

6

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

TED BERNSTEIN, as Trustee
of the Shirley Bernstein Trust Agreement
dated May 20, 2008, as amended,

Probate Division
Case No.: 502014CP003698XXXXNBIJ

Plaintiff,

v.

ALEXANDRA BERNSTEIN; ERIC BERNSTEIN;
MICHAEL BERNSTEIN; MOLLY SIMON;
PAMELA B. SIMON, Individually and as Trustee
f/b/o Molly Simon under the Simon L. Bernstein
Trust Dtd 9/13/12; ELIOT BERNSTEIN, individually,
as Trustee f/b/o D.B., Ja. B. and Jo. B. under the
Simon L. Bernstein Trust Dtd 9/13/12, and on
behalf of his minor children D.B., Ja. B. and Jo. B.;
JILL IANTONI, Individually, as Trustee f/b/o J.I.
under the Simon L. Bernstein Trust Dtd 9/13/12, and
on behalf of her Minor child J.I.; MAX FRIEDSTEIN;
LISA FRIEDSTEIN, Individually, as Trustee f/b/o
Max Friedstein and C.F., under the Simon L.
Bernstein Trust Dtd 9/13/12, and on behalf of her
minor child, C.F.,

Defendants.

COPY

FINAL JUDGMENT ON COUNT II OF THE AMENDED COMPLAINT

This cause came before the Court for trial on December 15, 2015, pursuant to the Court's
ORDER SETTING TRIAL on AMENDED COMPLAINT (DE 26) COUNT II dated September 24,
2015. The Court, having received evidence in the form of documents and testimony of witnesses,

having heard argument of counsel and *pro se* parties who wished to argue, and being otherwise fully advised of the premises, hereby enters a Final Judgment as to Count II of the Amended Complaint:

1. This is an action for declaratory judgment to determine the validity, authenticity and enforceability of certain wills and trusts executed by Simon Bernstein and Shirley Bernstein, as follows:

- A. Shirley Bernstein Trust Agreement dated May 20, 2008 ("Shirley Trust", attached to the Amended Complaint as Exhibit A~~3~~, *EX. P2 AT TRIAL*) JB
- B. First Amendment to Shirley Bernstein Trust Agreement dated November 18, 2008 ("Shirley First Amendment", attached to the Amended Complaint as Exhibit B~~3~~, *EX. P3 AT TRIAL*) JB
- C. Will of Simon L. Bernstein dated July 25, 2012 ("Simon Will", attached to the Amended Complaint as Exhibit C~~3~~, *EX. P4 AT TRIAL*) JB
- D. Simon L. Bernstein Amended and Restated Trust Agreement dated July 25, 2012 ("Simon Trust", attached to the Amended Complaint as Exhibit D~~3~~, *EX. P5 AT TRIAL*), *and* JB
- E. Will of Shirley Bernstein dated May 20, 2008 ("Shirley Will", attached to the Amended Complaint as Exhibit E~~3~~, *EX. P1 AT TRIAL*) JB

(collectively, the "Testamentary Documents").

2. Based upon the evidence presented during the trial, the Court finds that the Testamentary Documents, as offered in evidence by Plaintiff, are genuine and authentic, and are valid and enforceable according to their terms.

3. The Court finds that Simon's Testamentary Documents were signed by Simon and Shirley's Testamentary Documents were signed by Shirley, in the presence of two attesting witnesses who signed in the presence of the testator and in the presence of each other. § 732.502, Fla. Stat.; § 736.0403(2)(b), Fla. Stat.

4. The Court finds the Testamentary Documents meet the requirements for self-proof, as specified in §732.503, Fla. Stat. Alternatively, the Testamentary Documents were properly admitted based upon the testimony of at least one of the attesting witnesses, which occurred. §733.201, Fla. Stat.

