

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

IN RE: THE ESTATE OF
SHIRLEY BERNSTEIN,
Deceased

CASE NO. 502011CP000653XXXXSB

HON. JUDGE MARTIN H. COLIN

ELIOT IVAN BERNSTEIN, PRO SE
PETITIONER,

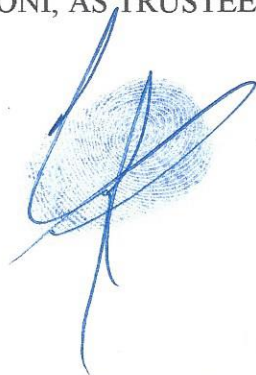
V.

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

RESPONDENTS

ADDITIONAL RESPONDENTS TO BE ADDED

THEODORE STUART BERNSTEIN, AS TRUSTEE FOR HIS
CHILDREN,
LISA SUE FRIEDSTEIN, INDIVIDUALLY AS A
BENEFICIARY,
LISA SUE FRIEDSTEIN, AS TRUSTEE FOR HER
CHILDREN,
JILL MARLA IANTONI, INDIVIDUALLY AS A
BENEFICIARY,
JILL MARLA IANTONI, AS TRUSTEE FOR HER
CHILDREN,



PAMELA BETH SIMON, INDIVIDUALLY,
PAMELA BETH SIMON, AS TRUSTEE FOR HER
CHILDREN,
MARK MANCERI, ESQ., PERSONALLY,
MARK MANCERI, ESQ., PROFESSIONALLY,
MARK R. MANCERI, P.A. (AND ALL PARTNERS,
ASSOCIATES AND OF COUNSEL)

BENEFICIARIES/INTERESTED PARTIES TO BE ADDED

JOSHUA ENNIO ZANDER BERNSTEIN (ELIOT
MINOR CHILD)
JACOB NOAH ARCHIE BERNSTEIN (ELIOT
MINOR CHILD)
DANIEL ELIJSHA ABE OTTOMO BERNSTEIN
(ELIOT MINOR CHILD)
ALEXANDRA BERNSTEIN (TED ADULT CHILD)
ERIC BERNSTEIN (TED ADULT CHILD)
MICHAEL BERNSTEIN (TED ADULT CHILD)
MATTHEW LOGAN (TED'S SPOUSE ADULT
CHILD)
MOLLY NORAH SIMON (PAMELA ADULT
CHILD)
JULIA IANTONI – JILL MINOR CHILD
MAX FRIEDSTEIN – LISA MINOR CHILD
CARLY FRIEDSTEIN – LISA MINOR CHILD

**MOTION TO TAX ATTORNEY' S FEES AND COSTS AND IMPOSE
SANCTIONS**

COME NOW, Eliot Ivan Bernstein (“Petitioner”), as Beneficiary and Interested Party both for himself personally and as Guardian for his three minor children who may also be Beneficiaries and Interested Parties of the Estate of Shirley Bernstein (“Shirley”), PRO SE, and hereby files this Motion to Tax Attorney's Fees and Costs and Impose Sanctions and in support thereof state, as follows:

1. On November 14, 2013, the Court entered an Order reserving ruling to tax



attorney's fees and costs.

2. Petitioner on behalf of himself and as Guardian/Trustee for his three minor children hereby request that the Court tax their attorney's fees and costs against the following parties, as all of these fees and costs are a direct result of criminal acts proven in this court already of FORGERY, Fraud on the Court and Fraud on the Beneficiaries / Interested Parties, through the presentation of a series of documents to the Court to close the estate by Tescher & Spallina P.A., Robert Spallina ("Spallina") and Donald Tescher ("Tescher") on behalf of a dead Personal Representative, Petitioner's father Simon Bernstein ("Simon") as if he were alive, for four months after he was dead, which caused this Court to fraudulently close the estate and once crimes were discovered and admitted to, forcing its reopening. For all of the following parties involved directly in the crimes proven this far, the costs and legal fees incurred thus far by Petitioner should be awarded as damages and further bonding and surety be required by all those involved in the criminal activities who have caused all these problems and the reopening of the estate, as follows;

- i. The Law Firm Tescher & Spallina, P.A., Spallina and Tescher, as they are wholly responsible and liable for the acts of their employed legal assistant/notary public under Florida Law, a one Kimberly Moran ("Moran"), who has admitted to Forgery and Fraudulently notarizing documents, including a post mortem forged Waiver for Simon and five other FORGED Waivers for other beneficiaries / interested parties. That Moran was employed at the time by Tescher & Spallina, P.A. and therefore despite any alleged reasons for her acts, Tescher & Spallina,



P.A., Tescher and Spallina are wholly liable for her acts and damages caused.

Moran has now been arrested for FRAUDULENT NOTARIZATIONS and ADMITTED TO FORGING SIX SIGNATURES ON WAIVERS, including one for Simon Post Mortem.

From her statements to the Palm Beach County Sheriff's office, "Moran stated that at this time, she took it upon herself to **trace [aka FORGE]** each signature of the six members of the Bernstein family onto another copy of the original waiver document. She then notarized them and resubmitted them to the courts."

- ii. Spallina and Tescher should also bear all costs, as they are wholly responsible for separate crimes, including but not limited to, Fraud on the Court and Fraud on Beneficiaries / Interested Parties, as discovered by Your Honor in the September 13, 2013 hearing, for presenting, over a four month period after Simon's death, documents that were used fraudulently crafted and forged and filed in these official proceedings, as if Simon were alive and using Simon to serve as Personal Representative while dead to close the estate of Shirley without notification to the Court that he was dead or seeking successors. Further while still deceased, it is alleged Simon then tried to change beneficiaries of the estate of both he and Shirley POST MORTEM and all of these crimes have caused the true and proper beneficiaries to become disputed. That the criminal acts of Moran and those separate and distinct crimes by Tescher and Spallina personally, warranted Your Honor to state in the September 13, 2013 hearing that you had enough evidence to



read Theodore Bernstein ("Theodore"), Spallina, Tescher and Mark Manceri ("Manceri") their Miranda's and Petitioner is still confused why this Court has not had them arrested yet and if Your Honor has reported these additional felony crimes of Tescher and Spallina that were committed upon this Court to the proper authorities. That new problems now exist in whom the beneficiaries of the estates are of both Simon and Shirley as learned in the hearings that will now further delay final distributions in the estate and trusts, further injuring the beneficiaries and interested parties and costing a large amount of monies and damages to the already injured parties due to these criminal acts.

