

**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,)

-----)
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**

**ADAM SIMON AND PLAINTIFFS'
MEMORANDUM IN OPPOSITION
TO ELIOT BERNSTEIN'S MOTION
TO DISQUALIFY AND STRIKE
PLEADINGS**

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.)

INTRODUCTION

Eliot Bernstein's ("ELIOT") Motion to Disqualify and Strike Pleadings highlights the importance of adherence to the Federal Rules of Civil Procedure and the Local Rules of the Northern District of Illinois. When a *pro se* or represented party files a motion that directly violates these rules, it prejudices the opposing party and makes a cogent response nearly impossible.

What makes ELIOT's motion even more difficult is that the motion contains reference what may be kernels of truth regarding certain alleged misconduct that appears to have occurred in the Probate proceedings in Palm Beach County, FL. The alleged misconduct appears to involve staff and/or attorneys at law the firm Tescher & Spallina. Donald Tescher and Robert Spallina were attorneys for Simon and Shirley Bernstein while they were living, and after their deaths, they were counsel for the Estates of Simon and Shirley Bernstein (the "Estate" or "Estates").

In virtually all of his pleadings in the instant action, ELIOT refers repeatedly to the probate proceedings for the Estates, and fails to comprehend that those proceedings are separate and apart from the instant litigation which involve only the Policy proceeds.

Plaintiffs brought this litigation in good faith and in furtherance of their efforts to collect what is rightfully theirs and *twenty-percent ELIOT'S*. I represent the original Plaintiff, the Bernstein Trust, and four out of five of the adult children of Simon Bernstein. All of my clients are in agreement that their claims are consistent with the stated intent of Simon Bernstein with regard to the Policy proceeds.

Plaintiffs and I, as their counsel, verily believe that the claims they are asserting for the Policy proceeds are being brought in good faith, and are well grounded in fact and law. One of the most important facts being that the Simon Bernstein Irrevocable Insurance Trust Dtd 6/21/1995 was actually named a beneficiary of the Policy proceeds pursuant to the Policy. (See Beneficiary Designation attached to Adam Simon's affidavit as Exhibit "A", bates #BT000029-030). ELIOT's purported claims made either on his own behalf or that of his children fail to include reference to any document recorded with the Insurer naming ELIOT, ELIOT's children, or any of Simon Bernstein's grandchildren as beneficiaries of the Policy.

Most importantly, however, I shall demonstrate in this memorandum that ELIOT has failed to assert any facts showing that a conflict exists with regard to my representation of my clients in this case. Neither has ELIOT provided any factual record showing the existence of a conflict or any misconduct on my part.

What makes the situation a bit more confusing is the fact that all of the pleadings for relief filed by my clients seek to claim the Policy proceeds on behalf of the Bernstein Trust or its beneficiaries, all FIVE children of Simon Bernstein. Our pleadings allege that ELIOT is a twenty percent beneficiary of the Bernstein Trust, so twenty percent of the Policy proceeds would inure to ELIOT. Conversely, ELIOT's pleadings fail to make any other coherent claim to the Policy proceeds on his own behalf or anyone else's for that matter.

My client's seek a court order which would allow for the distribution of the Policy proceeds according to the intent of Simon Bernstein. All of the potential ultimate beneficiaries of the Policy proceeds are represented in the instant litigation. Four of these ultimate beneficiaries are my clients, and the fifth, ELIOT, has chosen to represent himself and pursue his own agenda, *pro se*.

To avoid any appearance of a conflict and in furtherance of the goals of transparency, accuracy and finality, my clients and I would welcome having the ultimate distribution of the Policy proceeds occur under this court's supervision, i.e. with an accounting and vouchers being submitted to the court.

FACTUAL BACKGROUND

ELIOT'S Motion to Disqualify contains no factual support which would lead this court to disqualify me as counsel. ELIOT has not attached his own Affidavit to his motion. ELIOT has not attached an Affidavit of the Plaintiffs, other parties to this litigation, or any other witness in support of his motion. With that being said, I submit the following factual background regarding my representation supported with my attached Affidavit:

- 1) I have been an attorney licensed in the State of Illinois and in good standing since November of 1990.
- 2) 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 named as a third-party defendant in the instant litigation by ELIOT.
- 3) 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.
- 4) 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.

