black ink, appearing to be 'M. Garber', is written over a circular stamp. The stamp contains the text 'Page 57 of 62', '07/24/2013', and 'Motion to Remove PR'.

Page 57 of 62  
07/24/2013  
Motion to Remove PR

What is going on here? Give me a call when you get a sec.

**From:** Christine Yates [mailto:[cty@TrippScott.com](mailto:cty@TrippScott.com)]  
**Sent:** Friday, June 7, 2013 11:57 AM  
**To:** 'Eliot Ivan Bernstein'; 'Eliot Ivan Bernstein'  
**Cc:** Ibis A. Hernandez  
**Subject:** Bernstein - E/O Shirley Bernstein & E/O Leon Bernstein: Status

Eliot and Candace, first I am glad that you are feeling better Eliot.

I have made no progress with Spallina in regards to obtaining documents and in my last call with him and Mark Manceri, Mr. Spallina reiterated his position that the mortgage on the property you are currently residing in was what your father wanted, and that any information regarding the trust of your father would have to be addressed to your brother as trustee.


At this time, in order to receive the information you want, I believe you will need to institute legal proceedings against the estate and trust. Since a new course of action will need to be undertaken, at this time, I will be withdrawing as counsel for your children, and believe that you should now hire separate litigation counsel for them. I will be happy to assist your new counsel in providing them with any information and thank you for the opportunity you gave me to assist you.

110 SE Sixth Street, Suite 1500  
Fort Lauderdale, FL 33301  
954-525-7500


**Christine T. Yates**

**Director**

**Direct: (954) 760-4916**  
**Fax: (954) 761-8475**  
**[cty@trippscott.com](mailto:cty@trippscott.com)**

  
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07/24/2013  
Motion to Remove PR

**EXHIBIT 5**  
**ZILLOW LIST**



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07/24/2013

Motion to Remove PR



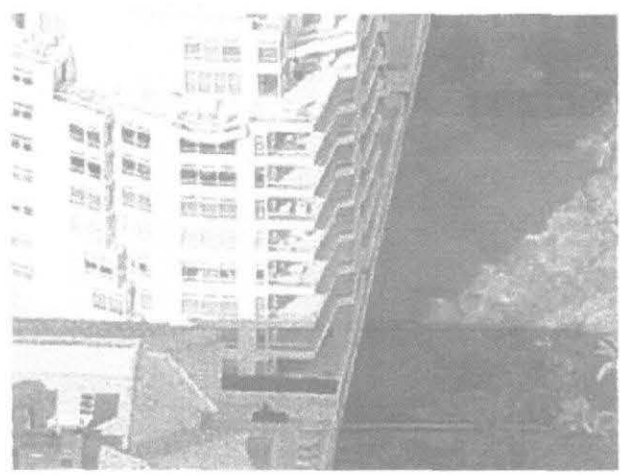
## 2494 S Ocean Blvd APT C5, Boca Raton, FL 33432

Sold on 5/6/13:

\$1,600,000

Zestimate® \$2,125,592

Est. Mortgage \$5,364/mo.



- Bedrooms: 3 beds
- Bathrooms: 4 baths
- Single Family: 3,764 sq ft
- Lot: 43,560 sq ft
- Year Built: 1996
- Last Sold: May 2013 for \$1,600,000
- Heating Type: Other

### Description

ESTATE SALE Renovated and updated residence located in the SE corner of the south tower, has one of the most desirable locations in the building. Private elevator comes directly into a private entry and secured foyer. Transitionally contemporary interiors are accented with neutral marble flooring throughout all the walkway areas, with carpeted bedrooms. Direct east, south, and west views of the ocean. Full living room...

#### Cooling

Central  
Fireplace  
Fireplaces

#### Parking

Garage - Attached  
Floor Covering  
Unknown

#### Basement Type

Unknown  
Attic  
Unknown

#### Other

Appliances Included  
Dishwasher, Dryer, Microwave, Range, Oven, Refrigerator, Washer  
Covered Parking Spaces  
0  
Price/sqft  
\$475

Laundry  
In Unit  
Roof Type  
Other

Parcel #  
0643471540002000  
Structure Type  
Other

http://www.zillow.com/zillow/2494-S-Ocean-Blvd-APT-C5-Boca-Raton-FL-33432/471540002000/... Page 1 of 1

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07/24/2013  
Motion to Remove PR

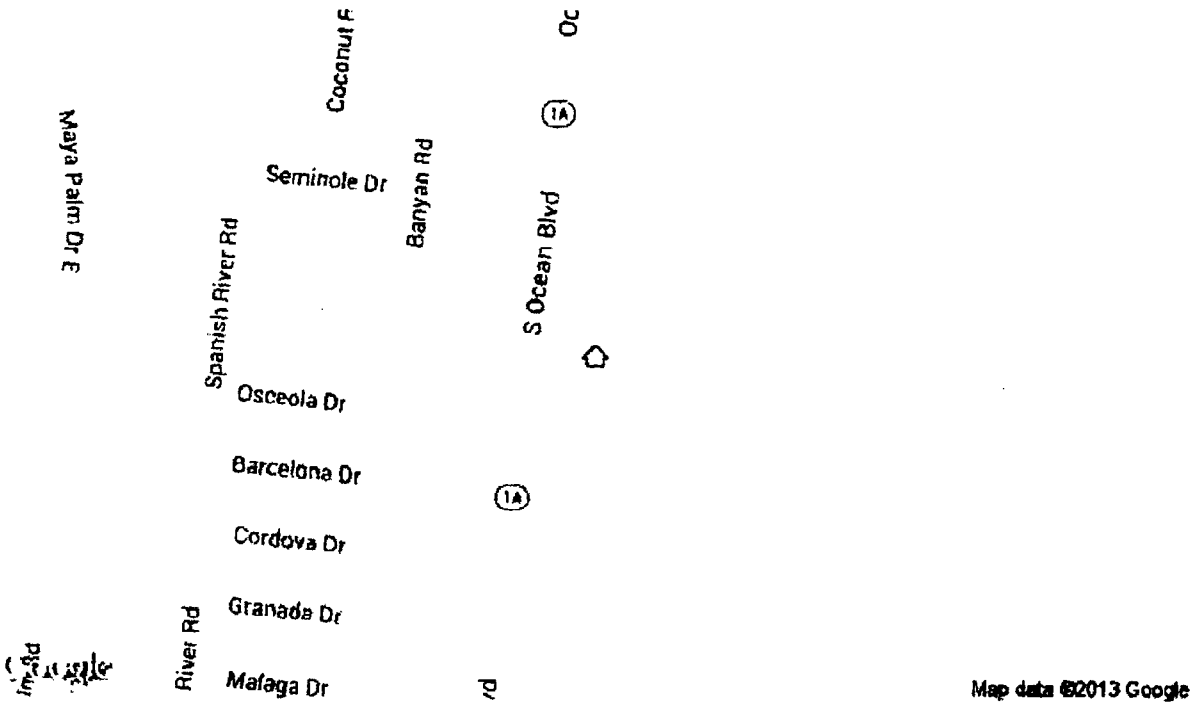


Unit Count  
1

View  
Water

Zillow Home ID  
46731264

Map



Zestimates

	Value	Range	30-day change	\$/sqft	Last updated
Zestimate	\$2,125,592	\$1,811M - \$2,511M	-\$88,256	5564	07/11/2013
Rent Zestimate	\$7,579/mo	\$5,1K - \$14K/mo	-\$427	\$2.01	07/08/2013

Owner tools  
Market guide

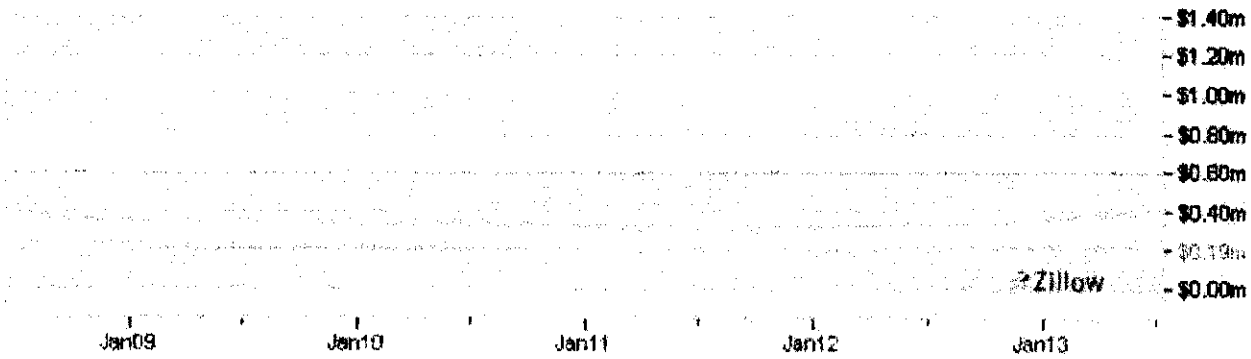
Zillow predicts 33432 home values will increase 3.4% next year, compared to a 3% increase for Boca Raton as a whole. Among 33432



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07/24/2013  
Motion to Remove PR

2494 S Ocean Blvd APT C5, Boca Raton, FL 33432 - Zillow

7/14/13 10:16AM



This home

**Price History**

Date	Description	Price	Change	\$/sqft	Source
05/06/2013	Sold	\$1,600,000	-20.0%	\$426	Public Record
04/13/2013	Listing removed	\$1,999,000	-	\$531	Nestler Poletto Sotheby's International Realty
09/30/2012	Price change	\$1,999,000	-8.9%	\$531	Nestler Poletto Sotheby's International Realty
02/01/2012	Listed for sale	\$2,195,000	37.2%	\$583	Nestler Poletto Sotheby's International Realty
07/13/2004	Sold	\$1,600,000	-	\$426	Public Record

**Tax History**

Year	Property taxes	Change	Tax assessment	Change
2012	\$22,883	15.1%	\$1,127,500	10.0%

  
 Page 62 of 62  
 07/24/2013  
 Motion to Remove PR



RECYCLED PAPER



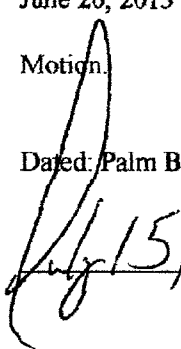
TO REORDER CALL 954-846-9399

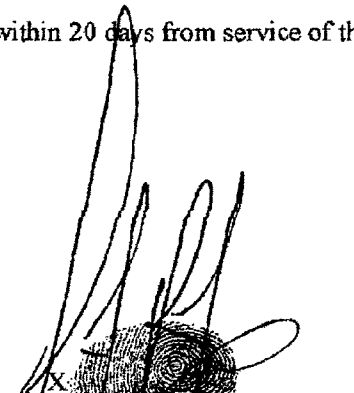


aware to include and had not included Notice to provide response within certain days to be included with the Petitions. Hence this motion is filed.

THEREFORE, the undersigned respectfully requests that this Court grant an Order requiring the Respondents to respond to the Petitions filed by Petitioner on May 06, 2013 and June 26, 2013 and already timely served on the Respondents, within 20 days from service of this Motion.

Dated: Palm Beach County, FL

 July 15, 2013

  
X  
Elroy [unclear], Pro Se  
2755 NW 34<sup>th</sup> St.  
Boca Raton, FL 33434  
(561) 245-8588

**PROOF OF SERVICE BY MAIL**

I, **Eliot Ivan Bernstein**, the Petitioner, certify that I served this notice by mailing a copy to:

**Respondents**

Robert L. Spallina, Esq.  
Tescher & Spallina, P.A.  
Boca Village Corporate Center I  
4855 Technology Way  
Suite 720  
Boca Raton, FL 33431  
Donald Tescher, Esq.  
Tescher & Spallina, P.A.  
Boca Village Corporate Center I  
4855 Technology Way  
Suite 720  
Boca Raton, FL 33431

Theodore Stuart Bernstein  
880 Berkley Street  
Boca Raton, FL 33487

**Interested Parties and Trustees for Beneficiaries**

Lisa Sue Friedstein  
2142 Churchill Lane  
Highland Park IL 60035

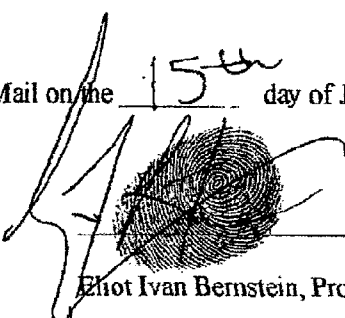
Jill Marla Iantoni  
2101 Magnolia Lane  
Highland Park, IL 60035

Pamela Beth Simon  
950 North Michigan Avenue  
Suite 2603  
Chicago, IL 60611

and depositing the same in the U.S. Priority Mail on the 15<sup>th</sup> day of July 2013, with proper postage prepaid.

Date

July 15<sup>th</sup> 2013

  
Eliot Ivan Bernstein, Pro Se

TO REORDER CALL 954-846-9399



RECYCLED PAPER



IN THE CIRCUIT COURT OF THE FIFTEEN JUDICIAL CIRCUIT

IN AND FOR PALM BEACH COUNTY, FLORIDA

IN RE: THE ESTATE OF

CASE NO. 2012CP004391 IX

SIMON BERNSTEIN,

Deceased

\_\_\_\_\_ /

ELIOT IVAN BERNSTEIN, PRO SE

PETITIONER,

V.

TESCHER & SPALLINA, P.A., (AND ALL PARTNERS,  
ASSOCIATES AND OF COUNSEL), ROBERT L.  
SPALLINA (BOTH PERSONALLY & PROFESSIONALLY),  
DONALD R. TESCHER (BOTH PERSONALLY &  
PROFESSIONALLY), THEODORE STUART BERNSTEIN,  
AS PERSONAL REPRESENTATIVES ET AL., TRUSTEES,  
SUCCESSOR TRUSTEES AND ESTATE COUNSEL AND  
JOHN AND JANE DOES,

RESPONDENTS.

\_\_\_\_\_ /

**MOTION TO: CONSIDER IN ORDINARY COURSE THE EMERGENCY PETITION  
TO FREEZE ESTATE ASSETS, APPOINT NEW PERSONAL REPRESENTATIVES,  
INVESTIGATE FORGED AND FRAUDULENT DOCUMENTS SUBMITTED TO THIS  
COURT AND OTHER INTERESTED PARTIES, RESCIND SIGNATURE OF ELIOT  
BERNSTEIN IN ESTATE OF SIMON BERNSTEIN AND MORE FILED BY  
PETITIONER**

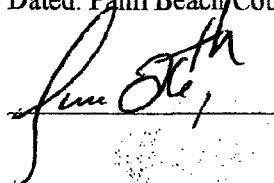
**PLEASE TAKE NOTICE** that upon the accompanying affirmation; Pro Se Petitioner Eliot Ivan  
Bernstein will move this Court before the Honorable Judge David E. French, Circuit Judge, at

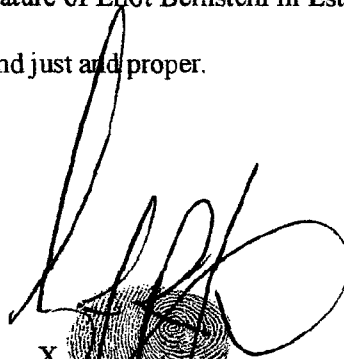




The Fifteenth Judicial Circuit at 200 West Atlantic Ave. Delray Beach, FL 33444, at a date and time to be determined by the Court, for an order to consider in ordinary course the Renewed Emergency Petition filed on May 29th, 2013, Docket #28 by the Petitioner to freeze Estate Assets, appoint new personal representatives, investigate forged and fraudulent documents submitted to the court and other interested parties, rescind signature of Eliot Bernstein in Estate of Simon and more and for such other relief as the Court may find just and proper.

Dated: Palm Beach County, FL

 2013

  
X  
Eliot Bernstein  
2753 NW 34<sup>th</sup> St.  
Boca Raton, FL 33434  
(561) 245-8588

To: Respondents  
Served Priority Mail to:

Respondents

Robert L. Spallina, Esq.  
Tescher & Spallina, P.A.  
Boca Village Corporate Center I  
4855 Technology Way  
Suite 720  
Boca Raton, FL 33431

Donald Tescher, Esq.  
Tescher & Spallina, P.A.  
Boca Village Corporate Center I  
4855 Technology Way  
Suite 720  
Boca Raton, FL 33431

Theodore Stuart Bernstein  
880 Berkley Street  
Boca Raton, FL 33487

Interested Parties and Trustees for Beneficiaries

Lisa Sue Friedstein  
2142 Churchill Lane  
Highland Park IL 60035

Jill Marla Iantoni  
2101 Magnolia Lane  
Highland Park, IL 60035

Pamela Beth Simon  
950 North Michigan Avenue  
Suite 2603  
Chicago, IL 60611

Eliot Ivan Bernstein  
2753 NW 34th St.  
Boca Raton, FL 33434



IN THE CIRCUIT COURT OF THE FIFTEEN JUDICIAL CIRCUIT

IN AND FOR PALM BEACH COUNTY, FLORIDA

IN RE: THE ESTATE OF CASE NO. 2012CP004391 IX

SIMON BERNSTEIN,

Deceased

\_\_\_\_\_  
ELIOT IVAN BERNSTEIN, PRO SE

PETITIONER,

V.

TESCHER & SPALLINA, P.A., (AND ALL PARTNERS,  
ASSOCIATES AND OF COUNSEL), ROBERT L.  
SPALLINA (BOTH PERSONALLY & PROFESSIONALLY),  
DONALD R. TESCHER (BOTH PERSONALLY &  
PROFESSIONALLY), THEODORE STUART BERNSTEIN,  
AS PERSONAL REPRESENTATIVES ET AL., TRUSTEES,  
SUCCESSOR TRUSTEES AND ESTATE COUNSEL AND  
JOHN AND JANE DOES,

RESPONDENTS.  
\_\_\_\_\_

**MOTION TO: CONSIDER IN ORDINARY COURSE THE EMERGENCY PETITION  
TO FREEZE ESTATE ASSETS, APPOINT NEW PERSONAL REPRESENTATIVES,  
INVESTIGATE FORGED AND FRAUDULENT DOCUMENTS SUBMITTED TO THIS  
COURT AND OTHER INTERESTED PARTIES, RESCIND SIGNATURE OF ELIOT  
BERNSTEIN IN ESTATE OF SIMON BERNSTEIN AND MORE FILED BY  
PETITIONER**

I, Eliot I. Bernstein, make the following affirmation under penalties of perjury:

I, Eliot I. Bernstein, am the pro se petitioner in the above entitled action, and respectfully  
*move this court to issue an order to consider in ordinary course the Renewed Emergency Petition*



filed by the Petitioner to freeze Estate Assets, appoint new personal representatives, investigate forged and fraudulent documents submitted to the court and other interested parties, rescind signature of Eliot Bernstein in Estate of Simon and more and for such other relief as the Court may find just and proper.