- iii. Attorney Manceri for continuing to perpetrate a Fraud on this Court and where it will be evidenced that both he and Spallina have made false statements to this Court in both hearings.
 - iv. Kimberly Moran, the notary public who has acted under her employer Tescher & Spallina, PA and has forged and fraudulently notarized official records in these proceedings, including forging Simon's signature post mortem.
 - v. Theodore, as he knowingly has acted in fiduciary capacities in the estate and trusts of Shirley which he did not have prior to September 2013 as proven in the hearings before this court and previously evidenced in Petitioner's motions before the court.
- All actions Theodore took prior to this Court appointing him Personal Representative from September 13, 2012 to September 2013 were done knowing that Petitioner had challenged his fiduciary authorities to act as Personal

A blue ink signature and a circular fingerprint impression. The signature is written in a cursive style and overlaps the fingerprint. The fingerprint is a clear, circular impression of a finger.

Representative with no Letters issued and having never taken any actions according to Probate Rules and Statutes to notify beneficiaries he was a fiduciary in any capacity of Shirley's trusts or the estate. In fact, Theodore continued to act in these capacities and rushed to liquidate assets in self-dealing transactions without notice to beneficiaries of the transactions, after Petitioner notified him May 2013 that his, his deceased father's and his siblings signatures had been forged and that fraudulent documents existed in the estates, all transactions were hurried and without notifying the courts or authorities of these facts. Not until Moran was being investigated and this Court scheduled a hearing on September 13, 2013 did Theodore come forward and notify this Court that he was aware of the criminal acts he had concealed for months, including that his own signature was forged. These are not the actions of a trust worthy and responsible Personal Representative acting with legal authority, they are Willful, Wanton, Reckless and Grossly Negligent acts in violation of Law and breaching fiduciary duties and causing a loss of trust and therefore reasons for this Court to instantly retract its Letters to Theodore and sanction him. As further indicated herein Theodore also is involved in an insurance fraud scheme in the US District Court, again acting in false fiduciary capacities, in that matter acting as Trustee of a "lost" trust, to move assets from Simon's estate and convert them to himself directly and without notice to the beneficiaries. That Petitioner could go on and on about the reasons Theodore should be removed as Personal Representative but has already done so in

A handwritten signature in blue ink, appearing to be the name 'Theodore', is written over the end of the text. The signature is stylized and somewhat illegible.

ALL prior motions filed by Petitioner with the Court since May 2013 and all of those reasons and reliefs submitted to this Court thus far must now be heard as none of Petitioner's motions have been heard other than there request to be heard as an Emergency, not anything else germane in them since May 2013 has been litigated in this Court.

3. Current legal bills and time lost from other work suffered by Petitioner and his minor children thus far from the crimes proven and breaches of fiduciary duties and trust, should be immediately repaid by those parties responsible for causing all these current, past and future legal costs and expenses and delaying inheritances through these crimes to the true and proper beneficiaries and should not be taken from the estates or beneficiaries and further cause them hardships and damages from these criminal acts. Petitioner's expenses thus far, are

Tripp Scott	\$9,183.00	
Huth & Pratt	\$5,000.00	
Paralegal Services	\$2,583.37	
Patricia Fitzmaurice, L.C.S.W., P.A.	\$875.00	Expert Witness for October 28, 2013 hearing
Petitioner Time	\$100,000	for time and expenses over 1 year to bring the fraud and forgery charges to the attention of the court, state and federal authorities and the beneficiaries. Petitioner spent virtually all of his time that could have been spent in his job, instead protecting the rights and interests of the beneficiaries of the estate and exposing the crimes committed by the Personal Representative and estate counsel.
TOTAL	\$117,641.37	

4. That Petitioner finds it laughable, if not so sad that those who caused these problems through criminal acts are further trying to apportion the fees (for exposing crimes committed by them) to the injured beneficiaries and interested parties, while insane and



vexatious this attempt to shift the cost of their crimes to their victims is telling. Further, Petitioner finds it odd that this Court can allow any of these parties to continue to act in these matters as fiduciaries or counsel, as they are all directly involved in either Moran's crimes or those crimes of identity theft, fraud on the court and fraud on the beneficiaries, identified by Your Honor as committed by Spallina, Tescher, Theodore and possibly Manceri, in closing of the estate with a dead person four months after he was deceased as if he were alive and acting as Personal Representative and then failing to ever notice the Court he was dead and elect any successors. Where these crimes and prosecutions have now caused adverse interests and conflicts with Petitioner and Theodore and his close personal bedfellows, Tescher and Spallina.

5. From a recent email sent by Theodore to Petitioner one can see the adverse interests and hostilities towards Petitioner by Theodore and his friends that exists, quote,

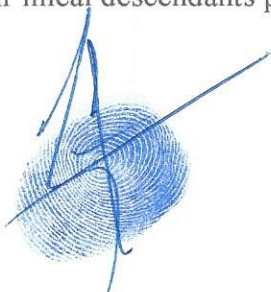
"You pursued and caused to be arrested a paralegal that our parents loved and without ill-intent, only tried to help a situation along because of dad's death, and it now appears that you are in the process of trying that again with my assistant who has done nothing wrong. You continue to drag Don and Robert through the mud, both of whom our parents were very fond of and who did very good work for our family, notwithstanding your relentless and slanderous accusations."

6. That from this exchange it is apparent that Theodore is upset with Petitioner that he has exposed the fraud, forgery and arrest of Moran, protecting those who have committed crimes in efforts to change his father and mother's estate plans done together in 2008 and in fact is fond of those who committed these criminal acts and somehow feels that Simon



and Shirley would be proud of these people for their criminal acts and bizarrely has adverse feelings and interests toward Petitioner, his brother, further these adverse interests to Petitioner and his three minor children are cause for his immediate removal from any fiduciary capacities in the estate and trusts of Shirley. The Court should note that Theodore and Tescher and Spallina are very close personal friends and business associates that share clients and commissions, etc. and this conflicts Theodore as he will not take actions against his close friends, even if they commit HORRIFIC crimes against his father and mother and brother, as their criminal actions directly benefit him and his sister P. Simon, who were wholly disinherited from the estates and trusts to the disadvantage of the beneficiaries and interested parties, all in opposite of Simon and Shirley's last desires and wishes and estate plans they did together while alive.