- 5) 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).
- 6) 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.
- 7) I am unaware of the existence of any conflict among the parties I represent at this time. Should a conflict arise, I would advise my clients accordingly.
- 8) 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.
- 9) 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.
- 10) 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 there is no conflict in this case.
- 11) 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.

- 12) 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.
- 13) 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.
- 14) It is my understanding that the alleged misconduct in the probate of the Estates involved document irregularities and/or notarial misconduct.
- 15) I have never met or spoken with the notary who was allegedly involved in such misconduct.
- 16) 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.
- 17) I never had custody or control of the Wills, Trusts or insurance policies of Simon or Shirley Bernstein including the Bernstein Trust Agreement.
- 18) 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.

(See Affidavit of Adam M. Simon attached hereto and made a part hereof as Exhibit 1.)

STANDARD OF REVIEW

ELIOT has failed to set forth a standard of review in his motion. In case law cited herein, court's are required to base their findings of fact regarding a motion to disqualify on evidentiary hearings, or at a very minimum sworn affidavits. ELIOT has attached no sworn affidavit to his motion and has shown no reasonable cause for an evidentiary hearing. Thus, there are no facts of record regarding my representation nor any disqualifying factors. Absent a factual record, this

court cannot make the requisite finding of facts for ELIOT to prevail on his motion. For this reason alone, ELIOT's motion must be denied.

But, the following guidance is instructive regarding how a court should view a motion to disqualify:

"...we also note that disqualification, as a prophylactic device for protecting the attorney-client relationship, is a drastic measure which courts should hesitate to impose except when absolutely necessary. A disqualification of counsel, while protecting the attorney-client relationship also serves to destroy a relationship by depriving a party of representation of their own choosing. (citations omitted) We do not mean to infer that motions to disqualify counsel may not be legitimate and necessary; nonetheless, such motions should be viewed with extreme caution for they can be misused as techniques of harassment. *Freeman v. Chicago Musical Instrument Co.*, 689 F.2d 715, 721 (7th Cir. 1982)."

In a separate opinion, the court put it this way:

Disqualification is a drastic measure that courts should impose only when absolutely necessary. Mr. Weeks, as the movant, has the burden of showing facts requiring disqualification. *Weeks v. Samsung Heavy Industries Co., Ltd.* 909 F.Supp. 582 (N.D. Ill., 1996)

In *Freeman*, supra, the court rejected movant's motion to disqualify because the movant failed to provide a factual record to determine whether the attorney at issue in that case knew confidential information regarding the opposing party that would justify disqualification. In *Weeks*, supra, the court ultimately rejected movant's motion to disqualify because the movant's grounds for disqualification were based on "bald assertions unsupported by either an affidavit or evidence." *Weeks*, 909 F.Supp. at 583.

ARGUMENT

A. ELIOT'S Third-Party claims and motion to disqualify violate Fed. R. Civ. Pro. 11 in that they were filed for improper purposes and are not well grounded in fact or law.

Fed. R. Civ. P. 11(b) provides in pertinent part as follows:

Representations to the Court. By presenting to the court a pleading, written motion, or other paper – whether by signing, filing, submitting, or later advocating it – an attorney or unrepresented party certifies that to the best of his knowledge, information, and belief, formed after an inquiry reasonable under the circumstances:

- (1) It is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation;
- (2) the claims, defenses and other legal contentions are warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or establishing new law;
- (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigations or discovery; and
- (4) the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on belief or a lack of information.

On December 22, 2013, I sent a letter to ELIOT reminding him that the court had previously admonished him regarding a motion to disqualify and the requirement for such a motion to comply with Rule 11. I further stated my belief that his motion to disqualify and strike pleadings violated Rule 11, and I provided an opportunity for him to withdraw the motion. Despite the warnings he received, ELIOT has chosen to pursue his motion.

B. ELIOT’S motion is devoid of a factual record and thus his motion is not well grounded in fact.

Although it is difficult to discern from his motion, ELIOT seems to be arguing that the complaint I filed on behalf of my clients is groundless and baseless. If that were so, ELIOT has opportunities to attack the pleading, but instead he has chosen to attack me.

