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November 28, 2016

The Honorable Rosemarie Scher
North County Courthouse
3188 PGA Boulevard
Palm Beach Gardens, FL 33410

Re: *Estate of Simon L. Bernstein*
Case No.: 502012CP004391XXXXNBIH

Estate of Shirley Bernstein
Case No.: 502011CP000653XXXXNBIH

Shirley Trust Construction: Ted Bernstein, etc., et al. v. Alexandra Bernstein, et al.,
Case No.: 502014CP003698XXXXNB-IH

Dear Judge Scher:

As discussed at the UMC hearing last Tuesday, this is intended to be a short summary of the status of Bernstein matters, filed by the Trustee of the two relevant trusts: Simon L. Bernstein Amended and Restated Trust dtd 7-25-2012 ("Simon Trust") and Shirley Bernstein Trust Agreement dtd 5-20-2008 ("Shirley Trust"). This summary is as short as possible, but it takes two pages just to explain the names of the parties and interested persons.

Although there have been four prior judges, only Judge Colin and Judge Phillips conducted substantive hearings. When the case was before Judge Colin, it seemed like an unmanageable circus, in large part due to uncertainty as to who were proper beneficiaries and repeated attacks on fiduciaries and counsel.¹ Judge Phillips brought order to chaos; determined after a trial who are the rightful beneficiaries of these estates and trusts; appointed a Guardian ad Litem to protect the interests of three children whose father was acting in an adverse and destructive manner; and shepherded the case much closer to the finish line. The most important thing now, regardless of how any issue gets resolved or the outcome of any hearing or trial, is to continue moving forward and not revert to the past.

¹ This is explained in a 14-page Omnibus Status Report submitted to Judge Phillips at an initial Status Conference. [Case 502012CP004391 DE 393] Among other things, Eliot Bernstein harassed, defamed and later sued the Trustee, professionals, the beneficiaries, and even hinted at suing Judge Colin.

Estate of Simon L. Bernstein

Case Number: 502012CP004391XXXXNBIH

November 28, 2016

Page 2

Judge Phillips first set a trial to determine the validity of the Wills and Trusts, which determined the proper beneficiaries. A one-day trial was held on December 15, 2016, at which time Judge Phillips heard evidence and entered a Final Judgment upholding the validity of Simon's and Shirley's Wills and Trusts, and finding that Ted Bernstein had done nothing wrong.² [Case 502014CO003698 DE 113]

Based upon the Final Judgment, we have made great progress. At a mediation in July, everyone but two parties (Stansbury and Eliot, as described below) were able to resolve all of their disagreements. There is a signed Mediation Settlement Agreement subject to Court approval. As a result, we are near the finish line on the Shirley side. However, Stansbury and Eliot continue to disrupt and delay the orderly administration of Simon's Estate; are trying to influence the Simon Trust even though neither has standing on those issues; and are causing unnecessary expense.

Briefly, let us introduce you to the players:

Our law firm represents Ted S. Bernstein, the Trustee of both trusts and the PR of Shirley's Estate. Ted is the oldest child of Shirley (died 12-8-2010) and Simon (died 9-13-2012). Their deaths have led to four cases: Shirley's Estate (Case 502011CP000653); Shirley's Trust (Case 502014CP003698); Simon's Estate (Case 502012CP004391); and Simon's Trust.³

Simon and Shirley had five children and ten grandchildren; all of these are aligned and in agreement except for Eliot Ivan Bernstein ("Eliot").

Eliot lives in a world filled with conspiracy and fraud, where everyone is a thief, forger or murderer, and where he was car-bombed to cover up the theft of his trillion dollar invention. (<http://iviewit.tv/>) Faced with certain poverty after his parents' deaths, Eliot lashed out against his parent's surrogate – his older brother Ted – and others in vicious and cruel ways. (<http://tedbernsteinreport.blogspot.com/>)⁴

² "Based on the evidence presented, the Court finds that Plaintiff, Ted S. Bernstein, Trustee, was not involved in . . . any other improper act, contrary to the allegations of Eliot Bernstein made in the pleadings in this case or in various blogs and websites in which Eliot Bernstein has attacked the actions of Ted Bernstein." *Id.* ¶5.