7. Petitioner's father Simon was used dead as if alive before the Court to close the estate of Shirley, as he had died before closing the estate and making any alleged changes to the beneficiaries that would benefit Theodore, P. Simon and their lineal descendants and therefore to make these Post Mortem changes they needed to fraud this Court and the beneficiaries with documents that were created and filed Post Mortem for Simon, as indicated in part by the Moran FORGED and FRAUDULENTLY NOTARIZED waiver of Simon and other documents used while he was not "serving" as Personal Representative since he was dead at the time and could not be "serving" in any capacity dead. This whole fraud is due to the fact that Simon and Shirley never changed their beneficiaries and Theodore and his sister P. Simon who are wholly excluded from the estates with their lineal descendants prior to these attempted fraudulent

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changes, were so outraged that Simon and Shirley never changed their beneficiaries to include them, so they attempted, with the aid of Spallina, Tescher, Moran and others to change the desires and intent of Simon and Shirley post mortem through these crimes to satisfy their desires to be included and abscond with the estate assets. All of this fraud and forgery to achieve these fraudulent changes was aided and abetted by Theodore's close personal and business associates, Spallina and Tescher et al., who have even claimed they were going to try and go against the wishes of Simon and Shirley to get Theodore and Pamela benefits.

8. That Petitioner further requests the Court now force bonding and surety for the parties responsible for these crimes in an amount no less than \$5,000,000.00 for now, for legal fees, forensic accountings and document analysis, (as every document must now be analyzed and with each document recently discovered new improprieties are found.) All of these costs should not be incurred by the injured parties, approximately 16 potential beneficiaries and interested parties, including at this time adult and minor children, to now close the estate legally and resolve the ongoing criminal and civil matters and determine who the ultimate beneficiaries will be and more, all caused by criminal misconduct by attorneys at law for the estate and their employees, the personal representatives and others, as already identified herein.

9. That Petitioner requests that before further proceedings in this matter are adjudicated, all parties to this action, including each interested party, beneficiary or other party, in each and every capacity they are representing, now be represented by independent and non-conflicted counsel. For those parties that have not been represented or even included in these matters thus far, including minor children, Petitioner requests that the Court act on its own

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motions to join them in the action as required by law and have their interests legally represented. That each injured parties legal fees and costs be paid by those who have caused these costs to be incurred.

10. That Petitioner seeks Sanctions by this Court on all parties involved in the criminal activity thus far, including but not limited to, reporting the crimes to the Florida State Bar for disbarment of those attorneys involved and criminal authorities for further prosecution for the felony crimes. Further, this Court should impose sanctions on Moran and Theodore Bernstein for their direct involvement in the crimes thus far and to stop further alleged crimes from taking place. That this Court should note that the crimes proven already are only the tip of the iceberg and new evidence from the hearings and elsewhere has recently surfaced revealing far more criminal activity ongoing. The Court should also report all of these crimes to the proper authorities for further criminal investigations, including those that it is already aware of that took place in this Court.

11. That the Palm Beach County Sheriff office has stated that after speaking with Your Honor about the Moran Forgery and Fraud, they did not want to take new criminal complaints from Petitioner, against Spallina, Tescher, Moran, Theodore and others for NEW CRIMES, as they stated that Your Honor is responsible for those filings of these new alleged criminal acts with the authorities. However, if Your Honor were to fail to follow Judicial Cannons and Law to report these criminal matters, including those committed by Attorneys at Law acting as Officers of this Court, then Petitioner could jeopardize his statutes of limitations rights by failing to report the crimes timely and Petitioner seeks clarification from Your Honor

A blue ink fingerprint is visible, with a signature-like scribble over it. The fingerprint is circular and shows clear ridge patterns. The signature is a stylized, vertical mark that appears to be a letter 'M' or similar, written in blue ink.

as to how to proceed on reporting the new crimes discovered and who will be reporting them and to what authorities. These crimes are not the crimes Moran admitted to already, of FORGERY and FRAUDULENT NOTARIZATIONS, and that she has been arrested for but are other crimes committed by other parties, some occurring in the hearings in fact. The Court must now state if the Court is going to notify the authorities or if Petitioner should. If this Court determines it is Petitioner's job to file the criminal complaints, this Court will have to contact the Sheriff's department to remove the block created through Your Honor's conversations with them in regards to reporting the new crimes against other perpetrators than Moran for other crimes, including the Fraud upon the Court that has taken place.

12. That additionally, new criminal and civil complaints are being lodged both state and federally for newly discovered criminal acts by Spallina, Tescher, Theodore, Lindsay Baxley ("Baxley") and others, wholly separate from the crimes of Moran and far more serious in nature. For instance, Spallina, Theodore and Moran are alleged to have worked together again to commit an Insurance Fraud and Theodore and others then are alleged to have committed Fraud on a US Federal Court, as more fully described in a recent filing on December 08, 2013 by Eliot Bernstein in that federal court, which can be found at www.iviewit.tv/20131208MotionStrikePleadingAdamSimonForFraudOnCourt.pdf, fully incorporated by reference herein, along with all other pleadings, rulings, etc. in Case No. 13-cv-03643 IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT COURT ILLINOIS EASTERN DIVISION (SIMON BERNSTEIN IRREVOCABLE INSURANCE TRUST DTD 6/21/95, Plaintiff, v. HERITAGE UNION LIFE INSURANCE

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COMPANY Defendant.)

13. That there is no way that Theodore Bernstein, Spallina or Tescher can now be impartial and fair as fiduciaries or counsel to Petitioner and his children as beneficiaries/interested parties, as Petitioner is the one having them complained of and prosecuted for multiple state and federal crimes and attempting to have them imprisoned for such. That these adverse interests have now led to allegations of extortion by the fiduciaries and counsel of Petitioner and his family in direct retaliation for Petitioners actions to have them prosecuted, as motioned to this court in a September 04, 2013 motion titled, "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 SHIRLEY; CONTINUED MOTION FOR REMOVAL OF ALLEGED PERSONAL REPRESENTATIVES AND ALLEGED SUCCESSOR TRUSTEE.**" That since having their notary public arrested, Tescher and Spallina, in conspiracy with Theodore have further extorted Petitioner, in addition to those claims already made in the motion and Petitioner will be filing criminal charges for these actions as well.

14. From Theodore's recent email dated December 06, 2013, the following delusional and threatening language also imparts that Theodore and the "we" he represents (Tescher and Spallina) will not act kindly towards Petitioner, "Seriously Eliot, how many more people are you going to involve in this family matter? How much more of the estate will you waste in professional fees carrying on like this? Trying to extort money out of me with threats that you will drag my name through the mud is counter-productive, unnecessary and intentionally malicious. **We** [emphasis added] will not continue to ignore these threats and the damage you are inflicting...Please advise as we have no intentions of being bullied by either of you [Petitioner's wife Candice referenced] any longer.