ELIOT asserts that my involvement in alleged misconduct relating to the probate of his parents’ estates (the “Estates”) prohibit me from representing my clients. ELIOT’S motion is full

of libelous innuendo but devoid of any facts that illustrate misconduct or any participation in the probate proceedings on my part.

In contrast, my attached affidavit contains my sworn denials of any involvement in the probate matters in Palm Beach County, including any involvement in alleged misconduct.

Absent a factual record from which this court can render a decision, ELIOT'S motion must fail.

C. ELIOT'S motion fails to set forth a legal standard or authority necessary for the court to grant the relief he has requested. Thus, his motion is not well grounded in law.

ELIOT's third-party claims, counterclaims, and motion to disqualify and strike pleadings, merely recite ELIOT's theories and positions but fail to establish that there are a set of facts which exist that would entitle him to the relief he demands as a matter of law. Instead of setting out the facts and law for the court, he proffers theory and innuendo, stating that this is "my position" and then asking the court to investigate and figure out whether his "position" has any merit.

D. ELIOT's counterclaim was manufactured for the improper purpose of disqualifying me and denying my client's their choice of counsel. In so doing, he is attempting to needlessly increase the expense of litigation.

As noted in *Freeman*, supra, granting a motion to disqualify "destroys a relationship by depriving a party of representation of their own choosing". The clients I represent in this matter have chosen to act jointly, in large part, to efficiently prosecute their common claims while reducing the associated legal fees and costs. ELIOT's efforts appear to be targeted to increase the expense and time needed for all parties to resolve this matter.

E. ELIOT'S counterclaim and motion were manufactured for the improper purposes of harassment and attempting to cause harm to my reputation and those of my clients.

ELIOT is currently utilizing this same abusive litigation tactic in the Probate proceedings in Palm Beach County, FL. On or about January 2, 2014, ELIOT filed a motion in the probate estate of Simon Bernstein styled as follows:

MOTION TO:
(I) STRIKE ALL PLEADINGS OF MANCERI AND REMOVE HIM AS COUNSEL; (II) FOR EMERGENCY INTERIM DISTRIBUTIONS AND FAMILY ALLOWANCE; (III) FOR FULL ACCOUNTING DUE TO ALLEGED THEFT OF ASSETS AND FALSIFIED INVENTORIES; (IV) NOT CONSOLIDATE THE ESTATE CASES OF SIMON AND SHIRLEY BUT POSSIBLY INSTEAD DISQUALIFY YOUR HONOR AS A MATTER OF LAW DUE TO DIRECT INVOLVEMENT IN FORGED AND FRAUDULENTLY NOTARIZED DOCUMENTS FILED BY OFFICERS OF THIS COURT AND APPROVED BY YOUR HONOR DIRECTLY; (V) THE COURT TO SET AN EMERGENCY HEARING ON ITS OWN MOTION DUE TO PROVEN FRAUD AND FORGERY IN THE ESTATE OF SHIRLEY CAUSED IN PART BY OFFICERS OF THE COURT AND THE DAMAGING AND DANGEROUS FINANCIAL EFFECT IT IS HAVING ON PETITIONER, INCLUDING THREE MINOR CHILDREN AND IMMEDIATELY HEAR ALL PETITIONER'S PRIOR MOTIONS IN THE ORDER THEY WERE FILED

(See excerpts from ELIOT'S 68 page motion in the Probate proceedings in Palm Beach County, attached to Adam Simon's Affidavit as Exhibit B, at p.2).

In the motion, ELIOT demands from the probate court a myriad of relief including not only disqualifications of a number of attorneys, but also the judge, himself. ELIOT's motions are designed to harass the court, and its officers. Where there has been alleged misconduct in the probate proceedings it is my understanding that such misconduct has been reported to both the authorities and the court.