The reasons why I am entitled to the relief I seek are the following:

**I. INTRODUCTION:**

1. That on May 29, 2013, this Petitioner had filed a Renewed Emergency Petition to freeze Estate Assets, appoint new personal representatives, investigate forged and fraudulent documents submitted to the court and other interested parties, rescind signature of Eliot Bernstein in Estate of Simon and more.
2. That on 30<sup>th</sup> May 2013, the Honorable Judge David E. French gave a judgment on the Emergency Petition stating that "Motion is hereby denied as an Emergency, the moving party is directed to address said Motion in the ordinary course"- **Exhibit 1**

**II. ARGUMENT:**

1. **To consider the Renewed Emergency Petition filed by Petitioner in ordinary course:**

As per order of Court this Petitioner intends to proceed with the petition in ordinary course and requests this court to consider the Renewed Emergency Petition in ordinary course.

2. **To construe this Pro Se motion liberally:**

- i. **Relevant Law:**



Judiciary Act of September 24, 1789, Section 342, FIRST CONGRESS, Sess.

1, ch.20, 1789 states that:

“Pleadings of the Plaintiff SHALL NOT BE dismissed for lack of form or failure of process. All the pleadings are as any reasonable man/woman would understand, and:

““And be it further enacted. That no summons, writ, declaration, return, process, judgment, or other proceedings in civil cases in any of the courts or the United States, shall be abated, arrested, quashed or reversed, for any defect or want of form, but the said courts respectively shall proceed and give judgment according as the right of the cause and matter in law shall appear unto them, without regarding any imperfections, defects or want of form in such writ, declaration, or other pleading, returns process, judgment, or course of proceeding whatsoever, except those only in cases of demurrer, which the party demurring shall specially sit down and express together with his demurrer as the cause thereof. And the said courts respectively shall and may, by virtue of this act, from time to time, amend all and every such imperfections, defects and wants of form, other than those only which the party demurring shall express as aforesaid, and may at any, time, permit either of the parties to amend any defect in the process of pleadings upon such conditions as the said courts respectively shall in their discretion, and by their rules prescribe (a)””

Court errs if court dismisses pro se litigant without instructions of how pleadings are deficient and how to repair pleadings. *Plaskey v CIA*, 953 F.2d 25

It is settled law that the allegations of such a complaint, "however inartfully pleaded" are held "to less stringent standards than formal pleadings drafted by lawyers, see *Haines v. Kerner*, 404 U.S. 519, 520 (1972). See also *Maclin v. Paulson*, 627 F.2d 83, 86 (CA7 1980); *French v. Heyne*, 547 F.2d 994, 996 (CA7 1976); *Estelle v. Gamble*, 429 U.S. 97, 106 (1976). Such a complaint should not be dismissed for failure to state a claim unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief.



*Haines*, supra, at 520-521. And, of course, the allegations of the complaint are generally taken as true for purposes of a motion to dismiss. *Cruz v. Beto*, 405 U.S. 319, 322 (1972).

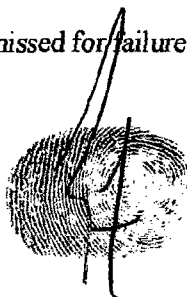
Recognizing that transsubstantive pleading standards do not sufficiently account for the capability differential between represented and unrepresented litigants, the Supreme Court fashioned a rule of special solicitude for pro se pleadings. See Robert Bacharach & Lyn Entzeroth, *Judicial Advocacy in Pro Se Litigation: A Return to Neutrality*, 42 IND. L.REV. 19, 22-26 (2009)

The Court granted such leniency, or “liberal construction,” to pro se pleadings against the backdrop of *Conley v. Gibson*’s undemanding “no set of facts” standard. See *Conley v. Gibson*, 355 U.S. 41, 45-46 (1957) “[A] complaint should not be dismissed for failure to state a claim unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief.”, abrogated by *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 561-63 (2007). This standard epitomized the notice-pleading regime envisioned by the drafters of the Federal Rules, who emphasized discovery as the stage at which a claim’s true merit would come to light, rather than pleading. See *Christopher M. Fairman*, *The Myth of Notice Pleading*, 45 ARIZ. L. REV. 987, 990 (2003).

**ii. Discussion:**

In this action, the Petitioner appears Pro se. Hence, this motion should be construed liberally. It should not be dismissed for failure to state a claim. It should be decided on true merit, rather than pleading.

**III. Prayer for Relief**

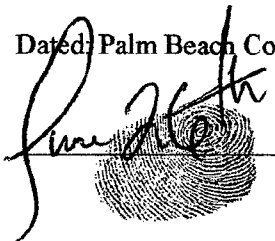



WHEREFORE, for the reasons set forth in detail herein, Petitioner respectfully requests that this Court in the interest of justice consider in ordinary course the Renewed Emergency Petition filed by the Petitioner to freeze Estate Assets, appoint new personal representatives, investigate forged and fraudulent documents submitted to the court and other interested parties, rescind signature of Eliot Bernstein in Estate of Simon and more and grant such other relief as the Court may find just and proper.



Respectfully submitted,

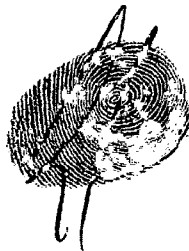
Dated: Palm Beach County, FL

  
2013

  
Eliot I. Bernstein  
2733 NW 34<sup>th</sup> St.  
Boca Raton, FL 3343  
(561) 245-8588

**Exhibit 1**

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IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT  
IN AND FOR PALM BEACH COUNTY, FLORIDA

CASE NUMBER: 2012CP004391 IX

IN RE: THE ESTATE OF  
SIMON BERNSTEIN,  
Deceased,

**ORDER DENYING RENEWED EMERGENCY PETITION TO: FREEZE ESTATE  
ASSETS, APPOINT NEW PERSONAL REPRESENTATIVES, INVESTIGATE  
FORGED AND FRAUDULENT DOCUMENTS SUBMITTED TO THIS COURT AND  
OTHER INTERESTED PARTIES, RESCIND SIGNATURE OF ELIOT BERNSTEIN IN  
ESTATE OF SHIRLEY BERNSTEIN AND MORE**

THIS CAUSE submitted to the Court on May 30, 2013 the Renewed Emergency Petition to:  
Freeze Estate Assets, Appoint New Personal Representatives, Investigate Forged and Fraudulent  
Documents Submitted to the Court and other Interested Parties, Rescind Signature of Eliot  
Bernstein in *Estate of Shirley Bernstein and More*, filed May 29, 2013, and the Court having  
fully reviewed said Motion, and the Court file, it is hereby

ORDERED AND ADJUDGED that said Motion is hereby DENIED as an Emergency, the  
moving party is directed to address said Motion in the ordinary course.

DONE AND ORDERED in West Palm Beach, Palm Beach County, Florida this 30<sup>th</sup> day  
of May, 2013.

**SIGNED & DATED**  
**MAY 30 2013**

CIRCUIT JUDGE DAVID E. FRENCH  
DAVID E. FRENCH

Copies to:

Peter M. Feaman, Esquire  
3615 W. Boynton Beach Blvd.  
Boynton Beach, FL 33436

Eliot Bernstein  
2753 34<sup>th</sup> St.  
Boca Raton, FL 33434

Robert L. Spallina, Esquire  
4855 Technology Way, Suite 720  
Boca Raton, FL 33431



IN THE CIRCUIT COURT OF THE FIFTEEN JUDICIAL CIRCUIT  
IN AND FOR PALM BEACH COUNTY, FLORIDA

IN RE: THE ESTATE OF

CASE NO. 2012CP004391 IX

SIMON BERNSTEIN,

MOTION TO SET HEARING

Deceased

\_\_\_\_\_  
ELIOT IVAN BERNSTEIN, PRO SE

PETITIONER,

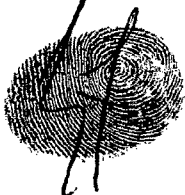
V.

TESCHER & SPALLINA, P.A., (AND ALL PARTNERS,  
ASSOCIATES AND OF COUNSEL), ROBERT L.  
SPALLINA (BOTH PERSONALLY & PROFESSIONALLY),  
DONALD R. TESCHER (BOTH PERSONALLY &  
PROFESSIONALLY), THEODORE STUART BERNSTEIN,  
AS PERSONAL REPRESENTATIVES ET AL., TRUSTEES,  
SUCCESSOR TRUSTEES AND ESTATE COUNSEL AND  
JOHN AND JANE DOES,

RESPONDENTS.  
\_\_\_\_\_

**MOTION TO SET HEARING FOR AN ORDER ON PETITIONER'S MOTION  
CONSIDER IN ORDINARY COURSE THE EMERGENCY PETITION TO FREEZE  
ESTATE ASSETS, APPOINT NEW PERSONAL REPRESENTATIVES, INVESTIGATE  
FORGED AND FRAUDULENT DOCUMENTS SUBMITTED TO THIS COURT AND  
OTHER INTERESTED PARTIES, RESCIND SIGNATURE OF ELIOT BERNSTEIN IN  
ESTATE OF SIMON BERNSTEIN AND MORE**

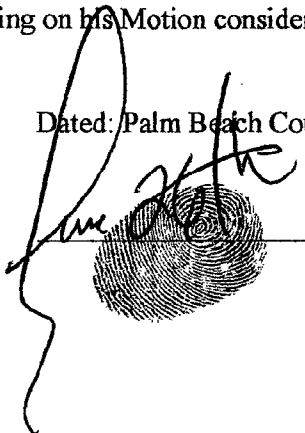
NOW COMES the undersigned, Pro Se Petitioner Eliot Ivan Bernstein, and hereby moves for an  
Order of this Court scheduling a hearing on his Motion to consider in ordinary course the

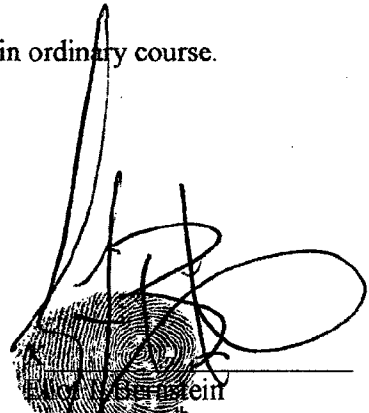


Renewed Emergency Petition filed by the Petitioner to freeze Estate Assets, appoint new personal representatives, investigate forged and fraudulent documents submitted to the court and other interested parties, rescind signature of Eliot Bernstein in Estate of Simon and more, which was filed with this court on May 29<sup>th</sup>, 2013, Docket #28.

THEREFORE, the undersigned respectfully requests that this Court grant an Order for a hearing on his Motion consider the Renewed Emergency Motion in ordinary course.

Dated: Palm Beach County, FL

 2013

  
Bernstein  
2759 NW 34<sup>th</sup> St.  
Boca Raton, FL 33434  
(561) 245-8588

Served Priority Mail to:

Respondents

Robert L. Spallina, Esq.  
Tescher & Spallina, P.A.  
Boca Village Corporate Center I  
4855 Technology Way  
Suite 720  
Boca Raton, FL 33431

Donald Tescher, Esq.  
Tescher & Spallina, P.A.  
Boca Village Corporate Center I  
4855 Technology Way  
Suite 720  
Boca Raton, FL 33431

Theodore Stuart Bernstein  
880 Berkley Street  
Boca Raton, FL 33487

Interested Parties and Trustees for Beneficiaries

Lisa Sue Friedstein  
2142 Churchill Lane  
Highland Park IL 60035

Jill Marla Iantoni  
2101 Magnolia Lane  
Highland Park, IL 60035

Pamela Beth Simon  
950 North Michigan Avenue  
Suite 2603  
Chicago, IL 60611

Eliot Ivan Bernstein  
2753 NW 34th St.  
Boca Raton, FL 33434

A handwritten signature in black ink, appearing to read "Eliot Ivan Bernstein", is written over a circular embossed seal or stamp. The signature is written in a cursive style and extends upwards and to the right from the center of the seal.



RECYCLED PAPER



TO REORDER CALL 954.846.9399

\*\*\* FILED: PALM BEACH COUNTY, FL SHARON BOCK, CLERK. \*\*\*

IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL  
IN RE: ESTATE OF PROBATE DIVISION  
SIMON BERNSTEIN File No. 502012CP004391IZXXXXSB  
Deceased.

**INVENTORY**

The undersigned co-personal representatives of the estate of SIMON BERNSTEIN, deceased, who died on September 13, 2012, and whose social security number is XXX-XX-5211, submits this inventory of all the property of the estate, that has come into the hands, possession, control, or knowledge of these personal representatives:

REAL ESTATE IN FLORIDA – Exempt (Protected) Homestead:

Description

NONE

REAL ESTATE IN FLORIDA – Non-Exempt Homestead:

Description

Estimated Fair Market Value

NONE

*(Whether homestead property is exempt from the claims of creditors, whether it is properly devised and whether it is a probate asset may have to be determined by appropriate proceedings.)*

OTHER REAL ESTATE IN FLORIDA:

Description

Estimated Fair Market Value

NONE

\$

Total Real Estate in Florida – Except Exempt (Protected) Homestead

\$



Estate of Simon Bernstein  
File No. 502012CP004391IZXXXX SB  
INVENTORY

PERSONAL PROPERTY WHEREVER LOCATED:

<u>Description</u>	<u>Estimated Fair Market Value</u>
Legacy Bank of Florida - Acct. Ending 2587	\$384.25
Wells Fargo - Acct. Ending 1945	1,599.49
Sabadell Bank - Acct. Ending 9414	15,153.18
LIC Holdings, Inc. (33% ownership)	UNDETERMINED
Furniture, furnishings, household goods and personal effects	51,135.00
Jewelry	<u>\$ 63,205.00</u>

TOTAL OF ALL PERSONAL PROPERTY AND FLORIDA REAL ESTATES\$ \$ 131,476.92

All real estate located outside the State of Florida owned by the decedent of which the personal representative is aware, if any, is described on a schedule attached hereto. [If none, so indicate]

NONE

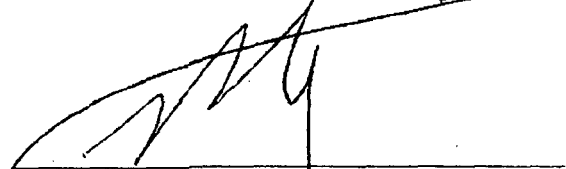
*NOTICE: Each residuary beneficiary in a testate estate or heir in an intestate estate has the right to request a written explanation of how the inventory value of any asset was determined, including whether the personal representative obtained an independent appraisal for that asset and from whom the appraisal was obtained. Any other beneficiary may request this information regarding all assets distributed to or proposed to be distributed to that beneficiary.*



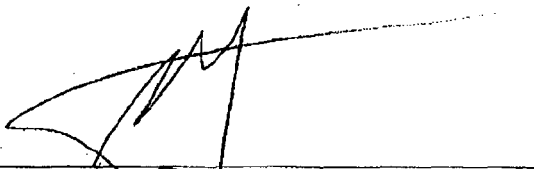
Estate of Simon Bernstein  
File No. 502012CP0043911ZXXXX SB  
INVENTORY

Under penalties of perjury, I declare that I have read the foregoing, and the facts alleged are true to the best of my knowledge and belief.

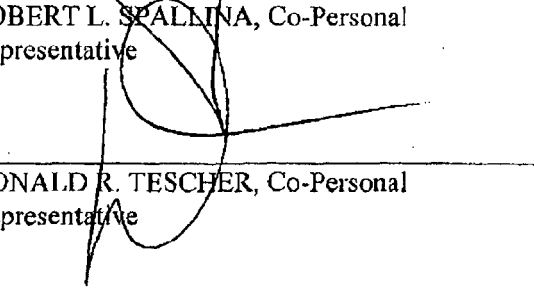
Signed on this 11 day of June, 2013.



ROBERT L. SPALLINA, Esq.  
Attorney for Personal Representative  
Florida Bar No. 497381  
Tescher & Spallina, P.A.  
4855 Technology Way, Suite 720  
Boca Raton, FL 33431  
Telephone: (561) 997-7008  
Primary: [rspallina@tescherspallina.com](mailto:rspallina@tescherspallina.com)  
Secondary: [kmoran@tescherspallina.com](mailto:kmoran@tescherspallina.com)



ROBERT L. SPALLINA, Co-Personal Representative



DONALD R. TESCHER, Co-Personal Representative







RECYCLED PAPER



TO REORDER CALL 954-846-9399

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT  
IN AND FOR PALM BEACH COUNTY, FLORIDA

CASE NUMBER: 2012CP004391 IX

**IN RE: THE ESTATE OF  
SIMON BERNSTEIN,**  
Deceased,

\_\_\_\_\_ /

**ORDER DENYING RENEWED EMERGENCY PETITION TO: FREEZE ESTATE  
ASSETS, APPOINT NEW PERSONAL REPRESENTATIVES, INVESTIGATE  
FORGED AND FRAUDULENT DOCUMENTS SUBMITTED TO THIS COURT AND  
OTHER INTERESTED PARTIES, RESCIND SIGNATURE OF ELIOT BERNSTEIN IN  
ESTATE OF SHIRLEY BERNSTEIN AND MORE**

THIS CAUSE, submitted to the Court on May 30, 2013 the Renewed Emergency Petition to:  
Freeze Estate Assets, Appoint New Personal Representatives, Investigate Forged and Fraudulent  
Documents Submitted to the Court and other Interested Parties, Rescind Signature of Eliot  
Bernstein in Estate of Shirley Bernstein and More, filed May 29, 2013, and the Court having  
fully reviewed said Motion, and the Court file, it is hereby

ORDERED AND ADJUDGED that said Motion is hereby DENIED as an Emergency, the  
moving party is directed to address said Motion in the ordinary course.

DONE AND ORDERED in West Palm Beach, Palm Beach County, Florida this 30<sup>th</sup> day  
of May, 2013.

**SIGNED & DATED**  
**MAY 30 2013**  
CIRCUIT JUDGE  
DAVID E. FRENCH

\_\_\_\_\_  
CIRCUIT JUDGE DAVID E. FRENCH

Copies to:

Peter M. Feaman, Esquire  
3615 W. Boynton Beach Blvd.  
Boynton Beach, Fl. 33436

Eliot Bernstein  
2753 34<sup>th</sup> St.  
Boca Raton, FL 33434

Robert L. Spallina, Esquire  
4855 Technology Way, Suite 720  
Boca Raton, Fl. 33431

/





RECYCLED PAPER



TO REORDER CALL 954-346-9399

IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL  
IN RE: ESTATE OF PROBATE DIVISION  
SIMON BERNSTEIN,  
FILE NO. 502012CP004391XXXXSB  
DECEASED

HON. DAVID E. FRENCH

ELIOT IVAN BERNSTEIN, PRO SE

**RENEWED EMERGENCY  
PETITION**

PETITIONER,

V.