15. That Theodore is alleged to be very close friends, after the car bombing of Petitioner's family minivan, with many of the defendants in a RICO complaint involved in the theft of Petitioner's Intellectual Properties by primarily his Intellectual Property attorneys. That these defendants include members of the Sir Robert Allen Stanford Ponzi (which Petitioner alleges is largely a money laundering scheme to launder his illegally converted IP royalties and not so much a Ponzi) and Proskauer Rose law firm, the alleged main culprit in the IP thefts. Proskauer is currently being sued by the Federal Court Appointed Receiver in the Stanford Ponzi SEC action ongoing for conspiracy and more in architecting the whole Stanford Ponzi. Proskauer also claimed to have the most Bernard Madoff victims in public statements made after the Madoff Ponzi was exposed and now many of the so called victims and feeder funds are alleged not to be victims but instead criminal conspirators and both Ponzi's have led to severe financial ruin to many South Florida residents and CHARITIES. That Theodore is close friends



with members of Proskauer and former employees of the Stanford Bank, both of whom he and Spallina and Tescher have involved in the estate matters. That due to these strange bedfellows of Theodore who are Petitioner's adversaries in alleged RICO crimes, and again due to Petitioner's continuing efforts to have these people all prosecuted for their crimes, further adverse interests with Theodore, Spallina and Tescher exist with Petitioner and his children, already fully defined in Petitioner May 2013 motion that are further cause for Theodore to have never accepted the appointment as Personal Representative in September 2013 by Your Honor in the first place and further cause for Your Honor to see the gravity of having Theodore serving in any capacity in these matters further for his adverse interests and hostilities towards beneficiaries / interested parties.

16. That it cannot be expected that these fiduciaries and counsel who are involved in anyway thus far in the crimes, including Manceri, will not further act adversely to Petitioner and his minor children to stop them from having them prosecuted. Further, they will take NO actions to aid Petitioner's efforts as a beneficiary/interested party to have them prosecuted further for their crimes and may in fact take further injurious actions to stop Petitioner, such as further delaying his inheritance and extorting him, etc. Since it cannot be expected that the fiduciaries and counsel act against themselves to the benefit of the beneficiaries they are responsible for and since they should have all voluntarily resigned any fiduciary or legal capacities in both estates (and their liability carriers should have demanded such termination) for the crimes already admitted to and proven , they will not take any such actions to protect the beneficiaries but only actions to protect themselves and thus this Court must take actions to have



them all thrown out instantly to preclude further harms to the beneficiaries/interested parties they have already been caused so much injury and damages from their criminal actions.

17. That due to the crimes alleged, the beneficiaries are now in question in both estates and must be resolved by the probate courts acting in the estate matters and as a direct result disputes amongst beneficiaries have been caused from the criminal acts of those defined already herein and others, again increasing costs and pain and suffering to the injured parties.

18. There are two applicable statutes authorizing this Court to enter a personal judgment against the Attorneys and Personal Representative's for Petitioner's attorney's fees and costs. Fla. Stat. 733.106(1) provides, "In all probate proceedings costs may be awarded as in chancery actions." Fla. Stat 733.609 (1) uses the stronger mandatory "shall", providing, in pertinent part, "In all actions for breach of fiduciary duty or challenging the exercise of our failure to exercise a personal representative's powers, the court shall award taxable costs as in chancery actions, including attorney's fees." This action is one "challenging the exercise ofa personal representative's powers" within the meaning of 733.609 (1). The phrase "as in chancery actions" refers to the rule that "a court of equity may, as justice requires, order that costs follow the results of the suit, apportion the costs between parties, or require all costs be paid by the prevailing party." *Dayton v. Conger*, 448 So.2d 609, 612 (Fla. App. 1984). A judgment for attorney's fees and costs may be awarded against a fiduciary that has breached it's duty. See *First Union National Bank v. Turney*, 839 So.2d 774, 778-779 (Fla. App. 2003) (affirming an attorney's fee award against a corporate trustee under the parallel section of the Trust Code).

19. Accordingly, Petitioner is requesting that the Court order the Personal

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Representative and Attorneys at Law, Spallina, Tescher and Manceri and their agents personally responsible to (i) pay his attorney fees and costs and (ii) reimburse the Estate for any attorney fees that have been paid on behalf in the defense of these actions. And awarding Petitioner's attorney fees and costs for bringing his Petition's pursuant to Florida Probate Rule 1.080, Section 733.106, Florida Statutes (2002), Section 733.6171, Florida Statutes (2002), Section 733.6175, Florida Statutes (2002), and Section 733.3101, Florida Statutes (2002) and others.

20. Petitioner files the instant Motion to insure timely compliance with Florida Rule of Civil Procedure 1.525.

WHEREFORE, Petitioner hereby request that this Honorable Court enter an Order consistent with the relief requested herein, and award of attorney's fees and costs, impose severe and harsh sanctions for damages already caused, including to minor children, and any other relief this Honorable Court deems just, equitable and proper.

Eliot Bernstein, Pro Se and as legal guardian
on behalf of his minor three children



CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by email to all parties on the following Service List on December 10, 2013.

Eliot Bernstein, Pro Se and as legal guardian
on behalf of his minor three children



SERVICE LIST

Respondents sent US Mail 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

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

Theodore Stuart Bernstein
Life Insurance Concepts
950 Peninsula Corporate Circle, Suite 3010
Boca Raton, Florida 33487
tbernstein@lifeinsuranceconcepts.com

Mark R. Manceri and
Mark R. Manceri, P.A.
2929 East Commercial Boulevard
Suite 702
Fort Lauderdale, FL 33308
mrmlaw@comcast.net

Interested Parties and Trustees for Beneficiaries

Lisa Sue Friedstein
2142 Churchill Lane
Highland Park IL 60035
Lisa@friedsteins.com
lisa.friedstein@gmail.com

Jill Marla Iantoni
2101 Magnolia Lane
Highland Park, IL 60035



jilliantoni@gmail.com
Iantoni_jill@ne.bah.com

Pamela Beth Simon
950 North Michigan Avenue
Suite 2603
Chicago, IL 60611
psimon@stpcorp.com

Eliot Ivan Bernstein
2753 NW 34th St.
Boca Raton, FL 33434
iviewit@iviewit.tv
iviewit@gmail.com