One of the main reasons ELIOT files such motions is in an attempt to freely slander and libel anyone whom he confronts that does not do what he says when he says its. In his motion, ELIOT states about my client, Ted Bernstein, and Tescher and Spallina, the former attorneys for Simon and Shirley Bernstein and their Estates as follows:

12. That due to the Proven and Admitted Felony acts already exposed and being

prosecuted, the ongoing alleged criminal acts taking place with the Estates assets, the fact that Spallina and Tescher are responsible not only for their alleged criminal acts involving Fraud on this Court and the Beneficiaries but are wholly liable for the FELONY acts of Moran of FORGERY and FRAUDULENT NOTARIZATIONS, is just cause for all of the fiduciaries of the Estates and Trusts and counsel thus far be immediately removed, reported to the authorities and sanctioned by this Court. This disqualification and removal is further mandated now as Theodore, Spallina, Manceri and Tescher all have absolute and irrefutable Adverse Interests now with Beneficiaries and Interested Parties, *especially Petitioner who is attempting to have them prosecuted further for their crimes and jailed and all their personal and professional assets seized through civil and criminal remedies and their reputations ruined for their criminal acts against his Mother and Father's Estates and Trusts.*" (emphasis added.) (See Exhibit B attached to Adam Simon's Affidavit at par. 12).

ELIOT'S bold-faced, glaring description of his own malicious intent proves beyond doubt his contempt for the judicial system, officers of the court, and members of his own family. ELIOT even has the audacity to demand from the probate judge, that he rule on all of ELIOT'S previously filed and pending motions in the "order they were filed." (See Exhibit B at pg. 2 of 68, attached to Adam Simon's Affidavit).

In ELIOT's motion to disqualify and strike pleadings pending before this court, ELIOT states in pertinent part as follows:

Defendant, A. SIMON, can no longer be unbiased either as counsel for himself or others, especially where there is adverse interest in the matter that could put him behind bars for felony crimes alleged herein, that he is a central party to." (Dkt. #58 at Par. 70).

ELIOT spews such false allegations with malicious intent and to cause harm. I, for one, can no longer permit ELIOT to wreak havoc in this litigation free from fear of any meaningful sanction. Which is why, if the court denies ELIOT's motion to disqualify me, I shall file a separate motion seeking sanctions from the Court that will include, but are not limited to, withdrawal of ELIOT's filing privileges absent leave of the court for each pleading and/or motion he desires to file in this matter in the future.

G. ELIOT'S motion is styled as a motion to disqualify and strike pleadings actually seeks relief well beyond that.

ELIOT, in his motion to disqualify and strike pleadings seeks a myriad of relief from this court far too extensive to regurgitate in full. Suffice to say however, that his demand for \$8 million from me, in a motion to disqualify, provides additional irrefutable evidence that he has filed this motion for an improper purpose. The number \$8 million is tossed about by ELIOT with total disregard for me or this court because he does so without a shred of evidence to support it.

ELIOT's prayers for relief also demand that this court order all children and grandchildren of Simon Bernstein to seek their own separate counsel. Such a demand is designed solely to increase the cost and expense of this litigation beyond the point of any rational economic sense. Again, ELIOT makes these demands purportedly on behalf of relatives whom are not represented in this litigation, because they were not named by the Insurer in its interpleader action nor by any other party to the litigation. Also, neither ELIOT nor any of the relatives purportedly represents can offer any evidence or documentation that would support a claim to the Policy proceeds. That would explain their absence in this case.

H. ELIOT'S motion violates the Northern District's Local Rules, LR 7.1 in that it exceeds page limitations without leave of the court.

LR 7.1. Briefs: Page Limit

Neither a brief in support of or in opposition to any motion nor objections to a report and recommendation or order of a magistrate judge or special master shall exceed 15 pages without prior approval of the court. Briefs that exceed the 15 page limit must have a table of contents with the pages noted and a table of cases. Any brief or objection that does not comply with this rule shall be filed subject to being stricken by the court.

ELIOT'S motion is over twice the length permitted by LR 7.1 and it was filed without leave of the court. In addition, the motion also contains over 125 pages of exhibits. Most of

ELIOT'S motion is devoted to the probate proceedings in Palm Beach County, Florida as opposed to the issues in the case at bar. In fact all of ELIOT's pleadings in this matter violate this rule. ELIOT's 34 page motion to disqualify with over 120 pages of exhibits is likely the shortest pleading he has filed in this matter to date. For violating LR 7.1, ELIOT's motion should be stricken by the court.

CONCLUSION

ELIOT, as movant, had the burden of establishing the facts showing that the drastic remedy of disqualifying me as attorney for my clients is required in this instance. ELIOT failed to proffer any factual record in support of his motion. ELIOT also failed to articulate any legal authority supporting his motion and the myriad of relief he requests from this court. For all the foregoing reasons, this court should deny ELIOT'S motion to disqualify and strike pleadings, in its entirety.