TESCHER & SPALLINA, P.A., (AND ALL PARTNERS,  
ASSOCIATES AND OF COUNSEL), ROBERT L.  
SPALLINA (BOTH PERSONALLY &  
PROFESSIONALLY), DONALD R. TESCHER (BOTH  
PERSONALLY & PROFESSIONALLY), THEODORE  
STUART BERNSTEIN, AS PERSONAL  
REPRESENTATIVES ET AL., TRUSTEES,  
SUCCESSOR TRUSTEES AND ESTATE COUNSEL  
AND JOHN AND JANE DOES,

RESPONDENTS.

**RENEWED EMERGENCY PETITION TO: FREEZE ESTATE  
ASSETS, APPOINT NEW PERSONAL REPRESENTATIVES,  
INVESTIGATE FORGED AND FRAUDULENT DOCUMENTS  
SUBMITTED TO THIS COURT AND OTHER INTERESTED  
PARTIES, RESCIND SIGNATURE OF ELIOT BERNSTEIN IN  
ESTATE OF SHIRLEY BERNSTEIN AND MORE - PROOF OF  
SERVICE TO ALL INTERESTED PARTIES SERVED IN  
ACCORDANCE WITH THIS COURT ORDER**



This Entire Petition is written, filed upon the knowledge, information and belief of Eliot Ivan Bernstein ("Petitioner"):

1. That in compliance with this Court's Order dated May 08, 2013 the original "EMERGENCY PETITION TO: FREEZE ESTATE ASSETS, APPOINT NEW PERSONAL REPRESENTATIVES, INVESTIGATE FORGED AND FRAUDULENT DOCUMENTS SUBMITTED TO THIS COURT AND OTHER INTERESTED PARTIES, RESCIND SIGNATURE OF ELIOT BERNSTEIN IN ESTATE OF SHIRLEY BERNSTEIN AND MORE."<sup>1</sup> has been served to all Respondents and interested parties/persons to whom the Petition is directed, *Theodore Bernstein, Pamela Simon, Jill Iantoni and Lisa Friedstein and as Trustees for their children*.
2. That on May 14<sup>th</sup> 2013 Proof of Service on all Respondents and interested parties/persons of the original Emergency Petition was filed with the Court and Petitioner now moves this Court to adjudicate this Renewed Emergency Petition immediately as to prevent further alleged Criminal Activity and theft of assets of the estate to cease.
3. That during such time that this Court has requested proper service of the Petition, it has come to Petitioner's attention that assets of the estate are being sold or otherwise disbursed of without proper notification to Petitioner and Interested Parties by the Respondents.
4. That the Court and all Officers of the Court handling this matter have been requested to Sign a Conflict of Interest Disclosure ("COI") that was attached in the original Emergency Motion and where prior to ANY decisions or orders or rulings or pleadings submitted by any Officer of the Court, Petitioner is requesting a signed COI to ensure fair and impartial due process.
5. That it has come to the attention of Petitioner that the Justices handling the estates of Simon and Shirley Bernstein are different and that the Justices handling the cases are signing orders in each other's case and Petitioner

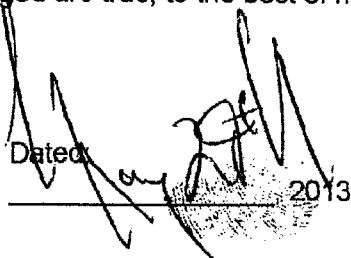
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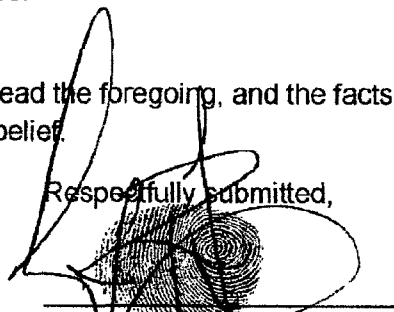
<sup>1</sup> A Copy of the original Petition served on the Respondents and Interest parties and this Court is again provided herein for this Court, at the Court Clerk's request and an additional \$200.00 in printing and copying costs.



requests clarification as to who is adjudicating each case and who will be signing orders in each case. This has also confused both the Court Clerks and the Justices assistants and delayed this Emergency Petition from being heard by the Court, again allowing more time for Respondents to continue perpetrating Fraud on this Court and more.

—Under penalties of perjury, I declare that I have read the foregoing, and the facts alleged are true, to the best of my knowledge and belief.

Dated  2013

Respectfully submitted,  
  
Eliot Bernstein, Pro Se  
2753 NW 34th St.  
Boca Raton, FL 33434  
(561) 245-8588



**Sent Priority Mail on May 29, 2013 to:**

**Respondents**

Robert L. Spallina, Esq.  
Tescher & Spallina, P.A.  
Boca Village Corporate Center I  
4855 Technology Way  
Suite 720  
Boca Raton, FL 33431

Donald Tescher, Esq.  
Tescher & Spallina, P.A.  
Boca Village Corporate Center I  
4855 Technology Way  
Suite 720  
Boca Raton, FL 33431

Theodore Stuart Bernstein  
880 Berkley Street  
Boca Raton, FL 33487

**Interested Parties and Trustees for Beneficiaries**

Lisa Sue Friedstein  
2142 Churchill Lane  
Highland Park IL 60035

Jill Marla Iantoni  
2101 Magnolia Lane  
Highland Park, IL 60035

Pamela Beth Simon  
950 North Michigan Avenue  
Suite 2603  
Chicago, IL 60611





TO REORDER CALL 954-846-9399



RECYCLED PAPER



IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL

IN RE: ESTATE OF PROBATE DIVISION

SIMON BERNSTEIN,

FILE NO. 502012CP004391XXXXSB

DECEASED

**PROOF OF SERVICE OF EMERGENCY PETITION TO: FREEZE ESTATE ASSETS, APPOINT NEW PERSONAL REPRESENTATIVES, INVESTIGATE FORGED AND FRAUDULENT DOCUMENTS SUBMITTED TO THIS COURT AND OTHER INTERESTED PARTIES, RESCIND SIGNATURE OF ELIOT BERNSTEIN IN ESTATE OF SHIRLEY BERNSTEIN AND MORE**

I CERTIFY that on May 06, 2013 and May 14, 2013, a copy of the "EMERGENCY PETITION TO: FREEZE ESTATE ASSETS, APPOINT NEW PERSONAL REPRESENTATIVES, INVESTIGATE FORGED AND FRAUDULENT DOCUMENTS SUBMITTED TO THIS COURT AND OTHER INTERESTED PARTIES, RESCIND SIGNATURE OF ELIOT BERNSTEIN IN ESTATE OF SHIRLEY BERNSTEIN AND MORE" was mailed by United States Priority Mail to the entities on the attachment hereto.

Under penalties of perjury, I declare that I have read the foregoing and the facts alleged are true, to the best of my knowledge and belief.

Signed on May 14, 2013

Eliot I. Bernstein, P.A.  
2753 NW 34th St.  
Boca Raton, FL 33434  
(561) 245-8588

**Sent Priority Mail on May 06, 2013 to:**

Robert L. Spallina, Esq.  
Tescher & Spallina, P.A.  
Boca Village Corporate Center I  
4855 Technology Way  
Suite 720  
Boca Raton, FL 33431

Donald Tescher, Esq.  
Tescher & Spallina, P.A.  
Boca Village Corporate Center I  
4855 Technology Way  
Suite 720  
Boca Raton, FL 33431

Theodore Stuart Bernstein  
880 Berkley Street  
Boca Raton, FL 33487

**Sent Priority Mail on May 14, 2013 to:**

*Lisa Sue Friedstein*  
2142 Churchill Lane  
Highland Park IL 60035

Jill Marla Iantoni  
2101 Magnolia Lane  
Highland Park, IL 60035

Pamela Beth Simon  
950 North Michigan Avenue  
Suite 2603  
Chicago, IL 60611

Following are proof of service receipts from the United States Post Office Service Center



TO REORDER CALL 954-846-9399



RECYCLED PAPER



**IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT  
IN AND FOR PALM BEACH COUNTY, FLORIDA  
PROBATE /GUARDIANSHIP DIVISION "TY"**

**CASE NO. 502012CP004391XXXXSB**

**IN RE: THE ESTATE OF  
SIMON BERNSTEIN,  
Deceased.**

---

**AMENDED ORDER DENYING EMERGENCY PETITION TO: FREEZE  
ESTATE ASSETS, APPOINT NEW PERSONAL REPRESENTATIVES,  
INVESTIGATE FORGED AND FRAUDULENT DOCUMENTS SUBMITTED  
TO THIS COURT AND OTHER INTERESTED PARTIES, RESCIND  
SIGNATURE OF ELIOT BERNSTEIN IN ESTATE OF SHIRLEY BERNSTEIN  
AND MORE**

(This Amended Order replaces the original order entered by this court on May 8, 2013)

**UPON CONSIDERATION** of the Emergency Petition to: Freeze Estate Assets, Appoint New Personal Representatives, Investigate Forged and Fraudulent Documents Submitted to the Court and other Interested Parties, Rescind Signature of Eliot Bernstein in Estate of Shirley Bernstein and More, it is hereby

**ORDERED AND ADJUDGED** that the Emergency Petition is hereby **Denied** as an emergency. The Respondent, Eliot Bernstein, is required to serve his petition properly and in accordance with the Rules of Procedure on all interested parties/persons to whom his petition is directed. No further action will be taken on this matter until the foregoing is complied with.

**DONE AND ORDERED** in chambers, at Delray Beach, Palm Beach County, Florida this 8<sup>th</sup> day of May, 2013.

---

**MARTIN H. COLIN  
Circuit Court Judge**

Copies furnished:

Robert L. Spallina, Esquire  
4855 Technology Way, Suite 720  
Boca Raton, Fl. 33431

Eliot Bernstein, Pro Se  
2753 NW 34<sup>th</sup> Street  
Boca Raton, Fl. 33434

TO REORDER CALL 954-846-9399



RECYCLED PAPER



**IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT  
IN AND FOR PALM BEACH COUNTY, FLORIDA  
PROBATE /GUARDIANSHIP DIVISION "IY"**

**CASE NO. 502012CP004391XXXXSB**

**IN RE: THE ESTATE OF  
SIMON BERNSTEIN,  
Deceased.**

---

**ORDER DENYING EMERGENCY PETITION TO: FREEZE ESTATE ASSETS,  
APPOINT NEW PERSONAL REPRESENTATIVES, INVESTIGATE FORGED  
AND FRAUDULENT DOCUMENTS SUBMITTED TO THIS COURT AND  
OTHER INTERESTED PARTIES, RESCIND SIGNATURE OF ELIOT  
BERNSTEIN IN ESTATE OF SHIRLEY BERNSTEIN AND MORE**

**UPON CONSIDERATION** of the Emergency Petition to: Freeze Estate Assets, Appoint New Personal Representatives, Investigate Forged and Fraudulent Documents Submitted to the Court and other Interested Parties, Rescind Signature of Eliot Bernstein in Estate of Shirley Bernstein and More, it is hereby

**ORDERED AND ADJUDGED** that the Emergency Petition is hereby **Denied** as an emergency. This matter may be set in the ordinary course.

**DONE AND ORDERED** in chambers, at Delray Beach, Palm Beach County, Florida this 8<sup>th</sup> day of May, 2013.

**MARTIN H. COLIN**  
**Circuit Court Judge**

---

Copies furnished:  
Peter M. Feaman, Esquire  
3615 W. Boynton Beach Blvd.  
Boynton Beach, Fl. 33436

Robert L. Spallina, Esquire  
4855 Technology Way, Suite 720  
Boca Raton, Fl. 33431



**IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT  
IN AND FOR PALM BEACH COUNTY, FLORIDA  
PROBATE /GUARDIANSHIP DIVISION "IY"**

**CASE NO. 502011CP000653XXXXSB**

**IN RE: THE ESTATE OF  
SHIRLEY BERNSTEIN,**  
Deceased.

**ORDER DENYING EMERGENCY PETITION TO: FREEZE ESTATE ASSETS,  
APPOINT NEW PERSONAL REPRESENTATIVES, INVESTIGATE FORGED  
AND FRAUDULENT DOCUMENTS SUBMITTED TO THIS COURT AND  
OTHER INTERESTED PARTIES, RESCIND SIGNATURE OF ELIOT  
BERNSTEIN IN ESTATE OF SHIRLEY BERNSTEIN AND MORE**

**UPON CONSIDERATION** of the Emergency Petition to: Freeze Estate Assets, Appoint New Personal Representatives, Investigate Forged and Fraudulent Documents Submitted to the Court and other Interested Parties, Rescind Signature of Eliot Bernstein in Estate of Shirley Bernstein and More, it is hereby

**ORDERED AND ADJUDGED** that the Emergency Petition is hereby **Denied** as an emergency. The Respondent, Eliot Bernstein, is required to serve his petition properly and in accordance with the Rules of Procedure on all interested parties/persons to whom his petition is directed. No further action will be taken on this matter until the foregoing is complied with.

**DONE AND ORDERED** in chambers, at Delray Beach, Palm Beach County, Florida this 8<sup>th</sup> day of May, 2013.

**MARTIN H. COLIN**  
Circuit Court Judge *JUDGE MARTIN H. COLIN*

Copies furnished:  
Robert L. Spallina, Esquire  
Attorney for Simon L. Berstein  
4855 Technology Way, Suite 720  
Boca Raton, Fl. 33431

Eliot Bernstein, Pro Se  
2753 NW 34<sup>th</sup> Street  
Boca Raton, Fl. 33434

IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL

IN RE: ESTATE OF PROBATE DIVISION

SHIRLEY BERNSTEIN,

FILE NO. 502011CP000653XXXXSB

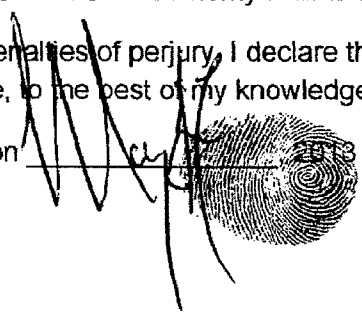
DECEASED

**PROOF OF SERVICE OF EMERGENCY PETITION TO: FREEZE ESTATE ASSETS, APPOINT NEW PERSONAL REPRESENTATIVES, INVESTIGATE FORGED AND FRAUDULENT DOCUMENTS SUBMITTED TO THIS COURT AND OTHER INTERESTED PARTIES, RESCIND SIGNATURE OF ELIOT BERNSTEIN IN ESTATE OF SHIRLEY BERNSTEIN AND MORE**

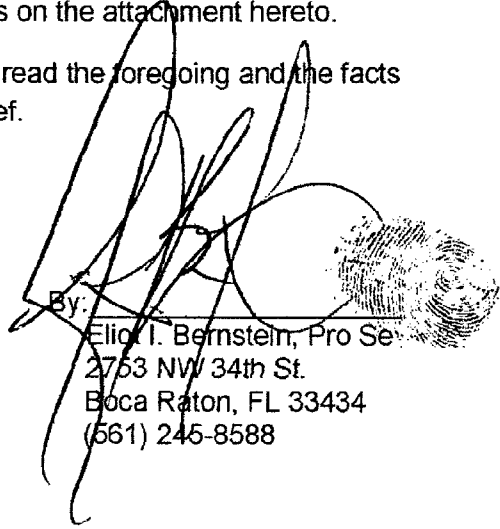
I CERTIFY that on May 06, 2013 and May 14, 2013, a copy of the "EMERGENCY PETITION TO: FREEZE ESTATE ASSETS, APPOINT NEW PERSONAL REPRESENTATIVES, INVESTIGATE FORGED AND FRAUDULENT DOCUMENTS SUBMITTED TO THIS COURT AND OTHER INTERESTED PARTIES, RESCIND SIGNATURE OF ELIOT BERNSTEIN IN ESTATE OF SHIRLEY BERNSTEIN AND MORE" was mailed by United States Priority Mail to the entities on the attachment hereto.

Under penalties of perjury, I declare that I have read the foregoing and the facts alleged are true, to the best of my knowledge and belief.

Signed on \_\_\_\_\_



By: \_\_\_\_\_



Eliot I. Bernstein, Pro Se  
2753 NW 34th St.  
Boca Raton, FL 33434  
(561) 245-8588



RECYCLED PAPER



TO REORDER CALL 954-846-9399

IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL

IN RE: ESTATE OF PROBATE DIVISION

SIMON BERNSTEIN,

FILE NO. 502012CP004391XXXXSB

Deceased

AND

IN RE: ESTATE OF PROBATE DIVISION

FILE NO. 502011CP000653XXXXSB

SHIRLEY BERNSTEIN,

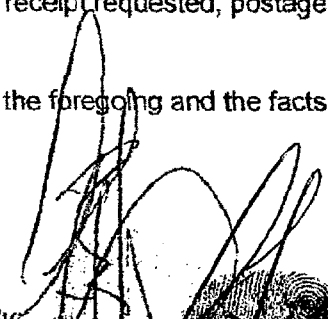
Deceased

**PROOF OF SERVICE OF EMERGENCY PETITION TO: FREEZE ESTATE ASSETS, APPOINT NEW PERSONAL REPRESENTATIVES, INVESTIGATE FORGED AND FRAUDULENT DOCUMENTS SUBMITTED TO THIS COURT AND OTHER INTERESTED PARTIES, RESCIND SIGNATURE OF ELIOT BERNSTEIN IN ESTATE OF SHIRLEY BERNSTEIN AND MORE**

I CERTIFY that on May 06, 2013, a copy of the attached notice of **PROOF OF SERVICE OF EMERGENCY PETITION TO: FREEZE ESTATE ASSETS, APPOINT NEW PERSONAL REPRESENTATIVES, INVESTIGATE FORGED AND FRAUDULENT DOCUMENTS SUBMITTED TO THIS COURT AND OTHER INTERESTED PARTIES, RESCIND SIGNATURE OF ELIOT BERNSTEIN IN ESTATE OF SHIRLEY BERNSTEIN AND MORE** was mailed by United States Registered or Certified Mail, return receipt requested, postage prepaid, to the entities on the attachment hereto.

Under penalties of perjury, I declare that I have read the foregoing and the facts alleged are true, to the best of my knowledge and belief.