JOSHUA ENNIO ZANDER BERNSTEIN (ELIOT MINOR CHILD)
JACOB NOAH ARCHIE BERNSTEIN (ELIOT MINOR CHILD)
DANIEL ELIJSHA ABE OTTOMO BERNSTEIN (ELIOT MINOR CHILD)
ALEXANDRA BERNSTEIN (TED ADULT CHILD)
ERIC BERNSTEIN (TED ADULT CHILD)
MICHAEL BERNSTEIN (TED ADULT CHILD)
MATTHEW LOGAN (TED'S SPOUSE ADULT CHILD)
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JOHN AND JANE DOE'S (1-5000)

RESPONDENTS

_____ /

**ADDITIONAL RESPONDENTS TO BE ADDED BY THIS
COURT**

THEODORE STUART BERNSTEIN, AS TRUSTEE FOR HIS
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MARK R. MANCERI, P.A. (AND ALL PARTNERS, ASSOCIATES AND OF COUNSEL)

BENEFICIARIES/INTERESTED PARTIES TO BE ADDED BY THIS COURT

JOSHUA ENNIO ZANDER BERNSTEIN (ELIOT MINOR CHILD)
JACOB NOAH ARCHIE BERNSTEIN (ELIOT MINOR CHILD)
DANIEL ELIJSHA ABE OTTOMO BERNSTEIN (ELIOT MINOR CHILD)
ALEXANDRA BERNSTEIN (TED ADULT CHILD)
ERIC BERNSTEIN (TED ADULT CHILD)
MICHAEL BERNSTEIN (TED ADULT CHILD)
MATTHEW LOGAN (TED'S SPOUSE ADULT CHILD)
MOLLY NORAH SIMON (PAMELA ADULT CHILD)
JULIA IANTONI – JILL MINOR CHILD
MAX FRIEDSTEIN – LISA MINOR CHILD
CARLY FRIEDSTEIN – LISA MINOR CHILD

BENEFICIARY AND INTERESTED PARTY ELIOT BERNSTEIN
OBJECTIONS TO SUCCESSOR PERSONAL REPRESENTATIVE'S
OBJECTIONS TO FIRST SET OF INTERROGATORIES AND FIRST
REQUEST FOR PRODUCTION OF DOCUMENTS AND THINGS
PROPOUNDED BY ELIOT BERNSTEIN

COMES NOW, Eliot Ivan Bernstein (“Petitioner”), as Beneficiary and Interested Party both for himself personally and for his three minor children who may also be Beneficiaries and Interested Parties of the Estate of Shirley Bernstein (“Shirley”), PRO SE, and hereby files this



his Objections to the Objections to First Set of Interrogatories and First Request for Production of Documents and Things propounded by Eliot Bernstein dated November 1, 2013 and in support thereof states, as follows:

1. On November 1, 2013, Petitioner served his First Set of Interrogatories and First Request for Production of Documents and Things (hereinafter the "Discovery") on the Personal Representative.

2. The Personal Representative has objected to the propounded Discovery, after failing to timely reply and now claims Petitioner is not a beneficiary / interested person in these proceedings and has no standing to conduct the propounded Discovery, according to Florida Statute 731.201(23).

3. That Petitioner claims that Under Florida Statute 731.201 and 731.201(23) he and/or his three minor children, or both, are factually beneficiaries / interested parties of the estate of Shirley and he is legal Guardian of his children, so either way he would be due all Discovery requested.

4. That evidence of Petitioner and his minor children standing was given to this Court in a hearing on September 13, 2013 and in an Evidentiary Hearing on October 28, 2013, and this Court has already determined that the beneficiaries / interested parties have all been called into question in the trust and estate of Shirley Bernstein but that Petitioner and/or his children are beneficiaries either way. The question of the beneficiaries / interested parties having arisen in part due to, FORGED and FRAUDULENT documents tendered to the Court by Tescher & Spallina P.A., Donald Tescher, Esq. ("Tescher"), Robert Spallina, Esq. ("Spallina")



and allegedly created by their legal assistant/notary public, a one Kimberly Moran ("Moran"). Separate and distinct crimes from those committed by Moran, are crimes committed by Spallina and Tescher in closing the estate by using the Personal Representative, Shirley's husband Simon Bernstein ("Simon") while dead, to serve documents to this Court as if alive for four months to close the estate in January 2013, where Simon had passed away on September 13, 2012. After closing the estate with a dead Personal Representative they attempted to use documents that also are alleged fraudulent from Simon's estate to allegedly change the beneficiaries of Shirley's estate Post Mortem.

5. That all this Fraud and Forgery is due to the fact that Simon and Shirley never changed their beneficiaries from the 2008 Wills and Trusts they did together and where Theodore Bernstein ("Theodore") and his sister Pamela Simon (P. Simon) were wholly excluded from both of the estates with their lineal descendants in the 2008 estate plans and were so outraged as to attempt to change the desires and intent of both Simon and Shirley by changing the beneficiaries post mortem, through forged and fraudulent documents in order to convert estate assets to themselves and their lineal descendants.

6. That all of this fraud and forgery to achieve these fraudulent changes was aided and abetted by Theodore's close personal and business associates, Spallina and Tescher, who have even made claims that they were going to try and go against the wishes of Simon and Shirley to get Theodore and Pamela benefits that they were not entitled to.

7. That Moran has been arrested for FRAUD and admitted to the Palm Beach County Sheriff's office the crime of FORGERY in six separate Waiver documents for six



separate people in the estate of Shirley, including one forged post mortem for Simon and Florida Law makes Tescher & Spallina P.A., Spallina and Tescher wholly responsible and liable for all damages for the actions of their notary public.

8. That from Moran's statements to the Palm Beach County Sheriff it is now factually learned that the Waivers on file in the court are FORGED, that Petitioner, ELIOT IVAN BERNSTEIN, DID NOT SIGN any Waiver that was filed and docketed with this Court ever. Yet, the Personal Representative, Spallina, Tescher and their counsel Mark Manceri ("Manceri"), are asserting repeatedly to this Court that Waivers were filed by Petitioner with the Court. Factually Waivers were not filed and docketed with the Court by Petitioner, Petitioner's siblings or his deceased father Simon when the estate was closed, as Moran has admitted to signing the Waivers that are on file with the Court on wholly recreated documents. Nor have any of the alleged grandchildren beneficiaries signed a Waiver and therefore no legal Waivers are on file with this Court by any interested parties or beneficiaries when the estate was illegally closed.