Dated: January 17, 2014

By: s/Adam M. Simon
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Phone: 313-819-0730
Fax: 312-819-0773
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Attorneys for Plaintiffs and Third-Party
Defendants
*Simon L. Bernstein Irrevocable
Insurance Trust Dtd 6/21/95; Ted
Bernstein as Trustee, and individually,
Pamela Simon, Lisa Friedstein and Jill
Iantoni, Adam M. Simon, David B.
Simon, STP Enterprises, Inc., and The
Simon Law Firm*

EXHIBIT 1

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by Ted S. Bernstein, its Trustee, Ted S.)
Bernstein, an individual,)
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Plaintiff,)

v.)

HERITAGE UNION LIFE INSURANCE)
COMPANY,)

Defendant,)

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HERITAGE UNION LIFE INSURANCE)
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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,)
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Plaintiff,)

v.)

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Defendant,)

-----)
HERITAGE UNION LIFE INSURANCE)
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v.)

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as Trustee of S.B. Lexington, Inc. Employee)
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Case No. 13 cv 3643
Honorable Amy J. St. Eve
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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)

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PAMELA B. SIMON, DAVID B.SIMON,)
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and Personally, ROBERT SPALLINA,)
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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.

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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.

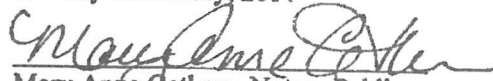
22. I verify under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the foregoing statements made by me are true and correct.

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

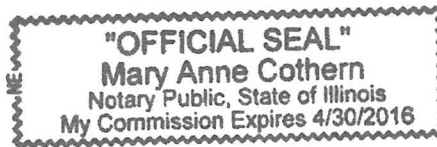


EXHIBIT A



S.D. Lexington, Inc.

600 WEST JACKSON BLVD. SUITE 800 CHICAGO, IL 60661 (312) 993-0014 FAX (312) 993-0485

November 10, 1995

Capitol Bankers Life
Attn: Policyholder Services
735 North Water Street
Post Office Box 2016
Milwaukee, WI 53201


RE: Simon Bernstein
Policy # 1009208

To Whom It May Concern:

Enclosed please find a change of beneficiary form for the above mentioned policy. Please process this form effective immediately.

Also, please send me an endorsed copy of this form so I know that the change has been made.

Sincerely,


Patti Simosky

INSURANCE COUNSELORS WITH (IN-TEG-RITY)

BT000028

Capitol Bankers Life

CAPITOL BANKERS LIFE INSURANCE COMPANY
 735 North Water Street P.O. Box 2016
 Milwaukee, Wisconsin 53201
 414-277-9998

REQUEST LETTER

TO: Capitol Bankers Life Insurance Co

Please comply with the request I have checked below in connection with Policy Number 1009208

Name of Insured SIMON BERNSTEIN

The Policy is not enclosed as instructed below
 (is or is not)

CHANGE MAIL ADDRESS TO (Do not send Policy)

 (New Mail Address)

POLICY LOAN (Do not send policy)
 I request a policy loan of \$ _____ or the maximum loan value, if less.
 I request policy loan to pay current premium due.

CHANGE OF OWNERSHIP FROM _____ to _____
 (Print old owner name) (Print new owner name)
 ADDRESS _____

EXTENDED TERM INSURANCE (Do not send Policy)
 I request that the Extended Term Insurance provision be operative as a nonforfeiture value, if available; and any election by me for application of the automatic premium loan provision now on file with the Company is hereby revoked.