Signed on May 06, 2013

By   
Eliot I. Bernstein  
2753 NW 34th St  
Boca Raton, FL 33434  
(561) 245-8588



TO REORDER CALL 954-846-9399



RECYCLED PAPER



**SIMON L. BERNSTEIN**  
**AMENDED AND RESTATED TRUST AGREEMENT**

*Prepared by:*

Tescher & Spallina, P.A.  
4855 Technology Way, Suite 720, Boca Raton, Florida 33431  
(561) 997-7008  
[www.tescherspallina.com](http://www.tescherspallina.com)

LAW OFFICES  
**TESCHER & SPALLINA, P.A.**

SIMON L. BERNSTEIN

AMENDED AND RESTATED TRUST AGREEMENT

This Amended and Restated Trust Agreement is dated this 28 day of July, 2012, and is between SIMON L. BERNSTEIN, of Palm Beach County, Florida referred to in the first person, as settlor, and SIMON L. BERNSTEIN, of Palm Beach County, Florida and SIMON L. BERNSTEIN's successors, as trustee (referred to as the "Trustee," which term more particularly refers to all individuals and entities serving as trustee of a trust created hereunder during the time of such service, whether alone or as co-trustees, and whether originally serving or as a successor trustee).

WHEREAS, on May 20, 2008, I created and funded the SIMON L. BERNSTEIN TRUST AGREEMENT (the "Trust Agreement," which reference includes any subsequent amendments of said trust agreement);

WHEREAS, Paragraph A. of Article I. of said Trust Agreement provides, inter alia, that during my lifetime I shall have the right at any time and from time to time by an instrument, in writing, delivered to the Trustee to amend or revoke said Trust Agreement, in whole or in part.

NOW, THEREFORE, I hereby amend and restate the Trust Agreement in its entirety and the Trustee accepts and agrees to perform its duties and obligations in accordance with the following amended provisions. Notwithstanding any deficiencies in execution or other issues in regard to whether any prior version of this Trust Agreement was a valid and binding agreement or otherwise created an effective trust, this amended and restated agreement shall constitute a valid, binding and effective trust agreement and shall amend and succeed all prior versions described above or otherwise predating this amended and restated Trust Agreement.

ARTICLE I. DURING MY LIFE AND UPON MY DEATH

A. **Rights Reserved.** I reserve the right (a) to add property to this trust during my life or on my death, by my Will or otherwise; (b) to withdraw property held hereunder; and (c) by separate written instrument delivered to the Trustee, to revoke this Agreement in whole or in part and otherwise modify or amend this Agreement.

B. **Payments During My Life.** If income producing property is held in the trust during my life, the Trustee shall pay the net income of the trust to me or as I may direct. However, during any periods while I am Disabled, the Trustee shall pay to me or on my behalf such amounts of the net income and principal of the trust as is proper for my Welfare. Any income not so paid shall be added to principal.

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C. **Upon My Death.** Upon my death the Trustee shall collect and add to the trust all amounts due to the trust under any insurance policy on my life or under any death benefit plan and all property added to the trust by my Will or otherwise. After paying or providing for the payment from the augmented trust of all current charges and any amounts payable under the later paragraph captioned "Death Costs," the Trustee shall hold the trust according to the following provisions.

## ARTICLE II. AFTER MY DEATH

A. **Disposition of Tangible Personal Property.** If any non-business tangible personal property other than cash (including, but not limited to, my personal effects, jewelry, collections, household furnishings, and equipment, and automobiles) is held in the trust at the time of my death, such items shall be promptly distributed by the Trustee of the trust to such person or persons, including my estate, as to the item or items or proportion specified, as I may appoint, and to the extent that any such items are not disposed of by such appointment, such items shall be disposed of by the Trustee of the trust in exactly the same manner as such items would have been disposed of under the terms and provisions of my Will (including any Codicil thereto, or what the Trustee in good faith believes to be such Will and Codicil) had such items been included in my probate estate. Any such items which are not effectively disposed of pursuant to the preceding sentence shall pass with the other trust assets.

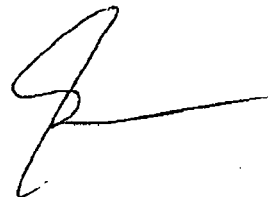
B. **Disposition of Trust Upon My Death.** Upon my death, the remaining assets in this trust shall be divided among and held in separate Trusts for my then living grandchildren. Each of my grandchildren for whom a separate trust is held hereunder shall hereinafter be referred to as a "*beneficiary*" with the separate Trusts to be administered as provided in Subparagraph II.C.

C. **Trusts for Beneficiaries.** The Trustee shall pay to the beneficiary and the beneficiary's children, such amounts of the net income and principal of such beneficiary's trust as is proper for the Welfare of such individuals. Any income not so paid shall be added to principal each year. After a beneficiary has reached any one or more of the following birthdays, the beneficiary may withdraw the principal of his or her separate trust at any time or times, not to exceed in the aggregate 1/3 in value after the beneficiary's 25th birthday, 1/2 in value (after deducting any amount previously subject to withdrawal but not actually withdrawn) after the beneficiary's 30th birthday, and the balance after the beneficiary's 35th birthday, provided that the withdrawal powers described in this sentence shall not apply to any grandchild of mine as beneficiary of a separate trust. The value of each trust shall be its value as of the first exercise of each withdrawal right, plus the value of any subsequent addition as of the date of addition. The right of withdrawal shall be a privilege which may be exercised only voluntarily and shall not include an involuntary exercise. If a beneficiary dies with assets remaining in his or her separate trust, upon the beneficiary's death the beneficiary may appoint his or her trust to or for the benefit of one or more of any of my lineal descendants (excluding from said class, however, such beneficiary and such beneficiary's creditors, estate, and creditors of such beneficiary's estate). Any part of his or her trust such beneficiary does not effectively appoint shall upon his or her death be divided among and held in separate Trusts for the following persons:

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1. for his or her lineal descendants then living, *per stirpes*; or
2. if he or she leaves no lineal descendant then living, *per stirpes* for the lineal descendants then living of his or her nearest ancestor (among me and my lineal descendants) with a lineal descendant then living.

A trust for a lineal descendant of mine shall be held under this paragraph, or if a trust is then so held, shall be added to such trust.

**D. Termination of Small Trust.** If at any time after my death in the opinion of the Trustee a separate trust holds assets of a value of less than \$50,000.00 and is too small to justify the expense of its retention, and termination of such trust is in the best interests of its current income beneficiary, the Trustee in its discretion may terminate such trust and pay it to said beneficiary.

**E. Contingent Gift.** If at any time property of these Trusts is not disposed of under the other provisions of this Agreement, it shall be paid, as a gift made hereunder, to such persons and in such shares as such property would be distributed if I had then owned such property and had then died solvent, unmarried and intestate domiciled in the State of Florida, according to the laws of inheritance of the State of Florida then in effect.

**F. Protective Provision.** No beneficiary of any trust herein created shall have any right or power to anticipate, transfer, pledge, sell, alienate, assign or encumber in any way his or her interest in the income or principal of such trust. Furthermore, no creditor shall have the right to attach, lien, seize or levy upon the interest of a beneficiary in this trust (other than myself) and such interest shall not be liable for or subject to the debts, liabilities or obligations of any such beneficiary or any claims against such beneficiary (whether voluntarily or involuntarily created), and the Trustee shall pay directly to or for the use or benefit of such beneficiary all income and principal to which such beneficiary is entitled, notwithstanding that such beneficiary has executed a pledge, assignment, encumbrance or in any other manner alienated or transferred his or her beneficial interest in the trust to another. This paragraph shall not preclude the effective exercise of any power of appointment granted herein or the exercise of any disclaimer.

**G. Maximum Duration.** Regardless of anything in this Agreement to the contrary, no trust interest herein created shall continue beyond three hundred sixty (360) years after the date of creation of this Agreement, nor shall any power of appointment be exercised in such manner so as to delay vesting of any trust beyond such period. Immediately prior to the expiration of such period, all such trusts then in existence shall terminate, and the assets thereof shall be distributed outright and in fee to then beneficiaries of the current income and in the proportions in which such persons are the beneficiaries, and if such proportions cannot be ascertained, then equally among such beneficiaries.

**ARTICLE III. GENERAL**

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A. **Disability.** Subject to the following Subparagraph captioned "Subchapter S Stock," while any beneficiary is Disabled, the Trustee shall pay to him or her only such portion of the income to which he or she is otherwise entitled as is proper for his or her Welfare, and any income not so paid shall be added to the principal from which derived. While any beneficiary is Disabled, income or principal payable to him or her may, in the discretion of the Trustee, be paid directly to him or her, without the intervention of a guardian, directly to his or her creditors or others for his or her sole benefit or to an adult person or an eligible institution (including the Trustee) selected by the Trustee as custodian for a minor beneficiary under the Uniform Transfers to Minors Act or similar law. The receipt of such payee is a complete release to the Trustee.

B. **Timing of Income Distributions.** The Trustee shall make required payments of income at least quarterly.

C. **Substance Abuse.**

1. **In General.** If the Trustee reasonably believes that a beneficiary (other than myself) of any trust:

a. routinely or frequently uses or consumes any illegal substance so as to be physically or psychologically dependent upon that substance, or

b. is clinically dependent upon the use or consumption of alcohol or any other legal drug or chemical substance that is not prescribed by a board certified medical doctor or psychiatrist in a current program of treatment supervised by such doctor or psychiatrist,

and if the Trustee reasonably believes that as a result the beneficiary is unable to care for himself or herself, or is unable to manage his or her financial affairs, all mandatory distributions (including distributions upon termination of the trust) to the beneficiary, all of the beneficiary's withdrawal rights, and all of the beneficiary's rights to participate in decisions concerning the removal and appointment of Trustees will be suspended. In that event, the following provisions of this Subparagraph III.C will apply.

2. **Testing.** The Trustee may request the beneficiary to submit to one or more examinations (including laboratory tests of bodily fluids) determined to be appropriate by a board certified medical doctor and to consent to full disclosure to the Trustee of the results of all such examinations. The Trustee shall maintain strict confidentiality of those results and shall not disclose those results to any person other than the beneficiary without the prior written permission of the beneficiary. The Trustee may totally or partially suspend all distributions otherwise required or permitted to be made to that beneficiary until the beneficiary consents to the examination and disclosure to the Trustee.

3. **Treatment.** If, in the opinion of the examining doctor, the examination indicates current or recent use of a drug or substance as described above, the examining doctor will determine an appropriate method of treatment for the beneficiary (for example, counseling or treatment on an



in-patient basis in a rehabilitation facility) that is acceptable to the Trustee. If the beneficiary consents to the treatment, the Trustee shall pay the costs of treatment directly to the provider of those services from the distributions suspended under this Subparagraph III.C.

4. Resumption of Distributions. The Trustee may resume other distributions to the beneficiary (and the beneficiary's other suspended rights will be restored) when, in the case of use or consumption of an illegal substance, examinations indicate no such use for 12 months and, in all cases, when the Trustee in its discretion determines that the beneficiary is able to care for himself or herself and is able to manage his or her financial affairs.

5. Disposition of Suspended Amounts. When other distributions to the beneficiary are resumed, the remaining balance, if any, of distributions that were suspended may be distributed to the beneficiary at that time. If the beneficiary dies before distribution of those suspended amounts, the Trustee shall distribute the balance of the suspended amounts to the persons who would be the alternate takers of that beneficiary's share (or takers through the exercise of a power of appointment) as otherwise provided in this Trust Agreement.

6. Exoneration. No Trustee (or any doctor retained by the Trustee) will be responsible or liable to anyone for a beneficiary's actions or welfare. The Trustee has no duty to inquire whether a beneficiary uses drugs or other substances as described in this Subparagraph III.C. The Trustee (and any doctor retained by the Trustee) is to be indemnified from the trust estate and held harmless from any liability of any nature in exercising its judgment and authority under this Subparagraph III.C, including any failure to request a beneficiary to submit to medical examination, and including a decision to distribute suspended amounts to a beneficiary.

7. Tax Savings Provision. Despite the provisions of this Subparagraph III.C, the Trustee cannot suspend any mandatory distributions or withdrawal rights that are required for that trust to become or remain a Qualified Subchapter S Trust (unless the Trustee elects for the trust to be an Electing Small Business Trust), or to qualify for any federal transfer tax exemption, deduction, or exclusion allowable with respect to that trust.

**D. Income on Death of Beneficiary.** Subject to the later paragraph captioned "Subchapter S Stock," and except as otherwise explicitly provided herein, upon the death of any beneficiary, all accrued or undistributed income of such deceased beneficiary's trust shall pass with the principal of his or her trust but shall remain income for trust accounting purposes.

**E. Definitions.** In this Agreement,

1. Children, Lineal Descendants. The terms "*child*," "*children*," "*grandchild*," "*grandchildren*" and "*lineal descendant*" mean only persons whose relationship to the ancestor designated is created entirely by or through (a) legitimate births occurring during the marriage of the joint biological parents to each other, (b) children born of female lineal descendants, and (c) children and their lineal descendants arising from surrogate births and/or third party donors when (i) the child is



raised from or near the time of birth by a married couple (other than a same sex married couple) through the pendency of such marriage, (ii) one of such couple is the designated ancestor, and (iii) to the best knowledge of the Trustee both members of such couple participated in the decision to have such child. No such child or lineal descendant loses his or her status as such through adoption by another person. Notwithstanding the foregoing, for all purposes of this Trust and the dispositions made hereunder, my children, TED S. BERNSTEIN, PAMELA B. SIMON, ELIOT BERNSTEIN, JILL IANTONI and LISA S. FRIEDSTEIN, shall be deemed to have predeceased me as I have adequately provided for them during my lifetime.

2. Code. "Code" means the Internal Revenue Code of 1986, as amended, and in referring to any particular provision of the Code, includes a reference to any equivalent or successor provision of a successor federal tax law.

3. Disabled. "Disabled" or being under "Disability" means, as to any applicable individual: (1) being under the age of 21 years, (2) having been adjudicated by a court of competent jurisdiction as mentally or physically incompetent or unable to manage his or her own property or personal affairs (or a substantially similar finding under applicable state or national law), or (3) being unable to properly manage his or her personal or financial affairs, or a trust estate hereunder as to a Trustee hereunder, because of a mental or physical impairment (whether temporary or permanent in nature). A written certificate executed by an individual's attending physician or attending psychiatrist confirming that person's impairment will be sufficient evidence of Disability under item (3) above, and all persons may rely conclusively on such a certificate.

4. Education. The term "education" herein means vocational, primary, secondary, preparatory, theological, college and professional education, including post-graduate courses of study, at educational institutions or elsewhere, and expenses relating directly thereto, including tuition, books and supplies, room and board, and travel from and to home during school vacations. It is intended that the Trustee liberally construe and interpret references to "education," so that the beneficiaries entitled to distributions hereunder for education obtain the best possible education commensurate with their abilities and desires.

5. Needs and Welfare Distributions. Payments to be made for a person's "Needs" means payments necessary for such person's health (including lifetime residential or nursing home care), education, maintenance and support. Payments to be made for a person's "Welfare" means discretionary payments by the Trustee, from time to time, for such person's Needs and also for such person's advancement in life (including assistance in the purchase of a home or establishment or development of any business or professional enterprise which the Trustee believes to be reasonably sound), happiness and general well-being. However, the Trustee, based upon information reasonably available to it, shall make such payments for a person's Needs or Welfare only to the extent such person's income, and funds available from others obligated to supply funds for such purposes (including, without limitation, pursuant to child support orders and agreements), are insufficient in its opinion for such purposes, and shall take into account such person's accustomed manner of living, age, health, marital status and any other factor it considers important. Income or principal to be paid for a person's Needs or Welfare may be paid to

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such individual or applied by the Trustee directly for the benefit of such person. The Trustee may make a distribution or application authorized for a person's Needs or Welfare even if such distribution or application substantially depletes or exhausts such person's trust, without any duty upon the Trustee to retain it for future use or for other persons who might otherwise benefit from such trust.

6. Per Stirpes. In a division "*per stirpes*" each generation shall be represented and counted whether or not it has a living member.

7. Related or Subordinate Party. A "*Related or Subordinate Party*" to a trust describes a beneficiary of the subject trust or a related or subordinate party to a beneficiary of the trust as the terms "related or subordinate party" are defined under Code Section 672(c).

8. Spouse. A person's "*spouse*" includes only a spouse then married to and living as husband and wife with him or her, or a spouse who was married to and living as husband and wife with him or her at his or her death. The following rules apply to each person who is a beneficiary or a permissible appointee under this Trust Agreement and who is married to a descendant of mine. Such a person will cease to be a beneficiary and will be excluded from the class of permissible appointees upon:

- a. the legal termination of the marriage to my descendant (whether before or after my death), or
- b. the death of my descendant if a dissolution of marriage proceeding was pending when he or she died.

The trust will be administered as if that person had died upon the happening of the terminating event described above.

9. Gender, Number. Where appropriate, words of any gender include all genders and the singular and plural are interchangeable.

F. Powers of Appointment. Property subject to a power of appointment shall be paid to, or retained by the Trustee or paid to any trustee under any will or trust agreement for the benefit of, such one or more permissible appointees, in such amounts and proportions, granting such interests, powers and powers of appointment, and upon such conditions including spendthrift provisions as the holder of such power (i) in the case of a power exercisable upon the death of such holder, appoints in his or her will or in a trust agreement revocable by him or her until his or her death, or (ii) in the case of a power exercisable during the life of such holder, appoints in a written instrument signed by such holder, two witnesses and a notary public, but in either case only if such will, trust agreement, or instrument specifically refers to such power.

G. Limitations on Powers of Trustee. Regardless of anything herein to the contrary, no Trustee shall make or participate in making any distribution of income or principal of a trust to or for the benefit of a beneficiary which would directly or indirectly discharge any legal obligation of such





Trustee or a donor of such trust (as an individual, and other than myself as donor) to support such beneficiary; and no Trustee (other than myself) shall make or participate in making any discretionary distribution of income or principal to or for the benefit of himself or herself other than for his or her Needs, including by reason of a determination to terminate a trust described herein. For example, if a Trustee (other than myself) has the power to distribute income or principal to himself or herself for his or her own Welfare, such Trustee (the "restricted Trustee") shall only have the power to make or participate in making a distribution of income or principal to the restricted Trustee for the restricted Trustee's Needs, although any co-Trustee who is not also a restricted Trustee may make or participate in making a distribution of income or principal to the restricted Trustee for such restricted Trustee's Welfare without the participation or consent of said restricted Trustee.

**H. Presumption of Survivorship.** If any person shall be required to survive another person in order to take any interest under this Agreement, the former person shall be deemed to have predeceased the latter person, if such persons die under circumstances which make it difficult or impracticable to determine which one died first.

