

IN THE CIRCUIT COURT OF THE  
15<sup>TH</sup> JUDICIAL CIRCUIT IN AND FOR  
PALM BEACH COUNTY, FLORIDA

WILLIAM E. STANSBURY,  
Plaintiff,

CASE NO.: 502012CA013933XXXXMB  
DIVISION: AN

v.

ESTATE OF SIMON L. BERNSTEIN;  
and BERNSTEIN FAMILY  
REALTY, LLC,  
Defendants.

---

**PLAINTIFF'S MOTION TO STAY PENDING HEARING ON  
MOTION TO DISQUALIFY DEFENDANT'S NEW COUNSEL**

COMES NOW, Plaintiff, WILLIAM E. STANSBURY (hereinafter "Plaintiff"), by and through its undersigned attorney and moves this Court for the entry of an Order staying this action until such time as the Probate Division can conduct a hearing on Plaintiff's Motion to Disqualify Counsel, Alan Rose, Esq. and the law firm of Page, Mrachek, Fitzgerald, Rose, Konopka, Thomas & Weiss, P.A, and states as follows:

1. On September 26, 2016, the Probate Division of the Circuit Court, Judge Phillips presiding, entered an Order allowing Alan Rose, Esq. and the law firm of Page, Mrachek, Fitzgerald, Rose, Konopka, Thomas & Weiss, P.A, to enter an appearance on behalf of the Defendant, ESTATE OF SIMON L. BERNSTEIN. A copy of the Court Order from the Probate Division is attached hereto as **Exhibit "1."**

2. After the entry of the Order, Plaintiff had the opportunity to review the transcript of a deposition taken in a matter pending in the U.S. District Court for the Northern District of Illinois where the Defendant, ESTATE OF SIMON L. BERNSTEIN is an Intervenor Defendant in the action. This Illinois action is brought by Ted Bernstein and others seeking to prevent approximately \$1.7 million dollars of life insurance proceeds from being paid to the ESTATE

OF SIMON L. BERNSTEIN. A review of the transcript reveals that Alan Rose, Esq. actively represented the Plaintiff, Ted Bernstein in that action, putting himself in a position adverse to the ESTATE OF SIMON L. BERNSTEIN.

3. Thereafter, the Plaintiff, WILLIAM E. STANSBURY filed his Motion to Disqualify Alan Rose, Esq. from representing the ESTATE OF SIMON L. BERNSTEIN in this action.

4. The presiding Judge that entered the Order allowing Alan Rose, Esq. to appear, is retiring, and therefore it has been impossible to obtain a hearing date as of yet on Plaintiff's Motion to Disqualify Alan Rose, Esq. Until such time as Plaintiff's Motion to Disqualify Alan Rose, Esq. can be heard, Plaintiff respectfully requests this Court enter a stay of this action.

5. It is anticipated that a hearing date should be able to be obtained after November 1, 2016, when a new Judge will be assigned to the Probate Division in the North Branch.

WHEREFORE, Plaintiff, WILLIAM E. STANSBURY, respectfully requests this matter be stayed pending a determination in the Probate Division as to Plaintiff's Motion to Disqualify Alan Rose, Esq., and such other and further relief as deemed just and proper.

#### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been sent by electronic service through the E-filing Portal to Email: Brian M. O'Connell, Esq. (*Counsel for and Personal Representative of the Defendant, Estate of Simon L. Bernstein*) 515 North Flagler Drive, 20<sup>th</sup> Floor, West Palm Beach, FL 33401, Email: [boconnell@ciklinlubitz.com](mailto:boconnell@ciklinlubitz.com); [service@ciklinlubitz.com](mailto:service@ciklinlubitz.com) and Eliot and Candice Bernstein, as parents and natural guardians of Joshua, Jake and Daniel Bernstein (*Defendant, Bernstein Family Realty, LLC*) 2753 Northwest

34<sup>th</sup> Street, Boca Raton, FL 33434, Email: [ivewit@ivewit.tv](mailto:ivewit@ivewit.tv); [ivewit@gmail.com](mailto:ivewit@gmail.com);  
[tourcandy@gmail.com](mailto:tourcandy@gmail.com), on this 26<sup>th</sup> day of October, 2016.