5. Based on the evidence presented, the Court finds that Plaintiff, Ted S. Bernstein, Trustee, was not involved in the preparation or creation of the Testamentary Documents. ~~Indeed,~~ Ted S. Bernstein had never seen the documents before his father's death. ~~Moreover,~~ Ted S. Bernstein played no role in any questioned activities of the law firm Tescher & Spallina, PA, who represented Simon and Shirley while they were alive. There is no evidence to support the assertions that Ted Bernstein forged or fabricated any of the Testamentary Documents, or aided and abetted others in forging or fabricating documents. ~~Thus,~~ Ted Bernstein played no role in the preparation of any improper documents; the presentation of any improper documents to the Court; or 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.~~

The evidence shows

ELIOT BERNSTEIN

ju

ju

ju

ju

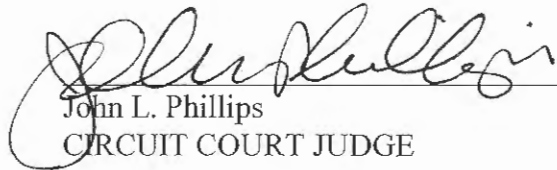
ju

6. Based on the evidence presented, the Court finds that an unauthorized version of the First Amendment to Shirley Bernstein Trust Agreement was prepared sometime after Simon died. This document (Pl. Ex. 6) was not signed by Shirley Bernstein and, therefore, is not an operative document.

7. This ruling is intended to be a Final Judgment under Rule 9.170 of the Florida Rules of Appellate Procedure, determining the validity of Testamentary Documents, denying any objection to the probate of Shirley's and Simon's Wills or the validity of the Trust Agreements, and determining which persons are entitled to receive distributions from these trusts and estates.

8. Based upon the rulings made by the Court in this trial of Count II, the Court reserves jurisdiction to determine the remaining issues in this action.

DONE AND ORDERED in Chambers, in Palm Beach County, Florida, this 16 day of December, 2015.


John L. Phillips
CIRCUIT COURT JUDGE

cc: All parties on the attached service list

Eliot Bernstein, individually
and Eliot and Candice Bernstein,
as Parents and Natural Guardians of
D.B., Ja. B. and Jo. B, Minors
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)

John P. Morrissey, Esq.
330 Clematis Street, Suite 213
West Palm Beach, FL 33401
(561) 833-0866 - Telephone
(561) 833-0867 - Facsimile
Email: John P. Morrissey
(john@jmorrisseylaw.com)
Counsel for Molly Simon, Alexandra Bernstein,
Eric Bernstein, Michael Bernstein

Lisa Friedstein, individually and as trustee for her
children, and as natural guardian for M.F. and
C.F., Minors; and Max Friedstein
lisa.friedstein@gmail.com

Jill Iantoni, individually and as trustee for her
children, and as natural guardian for J.I. a minor
jilliantoni@gmail.com

Alan Rose, Esq.
Mrachek Fitzgerald Rose
Konopka Thomas & Weiss, P.A.
505 S Flagler Drive, Suite 600
West Palm Beach, FL 33401
(561) 655-2250 - Telephone
(561) 655-5537 - Facsimile
Email: arose@mrachek-law.com

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

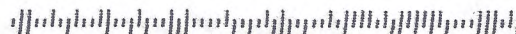
Brian M. O'Connell, Esq.
Joielle A. Foglietta, Esq.
Ciklin Lubitz Martens & O'Connell
515 N. Flagler Dr., 20th Floor
West Palm Beach, FL 33401
561-832-5900 - Telephone
561-833-4209 - Facsimile
Email: boconnell@ciklinlubitz.com;
jfoglietta@ciklinlubitz.com;
service@ciklinlubitz.com;
slobdell@ciklinlubitz.com

JOHN L. PHILLIPS
CIRCUIT JUDGE
NORTH COUNTY COURTHOUSE
3188 PGA BOULEVARD
PALM BEACH GARDENS, FL 33410



Eliot I. Bernstein
2753 N.W. 34th Street
Boca Raton, FL 33434

33434345353





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

PROBATE DIVISION IH
CASE NO. 502014CP003698XXXXNB

TED BERNSTEIN, AS TRUSTEE
OF THE SHIRLEY BERNSTEIN TRUST
AGREEMENT DATED MAY 20, 2008
AS AMENDED
Plaintiff

v.
ALEXANDRA BERNSTEIN; ET AL.
Defendants

COPY

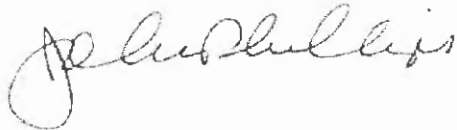
ORDER CONFIRMING DENIAL OF DISQUALIFICATION MOTION