9. That the Waivers that are on file with the Court are therefore entirely worthless, as they are FORGED and fraudulent and proven so by Moran's admission that she "**traced**" **aka forged** the signatures on all six Waiver documents filed with the court, including one for Petitioner's deceased father POST MORTEM, as evidenced in the Sheriff's report. In that report Moran states to authorities "**Moran stated that at this time, she took it upon herself to trace [aka FORGE] each signature of the six members of the Bernstein family onto another copy of the original waiver document. She**



then notarized them and resubmitted them to the courts.” The problem here is the alleged “original” waivers were never filed and docketed in this Court and Moran then resubmitted to the Court wholly forged and fraudulent documents with her signature on them and those are the only Waivers that were on file with this Court at the time the estate was closed. There have been recent attempts to cure the forgery by some of the alleged beneficiaries whose names were forged and obviously Simon cannot cure his as he remains deceased and Petitioner and his children will not sign Waivers in light of the forgery and fraud already proven.

10. That Moran’s statement to the Sheriff’s office contradicts her prior statement to the Governor’s Notary Public office in a sworn statement under penalty of perjury, where she claimed the documents and signatures she resubmitted to the Court, were identical with Waivers that were kicked back by the Court for failure to have a notarization and allegedly signed by the original parties, other than her having fraudulently affixed her notary stamp to the already signed documents and contradiction now constitutes new crimes of false statements in official proceedings and perjury in official sworn statement. These new criminal allegation are being pursued with authorities by Petitioner currently. This Court should take Judicial Notice and act on its own motions regarding this new evidence of perjury and false statements in official proceeding.

11. That the false statements that the Waivers filed were not FORGED was also echoed by Spallina and Manceri in the September 13, 2013 hearing in statements made to Your Honor when Spallina knowingly lied to Your Honor and claimed the signatures on file with the court were not forged and where the signatures of the alleged parties that signed them.

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Therefore, despite repeated attempts to claim the Waivers filed with the Court were Waivers of Petitioner or any of the other signors it is now proven factually untrue and these statements to the Court by Attorneys at Law in official proceedings violates Attorney Conduct Codes and Law. Under Judicial Cannon's and Law it is Your Honor's duty to report the criminal activities of Attorneys at Law to all of the proper authorities, especially where Your Honor had enough evidence at the September 13, 2013 hearing of fraud on the court and beneficiaries and more to have the Attorneys at Law, Spallina and Tescher read their Miranda's at that time.

12. As now Waivers have NOT been signed previously and filed with this Court by any beneficiaries or interested parties that are legally valid in any way and the estate has been newly reopened, all beneficiaries / interested parties are due all documents legally due to them (ie accountings, financial records, bank and credit card statements for five years, inventories, attorney billings, tax returns, estate bank account accountings, inventories, etc.), before any attempts are made to close the newly reopened estate of Shirley and further attempt to keep all this Discovery further a secret from the beneficiaries / interested parties who have been denied all of this Discovery ILLEGALLY for now three years in Shirley's estate.

13. That additionally the estate of Shirley cannot be closed until all of the beneficiaries and interested parties are first determined by both the judges in the estates, due to other factors than just the Fraud and Forgery that have called the beneficiaries into question. This questioning of the beneficiaries / interested parties results from the fact that Shirley's beneficiaries were attempted to be changed POST MORTEM in Shirley's estate (and Simon's), by legally flawed documents of Simon's used in Shirley's estate, including documents with yet



another notary public, a one Lindsay Baxley, now under investigation by Florida Governor Rick Scott's Notary Public division for alleged fraudulent and improper notarizations, and for these reasons that cause the beneficiaries / interested parties to be in dispute, the estate must remain open and all requested Discovery and other discovery if necessary be produced.

14. That if there is nothing to hide and nothing there, as the other side claims, then why are they trying so desperately to dodge the Discovery to any party entitled to it? Petitioner requests that the Discovery documents and accounting be produced by independent parties that are not conflicted with the matters due to personal involvement in the crimes and that Petitioner be awarded the right to have forensic experts examine all documents tendered by Tescher & Spallina, P.A., Tescher and Spallina, for further evidence of fraud or forgery, as nothing they have done or will do can be trusted by certain of the beneficiaries / interested parties due to their involvement in Fraud and Forgery and Fraud on the Court and more already.

15. That as with Moran's documents already admitted FORGED and FRAUDULENT, the documents in the estate of Simon used to try and change beneficiaries in Shirley's estate POST MORTEM, primarily a Will and Amended and Restated Trust done allegedly weeks before Simon died, are also alleged fraudulently notarized, witnessed and drafted by Spallina (who gains fiduciary powers and interests in the estate of Simon through them, making them further illegally executed), Moran (who nothing she has signed can be trusted any longer) and Baxley (who is under investigation for these documents) and the Court should note these are separate documents than those Moran is being prosecuted for.

16. That allegations are that Simon and Shirley never made changes to their estate

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beneficiaries and through a series of forged and fraudulent documents done post mortem for both Simon and Shirley by the alleged perpetrators of these frauds and forgeries, the beneficiaries were attempted to be changed post mortem and against the last wishes and desires of Simon and Shirley as so stated in their prior estate plans on file from 2008. These crimes have been caused primarily by Spallina, Tescher and Theodore, in efforts to seize dominion and control of the estates illegally and put Theodore and his lineal descendants back into the estates against the express wishes and desires of Simon and Shirley who wholly disinherited Theodore and his sister P. Simon along with their lineal descendants.

17. That while Simon had considered making changes to the beneficiaries, if Petitioner's siblings would agree to let him see their children and stop abusing him in May 2012, the abuses never stopped and Simon never made the changes all the way to the day he died in September 2012 and so it is alleged those changes were made for him and Shirley using a series of bogus and fraudulent documents, including those already admittedly Forged and Fraudulent, including forged post mortem documents for Simon.

18. That the crimes of Fraud on the Court and Fraud on the Beneficiaries in presenting these Forged and Fraudulently Notarized Documents in both estates has not been fully investigated at this point and criminal charges filed yet. From the hearings new evidences of Perjury and False Statements by both Moran and Spallina to this Court and state authorities have been uncovered, which will require further criminal investigations and throw everything they have stated thus far into question and that this Court has relied upon in determining orders and more. Additionally, new criminal and civil complaints are being lodged by Petitioner both

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state and federally for newly discovered alleged criminal acts by Spallina, Tescher, Theodore, Moran and now others, wholly separate from the crimes of Moran that she was arrested for and far more serious in nature.

