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*United States Court of Appeals  
for the Second Circuit*

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ELIOT I. BERNSTEIN, INDIVIDUALLY and P. STEPHEN LAMONT ON BEHALF OF SHAREHOLDERS OF IVIEWIT HOLDINGS, INC., IVIEWIT TECHNOLOGIES, INC., UVIEW.COM, INC., IVIEWIT HOLDINGS, INC., IVIEWIT HOLDINGS, INC., IVIEWIT.COM, INC., IVIEWIT.COM, INC., I.C., INC., IVIEWIT.COM LLC, IVIEWIT LLC, IVIEWIT CORPORATION, IVIEWIT, INC., IVIEWIT, INC., and PATENT INTEREST HOLDERS ATTACHED AS EXHIBIT A

Plaintiffs - Appellants,

--v--

APPELLATE DIVISION FIRST DEPARTMENT DEPARTMENTAL DISCIPLINARY COMMITTEE, THOMAS J. CAHILL, in his official and individual capacity, JOSEPH WIGLEY in his official and individual capacity, CATHERINE O'HAGEN WOLFE in her official and individual capacity, PAUL CURRAN in his official and individual capacity, MARTIN R. GOLD in his official and individual capacity, HON. ANGELA M. MAZZARELLI in her official and individual capacity, HON. RICHARD T. ANDRIAS in his official and individual capacity, HON. DAVID B. SAXE in his official and individual capacity, HON. DAVID FRIEDMAN in his official and individual capacity, HON. LUIZ A. GONZALES in his official and individual capacity, APPELLATE DIVISION SECOND DEPARTMENT DEPARTMENTAL DISCIPLINARY COMMITTEE, LAWRENCE DIGIOVANNA in his official and individual capacity, DIANA MAXFIELD KEARSE in her official and individual capacity, JAMES E. PELTZER in his official and individual capacity, HON. A. GAIL PRUDENTI in her official and individual capacity, STEVEN C. KRANE in his official and individual capacity, HON. JUDITH S. KAYE in her official and individual capacity, KENNETH RUBENSTEIN, ESTATE OF STEPHEN KAYE, PROSKAUER ROSE LLP, MELTZER LIPPE GOLDSTEIN & BREISTONE LLP, LEWIS S. MELTZER, RAYMOND A. JOAO, FOLEY LARDNER LLP, MICHAEL C. GREBE, WILLIAM J. DICK, DOUGLAS A. BOEHM, STEVEN C. BECKER, STATE OF NEW YORK COMMISSION OF INVESTIGATION, LAWYERS FUND FOR CLIENT PROTECTION OF THE STATE OF NEW YORK, THE FLORIDA BAR, LORRAINE CHRISTINE HOFFMAN in her official and individual capacity, ERIC TURNER in his official and individual capacity, JOHN ANTHONY BOGGS in his official and individual capacity, KENNETH MARVIN in his official and individual capacity, THOMAS HALL in his official and individual

capacity, DEBORAH YARBOROUGH in her official and individual capacity, VIRGINIA STATE BAR, ANDREW H. GOODMAN in his official and individual capacity, NOEL SENDEL in her official and individual capacity, MARY W. MARTELINO in her official and individual capacity, and John Does.

**Defendants-Appellees**

**ON APPEAL FROM THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

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**PLAINTIFF-LEAD APPELLANT LAMONT'S OPPOSITION TO  
PLAINTIFF-APPELLANT BERNSTEIN'S MOTION**

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1. Plaintiff-Lead Appellant, P. Stephen Lamont, individually, and on behalf of shareholders of the Iviewit Companies and patent interest holders, file this Motion in opposition to the motion of Plaintiff-Appellant Eliot I. Bernstein filed January 30, 2009 and in support state as follows:

**I. QUASH THE MOTION IN ITS ENTIRETY**

**Failure to Serve Lead Appellant-Plaintiff Lamont**

2. In filing his motion, Plaintiff-Appellant Bernstein surreptitiously failed to serve Plaintiff-Lead Appellant Lamont.

3. Lamont came upon the filing of the Bernstein motion when reviewing the docket of the instant action.

4. Lamont had been in receipt of a draft of the Bernstein motion delivered in a confidential electronic mail message by a shareholder of the Iviewit companies, the name of which will be submitted according to proof at trial.

5. The Bernstein motion, in part, adversely affects Lamont's interests in the instant action. Accordingly, this Court must quash the Bernstein motion in its entirety for re-filing and proper service to Plaintiff-Lead Appellant Lamont.

6. Should Bernstein's filed motion indicate service to Lamont, Lamont will leave it up to the Court's discretion on how to deal with Plaintiff-Appellant Bernstein.

**II. BIFURCATE THE INSTANT ACTION OF PLAINTIFFS-APPELLANTS**

7. The Bernstein motion, in part, adversely affects Lamont's interests in the instant action. Plaintiff-Appellant Bernstein is the central repository for discovery documents of

the instant action, where upon reversal and remand, Lamont would need to go to extraordinary lengths to secure such discovery documents through subpoena and separate actions outside of this litigation.