**I. Governing Law.** This Agreement is governed by the law of the State of Florida.

**J. Other Beneficiary Designations.** Except as otherwise explicitly and with particularity provided herein, (a) no provision of this trust shall revoke or modify any beneficiary designation of mine made by me and not revoked by me prior to my death under any individual retirement account, other retirement plan or account, or annuity or insurance contract, (b) I hereby reaffirm any such beneficiary designation such that any assets held in such account, plan, or contract shall pass in accordance with such designation, and (c) regardless of anything herein to the contrary, any of such assets which would otherwise pass pursuant to this trust due to the beneficiary designation not having met the requirements for a valid testamentary disposition under applicable law or otherwise shall be paid as a gift made hereunder to the persons and in the manner provided in such designation which is incorporated herein by this reference.

**K. Release of Medical Information.**

1. **Disability of Beneficiary.** Upon the written request of a Trustee (with or without the concurrence of co-Trustees) issued to any current income or principal beneficiary (including discretionary beneficiaries and myself if a beneficiary) for whom a determination of Disability is relevant to the administration of a trust hereunder and for whom a Trustee (with or without the concurrence of co-Trustees) desires to make such a determination, such beneficiary shall issue to all Trustees (who shall be identified thereon both by name to the extent known and by class description) a valid authorization under the Health Insurance Portability and Accountability Act of 1996 and any other applicable or successor law authorizing all health care providers and all medical sources of such requested beneficiary to release protected health information of the requested beneficiary to all Trustees that is relevant to the determination of the Disability of the requested beneficiary as Disability is defined hereunder. The period of each such valid authorization shall be for six months (or the earlier death of the requested



beneficiary). If such beneficiary (or his or her legal representative if such beneficiary is a minor or legally disabled) refuses within thirty days of receipt of the request to provide a valid authorization, or at any time revokes an authorization within its term, the Trustee shall treat such beneficiary as Disabled hereunder until such valid authorization is delivered.

2. Disability of Trustee. Upon the request to a Trustee that is an individual by (a) a co-Trustee, or if none, (b) the person or entity next designated to serve as a successor Trustee not under legal incapacity, or if none, (c) any adult current income or principal beneficiary not under legal incapacity, or in any event and at any time (d) a court of competent jurisdiction, such Trustee shall issue to such person and all persons, courts of competent jurisdiction, and entities (who shall be identified thereon both by name to the extent known and by class description), with authority hereunder to determine such requested Trustee's Disability, a valid authorization under the Health Insurance Portability and Accountability Act of 1996 and any other applicable or successor law authorizing all health care providers and all medical sources of such requested Trustee to release protected health information of the requested Trustee to such persons, courts and entities, that is relevant to the determination of the Disability of the requested Trustee as Disability is defined hereunder. The period of each such valid authorization shall be for six months (or the earlier death or resignation of the requested Trustee). If such requested Trustee refuses within thirty days of receipt of the request to deliver a valid authorization, or at any time revokes an authorization within its term, such requested Trustee shall thereupon be treated as having resigned as Trustee hereunder.

3. Ability to Amend or Revoke. The foregoing provisions of this paragraph shall not constitute a restriction on myself to amend or revoke the terms of this trust instrument under paragraph 1.A hereof, provided I otherwise have legal capacity to do so.

4. Authorization to Issue Certificate. All required authorizations under this paragraph shall include the power of a physician or psychiatrist to issue a written certificate to the appropriate persons or entities as provided in Subparagraph III.E.3 hereof.

#### ARTICLE IV. FIDUCIARIES

A. Powers of the Trustee. During my life except while I am Disabled, the Trustee shall exercise all powers provided by law and the following powers, other than the power to retain assets, only with my written approval. While I am Disabled and after my death, the Trustee shall exercise said powers without approval, provided that the Trustee shall exercise all powers in a fiduciary capacity.

1. Investments. To sell or exchange at public or private sale and on credit or otherwise, with or without security, and to lease for any term or perpetually, any property, real and personal, at any time forming a part of the trust estate (the "*estate*"); to grant and exercise options to buy or sell; to invest or reinvest in real or personal property of every kind, description and location; and to receive and retain any such property whether originally a part of any trust herein created or subsequently acquired, even if the Trustee is personally interested in such property, and without liability for any

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decline in the value thereof; all without limitation by any statutes or judicial decisions whenever enacted or announced, regulating investments or requiring diversification of investments, it being my intention to give the broadest investment powers and discretion to the Trustee. Any bank, trust company, or other corporate trustee serving hereunder as Trustee is authorized to invest in its own common trust funds.

2. Special Investments. The Trustee is expressly authorized (but not directed) to retain, make, hold, and dispose of investments not regarded as traditional for trusts, including interests or investments in privately held business and investment entities and enterprises, including without limitation stock in closely held corporations, limited partnership interests, joint venture interests, mutual funds, business trust interests, and limited liability company membership interests, notwithstanding (a) any applicable prudent investor rule or variation thereof, (b) common law or statutory diversification requirements (it being my intent that no such duty to diversify shall exist) (c) a lack of current cash flow therefrom, (d) the presence of any risk or speculative elements as compared to other available investments (it being my intent that the Trustee have sole and absolute discretion in determining what constitutes acceptable risk and what constitutes proper investment strategy), (e) lack of a reasonable rate of return, (f) risks to the preservation of principal, (g) violation of a Trustee's duty of impartiality as to different beneficiaries (it being my intent that no such duty exists for this purpose), and (h) similar limitations on investment under this Agreement or under law pertaining to investments that may or should be made by a Trustee (including without limitation the provisions of Fla.Stats. §518.11 and successor provisions thereto that would characterize such investments as forbidden, imprudent, improper or unlawful). The Trustee shall not be responsible to any trust created hereunder or the beneficiaries thereof for any loss resulting from any such authorized investment, including without limitation loss engendered by the higher risk element of that particular entity, investment, or enterprise, the failure to invest in more conservative investments, the failure to diversify trust assets, the prudent investor rule or variant thereof. Notwithstanding any provisions for distributions to beneficiaries hereunder, if the Trustee determines that the future potential investment return from any illiquid or closely held investment asset warrants the retention of that investment asset or that sufficient value could not be obtained from the sale or other disposition of an illiquid or closely held investment asset, the Trustee is authorized to retain that asset and if necessary reduce the distributions to beneficiaries due to lack of sufficient liquid or marketable assets. However, the preceding provisions of this Subparagraph shall not be exercised in a manner as to jeopardize the availability of the estate tax marital deduction for assets passing to or held in the a trust for my surviving spouse or that would otherwise qualify for the estate tax marital deduction but for such provisions, shall not override any express powers hereunder of my surviving spouse to demand conversion of unproductive property to productive property, or reduce any income distributions otherwise required hereunder for a trust held for the benefit of my surviving spouse or a "qualified subchapter S trust" as that term is defined in Code Section 1361(d)(3).

3. Distributions. To make any division or distribution pro rata or non-pro rata, in cash or in kind, and to allocate undivided interests in property and dissimilar property (without regard to its tax basis) to different shares.

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4. Management. To manage, develop, improve, partition or change the character of an asset or interest in property at any time; and to make ordinary and extraordinary repairs, replacements, alterations and improvements, structural or otherwise.

5. Borrowing. To borrow money from anyone on commercially reasonable terms, including entities owned in whole or in part by the trust, a Trustee, beneficiaries and other persons who may have a direct or indirect interest in a Trust; and to mortgage, margin, encumber and pledge real and personal property of a trust as security for the payment thereof, without incurring any personal liability thereon and to do so for a term within or extending beyond the terms of the trust and to renew, modify or extend existing borrowing on similar or different terms and with the same or different security without incurring any personal liability; and such borrowing from a Trustee may be with or without interest, and may be secured with a lien on trust assets.

6. Lending. To extend, modify or waive the terms of any obligation, bond or mortgage at any time forming a part of a trust and to foreclose any such mortgage; accept a conveyance of encumbered property, and take title to the property securing it by deed in lieu of foreclosure or otherwise and to satisfy or not satisfy the indebtedness securing said property; to protect or redeem any such property from forfeiture for nonpayment of taxes or other lien; generally, to exercise as to such bond, obligation or mortgage all powers that an absolute owner might exercise; and to loan funds to beneficiaries at commercially reasonable rates, terms and conditions.

7. Abandonment of Property. To abandon any property or asset when it is valueless or so encumbered or in such condition that it is of no benefit to a trust. To abstain from the payment of taxes, liens, rents, assessments, or repairs on such property and/or permit such property to be lost by tax sale, foreclosure or other proceeding or by conveyance for nominal or no consideration to anyone including a charity or by escheat to a state; all without personal liability incurred therefor.

8. Real Property Matters. To subdivide, develop or partition real estate; to purchase or sell real property and to enter into contracts to do the same; to dedicate the same to public use; to make or obtain the location of any plats; to adjust boundaries; to adjust differences in valuations on exchange or partition by giving or receiving consideration; and, to grant easements with or without consideration as the fiduciaries may determine; and to demolish any building, structures, walls and improvements, or to erect new buildings, structures, walls and improvements and to insure against fire and other risks; and to protect and conserve, or to lease, or to encumber, or otherwise to manage and dispose of real property to the extent such power is not otherwise granted herein or otherwise restricted herein.

9. Claims. To enforce, compromise, adjust, arbitrate, release or otherwise settle or pay any claims or demands by or against a trust.

10. Business Entities. To deal with any business entity or enterprise even if a Trustee is or may be a fiduciary of or own interests in said business entity or enterprise, whether operated in the form of a corporation, partnership, business trust, limited liability company, joint venture, sole



proprietorship, or other form (all of which business entities and enterprises are referred to herein as "**Business Entities**"). I vest the Trustee with the following powers and authority in regard to Business Entities:

a. To retain and continue to operate a Business Entity for such period as the Trustee deems advisable;

b. To control, direct and manage the Business Entities. In this connection, the Trustee, in its sole discretion, shall determine the manner and extent of its active participation in the operation and may delegate all or any part of its power to supervise and operate to such person or persons as the Trustee may select, including any associate, partner, officer or employee of the Business Entity;

c. To hire and discharge officers and employees, fix their compensation and define their duties; and similarly to employ, compensate and discharge agents, attorneys, consultants, accountants, and such other representatives as the Trustee may deem appropriate; including the right to employ any beneficiary or fiduciary in any of the foregoing capacities;

d. To invest funds in the Business Entities, to pledge other assets of a trust as security for loans made to the Business Entities, and to lend funds from a trust to the Business Entities;

e. To organize one or more Business Entities under the laws of this or any other state or country and to transfer thereto all or any part of the Business Entities or other property of a trust, and to receive in exchange such stocks, bonds, partnership and member interests, and such other securities or interests as the Trustee may deem advisable;

f. To treat Business Entities as separate from a trust. In a Trustee's accounting to any beneficiary, the Trustee shall only be required to report the earnings and condition of the Business Entities in accordance with standard business accounting practice;

g. To retain in Business Entities such net earnings for working capital and other purposes of the Business Entities as the Trustee may deem advisable in conformity with sound business practice;

h. To sell or liquidate all or any part of the Business Entities at such time and price and upon such terms and conditions (including credit) as the Trustee may determine. My Trustee is specifically authorized and empowered to make such sale to any person, including any partner, officer, or employee of the Business Entities, a fiduciary, or to any beneficiary; and

i. To guaranty the obligations of the Business Entities, or pledge assets of a trust to secure such a guaranty.

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11. Principal and Income. To allocate items of income or expense between income and principal as permitted or provided by the laws of the State of Florida but without limiting the availability of the estate tax marital deduction, provided, unless otherwise provided in this instrument, the Trustee shall establish out of income and credit to principal reasonable reserves for depreciation, obsolescence and depletion, determined to be equitable and fair in accordance with some recognized reasonable and preferably uncomplicated trust accounting principle and; provided, further that the Trustee shall not be required to provide a rate of return on unproductive property unless otherwise provided in this instrument.

12. Life Insurance. With respect to any life insurance policies constituting an asset of a trust, to pay premiums; to apply dividends in reduction of such premiums; to borrow against the cash values thereof; to convert such policies into other forms of insurance, including paid-up insurance; to exercise any settlement options provided in any such policies; to receive the proceeds of any policy upon its maturity and to administer such proceeds as a part of the principal of the Trust; and in general, to exercise all other options, benefits, rights and privileges under such policies.

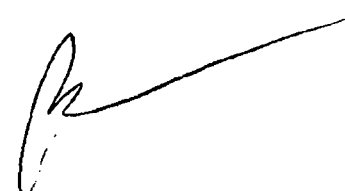
13. Continuing Power. To continue to have or exercise, after the termination of a trust, in whole or in part, and until final distribution thereof, all title, power, discretions, rights and duties conferred or imposed upon the Trustee by law or by this Agreement or during the existence of the trust.

14. Exoneration. To provide for the exoneration of the Trustee from any personal liability on account of any arrangement or contract entered into in a fiduciary capacity.

15. Agreements. To comply with, amend, modify or rescind any agreement made during my lifetime, including those regarding the disposition, management or continuation of any closely held unincorporated business, corporation, partnership or joint venture, and including the power to complete contracts to purchase and sell real estate.

16. Voting. To vote and give proxies, with power of substitution to vote, stocks, bonds and other securities, or not to vote a security.

17. Combination of Shares. To hold the several shares of a trust or several Trusts as a common fund, dividing the income proportionately among them, to assign undivided interests to the several shares or Trusts, and to make joint investments of the funds belonging to them. For such purposes and insofar as may be practicable, the Trustee, to the extent that division of the trust estate is directed hereby, may administer the trust estate physically undivided until actual division thereof becomes necessary to make distributions. The Trustee may hold, manage, invest and account for whole or fractional trust shares as a single estate, making the division thereof by appropriate entries in the books of account only, and may allocate to each whole or fractional trust share its proportionate part of all receipts and expenses; provided, however, this carrying of several Trusts as a single estate shall not defer the vesting in possession of any whole or fractional share of a trust for the beneficiaries thereof at the times specified herein.



18. Reimbursement. To reimburse itself from a trust for reasonable expenses incurred in the administration thereof.

19. Reliance Upon Communication. To rely, in acting under a trust, upon any letter, notice, certificate, report, statement, document or other paper, or upon any telephone, telegraph, cable, wireless or radio message, if believed by the Trustee to be genuine, and to be signed, sealed, acknowledged, presented, sent, delivered or given by or on behalf of the proper person, firm or corporation, without incurring liability for any action or inaction based thereon.

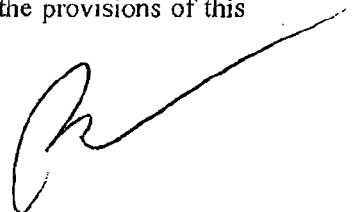
20. Assumptions. To assume, in the absence of written notice to the contrary from the person or persons concerned, that a fact or an event, by reason of which an interest or estate under a trust shall commence or terminate, does not exist or has not occurred, without incurring liability for any action or inaction based upon such assumption.

21. Service as Custodian. To serve as successor custodian for any beneficiary of any gifts that I may have made under any Transfer to Minors Act, if at the time of my death no custodian is named in the instrument creating the gift.

22. Removal of Assets. The Trustee may remove from the domiciliary state during the entire duration of a trust or for such lesser period as it may deem advisable, any cash, securities or other property at any time in its hands whether principal or not, and to take and keep the same outside the domiciliary state and at such place or places within or outside the borders of the United States as it may determine, without in any event being chargeable for any loss or depreciation to the trust which may result therefrom.

23. Change of Situs. The situs and/or applicable law of any trust created hereunder may be transferred to such other place as the Trustee may deem to be for the best interests of the trust estate. In so doing, the Trustee may resign and appoint a successor Trustee, but may remove such successor Trustee so appointed and appoint others. Each successor Trustee may delegate any and all fiduciary powers, discretionary and ministerial, to the appointing Trustee as its agent.

24. Fiduciary Outside Domiciliary State. In the event the Trustee shall not be able and willing to act as Trustee with respect to any property located outside the domiciliary state, the Trustee, without order of court, may appoint another individual or corporation (including any employee or agent of any appointing Trustee) to act as Trustee with respect to such property. Such appointed Trustee shall have all of the powers and discretions with respect to such property as are herein given to the appointing Trustee with respect to the remaining trust assets. The appointing Trustee may remove such appointed Trustee and appoint another upon ten (10) days notice in writing. All income from such property, and if such property is sold, exchanged or otherwise disposed of, the proceeds thereof, shall be remitted to the appointing Trustee, to be held and administered by it as Trustee hereunder. Such appointed Trustee may employ the appointing Trustee as agent in the administration of such property. No surety shall be required on the bond of the Trustee or agent acting under the provisions of this



paragraph. No periodic court accounting shall be required of such appointed Trustee, it being my intention to excuse any statutory accounting which may ordinarily be required.

25. Additions. To receive and accept additions to the Trusts in cash or in kind from donors, executors, administrators, Trustee or attorneys in fact, including additions of my property by the Trustee or others as my attorneys in fact.

26. Title and Possession. To have title to and possession of all real or personal property held in the Trusts, and to register or hold title to such property in its own name or in the name of its nominee, without disclosing its fiduciary capacity, or in bearer form.

27. Dealing with Estates. To use principal of the Trusts to make loans to my estate, with or without interest, and to make purchases from my estate.

28. Agents. To employ persons, including attorneys, auditors, investment advisers, and agents, even if they are the Trustee or associated with the Trustee, to advise or assist the Trustee in the performance of its administrative duties and to pay compensation and costs incurred in connection with such employment from the assets of the Trust; to act without independent investigation upon their recommendations; and, instead of acting personally, to employ one or more agents to perform any act of administration, whether or not discretionary.

29. Tax Elections. To file tax returns, and to exercise all tax-related elections and options at its discretion, without compensating adjustments or reimbursements between any of the Trusts or any of the trust accounts or any beneficiaries.

B. Resignation. A Trustee may resign with or without cause, by giving no less than 30 days advance written notice, specifying the effective date of such resignation, to its successor Trustee and to the persons required and in the manner provided under Fla.Stats. §§736.0705(1)(a) and 736.0109. As to any required recipient, deficiencies in fulfilling the foregoing resignation requirements may be waived in a writing signed by such recipient. Upon the resignation of a Trustee, such Trustee shall be entitled to reimbursement from the trust for all reasonable expenses incurred in the settlement of accounts and in the transfer of assets to his or her successor.