This matter came before the Court at the close of trial December 15, 2015, when defendant Elliott Bernstein orally moved for recusal of the undersigned. The Court adjourned for 5 minutes to allow Mr. Bernstein to put his motion into written form. Mr. Bernstein then presented the "Verified Sworn Emergency Petition and Affidavit for Immediate Mandatory Disqualification of Circuit Judge John L Phillips", and "Notice of Correction to Verified Sworn Emergency Petition and Affidavit for Immediate Mandatory Disqualification of Circuit Judge John Phillips", both dated December 4, 2015. These documents had previously been presented to the Court seeking disqualification of the undersigned (see Docket Entries 94 and 98) and were denied as legally insufficient by Order entered December 8, 2015 (Docket Entry 98).

In an abundance of caution, on December 15, 2015, the undersigned entered a handwritten Order denying this new presentation of the already-ruled-upon request for disqualification. Whereupon, it is **ORDERED AND ADJUDGED:**

1. The handwritten Order dated December 15, 2015, denying defendant Elliott Bernstein's previously-ruled-upon requests for disqualification, described above, is hereby **CONFIRMED**.
2. The above-described requests for disqualification are legally insufficient, and are properly **DENIED**.

DONE AND ORDERED in West Palm Beach, Palm Beach County, Florida, this 16th day of December, 2015.



Circuit Judge

Copies furnished to:

Alan B. Rose Esq. arose@pm-law.com
John Morrissey Esq. john@jmorrisseylaw.com
Brian M. O'Connell Esq. service@ciklinlubitz.com
Eliot I. Bernstein 2753 N.W. 34th Street, Boca Raton FL, 33434
Lisa Friedstein 2142 Churchill Lane, Highland Park IL, 60035
Pamela Beth Simon 303 E. Wacker Drive, Suite 2725, Chicago IL, 60601
Jill Iantoni 2101 Magnolia Lane Highland Park IL, 60035

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

TED BERNSTEIN, AS TRUSTEE
OF THE SHIRLEY BERNSTEIN TRUST
AGREEMENT DATED MAY 20, 2008,
AS AMENDED,

PROBATE DIVISION

CASE NO.: 502014CP003698XXXXSB

PLAINTIFF,

V.

ALEXANDRA BERNSTEIN; ET AL.

DEFENDANTS.

Disqualification motion is DENIED as legally insufficient - already ruled upon in order of 12-8-15

Other Applicable Related Cases this Disqualification of Circuit Judge John L. Phillips, Should

Apply to:

- Case # 502012CP004391XXXXSB – Simon Bernstein Estate
- Case # 502011CP000653XXXXSB – Shirley Bernstein Estate
- Case # 502014CP002815XXXXSB – Oppenheimer v. Bernstein Minor Children
- Case # 502014CP003698XXXXSB – Shirley Trust Construction
- Case# 502015CP001162XXXXSB – Eliot Bernstein v. Trustee Simon Trust Case
- OLD CASE # 502014CA014637XXXXMB

*DE #98
- identical to motion filed by defendant on 12-4-2015 at DE's #94 & #98
DONE & ORDERED
12-15-15*

VERIFIED SWORN EMERGENCY PETITION AND AFFIDAVIT FOR IMMEDIATE MANDATORY DISQUALIFICATION OF CIRCUIT JUDGE JOHN L. PHILLIPS

COMES NOW Eliot Bernstein (“Eliot” or “Petitioner”) and files under information and belief this Verified Emergency Petition and Affidavit for Immediate Mandatory Disqualification of Judge John L. Phillips, pursuant to Fla R. Admin P. 2.330 and section 38.10, Florida Statutes, for the following grounds and reasons:

Rule 2.330 (a) Application. This rule applies only to county and circuit judges in all matters in all divisions of court.