³ There currently is no pending case directly involving Simon's Trust. Eliot's Petition to remove Ted as Trustee was dismissed by Judge Phillips on April 8, 2016. [Case 502015CP001162 DE # 39]

⁴ Eliot's cyber-terrorism, which no court is equipped to stop, was not limited to Ted, and included the undersigned and most of the other professional and fiduciaries, including the judges. One post was entitled "*Judge David French, Judge Martin Colin and the Corrupt Overreaching Florida Probate Courts*"

Estate of Simon L. Bernstein

Case Number: 502012CP004391XXXXNBIH

November 28, 2016

Page 3

The root of Eliot's anger is understandable. One minute he was living the Life of Riley, based upon his parents' agreement to provide him a house and pay all of his living expenses and private school for his three sons (\$80,000 per year), providing total support of more than \$200,000/year. Once Simon died, Eliot's support ended immediately. In an instant Eliot was flat broke – disinherited, and cut-off from all means of support. Eliot does not work, and claims to be indigent.

Moreover, Eliot expected to be rich once his parents died. According to Eliot's court filings and testimony, he believed his parents' net worth was more than \$100 million, and he would inherit \$30 million more. Instead, he gets nothing. His children are beneficiaries, and do get 10% each, but Eliot has done all he can to destroy what little (perhaps \$3 million total) his parents left behind.

The other disgruntled person Simon left behind is William Elwood "Bill" Stansbury ("Stansbury"), now represented by Peter Feaman, Esq. Stansbury claims that Simon cheated him out of millions of dollars in a business venture. (Simon, Ted and Stansbury had each been involved in the insurance business, but never worked together except for a few years [2006-2012] when they all were involved in a Florida life insurance business started by Simon and Ted.)

Stansbury sued Simon shortly before his death; has timely filed an independent action against Simon's Estate; and should be focused on litigating that claim rather than trying to control the strings of these probate court proceedings. Stansbury succeeded in stirring things up and installing a neutral PR after the initial PRs resigned (opposing Ted's Petition to be appointed as Simon's PR), but otherwise has been thwarted by adverse judicial rulings. Now, with a new judge, he seeks to revisit prior rulings of Judges Colin and Phillips.

The only other players who need specific mention are Simon's prior counsel. Those lawyers took some improper actions after Simon's death, but have been replaced and have suffered severe consequences. Indeed, there is a pending settlement between those lawyers and everyone else – Mr. O'Connell, as Simon's PR; Ted as Shirley's PR and Trustee of both trusts; the GAL and all beneficiaries (other than Eliot of course). Eliot has tried to leverage the conduct of these lawyers to fuel his conspiracy theories, but their actions caused limited harm to the estates and trusts, and no harm to Eliot.

Against that backdrop, and with Judge Phillips' retirement, this has landed before Your Honor. We have made great progress, but need to keep moving these cases forward before the professional fees eat the rest of the money. To date, the replacement curator and PR have incurred more than \$300,000 in professional fees, and made little progress toward getting the Simon Estate closer to the finish line. That needs to start changing on the Simon side.

... " (<http://tedbernsteinreport.blogspot.com/2016/02/judge-david-french-judge-martin-colin.html>).

On the Shirley side, we are essentially at the finish line. The Final Judgment (on appeal) resolved that the beneficiaries are ten grandchildren and that Eliot has no standing.⁵ Once a GAL was appointed to represent the interests of Eliot's children, the parties attended mediation in July with Retired Judge Ronald Alvarez, and entered into a confidential Mediation Settlement Agreement. (A copy is provided to the Court for *in camera* review.) The settlement resolves everything, and includes resolution of the claim against the former attorneys; the closure of the Estate; and the distribution of assets as soon as Eliot's appeals are rejected. All we need is (i) an order approving the settlement; (ii) appointment of a trustee for the three Eliot Children Trusts;⁶ and (iii) orders determining the GAL's compensation, to be paid from Eliot's Children's share, and discharging the GAL.