C. Appointment of Successor Trustee.

1. Appointment. Upon a Trustee's resignation, or if a Trustee becomes Disabled or for any reason ceases to serve as Trustee, I may appoint any person or persons as successor Trustee, and in default of such appointment by me, ROBERT L. SPALLINA and DONALD R. TESCHER shall serve together as successor co-Trustees, or either of them alone as Trustee if either of them is unable to serve. Notwithstanding the foregoing, if a named Trustee is not a U.S. citizen or resident at the time of commencement of his term as Trustee, such Trustee should give due consideration to declining to serve to avoid potential adverse U.S. income tax consequences by reason of the characterization of a trust





hereunder as a foreign trust under the Code, but shall not be construed to have any duty to so decline if such Trustee desires to serve.

2. Specific Trusts. Notwithstanding the preceding provisions of this Subparagraph IV.C, subsequent to my death I specifically appoint the following person or persons as Trustee of the following Trusts under the following described circumstances provided that the foregoing appointments shall apply when and to the extent that no effective appointment is made below:

a. Trustee of Separate Trusts for My Grandchildren. Each grandchild of mine shall serve as co-Trustee with the immediate parent of such grandchild which parent is also a child of mine as to all separate trusts under which such grandchild is the sole current mandatory or discretionary income beneficiary upon attaining the age of twenty-five (25) years, and shall serve as sole Trustee of such trusts upon attaining the age of thirty-five (35) years. While serving alone as Trustee, a grandchild of mine may designate a co-Trustee that is not a Related or Subordinate Party to serve with such grandchild and such grandchild may remove and/or replace such co-Trustee with another that is not a Related or Subordinate Party from time to time.

b. Trustee of Separate Trusts for My Lineal Descendants Other Than My Grandchildren. In regard to a separate trust held for a lineal descendant of mine other than a grandchild of mine which lineal descendant is the sole current mandatory or discretionary income beneficiary, each such lineal descendant shall serve as co-Trustee, or sole Trustee if the preceding described Trustees cease or are unable to serve or to continue to serve, of his or her separate trust upon attaining age twenty-five (25) years. While serving alone as Trustee, a lineal descendant of mine other than a grandchild of mine may designate a co-Trustee to serve with such lineal descendant and such lineal descendant may remove and/or replace such co-Trustee with another from time to time.

3. Successor Trustees Not Provided For. Whenever a successor Trustee or co-Trustee is required and no successor or other functioning mechanism for succession is provided for under the terms of this Trust Agreement, the last serving Trustee or the last person or entity designated to serve as Trustee of the applicable trust may appoint his or her successor, and if none is so appointed, the following persons shall appoint a successor Trustee (who may be one of the persons making the appointment):

- a. The remaining Trustees, if any; otherwise,
- b. A majority of the permissible current mandatory or discretionary income beneficiaries, including the natural or legal guardians of any beneficiaries who are Disabled.

A successor Trustee appointed under this subparagraph shall not be a Related or Subordinate Party of the trust. The appointment will be by a written document executed by such person in the presence of two witnesses and acknowledged before a notary public delivered to the appointed Trustee and to me if I am living and not Disabled or in a valid last Will. Notwithstanding the foregoing, a designation under this Subparagraph of a successor trustee to a corporate or entity trustee shall be limited to a corporate or



entity trustee authorized to serve as such under Florida law with assets under trust management of no less than one billion dollars.

4. Power to Remove Trustee. Subsequent to my death, the age 35 or older permissible current mandatory or discretionary income beneficiaries from time to time of any trust established hereunder shall have the power to unanimously remove a Trustee of such trust at any time with or without cause, other than a named Trustee or successor Trustee designated hereunder, or a Trustee appointed by me during my lifetime or under my Will or otherwise at the time of my death, with the successor Trustee to be determined in accordance with the foregoing provisions.

D. Method of Appointment of Trustee. Any such appointment of a successor Trustee by a person shall be made in a written instrument executed by such person in the presence of two witnesses and acknowledged before a notary public which is delivered to such appointed Trustee during the lifetime of the person making such appointment, or any such appointment of a successor Trustee by a person may be made under the last Will of such person.

E. Limitations on Removal and Replacement Power. Any power to remove and/or replace a trustee hereunder that is granted to an individual (including such power when reserved to me) is personal to that individual and may not be exercised by a guardian, power of attorney holder, or other legal representative or agent.

F. Successor Fiduciaries. No Trustee is responsible for, nor has any duty to inquire into, the administration, acts or omissions of any executor, administrator, Personal Representative, or trustee or attorney-in-fact adding property to these Trusts, or of any predecessor Trustee. Each successor Trustee has all the powers, privileges, immunities, rights and title (without the execution of any instrument of transfer or any other act by any retiring Trustee) and all the duties of all predecessors.

G. Liability and Indemnification of Trustee.

1. Liability in General. No individual Trustee (that is, a Trustee that is not a corporation or other entity) shall be liable for any of his or her actions or failures to act as Trustee, even if the individual Trustee is found by a court to have been negligent or in breach of fiduciary duty, except for liability caused by his or her actions or failures to act done in bad faith or with reckless indifference to the purposes of the trust or the interests of the beneficiaries. Each Trustee that is a corporation or other entity will be liable for its actions or failures to act that are negligent or that breach its fiduciary duty, without contribution by any individual Trustee.

2. Indemnification of Trustee. Except in regard to liabilities imposed on a Trustee under Subparagraph IV.G.1., each Trustee shall be held harmless and indemnified from the assets of the trust for any liability, damages, attorney's fees, expenses, and costs incurred as a result of its service as Trustee. A Trustee who ceases to serve for any reason will be entitled to receive reasonable security from the assets of the trust to protect it from liability, and may enforce these provisions for indemnification against the current Trustee or against any assets held in the trust, or if the former Trustee is an individual



and not a corporation or other entity, against any beneficiary to the extent of distributions received by that beneficiary. This indemnification right extends to the estate, personal representatives, legal successors and assigns of a Trustee.

3. Indemnification of Trustee - Additional Provisions. I recognize that if a beneficiary accuses a Trustee of wrongdoing or breach of fiduciary duty, the Trustee may have a conflict of interest that ordinarily would prevent it from paying legal fees and costs from the trust estate to defend itself. I do not want to put a financial burden on any individual named to serve as a Trustee. Just as important, I do not want an individual who has been selected to serve as a Trustee to be reluctant to accept the position, or while serving to be intimidated in the performance of the Trustee's duties because of the threats of lawsuits that might force the Trustee to pay fees and costs from the Trustee's personal resources. For this reason, I deliberately and intentionally waive any such conflict of interest with respect to any individual serving as Trustee so that he or she can hire counsel to defend himself or herself against allegations of wrongdoing or if sued for any reason (whether by a beneficiary or by someone else) and pay all fees and costs for his or her defense from the trust estate until the dispute is resolved. I understand and agree that a court may award, disallow or allocate fees and costs in whole or in part after the dispute is resolved, as provided by law. The Trustee will account for all such fees and costs paid by it as provided by law. This provision shall not apply to any Trustee that is a corporation or other entity.

**H. Compensation, Bond.** Each Trustee is entitled to be paid reasonable compensation for services rendered in the administration of the trust. Reasonable compensation for a non-individual Trustee will be its published fee schedule in effect when its services are rendered unless otherwise agreed in writing, and except as follows. Any fees paid to a non-individual Trustee for making principal distributions, for termination of the trust, and upon termination of its services must be based solely on the value of its services rendered, not on the value of the trust principal. During my lifetime the Trustee's fees are to be charged wholly against income (to the extent sufficient), unless directed otherwise by me in writing. Each Trustee shall serve without bond.

**I. Maintenance of Records.** The Trustee shall maintain accurate accounts and records. It shall render annual statements of the receipts and disbursements of income and principal of a trust upon the written request of any adult vested beneficiary of such trust or the guardian of the person of any vested beneficiary and the approval of such beneficiary shall be binding upon all persons then or thereafter interested in such trust as to the matters and transactions shown on such statement. The Trustee may at any time apply for a judicial settlement of any account. No Trustee shall be required to file any statutory or other periodic accountings of the administration of a trust.

**J. Interested Trustee.** The Trustee may act under this Agreement even if interested in these Trusts in an individual capacity, as a fiduciary of another trust or estate (including my estate) or in any other capacity. The Trustee may in good faith enter into a sale, encumbrance, or other transaction involving the investment or management of trust property for the Trustee's own personal account or which is otherwise affected by a conflict between the Trustee's fiduciary and personal interests, without liability and without being voidable by a beneficiary. The Trustee is specifically authorized to make loans to, to receive loans from, or to sell, purchase or exchange assets in a transaction with (i) the





Trustee's spouse, (ii) the Trustee's children or grandchildren, siblings, parents, or spouses of such persons, (iii) an officer, director, employee, agent, or attorney of the Trustee, or (iv) a corporation, partnership, limited liability company, or other business entity in which the Trustee has a financial interest, provided that in any transaction the trusts hereunder receive fair and adequate consideration in money or money's worth. The Trustee may renounce any interest or expectancy of a trust in, or an opportunity to participate in, specified business opportunities or specified classes or categories of business opportunities that are presented to the Trustee. Such renunciation shall not prohibit the Trustee from participating in the Trustee's individual capacity in such opportunity or expectancy.

**K. Third Parties.** No one dealing with the Trustee need inquire into its authority or its application of property.

**L. Merger of Trusts.** If the Trustee is also trustee of a trust established by myself or another person by will or trust agreement, the beneficiaries to whom income and principal may then be paid and then operative terms of which are substantially the same as those of a trust held under this Agreement, the Trustee in its discretion may merge either such trust into the other trust. The Trustee, in exercising its discretion, shall consider economy of administration, convenience to the beneficiaries, tax consequences and any other factor it considers important. If it is later necessary to reestablish the merged trust as separate trusts, it shall be divided proportionately to the value of each trust at the time of merger.

**M. Multiple Trustees.** If two Trustees are serving at any time, any power or discretion of the Trustees may be exercised only by their joint agreement. Either Trustee may delegate to the other Trustee the authority to act on behalf of both Trustees and to exercise any power held by the Trustees. If more than two Trustees are serving at any time, and unless unanimous agreement is specifically required by the terms of this Trust Agreement, any power or discretion of the Trustees may be exercised only by a majority. The Trustees may delegate to any one or more of themselves the authority to act on behalf of all the Trustees and to exercise any power held by the Trustees. Trustees who consent to the delegation of authority to other Trustees will be liable for the consequences of the actions of those other Trustees as if the consenting Trustees had joined the other Trustees in performing those actions. A dissenting Trustee who did not consent to the delegation of authority to another Trustee and who has not joined in the exercise of a power or discretion cannot be held liable for the consequences of the exercise. A dissenting Trustee who joins only at the direction of the majority will not be liable for the consequences of the exercise if the dissent is expressed in writing delivered to any of the other Trustees before the exercise of that power or discretion.

#### ARTICLE V. ADDITIONAL TAX AND RELATED MATTERS

**A. GST Trusts.** I direct (a) that the Trustee shall divide any trust to which there is allocated any GST exemption into two separate Trusts (each subject to the provisions hereof) so that the generation-skipping tax inclusion ratio of one such trust is zero, (b) any property exempt from generation-skipping taxation shall be divided as otherwise provided herein and held for the same persons

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designated in Trusts separate from any property then also so divided which is not exempt from generation-skipping taxation, and (c) if upon the death of a beneficiary a taxable termination would otherwise occur with respect to any property held in trust for him or her with an inclusion ratio greater than zero, such beneficiary shall have with respect only to such property a power to appoint such fractional share thereof which if included in such beneficiary's gross estate for federal estate tax purposes (without allowing any deduction with respect to such share) would not be taxed at the highest federal estate tax rate and such fractional share of such property shall be distributed to such persons including only such beneficiary's estate, spouse, and issue, as such beneficiary may appoint, and any part of a trust such beneficiary does not effectively appoint shall be treated as otherwise provided for disposition upon his or her death, provided, if upon his or her death two or more Trusts for his or her benefit are directed to be divided among and held or distributed for the same persons and the generation-skipping tax inclusion ratio of any such trust is zero, the amount of any other such Trust to which there is allocated any of such beneficiary's GST exemption shall be added to the Trusts with generation-skipping tax inclusion ratios of zero in equal shares. For purposes of funding any pecuniary payment to which there is allocated any GST exemption, such payment shall be satisfied with cash or property which fairly represents appreciation and depreciation (occurring between the valuation date and the date of distribution) in all of the assets from which such distribution could be made, and any pecuniary payment made before a residual transfer of property to which any GST exemption is allocated shall be satisfied with cash or property which fairly represents appreciation and depreciation (occurring between the valuation date and the date of distribution) in all of the assets from which such pecuniary payment could be satisfied and shall be allocated a pro rata share of income earned by all such assets between the valuation date and the date of payment. Except as otherwise expressly provided herein, the valuation date with respect to any property shall be the date as of which its value is determined for federal estate tax purposes with respect to the transferor thereof, and subject to the foregoing, property distributed in kind in satisfaction of any pecuniary payment shall be selected on the basis of the value of such property on the valuation date. All terms used in this paragraph which are defined or explained in Chapter 13 of the Code or the regulations thereunder shall have the same meaning when used herein. I request (but do not require) that if two or more Trusts are held hereunder for any person, no principal be paid to such person from the Trusts with the lower inclusion ratios for generation-skipping tax purposes unless the trust with the highest inclusion ratio has been exhausted by use, consumption, distribution or otherwise or is not reasonably available. The Trustee is authorized and directed to comply with the provisions of the Treasury Regulations interpreting the generation skipping tax provisions of the Code in severing or combining any trust, creating or combining separate trust shares, allocating GST exemption, or otherwise, as necessary to best accomplish the foregoing allocations, inclusion ratios, combinations, and divisions, including, without limitation, the payment of "appropriate interest" as determined by the Trustee as that term is applied and used in said Regulations.

**B. Individual Retirement Accounts.** In the event that this trust or any trust created under this Agreement is the beneficiary of an Individual retirement account established and maintained under Code Section 408 or a qualified pension, profit sharing or stock bonus plan established and maintained under Code Section 401 (referred to in this paragraph as "IRA"), the following provisions shall apply to such trust:

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1. I intend that the beneficiaries of such trust shall be beneficiaries within the meaning of Code Section 401(a)(9) and the Treasury Regulations thereunder. All provisions of such trust shall be construed consistent with such intent. Accordingly, the following provisions shall apply to such trust:

a. No benefits from any IRA may be used or applied for the payment of any debts, taxes or other claims against my estate as set forth in the later paragraph captioned "Taxes", unless other assets of this trust are not available for such payment.

b. In the event that a beneficiary of any trust created under this Agreement has a testamentary general power of appointment or a limited power of appointment over all or any portion of any trust established under this Agreement, and if such trust is the beneficiary of any benefits from any IRA, the beneficiary shall not appoint any part of such trust to a charitable organization or to a lineal descendant of mine (or a spouse of a lineal descendant of mine) who is older than the beneficiary whose life expectancy is being used to calculate distributions from such IRA.

2. The Trustee shall deliver a copy of this Agreement to the custodian of any IRA of which this trust or any trust created under this Agreement is the named beneficiary within the time period prescribed Code Section 401(a)(9) and the Treasury Regulations thereunder, along with such additional items required thereunder. If the custodian of the IRA changes after a copy of this Agreement has been provided pursuant to the preceding sentence, the Trustee shall immediately provide a copy of this Agreement to the new custodian. The Trustee shall request each custodian to complete a receipt of the Agreement and shall attach such receipt to this Agreement. The Trustee shall provide a copy of each amendment of this Agreement to the custodian and shall obtain a receipt of such amendment.

**C. Gift Transfers Made From Trust During My Lifetime.** I direct that all gift transfers made from the trust during my lifetime be treated for all purposes as if the gift property had been first withdrawn by (or distributed to) me and then transferred by me to the donees involved. Thus, in each instance, even where title to the gift property is transferred directly from the name of the trust (or its nominee) into the name of the donee, such transfer shall be treated for all purposes as first a withdrawal by (or distribution of the property to) me followed by a gift transfer of the property to the donee by me as donor, the Trustee making the actual transfer in my behalf acting as my attorney in fact, this paragraph being, to that extent, a power of attorney from me to the Trustee to make such transfer, which power of attorney shall not be affected by my Disability, incompetence, or incapacity.

**D. Gifts.** If I am Disabled, I authorize the Trustee to make gifts from trust property during my lifetime for estate planning purposes, or to distribute amounts to my legally appointed guardian or to my attorney-in-fact for those purposes, subject to the following limitations:

1. **Recipients.** The gifts may be made only to my lineal descendants or to trusts primarily for their benefit, and in aggregate annual amounts to any one such recipient that do not exceed the exclusion amount provided for under Code Section 2503(b).



2. Trustee Limited. When a person eligible to receive gifts is serving as Trustee, the aggregate of all gifts to that person during the calendar year allowable under the preceding subparagraph 1. shall thereafter not exceed the greater of Five Thousand Dollars (\$5,000), or five percent (5%) of the aggregate value of the trust estate. However, gifts completed prior to a recipient's commencing to serve as Trustee shall not be affected by this limitation.

3. Charitable Pledges. The Trustee may pay any charitable pledges I made while I was not Disabled (even if not yet due).

**E. Death Costs**. If upon my death the Trustee hold any United States bonds which may be redeemed at par in payment of federal estate tax, the Trustee shall pay the federal estate tax due because of my death up to the amount of the par value of such bonds and interest accrued thereon at the time of payment. The Trustee shall also pay from the trust all of my following death costs, but if there is an acting executor, administrator or Personal Representative of my estate my Trustee shall pay only such amounts of such costs as such executor, administrator or Personal Representative directs:

1. my debts which are allowed as claims against my estate,
2. my funeral expenses without regard to legal limitations,
3. the expenses of administering my estate,
4. the balance of the estate, inheritance and other death taxes (excluding generation-skipping transfer taxes unless arising from direct skips), and interest and penalties thereon, due because of my death with respect to all property whether or not passing under my Will or this Agreement (other than property over which I have a power of appointment granted to me by another person, and qualified terminable interest property which is not held in a trust that was subject to an election under Code Section 2652(a)(3) at or about the time of its funding) and life insurance proceeds on policies insuring my life which proceeds are not held under this trust or my probate estate at or by reason of my death), and
5. any gifts made in my Will or any Codicil thereto.

The Trustee may make any such payment either to my executor, administrator or Personal Representative or directly to the proper party. The Trustee shall not be reimbursed for any such payment, and is not responsible for the correctness or application of the amounts so paid at the direction of my executor, administrator, or Personal Representative. The Trustee shall not pay any of such death costs with any asset which would not otherwise be included in my gross estate for federal or state estate or inheritance tax purposes, or with any asset which otherwise cannot be so used, such as property received under a limited power of appointment which prohibits such use. Further, no payment of any such death costs shall be charged against or paid from the tangible personal property disposed of pursuant to the prior paragraph captioned "Disposition of Tangible Personal Property."