PETER M. FEAMAN, P.A.  
3695 West Boynton Beach Blvd., #9  
Boynton Beach, FL 33436  
Telephone: (561) 734-5552  
Facsimile: (561) 734-5554  
Service: [service@feamanlaw.com](mailto:service@feamanlaw.com)  
[mkoskey@feamanlaw.com](mailto:mkoskey@feamanlaw.com)

By:   
Peter M. Feaman  
Florida Bar No. 0260347

NOT A CERTIFIED COPY

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

IN RE:

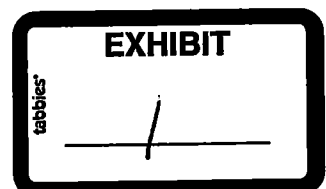
CASE NO. 502012CP004391XXXXNBIH

ESTATE OF SIMON L. BERNSTEIN,  
\_\_\_\_\_ /

**ORDER APPROVING RETENTION OF COUNSEL AND  
DEFERRING RULING ON APPOINTMENT OF TED S. BERNSTEIN AS  
ADMINISTRATOR *AD LITEM*  
TO DEFEND CLAIM AGAINST ESTATE BY WILLIAM STANSBURY**

THIS CAUSE came before the Court on Successor Trustee's *Motion to Approve Retention of Counsel And, to Appoint Ted S. Bernstein as Administrator Ad Litem to Defend Claim Against Estate by William Stansbury* ("the Motion"). The Court, having reviewed the Motion and the record, having been advised in the Motion that the PR and beneficiaries of the Estate believe this relief will result in a benefit to the Estate, having been advised that William Stansbury has filed a written objection to Ted S. Bernstein serving as Administrator, and being otherwise fully advised in the premises, hereby ORDERS AND ADJUDGES:

1. The Motion is GRANTED in part and DEFERRED in part.
2. The Court approves the retention of the law firm Mrachek, Fitzgerald, Rose, Konopka, Thomas & Weiss, P.A. ("Mrachek-Law") to serve as counsel for Brian O'Connell, as Personal Representative of the Estate of Simon L. Bernstein, for the purpose of defending the Estate in an independent action brought by William Stansbury. The reasonable costs and attorneys' fees incurred by Mrachek-Law in defending the claim shall be paid by the Estate.
3. Unless Stansbury withdraws his objection, the Court will need to conduct an evidentiary hearing on that portion of the motion which seeks the appointment of an administrator



ad litem. The Court will determine at the evidentiary hearing whether to appoint Ted S. Bernstein as administrator ad litem under Rule 5.120, which provides that when necessity arises, "the court may appoint an administrator ad litem . . . without bond or notice for that particular proceeding."

Until the evidentiary hearing, the Court defers ruling on the administrator ad litem issues.

DONE AND ORDERED in Chambers, North County Courthouse on \_\_\_\_\_, 2016.

**SIGNED & DATED**

SEP 26 2016

\_\_\_\_\_  
HONORABLE JOHN L. PHILLIPS  
CIRCUIT JUDGE

cc: All parties on the attached service list

NOT A CERTIFIED COPY

SERVICE LIST - CASE NO. 502012CP004391XXXXNBIH

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

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

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

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

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

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

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

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

Individually and as trustee for her children, and  
as natural guardian for J.I. a minor

Alan B. Rose, Esq.  
Mrachek, Fitzgerald, Rose,  
Kopoka, Thomas & Weiss, P.A.  
505 South Flagler Drive, Suite 600  
West Palm Beach, FL 33401  
(561) 655-2250 - Telephone  
(561) 655-5537 - Facsimile  
[arose@mrachek-law.com](mailto:arose@mrachek-law.com);  
[mchandler@mrachek-law.com](mailto:mchandler@mrachek-law.com)  
*Attorneys for Ted S. Bernstein*

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

NOT A CERTIFIED COPY