On the Simon side, there are more loose ends, but the most important thing to do is handle the 800-pound gorilla, Stansbury's \$2.5 million claim. Nothing can happen until that claim has been settled or tried, and settlement efforts have been exhausted. When Stansbury did not settle at the July mediation, the beneficiaries agreed to get the case tried quickly and by the Mrachek Firm, which has extensive prior knowledge and involvement in that case. Stansbury did not object to Mrachek's retention, and an Order was entered. [DE 496] But once the Stansbury independent action actually began moving forward, Stansbury tried to put the brakes on by moving to vacate the Order retaining Mrachek. [DE 497] That Motion threatens to hold up the critical issue of moving Stansbury's case forward, so we can decide if he has no claim (in which case we can get rid of him once and for all) or he has a valid claim against the assets of the Estate.

There are a number of other matters to resolve on the Simon side, as set forth on the List of Pending Matters being submitted in advance of the Status Conference, but what cannot be allowed to happen is the slow bleed of money that soon will render the Estate penniless.

On behalf of the Trustee, who now speaks with a singular and clear voice on behalf of all of beneficiaries, the Court should not allow Stansbury or Eliot to cause further disruption. Stansbury is just a potential claimant to whom no money is now due, and he cannot be allowed to continue disrupting the interests of the fiduciaries and beneficiaries. Making matters worse, Stansbury has done little to prosecute his claim against the Estate, and now is trying to put on the brakes.

The Court also cannot allow Eliot to continue his involvement unchecked. Eliot has been barred from participation in the Shirley matters, but may have some limited rights in Simon's estate

⁵ The appeal has little chance of success. Eliot presented no witnesses or evidence to establish any challenge to the Wills and Trusts. The appeal is fully briefed.

⁶ Simon's Trust names Eliot to that role, but he has refused to serve.

Estate of Simon L. Bernstein

Case Number: 502012CP004391XXXXNBIH

November 28, 2016

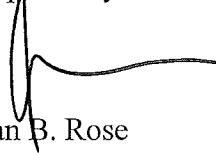
Page 5

because he filed a personal claim against Simon's Estate. He cannot be allowed to bootstrap those limited rights to continue an all-out assault as he has been doing for years, and cannot be allowed to cause the Estate and Trust to "burn all the money" so no one gets any. For example, the Final Judgment ruling that Eliot lacked standing would have ended the nonsense in a normal case, but this one is not normal. In addition to filing numerous appeals (Eliot has filed nine appeals to the Fourth DCA since his father's death⁷ and one to the Supreme Court), Eliot continued to disrupt the probate proceedings. On motion in each case and after evidentiary hearings, Judge Phillips entered Orders Appointing a Guardian Ad Litem. [Case 50214CP3698 DEs 154, 161, 175; and Case 502012CP004391 DE 443] In those orders, Judge Phillips expressly found that Eliot was acting adverse and destructive to the interests of his children, and appointed former probate judge Diana Lewis as GAL.

Both Stansbury and Eliot already have tried to remove Ted as Successor Trustee, but both failed.⁸ Eliot continues to pursue his agenda, but for the most part is no longer relevant to these proceedings. However, Stansbury continues to persist in trying to control the course of these proceedings. If Stansbury has a legitimate and valid claim, his primary goal should be trying that case. Anything else makes no sense, and certainly cannot be of any help to the Estate and Trust beneficiaries.

We appreciate Your Honor's time and attention to these matters, and look forward to working with Your Honor to bring about an orderly, just and fair outcome.

Respectfully submitted,



Alan B. Rose

Enclosure (for *in camera* review)

cc: All parties on attached service list, w/o enclosure

⁷ Eliot filed at the 4th DCA a Motion for Rehearing En Banc on December 15, 2015, after the denial of a writ petition in Case No. 4D15-3849, stating: "The case is thus of not only exceptional importance but statewide importance as not only implicating related ongoing frauds upon the United States but the fundamental Due Process issue of whether the Florida Courts themselves can be an appropriate forum for the Petitioner given the current Florida Supreme Court Judge Jorge Labarga's involvement in the underlying frauds . . . in a case where possible murder has been alleged."

⁸ Stansbury's petition to remove Ted was dismissed by Judge Phillips for lack of standing under § 736.0706(1), Fla. Stat. [Case 5012CP004391 DE # 240] Eliot's petition also was dismissed. (see fn. 1)

Estate of Simon L. Bernstein

Case Number: 502012CP004391XXXXNBIH

November 28, 2016

Page 6

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Estate of Simon L. Bernstein

Case Number: 502012CP004391XXXXNBIH

November 28, 2016

Page 7

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