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**F. Subchapter S Stock.** Regardless of anything herein to the contrary, in the event that after my death the principal of a trust includes stock in a corporation for which there is a valid election to be treated under the provisions of Subchapter S of the Code, the income beneficiary of such a trust is a U.S. citizen or U.S. resident for federal income tax purposes, and such trust is not an "electing small business trust" under Code Section 1361(e)(1) in regard to that corporation, the Trustee shall (a) hold such stock as a substantially separate and independent share of such trust within the meaning of Code Section 663(c), which share shall otherwise be subject to all of the terms of this Agreement, (b) distribute all of the income of such share to the one income beneficiary thereof in annual or more frequent installments, (c) upon such beneficiary's death, pay all accrued or undistributed income of such share to the beneficiary's estate, (d) distribute principal from such share during the lifetime of the income beneficiary only to such beneficiary, notwithstanding any powers of appointment granted to any person including the income beneficiary, and (e) otherwise administer such share in a manner that qualifies it as a "qualified Subchapter S trust" as that term is defined in Code Section 1361(d)(3), and shall otherwise manage and administer such share as provided under this Agreement to the extent not inconsistent with the foregoing provisions of this paragraph.

**G. Residence as Homestead.** I reserve the right to reside upon any real property placed in this trust as my permanent residence during my life, it being the intent of this provision to retain for myself the requisite beneficial interest and possessory right in and to such real property to comply with Section 196.041 of the Florida Statutes such that said beneficial interest and possessory right constitute in all respects "equitable title to real estate" as that term is used in Section 6, Article VII of the Constitution of the State of Florida. Notwithstanding anything contained in this trust to the contrary, for purposes of the homestead exemption under the laws of the State of Florida, my interest in any real property in which I reside pursuant to the provisions of this trust shall be deemed to be an interest in real property and not personalty and shall be deemed my homestead.

*[remainder of page intentionally left blank]*







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RECYCLED PAPER



**WILL OF**  
**SIMON L. BERNSTEIN**

*Prepared by:*

Tescher & Spallina, P.A.  
4855 Technology Way, Suite 720, Boca Raton, Florida 33431  
(561) 997-7008  
[www.tescherspallina.com](http://www.tescherspallina.com)

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**WILL OF**

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**SIMON L. BERNSTEIN**

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I, SIMON L. BERNSTEIN, of Palm Beach County, Florida, hereby revoke all my prior Wills and Codicils and make this Will. I am a widower, but in the event that I marry subsequent to the execution of this Will, I specifically make no provision for my spouse. My children are TED S. BERNSTEIN, PAMELA B. SIMON, ELIOT BERNSTEIN, JILL IANTONI and LISA S. FRIEDSTEIN.

**ARTICLE I. TANGIBLE PERSONAL PROPERTY**

I give such items of my tangible personal property to such persons as I may designate in a separate written memorandum prepared for this purpose. I give to my children who survive me, divided among them as they agree, or if they fail to agree, divided among them by my Personal Representatives in as nearly equal shares as practical my personal effects, jewelry, collections, household furnishings and equipment, automobiles and all other non-business tangible personal property other than cash, not effectively disposed of by such memorandum, and if no child of mine survives me, this property shall pass with the residue of my estate.

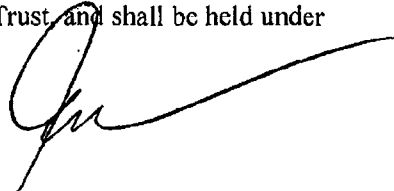
**ARTICLE II. EXERCISE OF POWER OF APPOINTMENT**

Under Subparagraph E.1. of Article II. of the SHIRLEY BERNSTEIN TRUST AGREEMENT dated May 20, 2008, (the "*Shirley Trust*"), I was granted a special power of appointment upon my death to direct the disposition of the remaining assets of the Marital Trust and the Family Trust established under the Shirley Trust. Pursuant to the power granted to me under the Shirley Trust, upon my death, I hereby direct the then serving Trustees of the Marital Trust and the Family Trust to divide the remaining trust assets into equal shares for my then living grandchildren and distribute said shares to the then serving Trustees of their respective trusts established under Subparagraph II.B. of my Existing Trust, as referenced below, and administered pursuant to Subparagraph II.C. thereunder.

**ARTICLE III. RESIDUE OF MY ESTATE**

I give all the residue of my estate, including my homestead, to the Trustee then serving under my revocable Trust Agreement dated May 20, 2008, as amended and restated from time to time and on even date herewith (the "*Existing Trust*"), as Trustee without bond, but I do not exercise any powers of appointment held by me except as provided in Article II., above, and in the later paragraph titled "Death Costs." The residue shall be added to and become a part of the Existing Trust, and shall be held under

LAST WILL  
OF SIMON L. BERNSTEIN



LAW OFFICES  
**TESCHER & SPALLINA, P.A.**

the provisions of said Agreement in effect at my death, or if this is not permitted by applicable law or the Existing Trust is not then in existence, under the provisions of said Agreement as existing today. If necessary to give effect to this gift, but not otherwise, said Agreement as existing today is incorporated herein by reference.

**ARTICLE IV. PERSONAL REPRESENTATIVES**

1. **Appointment and Bond.** I appoint ROBERT L. SPALLINA and DONALD R. TESCHER to serve together as my co-Personal Representatives, or either of them alone as Personal Representative if either of them is unable to serve (the "*fiduciary*"). Each fiduciary shall serve without bond and have all of the powers, privileges and immunities granted to my fiduciary by this Will or by law, provided, however, that my fiduciary shall exercise all powers in a fiduciary capacity.

2. **Powers of Personal Representatives.** My fiduciary may exercise its powers without court approval. No one dealing with my fiduciary need inquire into its authority or its application of property. My fiduciary shall have the following powers:

a. **Investments.** To sell or exchange at public or private sale and on credit or otherwise, with or without security, and to lease for any term or perpetually, any property, real and personal, at any time forming a part of my probate estate (the "*estate*"); to grant and exercise options to buy or sell; to invest or reinvest in real or personal property of every kind, description and location; and to receive and retain any such property whether originally a part of the estate, or subsequently acquired, even if a fiduciary is personally interested in such property, and without liability for any decline in the value thereof; all without limitation by any statutes or judicial decisions, whenever enacted or announced, regulating investments or requiring diversification of investments.

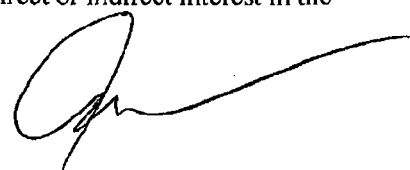
b. **Distributions or Divisions.** To distribute directly to any beneficiary who is then entitled to distribution under the Existing Trust; to make any division or distribution pro rata or non-pro rata, in cash or in kind; and to allocate undivided interests in property and dissimilar property (without regard to its tax basis) to different shares, and to make any distribution to a minor or any other incapacitated person directly to such person, to his or her legal representative, to any person responsible for or assuming his or her care, or in the case of a minor to an adult person or an eligible institution (including a fiduciary) selected by my fiduciary as custodian for such minor under the Uniform Transfers to Minors Act or similar provision of law. The receipt of such payee is a complete release to the fiduciary.

c. **Management.** To manage, develop, improve, partition or change the character of or abandon an asset or interest in property at any time; and to make ordinary and extraordinary repairs, replacements, alterations and improvements, structural or otherwise.

d. **Borrowing.** To borrow money from anyone on commercially reasonable terms, including a fiduciary, beneficiaries and other persons who may have a direct or indirect interest in the

LAST WILL  
OF SIMON L. BERNSTEIN

LAW OFFICES  
**TESCHER & SPALLINA, P.A.**



estate; and to mortgage, margin, encumber and pledge real and personal property of the estate as security for the payment thereof, without incurring any personal liability thereon and to do so for a term within or extending beyond the terms of the estate and to renew, modify or extend existing borrowing on similar or different terms and with the same or different security without incurring any personal liability; and such borrowing from my fiduciary may be with or without interest, and may be secured with a lien on the estate assets or any beneficiary's interest in said assets.

e. Lending. To extend, modify or waive the terms of any obligation, bond or mortgage at any time forming a part of the estate and to foreclose any such mortgage; accept a conveyance of encumbered property, and take title to the property securing it by deed in lieu of foreclosure or otherwise and to satisfy or not satisfy the indebtedness securing said property; to protect or redeem any such property from forfeiture for nonpayment of taxes or other lien; generally, to exercise as to such bond, obligation or mortgage all powers that an absolute owner might exercise; and to loan funds to beneficiaries at commercially reasonable rates, terms and conditions.

f. Abandonment of Property. To abandon any property or asset when it is valueless or so encumbered or in such condition that it is of no benefit to the estate. To abstain from the payment of taxes, liens, rents, assessments, or repairs on such property and/or permit such property to be lost by tax sale, foreclosure or other proceeding or by conveyance for nominal or no consideration to anyone including a charity or by escheat to a state; all without personal liability incurred therefor.

g. Real Property Matters. To subdivide, develop or partition real estate; to dedicate the same to public use; to make or obtain the location of any plats; to adjust boundaries; to adjust differences in valuations on exchange or partition by giving or receiving consideration; and, to grant easements with or without consideration as they may determine; and to demolish any building, structures, walls and improvements, or to erect new buildings, structures, walls and improvements and to insure against fire and other risks.

h. Claims. To enforce, compromise, adjust, arbitrate, release or otherwise settle or pay any claims or demands by or against the estate.

i. Business Entities. To deal with any business entity or enterprise even if a fiduciary is or may be a fiduciary of or own interests in said business entity or enterprise, whether operated in the form of a corporation, partnership, business trust, limited liability company, joint venture, sole proprietorship, or other form (all of which business entities and enterprises are referred to herein as "**Business Entities**"). I vest the fiduciary with the following powers and authority in regard to Business Entities:

i. To retain and continue to operate a Business Entity for such period as the fiduciary deems advisable;

ii. To control, direct and manage the Business Entities. In this connection, the fiduciary, in its sole discretion, shall determine the manner and extent of its active participation in the



operation and may delegate all or any part of its power to supervise and operate to such person or persons as the fiduciary may select, including any associate, partner, officer or employee of the Business Entity;

iii. To hire and discharge officers and employees, fix their compensation and define their duties; and similarly to employ, compensate and discharge agents, attorneys, consultants, accountants, and such other representatives as the fiduciary may deem appropriate; including the right to employ any beneficiary or fiduciary in any of the foregoing capacities;

iv. To invest funds in the Business Entities, to pledge other assets of the estate or a trust as security for loans made to the Business Entities, and to lend funds from my estate or a trust to the Business Entities;

v. To organize one or more Business Entities under the laws of this or any other state or country and to transfer thereto all or any part of the Business Entities or other property of my estate or a trust, and to receive in exchange such stocks, bonds, partnership and member interests, and such other securities or interests as the fiduciary may deem advisable;

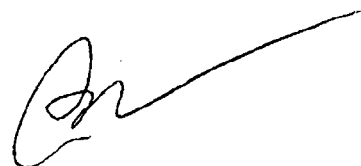
vi. To treat Business Entities as separate from my estate or a trust. In a fiduciary's accounting to any beneficiary, the fiduciary shall only be required to report the earnings and condition of the Business Entities in accordance with standard business accounting practice;

vii. To retain in Business Entities such net earnings for working capital and other purposes of the Business Entities as the fiduciary may deem advisable in conformity with sound business practice;

viii. To sell or liquidate all or any part of the Business Entities at such time and price and upon such terms and conditions (including credit) as the fiduciary may determine. My fiduciary is specifically authorised and empowered to make such sale to any person, including any partner, officer, or employee of the Business Entities, a fiduciary, or to any beneficiary; and

ix. To guaranty the obligations of the Business Entities, or pledge assets of the estate or a trust to secure such a guaranty.

j. Life Insurance. With respect to any life insurance policies constituting an asset of the estate to pay premiums; to apply dividends in reduction of such premiums; to borrow against the cash values thereof; to convert such policies into other forms of insurance including paid-up insurance; to exercise any settlement options provided in any such policies; to receive the proceeds of any policy upon its maturity and to administer such proceeds as a part of the principal of the estate or trust; and in general, to exercise all other options, benefits, rights and privileges under such policies; provided, however, no fiduciary other than a sole fiduciary may exercise any incidents of ownership with respect to policies of insurance insuring the fiduciary's own life.



k. Reimbursement. To reimburse itself from the estate for all reasonable expenses incurred in the administration thereof.

l. Voting. To vote and give proxies, with power of substitution to vote, stocks, bonds and other securities, or not to vote a security.

m. Ancillary Administration. To appoint or nominate, and replace with or without cause, any persons or corporations, including itself, as ancillary administrators to administer property in other jurisdictions, with the same powers, privileges and immunities as my fiduciary and without bond.

n. Tax Elections. To file tax returns, and to exercise all tax-related elections and options at their discretion, without compensating adjustments or reimbursements between any accounts or any beneficiaries.

3. Survivorship. A beneficiary is not deemed to survive me unless he or she survives me by five days.

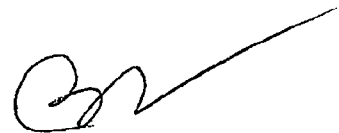
4. Death Costs. My fiduciary shall pay (a) from the residuary estate my debts which are allowed as claims against my estate, (b) from the residuary estate my funeral expenses without regard to legal limitations, (c) from the residuary estate the expenses of administering my estate and (d) from the residuary estate other than the portion of the residuary estate qualifying for the marital deduction under the laws then in effect, without apportionment, all estate, inheritance and succession taxes (excluding generation-skipping taxes other than with respect to direct skips), and interest and penalties thereon, due because of my death and attributable to all property whether passing under this Will or otherwise and not required by the terms of the Existing Trust to be paid out of said trust. However, such taxes, penalties and interest payable out of my residuary estate shall not include taxes, penalties and interest attributable to (i) property over which I have a power of appointment granted to me by another person, (ii) qualified terminable interest property held in a trust of which I was the income beneficiary at the time of my death (other than qualified terminable interest property held in a trust for which an election was made under Code Section 2652(a)(3)), and (iii) life insurance proceeds on policies insuring my life which proceeds are not payable to my probate estate. My fiduciary shall not be reimbursed for any such payment from any person or property. However, my fiduciary in its discretion may direct that part or all of said death costs shall be paid by my Trustee as provided in the Existing Trust, and shall give such direction to the extent necessary so that the gifts made in Article I of this Will and the gifts made in any codicil hereto shall not be reduced by said death costs. If the amount of the above-described taxes, and interest and penalties arising by reason of my death (without regard to where payable from under the terms of this paragraph or applicable law) is increased because of the power of appointment granted to me under Subparagraph II.E.1. of the SHIRLEY BERNSTEIN TRUST AGREEMENT dated May 20, 2008, I hereby appoint to my probate estate from the property subject to such power (to the extent allowable under such power) the amount of such increase (calculating such increase at the highest applicable marginal rates) and exercise such power to this extent only, and notwithstanding the other provisions of this paragraph further direct my fiduciary to make payment of such increase in taxes,

LAST WILL  
OF SIMON L. BERNSTEIN

-5-

LAW OFFICES

TESCHER & SPALLINA, P.A.





interest and penalties to the appropriate taxing authorities from the appointed property or the proceeds thereof. Any trustee holding such appointive property may pay to my fiduciary the amount which my fiduciary certifies as due under this paragraph and is not responsible for the correctness or application of amounts so paid.

5. **Reimbursement for Debts and Expenses.** My fiduciary shall promptly reimburse my friends and members of my family who have disbursed their own funds for the payment of any debts, funeral expenses or costs of administration of my estate.

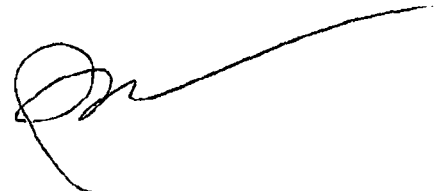
6. **Expenses of Handling Tangible Personal Property.** All expenses incurred by my fiduciary during the settlement of my estate in appraising, storing, packing, shipping, delivering or insuring an article of tangible personal property passing under this Will shall be charged as an expense of administering my estate.

7. **Dealing with Estate.** Each fiduciary may act under this Will even if interested in my estate in an individual capacity, as a fiduciary of another estate or trust (including any trust identified in this Will or created under the Existing Trust) or in any other capacity. Each fiduciary may in good faith buy from, sell to, lend funds to or otherwise deal with my estate.

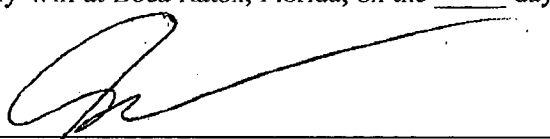
8. **Spouse.** The term "*spouse*" herein means, as to a designated individual, the person to whom that individual is from time to time married.

9. **Other Beneficiary Designations.** Except as otherwise explicitly and with particularity provided herein, (a) no provision of this Will shall revoke or modify any beneficiary designation of mine made by me and not revoked by me prior to my death under any individual retirement account, other retirement plan or account, or annuity or insurance contract, (b) I hereby reaffirm any such beneficiary designation such that any assets held in such account, plan, or contract shall pass in accordance with such designation, and (c) regardless of anything herein to the contrary, any of such assets which would otherwise pass pursuant to this Will due to the beneficiary designation not having met the requirements for a valid testamentary disposition under applicable law or otherwise shall be paid as a gift made hereunder to the persons and in the manner provided in such designation which is incorporated herein by this reference.

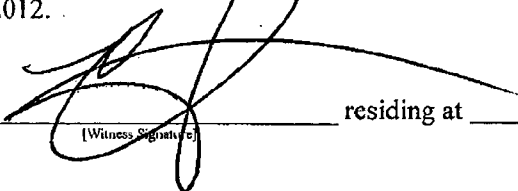
*[remainder of page intentionally left blank]*



I have published and signed this instrument as my Will at Boca Raton, Florida, on the 24 day of July, 2012.


  
SIMON L. BERNSTEIN

This instrument, consisting of this page numbered 7 and the preceding typewritten pages, was signed, sealed, published and declared by the Testator to be the Testator's Will in our presence, and at the Testator's request and in the Testator's presence, and in the presence of each other, we have subscribed our names as witnesses at Boca Raton, Florida on this 24 day of July, 2012.

  
[Witness Signature]

**ROBERT L. SPALLINA**  
**7387 WISTERIA AVENUE**  
**PARKLAND, FL 33076**

[Witness Address]

  
[Witness Signature]

**Kimberly Moran**  
**6362 Las Flores Drive**  
**Boca Raton, FL 33433**

[Witness Address]

State Of Florida

SS.