8. Accordingly, this Court must deny Bernstein's motion to bifurcate Plaintiffs-Appellants in the instant action.

### **III. BERNSTEIN'S ATTEMPTED CHANGE TO PRAYERS FOR RELIEF**

9. Plaintiffs-Appellants Amended Complaint contains a prayer for relief as follows:

Injunctive relief to prevent the unauthorized use of the video scaling techniques and image scaling techniques...the image overlay system...the combination of video scaling and image overlay system...and the remote control of video cameras through communications networks by all those, including but not limited to: (i) decoding and display devices including but not limited to decoders, chipsets, and microprocessors; (ii) transmission networks, including but not limited to cable head-ends, satellite head-ends, and IPTV head-ends; and (iii) encoding schemes, or, alternatively, an assignment of all such contracts and license agreements by the offending parties to Plaintiffs.

Emphasis Supplied

10. Bernstein's motion attempts to change the prayer for relief to procure assignment of contracts to himself personally removing such damage awards from the grasps of Lamont, Iviewit Companies shareholders, and patent interest holders.

11. After years of experiencing the libelous and slanderous remarks from Bernstein, on Tuesday November 4, 2008, Lamont was forced to transmit the following electronic mail message to shareholders:

Sent: Tue, 4 Nov 2008 7:33 pm

Subject: Eliot Bernstein -- For the Record

In a taped recorded conversation in or about March 2002, a time of dire need for Iviewit, Bernstein admitted to selling \$100,000 in Iviewit equipment and put the money in his own pocket, circumventing the then Iviewit bank account.

During the time period of, roughly 2002 to 2004, in another tape recorded conversation, Bernstein admitted to raising up to \$400,000 in Iviewit cash and admittedly put the money in his own pocket, circumventing the then Iviewit bank account...when questioned on this matter he said "Go get your own money," or words to these effects.

Most recently, just prior to filing of the Federal action, Bernstein came up with another approximately 150 new shareholders who he claims funded \$2.41 million in Iviewit cash; he has made no accounting for these funds except for purchasing a \$60k Volvo SUV for his family and a \$500k home in Boca Raton, Fla.

These circumstances, logic tells, should be taken into account during the upcoming filing of briefs and motions in USCA, and what further emails Bernstein chooses to transmit.

12. Irate at this revelation, one of the leading and founding shareholders, the name of which will be submitted according to proof at trial, replied to Lamont as follows:

Sent: Thu 11/6/2008 1:17 PM

Subject: RE: Eliot Bernstein -- For the Record

tape recorded by whom? Hmm, explains allot (sic) about where our collective \$\$ went after that horseshit final funding round and how he was able to afford living in Palos Verdes from 02-04 while partying his ass off... I'm sure he, unbeknownst to shareholders, sold our traded our stock for an 8 ball... I'd LOVE a copy of said tape....

13. Accordingly, this Court must deny Bernstein's motion to change the prayers for relief of the Amended Complaint.

#### IV. CONCLUSION

For all the foregoing reasons, Lead Appellant-Plaintiff, P. Stephen Lamont, respectfully requests this Court, and for the reasons cited above, to: (i) quash the Bernstein motion in its entirety; (2) deny Bernstein's motion to bifurcate the instant action of Plaintiffs-Appellants; (iii) deny Bernstein's attempted change to prayers for relief, and (iv) such further relief as this Court deems advisable.

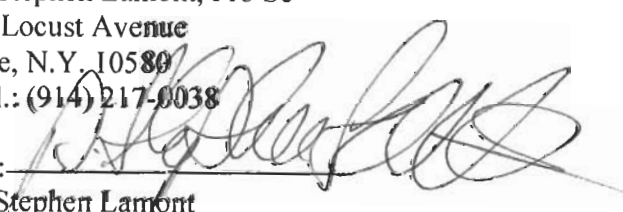
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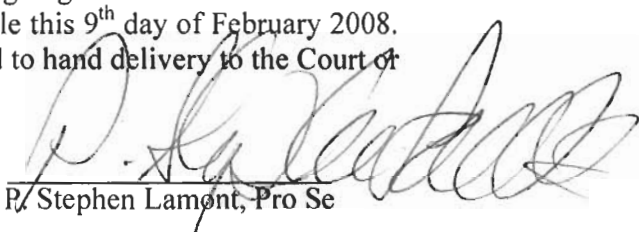
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By:   
P. Stephen Lamont

## AFFIDAVIT OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been furnished to all Plaintiff-Appellant and Defendants-Appellees by facsimile this 9<sup>th</sup> day of February 2008. Defendants-Appellees are served by facsimile as opposed to hand delivery to the Court or mail delivery for the sake of Pro Se expediency.

  
R/ Stephen Lamont, Pro Se

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