19. For instance, Spallina, Theodore and Moran are alleged to have committed Insurance Fraud and when that scheme failed, Theodore and others then are alleged to have committed Fraud on US Federal Court, as more fully described in a recent motion to disqualify the attorney at law in that case, Adam Simon (Pamela Simon's brother in law) filed on December 08, 2013 by Eliot Bernstein, titled "(1) MOTION TO STRIKE PLEADINGS AND REMOVE ADAM SIMON FROM LEGAL REPRESENTATION IN THIS LAWSUIT OTHER THAN AS DEFENDANT FOR FRAUD ON THE COURT AND ABUSE OF PROCESS AND (2) MOTION TO REMOVE ADAM SIMON FROM LEGAL REPRESENTATION ON BEHALF OF ANY PARTIES IN THIS LAWSUIT OTHER THAN AS A DEFENDANT PRO SE or REPRESENTED BY INDEPENDENT NON-CONFLICTED COUNSEL," which can be found at www.iviewit.tv/20131208MotionStrikePleadingAdamSimonForFraudOnCourt.pdf, fully incorporated by reference herein, along with all other pleadings, rulings, etc. in Case No. 13-cv-03643 IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT COURT ILLINOIS EASTERN DIVISION (SIMON BERNSTEIN IRREVOCABLE INSURANCE TRUST DTD 6/21/95, Plaintiff, v. HERITAGE UNION LIFE INSURANCE COMPANY Defendant. That it should be noted that allegations have been asserted that Spallina and Theodore have both acted in false fiduciary capacities in those matter with Spallina claiming to be the Trustee of a "lost" "Simon Bernstein Irrevocable Insurance

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Trust dtd 6/21/95” when filing the insurance claim with the carrier Jackson National. Then amazingly, in a US Federal Court Breach of Contract Lawsuit filed by Adam Simon, for failure to pay the fraudulent claim filed by Spallina that was denied by the carrier, Theodore files a breach of contract lawsuit for the carriers failure to pay Spallina’s fraudulent claim, with Theodore now suddenly acting as the alleged Trustee of the “lost” “Simon Bernstein Irrevocable Insurance Trust dtd 6/21/95” and where Mickey Mouse could be the trustee of the “lost” trust as no one has a copy of the “lost” trust allegedly. Petitioner alleges the “lost” trust is another suppressed document to attempt to abscond with an insurance policy of the estates and convert those assets from the true and proper beneficiaries to benefit Theodore and P. Simon directly, aided by Spallina.

20. That in the insurance fraud scheme alleged, again Spallina and Theodore are acting in false fiduciary capacities for a “lost” trust they claim to have no copies of, in order to change beneficiaries of a life insurance policy to the disadvantage of certain of the estate beneficiaries and to directly benefit Theodore and P. Simon who were wholly disinherited from the estates of Simon and Shirley and would therefore not have received a penny if the proceeds came to the estate or to the proper beneficiaries of the policy. That Spallina, as an Attorney at Law, knew at all times that he was not the Trustee of the “lost” trust, even claiming he had never seen a copy in written letters exhibited in that US Federal court case and so did Theodore know he was not the Trustee when filing they filed the fraudulent claim and abuse of process legal action.

21. That Jackson National in their counter complaint in that lawsuit claims that



Theodore was advised by counsel prior to filing the lawsuit that he had no basis to file the action.

22. That Petitioner would never have been notified of the lawsuit if Jackson National did not sue him as a third party defendant, alerting him to the attempt to defraud the insurance companies and estate beneficiaries.

23. That in the insurance lawsuit above, a creditor of the estate of Simon, a one William Stansbury ("Stansbury"), has moved to intervene in that lawsuit alleging that that lawsuit is improper as well. Claiming that when there is a lost beneficiary of a policy, as is claimed by Theodore and Spallina, Florida law states the benefits are paid to the insured's estate and thus Stansbury claims the lawsuit is a way to move the asset from the estate to evade him as a creditor, further reinforcing Petitioner's claim to that federal court that they fraudulently filed the insurance claim and the subsequent lawsuit to deny the beneficiaries of the estates their interests.

24. That Petitioner, Eliot Bernstein, is and was always a beneficiary and interested party of Shirley's estate or why would the estate counsel ask to have him sign a Waiver in the first place to close the estate? If the beneficiaries of Shirley's estate are the grandchildren, as alleged by Spallina et al., why were Waivers never sought for them in Shirley's estate and still have not been sought and why are they not represented or even present in these matters. The grandchildren have never been notified of their alleged interests in the estate and if the beneficiaries were changed, the old ones and new ones were never notified.

25. That if the alleged fraudulent Will and Amended and Restated Trust of Simon



survive, Petitioner would still be entitled to all the Discovery, as he is guardian/trustee for his children, again only if they are determined to be beneficiaries after all the criminal acts are fully resolved and they are deemed beneficiaries by the courts. Therefore, either way, Petitioner would be due all the legally required Discovery and interrogatories requested now that the estate has been reopened as qualified beneficiaries and interested parties.

26. That all ten grandchildren are now alleged potential beneficiaries / interested parties of the estate and yet they are not represented as interested parties and/or beneficiaries in the matters before the Court, in alleged violation of fiduciary duties of the Personal Representatives and Law. That this court must have each and every party that is an interested party or beneficiary represented in these matters and to date this has not been the case and is a fundamental flaw in these proceedings from the start.

27. That Manceri stated in the September 13, 2013 hearing that Petitioner was a beneficiary until the so called alleged changes were made by Simon to Shirley's beneficiaries post mortem, which changes appear nowhere in the record of Shirley's estate and until this Court determines the beneficiaries, Petitioner either is or is not a beneficiary / interested and either way he is an interested party to these matters under law, due to the very fact that he is questioned as one.

