

EXHIBIT 1

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

SIMON BERNSTEIN IRREVOCABLE)
INSURANCE TRUST DTD 6/21/95,)
by Ted S. Bernstein, its Trustee, Ted S.)
Bernstein, an individual,)
Pamela B. Simon, an individual,)
Jill Iantoni, an individual and Lisa S.)
Friedstein, an individual.)

Plaintiff,)

v.)

HERITAGE UNION LIFE INSURANCE)
COMPANY,)

Defendant,)

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HERITAGE UNION LIFE INSURANCE)
COMPANY)

Counter-Plaintiff)

v.)

SIMON BERNSTEIN IRREVOCABLE)
TRUST DTD 6/21/95)

Counter-Defendant)

and,)

FIRST ARLINGTON NATIONAL BANK)
as Trustee of S.B. Lexington, Inc. Employee)
Death Benefit Trust, UNITED BANK OF)
ILLINOIS, BANK OF AMERICA,)
Successor in interest to LaSalle National)
Trust, N.A., SIMON BERNSTEIN TRUST,)
N.A., TED BERNSTEIN, individually and)
as purported Trustee of the Simon Bernstein)

Case No. 13 cv 3643
Honorable Amy J. St. Eve
Magistrate Mary M. Rowland

Irrevocable Insurance Trust Dtd 6/21/95,)
and ELIOT BERNSTEIN)

Third-Party Defendants.)

ELIOT IVAN BERNSTEIN,)

Cross-Plaintiff)

v.)

TED BERNSTEIN, individually and)
as alleged Trustee of the Simon Bernstein)
Irrevocable Insurance Trust Dtd, 6/21/95)

Cross-Defendant)

and,)

PAMELA B. SIMON, DAVID B.SIMON,)
both Professionally and Personally)
ADAM SIMON, both Professionally and)
Personally, THE SIMON LAW FIRM,)
TESCHER & SPALLINA, P.A.,)
DONALD TESCHER, both Professionally)
and Personally, ROBERT SPALLINA,)
both Professionally and Personally,)
LISA FRIEDSTEIN, JILL IANTONI)
S.B. LEXINGTON, INC. EMPLOYEE)
DEATH BENEFIT TRUST, S.T.P.)
ENTERPRISES, INC. S.B. LEXINGTON,)
INC., NATIONAL SERVICE)
ASSOCIATION (OF FLORIDA),)
NATIONAL SERVICE ASSOCIATION)
(OF ILLINOIS) AND JOHN AND JANE)
DOES)

Third-Party Defendants.)

AFFIDAVIT OF ADAM M. SIMON IN SUPPORT OF
MEMORANDUM IN OPPOSITION TO ELIOT BERNSTEIN'S
MOTION TO DISQUALIFY AND STRIKE PLEADINGS

I, Adam M. Simon, Esq., pursuant to 28 U.S.C. § 1746, verify, depose and state under oath as follows:

1. I am over the age of twenty-one (21), and have knowledge of the facts set forth herein and could competently testify thereto if called as a witness.

2. I have been an attorney licensed in the State of Illinois and in good standing since November of 1990.

3. Since 1990, I have worked in a law firm with my brother, David B. Simon known as The Simon Law Firm. The Simon Law Firm has been as a third-party defendant in the instant litigation by ELIOT.

4. I have also worked as assistant general counsel for a life insurance brokerage owned by David B. Simon and Pamela B. Simon named STP Enterprises, Inc. ("STP"). STP has been named as a third party defendant in the instant litigation by ELIOT.

5. I am currently representing the Simon Bernstein Irrevocable Insurance Trust dtd 6/21/95 (the "Bernstein Trust"), Ted Bernstein, as Trustee and individually, Pamela B. Simon (my sister-in-law), Jill Iantoni, and Lisa Friedstein as Plaintiffs. I am also representing those parties as counter, cross, or third party defendants where they have been named as parties by either ELIOT or Heritage Union. I am also representing The Simon Law Firm and STP as they have been named as third-party defendants by ELIOT.

6. The goal of all Plaintiffs I represent is to prosecute their claims to the Policy proceeds as set forth in their First Amended Complaint (Dkt. #73).

7. The goal of all cross, counter or third-party defendants I represent is to defeat the counter-claims, cross-claims and/or third-party claims made against them by ELIOT.

8. I am not of the existence of any conflict among the parties I represent at this time. Should a conflict arise, I would advise my clients accordingly.

9. I have had no involvement with ELIOT's inventions, patents, business or personal life, outside of a limited time he was selling life insurance as an agent of STP at the same time I was working for STP in the 1990's.

10. I verily believe that ELIOT's third-party claims filed against me, David Simon and The Simon Law Firm were filed for the improper purpose of attempting to manufacture a basis for ELIOT's motion to disqualify.

11. Despite these manufactured claims and because my interests as a third-party defendant are aligned with the parties I represent, I remain steadfast in my belief that I have no conflict in this case.

12. I have had approximately three contacts with attorney, Robert Spallina and possibly one contact with attorney, Donald Tescher. Those contacts focused on obtaining a copy of Tescher and Spallina's file relating to the matters involved in the above-captioned litigation.

13. I had no involvement with Tescher and Spallina's representation of the Estates of Simon or Shirley Bernstein, or Tescher and Spallina's legal representation of Simon or Shirley Bernstein prior to their deaths.

14. I had no direct or indirect involvement whatsoever with regard to the alleged misconduct in the probate of the Estates of Simon or Shirley Bernstein.

15. It is my understanding that the alleged misconduct that occurred in the probate of the estates of Simon and Shirley Bernstein involved document irregularities and/or notarial misconduct.

16. I have never met or spoken with the notary who was allegedly involved in such misconduct.

17. I did not draft any of the Wills or Trusts of Simon or Shirley Bernstein including the Bernstein Trust Agreement at issue in this litigation.

18. I never had custody or control of the Wills, Trusts or insurance policies of Simon or Shirley Bernstein including the Bernstein Trust Agreement.


19. I am unaware of the existence of any facts or circumstances which would prevent me from continuing my representation of all of my clients and myself, free from any conflict of interest or other disqualifying factor.

20. True and correct copies of (i) a submission cover letter dated November 10, 1995 from Patti Simosky to the Insurer; (ii) the enclosed beneficiary designation form sent to the Insurer of the Policy; and (iii) the Insurer's letter confirming receipt of the beneficiary designation form are attached hereto and made a part hereof as Exhibit A, Bates no. BT000028-BT000030.

21. True and correct copies of relevant excerpts cited from Eliot Bernstein's motion to disqualify filed in the Estate of Simon Bernstein in Palm Beach County, FL are attached hereto as Exhibit B.

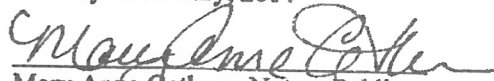
22. I verify under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the foregoing statements made by me are true and correct.

Dated: January 17, 2014



Adam M. Simon, Esq.

Subscribed and sworn to before me this
17th day of January, 2014



Mary Anne Cothorn, Notary Public