County Of Palm Beach

I, SIMON L. BERNSTEIN, declare to the officer taking my acknowledgment of this instrument, and to the subscribing witnesses, that I signed this instrument as my will.

*[Signature]*  
SIMON L. BERNSTEIN, Testator

We, Robert L. Spallina and Kimberly Moran,

have been sworn by the officer signing below, and declare to that officer on our oaths that the Testator declared the instrument to be the Testator's will and signed it in our presence and that we each signed the instrument as a witness in the presence of the Testator and of each other.

*[Signature]*  
Witness

Kimberly Moran  
Witness

Acknowledged and subscribed before me, by the Testator, SIMON L. BERNSTEIN, who is personally known to me or who has produced \_\_\_\_\_ (state type of identification) as identification, and sworn to and subscribed before me by the witnesses, Robert L. Spallina, who is personally known to me or who has produced \_\_\_\_\_ (state type of identification) as identification, and Kimberly Moran, who is personally known to me or who has produced \_\_\_\_\_ (state type of identification) as identification, and subscribed by me in the presence of SIMON L. BERNSTEIN and the subscribing witnesses, all on this 25 day of July, 2012.

*[Signature]*  
Signature - Notary Public - State of Florida  
Lindsay Baxley  
Print, type or stamp name of Notary Public

[Seal with Commission Expiration Date]

NOTARY PUBLIC-STATE OF FLORIDA  
Lindsay Baxley  
Commission # EE092282  
Expires: MAY 10, 2015  
BONDED THRU ATLANTIC BONDING CO., INC.

LAST WILL  
OF SIMON L. BERNSTEIN



IN THE CIRCUIT COURT OF THE FIFTEEN JUDICIAL CIRCUIT  
IN AND FOR PALM BEACH COUNTY, FLORIDA

IN RE: THE ESTATE OF

CASE NO. 2012CP004391 IX

SIMON BERNSTEIN,

MOTION TO SET HEARING

Deceased

\_\_\_\_\_ /

ELIOT IVAN BERNSTEIN, PRO SE

PETITIONER,

V.

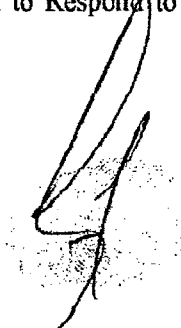
TESCHER & SPALLINA, P.A., (AND ALL PARTNERS,  
ASSOCIATES AND OF COUNSEL), ROBERT L.  
SPALLINA (BOTH PERSONALLY & PROFESSIONALLY),  
DONALD R. TESCHER (BOTH PERSONALLY &  
PROFESSIONALLY), THEODORE STUART BERNSTEIN,  
AS PERSONAL REPRESENTATIVES ET AL., TRUSTEES,  
SUCCESSOR TRUSTEES AND ESTATE COUNSEL AND  
JOHN AND JANE DOES,

RESPONDENTS.

\_\_\_\_\_ /

**MOTION TO RESPOND TO THE PETITIONS BY THE RESPONDENTS**

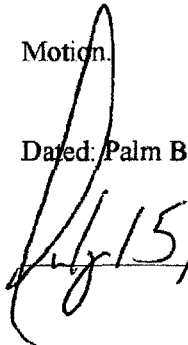
**NOW COMES** the undersigned, Pro Se Petitioner Eliot Ivan Bernstein, and hereby moves for an Order of this Court requiring the Respondents to respond to the Petitions filed by Petitioner on May 06, 2013 and June 26, 2013 and already timely served to the Respondents, within 20 days from service of this Motion to Respond to the Respondents. Petitioner being Pro se was not

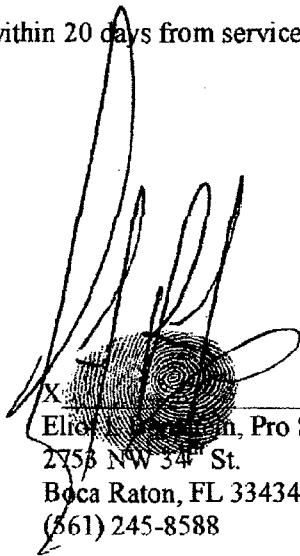


aware to include and had not included Notice to provide response within certain days to be included with the Petitions. Hence this motion is filed.

THEREFORE, the undersigned respectfully requests that this Court grant an Order requiring the Respondents to respond to the Petitions filed by Petitioner on May 06, 2013 and June 26, 2013 and already timely served on the Respondents, within 20 days from service of this Motion.

Dated: Palm Beach County, FL

 July 15, 2013

  
X: \_\_\_\_\_  
Eliel [unclear], Pro Se  
2756 NW 34<sup>th</sup> St.  
Boca Raton, FL 33434  
(561) 245-8588

**PROOF OF SERVICE BY MAIL**

I, Eliot Ivan Bernstein, the Petitioner, certify that I served this notice by mailing a copy to:

**Respondents**

Robert L. Spallina, Esq.  
Tescher & Spallina, P.A.  
Boca Village Corporate Center I  
4855 Technology Way  
Suite 720  
Boca Raton, FL 33431  
Donald Tescher, Esq.  
Tescher & Spallina, P.A.  
Boca Village Corporate Center I  
4855 Technology Way  
Suite 720  
Boca Raton, FL 33431

Theodore Stuart Bernstein  
880 Berkley Street  
Boca Raton, FL 33487

**Interested Parties and Trustees for Beneficiaries**

Lisa Sue Friedstein  
2142 Churchill Lane  
Highland Park IL 60035

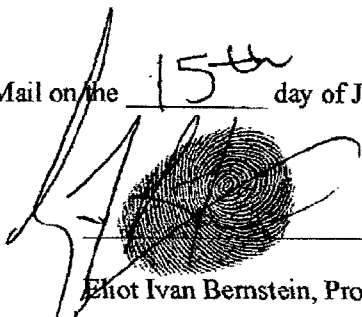
Jill Marla Iantoni  
2101 Magnolia Lane  
Highland Park, IL 60035

Pamela Beth Simon  
950 North Michigan Avenue  
Suite 2603  
Chicago, IL 60611

and depositing the same in the U.S. Priority Mail on the 15<sup>th</sup> day of July 2013, with proper postage prepaid.

Date

July 15<sup>th</sup>, 2013

  
\_\_\_\_\_  
Eliot Ivan Bernstein, Pro Se

IN THE CIRCUIT COURT OF THE FIFTEEN JUDICIAL CIRCUIT  
IN AND FOR PALM BEACH COUNTY, FLORIDA

IN RE: THE ESTATE OF

CASE NO. 502011CP00653XXXXSB

SHIRLEY BERNSTEIN,

Deceased

\_\_\_\_\_ /

ELIOT IVAN BERNSTEIN, PRO SE

PETITIONER,

V.

TESCHER & SPALLINA, P.A., (AND ALL PARTNERS,  
ASSOCIATES AND OF COUNSEL), ROBERT L.  
SPALLINA (BOTH PERSONALLY & PROFESSIONALLY),  
DONALD R. TESCHER (BOTH PERSONALLY &  
PROFESSIONALLY), THEODORE STUART BERNSTEIN,  
AS PERSONAL REPRESENTATIVES ET AL., TRUSTEES,  
SUCCESSOR TRUSTEES AND ESTATE COUNSEL AND  
JOHN AND JANE DOES,

RESPONDENTS.

\_\_\_\_\_ /

**MOTION TO RESPOND TO THE PETITIONS BY THE RESPONDENTS**

NOW COMES the undersigned, Pro Se Petitioner Eliot Ivan Bernstein, and hereby moves for an Order of this Court requiring the Respondents to respond to the Petitions filed by Petitioner on May 06, 2013 and June 26, 2013, and already timely served to Respondents, within 20 days from service of this Motion to Respond to the Respondents. Petitioner being Pro se was not aware to

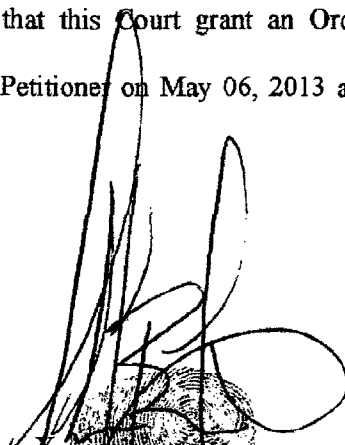
A handwritten signature in black ink is written over a circular embossed stamp. The signature is somewhat stylized and appears to be 'Eliot Ivan Bernstein'. The stamp is circular with a textured, concentric pattern.

include and had not included Notice to provide response within certain days to be included with the Petition. Hence this motion is filed.

THEREFORE, the undersigned respectfully requests that this Court grant an Order requiring the Respondents to respond to the Petition filed by Petitioner on May 06, 2013 and June 26, 2013, within 20 days from service of this Motion.

Dated: Palm Beach County, FL

July 15, 2013



Eliot L. Bergstrom Pro Se  
2753 NW 34<sup>th</sup> St.  
Boca Raton, FL 33434  
(561) 245-8588

**PROOF OF SERVICE BY MAIL**

I, Eliot Ivan Bernstein, the Petitioner, certify that I served this notice by mailing a copy to:

**Respondents**

Robert L. Spallina, Esq.  
Tescher & Spallina, P.A.  
Boca Village Corporate Center I  
4855 Technology Way  
Suite 720  
Boca Raton, FL 33431  
Donald Tescher, Esq.  
Tescher & Spallina, P.A.  
Boca Village Corporate Center I  
4855 Technology Way  
Suite 720  
Boca Raton, FL 33431

Theodore Stuart Bernstein  
880 Berkley Street  
Boca Raton, FL 33487

**Interested Parties and Trustees for Beneficiaries**

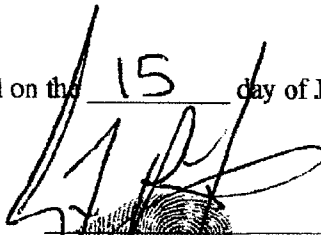
Lisa Sue Friedstein  
2142 Churchill Lane  
Highland Park IL 60035

Jill Marla Iantoni  
2101 Magnolia Lane  
Highland Park, IL 60035

Pamela Beth Simon  
950 North Michigan Avenue  
Suite 2603  
Chicago, IL 60611

and depositing the same in the U.S. Priority Mail on the 15 day of July 2013, with proper postage prepaid.

Date July 15, 2013

  
\_\_\_\_\_  
Eliot Ivan Bernstein, Pro Se

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		Arrival at Post Office	May 7, 2013, 9:48 am	BOCA RATON, FL 33431	
		Dispatched to Sort Facility	May 6, 2013, 6:10 pm	BOCA RATON, FL 33431	
9505510485693126605286 <a href="#">Hide Details</a>	Priority Mail®	Delivered	May 7, 2013, 12:44 pm	BOCA RATON, FL 33487	<b>Expected Delivery By:</b> May 8, 2013 USPS Tracking / Delivery Confirmation™
		Arrival at Post Office	May 7, 2013, 9:46 am	BOCA RATON, FL 33431	
		Dispatched to Sort Facility	May 6, 2013, 5:10 pm	BOCA RATON, FL 33431	
		Acceptance	May 6, 2013, 4:48 pm	BOCA RATON, FL 33431	

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9505510485693126605286 <a href="#">Hide Details</a>	Priority Mail®	Delivered	May 7, 2013, 12:44 pm	BOCA RATON, FL 33487	<b>Expected Delivery By:</b> May 8, 2013 USPS Tracking / Delivery Confirmation™
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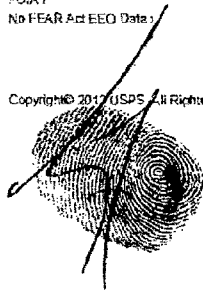
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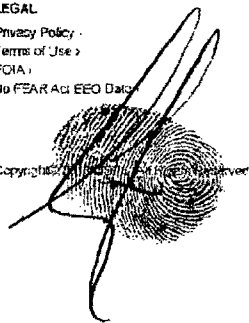
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<input checked="" type="checkbox"/>	9505510485693134415044	Priority Mail®	Acceptance	May 14, 2013, 11:31 am	BOCA RATON, FL 33431	<b>Expected Delivery By:</b> May 16, 2013 USPS Tracking / Delivery Confirmation™
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1169189234 -0097  
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	Sale Qty	Unit Price	
@@ HIGHLAND PARK IL 60035 Zone-6 Priority Mail Medium Flat Rate Box 5 lb. 12.30 oz. Expected Delivery: Thu 05/16/13 Label #: 9505 5104 8569 3134 4150 44			\$12.35 Sent to Jill Iantoni
Issue PVI:			\$12.35
@@ CHICAGO IL 60611 Zone-6 Priority Mail Medium Flat Rate Box 5 lb. 13.40 oz. Expected Delivery: Thu 05/16/13 Label #: 9505 5104 8569 3134 4153 72			\$12.35 Sent to Pam Simon
Issue PVI:			\$12.35
@@ HIGHLAND PARK IL 60035 Zone-6 Priority Mail Medium Flat Rate Box 5 lb. 13.40 oz. Expected Delivery: Thu 05/16/13 Label #: 9505 5104 8569 3134 4156 62			\$12.35 Sent to Lisa Friedstein
Issue PVI:			\$12.35
CTear Package Tape 1.88" x 800"	1	\$3.49	\$3.49
<b>Total:</b>			<b>\$40.54</b>

Paid by:  
Debit Card \$40.54  
Account #: XXXXXXXXXXXXXXX9892  
Approval #:  
Transaction #: 697  
23 902940899  
Receipt #: 001647

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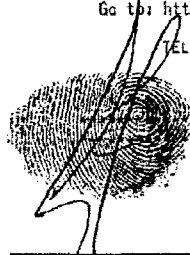
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		Acceptance	May 6, 2013, 4:47 pm	BOCA RATON, FL 33431	
9505510485693126605286 <a href="#">Hide Details</a>	Priority Mail®	Delivered	May 7, 2013, 12:44 pm	BOCA RATON, FL 33487	<b>Expected Delivery By:</b> May 8, 2013 USPS Tracking / Delivery Confirmation™
		Arrival at Post Office	May 7, 2013, 9:46 am	BOCA RATON, FL 33431	
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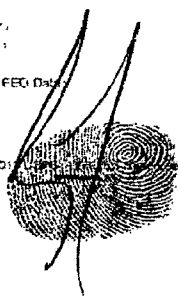
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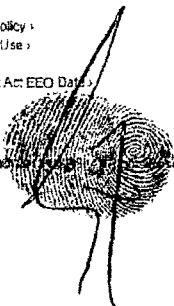
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REFRESH UPDATES PRINT DETAILS

YOUR LABEL NUMBER	SERVICE	STATUS OF YOUR ITEM	DATE & TIME	LOCATION	FEATURES
9505510485693126604869	Priority Mail®	Delivered	May 7, 2013, 1:40 pm	BOCA RATON, FL 33481	Expected Delivery By: May 8, 2013 USPS Tracking / Delivery Confirmation™
Show Details					
9505510485693126605286	Priority Mail®	Delivered	May 7, 2013, 12:44 pm	BOCA RATON, FL 33487	Expected Delivery By: May 8, 2013 USPS Tracking / Delivery Confirmation™
Show Details					

REFRESH UPDATES PRINT DETAILS

### Check on Another Item

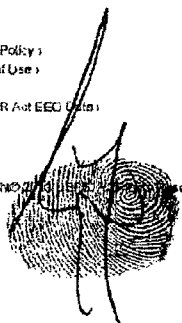
What's your label (or receipt) number?

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YOUR LABEL NUMBER	SERVICE	STATUS OF YOUR ITEM	DATE & TIME	LOCATION	FEATURES
9505510485693126604869	Priority Mail®	Delivered	May 7, 2013, 1:40 pm	BOCA RATON, FL 33431	Expected Delivery By: May 8, 2013 USPS Tracking / Delivery Confirmation™
<a href="#">Show Details</a>					
9505510485693126605286	Priority Mail®	Delivered	May 7, 2013, 12:44 pm	BOCA RATON, FL 33437	Expected Delivery By: May 8, 2013 USPS Tracking / Delivery Confirmation™
<a href="#">Show Details</a>					

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<input type="checkbox"/>	YOUR LABEL NUMBER	SERVICE	STATUS OF YOUR ITEM	DATE & TIME	LOCATION	FEATURES
<input checked="" type="checkbox"/>	9505510485693134415044	Priority Mail®	Acceptance	May 14, 2013, 11:31 am	BOCA RATON, FL 33431	<b>Expected Delivery By:</b> May 16, 2013 USPS Tracking / Delivery Confirmation™
<input checked="" type="checkbox"/>	9505510485693134415662	Priority Mail®	Acceptance	May 14, 2013, 11:32 am	BOCA RATON, FL 33431	<b>Expected Delivery By:</b> May 16, 2013 USPS Tracking / Delivery Confirmation™
<input checked="" type="checkbox"/>	9505510485693134416372	Priority Mail®	Acceptance	May 14, 2013, 11:32 am	BOCA RATON, FL 33431	<b>Expected Delivery By:</b> May 16, 2013 USPS Tracking / Delivery Confirmation™



WOODLAND STATION  
BOCA RATON, Florida  
334319992

1169180234 -0097  
(800)275-8777 11:33:37 AM

Product Description	Sales Receipt		Final Price
	Sale Qty	Unit Price	

00 HIGHLAND PARK IL			\$12.35
60035 Zone-6 Priority Mail Medium Flat Rate Box			Sent to Jill fantoni
5 lb. 12.30 oz.			

Expected Delivery: Thu 05/16/13  
Label #:  
9505 5104 8569 3134 4150 44

Issue PVI: \$12.35

00 CHICAGO IL 60611			\$12.35
Zone-6 Priority Mail Medium Flat Rate Box			Sent to Pam Simon
5 lb. 13.40 oz.			

Expected Delivery: Thu 05/16/13  
Label #:  
9505 5104 8569 3134 4153 72

Issue PVI: \$12.35

00 HIGHLAND PARK IL			\$12.35
60035 Zone-6 Priority Mail Medium Flat Rate Box			Sent to Lisa Friedstein
5 lb. 13.40 oz.			

Expected Delivery: Thu 05/16/13  
Label #:  
9505 5104 8569 3134 4156 62

Issue PVI: \$12.35

Clear Package Tape	1	\$3.49	\$3.49
1.88" x 800"			

Total: \$40.54

Paid by:  
Debit Card \$40.54  
Account #: XXXXXXXXXXXX9892  
Approval #:  
Transaction #: 697  
23 902940899  
Receipt #: 001847

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