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September 22, 2014

**VIA HAND DELIVERY**

The Honorable Martin H. Colin  
South County Courthouse, Courtroom 8  
200 West Atlantic Avenue  
Delray Beach, FL 33444

*Re: Oppenheimer Trust Company of Delaware v. Joshua, Jake and Daniel Bernstein  
(by and through their parents, Eliot and Candice Bernstein); Case No.  
502014CP002815*

Dear Judge Colin:

I represent Oppenheimer Trust Company of Delaware (“Oppenheimer”) in the above-referenced action which relates to three small “Grandchildren Trusts” created for the benefit of minors Joshua, Jake and Daniel Bernstein (the “Minor Beneficiaries”). Neither Eliot nor Candice Bernstein have any personal interest in the Grandchildren Trusts. They were named as defendants solely in their representative capacities, as the natural guardians of the Minor Beneficiaries.

I am writing to you because, last Friday, I received a series of e-mails from Eliot Bernstein expressing his belief that, at a hearing you conducted last week in an unrelated matter filed by Ted Bernstein (Case No. 502014CP003698) (the “Shirley Bernstein Trust Case”), Your Honor ruled that the Oppenheimer Case, or at least the Counterclaim filed by Eliot Bernstein therein, was stayed. *See Tab A of the enclosed binder.* I was subsequently provided with an excerpt from that hearing. *See Tab B.* It is unclear from the excerpt whether you intended to stay the entire Oppenheimer Case or merely Eliot Bernstein’s impermissibly-filed Counterclaim therein (or whether you were led to believe that the Petition filed by Oppenheimer had something to do with the disputes between Eliot Bernstein and others pending before Your Honor under other case numbers). *See Tab B, 4:15–6:7; 9:14–10:20; 20:10-24.*

Having not been present at the hearing, and having been surprised by Eliot Bernstein’s assertion that a ruling in the Oppenheimer Case was made without me being present, I reached out to attorney Alan Rose to obtain his understanding of what transpired. Mr. Rose provided me with copies of the Orders that were actually entered following the hearing. *See Tab C.* The Orders reflect that you only stayed the Shirley Bernstein Trust Case, and not the Oppenheimer Case. Nevertheless, in an abundance of caution, I wanted to bring the following to your attention

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so that you can determine how you would like to proceed in connection with the Oppenheimer Case:

As reflected in the enclosed Petition, *see Tab D*, neither Eliot Bernstein nor Candice Bernstein are parties to the Oppenheimer Case. Oppenheimer's Petition merely seeks (i) instructions on what to do with the Minor Beneficiaries' trust property now that Oppenheimer has resigned as trustee; and (ii) a review and approval of Oppenheimer's final accounting. Oppenheimer has filed a *Motion for Summary Judgment As To Count I of Its Petition*, and set that Motion for hearing on October 20, 2014 (a date cleared with Eliot Bernstein). *See Tabs E and F*.

Notwithstanding that he was not personally named as defendant in Oppenheimer's Petition, Eliot Bernstein purported to file a Counterclaim in the Oppenheimer Case in which he asserts his personal claims and interests (even to the detriment of his children's interests). In response, Oppenheimer filed a *Motion to Strike* the Counterclaim as a legal nullity because, *inter alia*, Eliot Bernstein, a non-party, has no right to assert Counterclaims in that matter on his own behalf. *See Tab G*. In addition, based upon the allegations contained in the Counterclaim (that Eliot Bernstein has rights superior to that of his children, and that he intends to incorporate and re-litigate claims pending or adjudicated in other matters), Oppenheimer filed a *Motion to Appoint Guardian Ad Litem* for the Minor Beneficiaries because of the apparent conflicts between Eliot's personal interests and those of his children and because of Eliot's longstanding history of vexatious litigation. *See Tab H*.

In light of my belief and understanding that the Oppenheimer Case, or at least the Oppenheimer Petition (the main case), has not been stayed, my intention is to set all three of the above-referenced Motions for hearing on October 20, 2014, with the understanding that the *Motion to Appoint Guardian Ad Litem* should proceed first, and that the appointment of a *Guardian Ad Litem* may necessitate the rescheduling of the remaining Motions. If my belief and understanding are incorrect, or if you would like me to proceed differently, please have your judicial assistant contact me.

Respectfully submitted,



Steven A. Lessne, Esq.  
*Counsel for Petitioner*

SAL/sl  
Enclosures

cc: Eliot and Candice Bernstein (via e-mail w/o enclosures and via FedEx with enclosures)  
Alan Rose, Esq. (via e-mail w/o enclosures)