28. That Petitioner, Eliot Bernstein and his three minor children will not be waiving any rights in the estate to close the estate now that it is reopened and they have never had a Waiver filed in this court that was not a forged and fraudulently notarized and therefore not a document filed by Petitioner in any way shape or form. As such Petitioner and his children are

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requesting,

- i. a final and FULL accounting,
- ii. all previous accounting by the prior Personal Representative Simon and the newly appointed Personal Representative Theodore,
- iii. five years of bank statements, credit card statements and tax records, sent directly from the institutions,
- iv. a Petition for Discharge that includes the amount of compensation paid to the personal representatives, attorneys, accountants, appraisers, or other agents employed by the personal representatives, and the manner of determining that compensation,
- v. all rights to all information legally required under probate rules and statutes,
- vi. a receipt of complete distribution of the share of the estate to which the Petitioner and/or his children are entitled,
- vii. copies of the accountings for the trusts of Shirley to ensure that all assets were properly accounted for and transferred from the estate to the trusts and as these accounting and inventories, etc. were due to the beneficiaries of the trusts for the last three years and have never been tendered in violation of fiduciary duties and law, these must be ordered by this Court to be turned over as they relate to the closing of the estate,
- viii. the amount and manner of determining the compensation of the personal representative, attorneys, accountants, appraisers, or other agents, as Petitioner



has NOT agreed to the amount and manner of determining such compensation and has NOT waived,

- the payment of such compensation,
- a plan of distribution,
- a Petition for Discharge of the personal representative and all notice thereof upon the Petitioner,
- a receipt of complete distribution of the share of the estate to which the Petitioner and/or his children are entitled and
- does not consent to any order discharging the personal representative without notice, hearing or waiting period and without accounting.

29. That all Discovery requested by Eliot Bernstein is within Florida Statutes and Probate Rules and therefore legally due to the beneficiaries and interested parties. Any claims by the Personal Representatives that any of this information is not discoverable based on claims that Petitioner and his children are not qualified as beneficiaries / interested parties, the work product doctrine, the accountant-client privilege and/or the attorney-client privilege are challenged herein and any documents marked as such and approved by this court as such must be presented to the beneficiaries as marked in such manner and the confidential information redacted, if this court so sees fit. Again, if nothing to hide, why all the hiding?

30. That the deadline to respond to the interrogatories and requests for Discovery was not timely responded to and therefore this late grandstanding effort to get out of production



through their Objection should be stricken and sanctions implied for even filing their baseless and vexatious objections to further waste time and resources of the injured parties and this Court.

31. That this Court has also recently appointed Theodore as Personal Representative of the estate of Shirley, a fiduciary role he was acting under prior to the appointment for over a year and was transacting assets of the estate and trusts of Shirley while not being appointed and further he has made false fiduciary representations before this Court in the September 13, 2013 and the October 28, 2013 hearing as already evidenced to this Court by motion, which motion can be found @

www.iviewit.tv/20131010MotionCompelFreezeYouHavetheRighttoRemainSilent.pdf.

32. That Theodore, as Personal Representative and his counsel Spallina have conflicts of interest and adverse interests to beneficiaries now, especially to Petitioner and his family for numerous reasons already defined herein, including that Petitioner is the one who has uncovered their fraudulent schemes involving forgery, fraud, fraud on this Court, fraud on the beneficiaries and more and has caused the arrest of one of them already for felony crime. Obviously, due to Petitioner's efforts to expose their crimes, they have absolute adverse interests that conflict and prohibit them from further being fiduciaries or counsel in these matters. That Petitioner claims that Theodore, Spallina and Tescher are and will do everything to harm him and his family versus help him as would be obligatory as fiduciaries in other normal circumstances.

33. That Petitioner has already motioned this court regarding extortion type



behavior against him, to shut him and his family down and further extortionary acts have taken place since the filing of that motion that will soon be filed with this Court and authorities.

Wherefore, this Court order all accountings, interrogatories and other information requested herein, as required by probate rules and statutes that are due to the beneficiaries and interested parties and further remove the Personal Representative Theodore and counsel Tescher & Spallina P.A., Spallina and Tescher, from serving in any capacities in the estate IMMEDIATELY to prevent further harm and damages, nothing they say or do any longer can be trusted for their already admitted and acknowledged breaches of fiduciary duties and serious violations of Law. Further, due to newly discovered information regarding personal property assets of Shirley Bernstein that are not listed in her or Simon's inventories and appear to have vanished into thin air, totaling approximately two million dollars, Discovery production now is essential. Therefore, Petitioner again requests a FULL accounting in Shirley's estate. Since NO trust or estate accountings have ever been provided to the beneficiaries in either Simon's case for over a year and three years in Shirley's case, further violations of probate rules, statutes and fiduciary duties, this request for Discovery appears well within reason and law. Evidence of the missing items in the inventories are being submitted to state authorities in criminal complaints being filed presently and will be presented to the court within a timely manner after filing. That all of this Willful, Wanton, Reckless and Grossly Negligent behavior in violation of Law are cause for this Court to demand these remedies herein immediately, as it has been almost three months since the estate has been reopened and not a single document has been forthcoming from the Personal Representatives to further delay and cause damages to the beneficiaries and interested parties and bleed the estate of

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resources. Petitioner hereby request that this Honorable Court enter an Order consistent with the relief requested herein, and award of attorney's fees and costs, impose sanctions and any other relief this Honorable Court deems just, equitable and proper.

Eliot Bernstein, Pro Se and as legal guardian on behalf of his minor three children

CERTIFICATE OF SERVICE

I, ELIOT IVAN BERNSTEIN, HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by email to all parties on the following Service List, December 10, 2013.

Eliot Bernstein, Pro Se and as legal guardian on behalf of his minor three children

SERVICE LIST

Respondents sent US Mail 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

Donald Tescher, Esq.

Tescher & Spallina, P.A.
Boca Village Corporate Center I
4855 Technology Way
Suite 720
Boca Raton, FL 33431
dtescher@tescherspallina.com

Theodore Stuart Bernstein
Life Insurance Concepts
950 Peninsula Corporate Circle, Suite 3010
Boca Raton, Florida 33487
tbernstein@lifeinsuranceconcepts.com

Mark R. Manceri and
Mark R. Manceri, P.A.
2929 East Commercial Boulevard
Suite 702
Fort Lauderdale, FL 33308
mrmlaw@comcast.net

Interested Parties and Trustees for Beneficiaries

Lisa Sue Friedstein
2142 Churchill Lane
Highland Park IL 60035
Lisa@friedsteins.com
lisa.friedstein@gmail.com

Jill Marla Iantoni
2101 Magnolia Lane
Highland Park, IL 60035
jilliantoni@gmail.com
Iantoni_jill@ne.bah.com

Pamela Beth Simon
950 North Michigan Avenue
Suite 2603
Chicago, IL 60611
psimon@stpcorp.com

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



iviewit@iviewit.tv
iviewit@gmail.com

JOSHUA ENNIO ZANDER BERNSTEIN (ELIOT MINOR CHILD)
JACOB NOAH ARCHIE BERNSTEIN (ELIOT MINOR CHILD)
DANIEL ELIJSHA ABE OTTOMO BERNSTEIN (ELIOT MINOR CHILD)
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