AUTOMATIC PREMIUM LOAN (Do not send Policy)
 Make the Automatic Premium Loan provision effective, if provided in the policy

PAID-UP INSURANCE (Send Policy)
 I request that the Paid-Up Insurance provision be operative as a nonforfeiture value, if available

CASH SURRENDER (Send Policy)
 Pay all cash surrender equities to me and as consideration for such payment, I surrender my Policy

CHANGE OF NAME BY MARRIAGE OR OTHERWISE (Do not send Policy)
 Change name of: Insured Owner
 From _____ to _____
 (Print old name) (Print new name)

State reason for change: _____
 (If the person whose name is to be changed is the policyholder, both the old and the new name of the policyholder must be signed at the bottom of this request letter on the line "Personal Signature of Policyholder")

CHANGE BENEFICIARY AS FOLLOWS: (Do not send Policy)
 Beneficiaries (Give full name, age, and relationship to Insured)
 Primary: (Payee at death of Insured)
LASALLE NATIONAL TRUST, N.A. TRUSTEE
 Successor: (Substitute payee if no Primary payee living)
SIMON BERNSTEIN IRREVOCABLE INSURANCE TRUST DATED JUNE 21, 1995 TRUST

OTHER REQUEST (Write request and send policy, if it is to be changed)

Agent	Date	Personal Signature of Old Owner, if Ownership Change
	<u>11-7-95</u>	<u>LASALLE NATIONAL TRUST, N.A.</u>
Agent	Date	Personal Signature of Policyholder (Owner)
		<u>By: <i>Simon Bernstein</i></u>



Capitol Bankers Life Insurance Company 803-322-3142 • 800-
Box 19191 FAX: 803-292-4005
Greenville, SC 29602-9191

November 27, 1995

LASALLE NATIONAL TRUST, N.A.
AS SUCCESSION TRUSTEE
C/O NATIONAL SERVICE ASSOC.
600 W. JACKSON BLVD, SUITE 800
CHICAGO, IL 60661

RE: SIMON BERNSTEIN
Policy #1009208

Dear Sir/Madam:

The executed beneficiary change for the above mentioned
policy is as follows:

PRIMARY-LASALLE NATIONAL TRUST, N.A.
TRUSTEE
CONTINGENT-SIMON BERNSTEIN INS.
TRUST DATED 6/21/95.

This letter will serve as an endorsement to your policy.
PLEASE ATTACH THIS LETTER TO YOUR POLICY.

Capitol Bankers Life Insurance Company is happy to be of service
to you. If we can be of any further assistance, please feel free
to contact our office at 1-800-825-0003.

Sincerely,
CBL Service Center

A member of the North American Life Assurance Company
Family of Companies

BT000030

EXHIBIT B

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
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)

COPY
SOUTH COUNTY BRANCH OFFICE
ORIGINAL RECEIVED
JAN 02 2014
SHARON R. BOCK
CLERK & COMPTROLLER
PALM BEACH COUNTY

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
JOHN AND JANE DOE'S (1-5000)

MOTION TO:

**(I) STRIKE ALL PLEADINGS OF MANCERI AND REMOVE HIM AS
COUNSEL; (II) FOR EMERGENCY INTERIM DISTRIBUTIONS AND
FAMILY ALLOWANCE; (III) FOR FULL ACCOUNTING DUE TO
ALLEGED THEFT OF ASSETS AND FALSIFIED INVENTORIES; (IV) NOT
CONSOLIDATE THE ESTATE CASES OF SIMON AND SHIRLEY BUT
POSSIBLY INSTEAD DISQUALIFY YOUR HONOR AS A MATTER OF
LAW DUE TO DIRECT INVOLVEMENT IN FORGED AND
FRAUDULENTLY NOTARIZED DOCUMENTS FILED BY OFFICERS OF
THIS COURT AND APPROVED BY YOUR HONOR DIRECTLY; (V) THE
COURT TO SET AN EMERGENCY HEARING ON ITS OWN MOTION DUE
TO PROVEN FRAUD AND FORGERY IN THE ESTATE OF SHIRLEY
CAUSED IN PART BY OFFICERS OF THE COURT AND THE DAMAGING
AND DANGEROUS FINANCIAL EFFECT IT IS HAVING ON PETITIONER,
INCLUDING THREE MINOR CHILDREN AND IMMEDIATELY HEAR ALL
PETITIONER'S PRIOR MOTIONS IN THE ORDER THEY WERE FILED**

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") as Guardian

and Trustee, PRO SE¹, and hereby files this his Motion to (I) STRIKE ALL PLEADINGS OF MANCERI AND REMOVE HIM AS COUNSEL; (II) FOR EMERGENCY INTERIM DISTRIBUTIONS AND FAMILY ALLOWANCE; (III) FOR FULL ACCOUNTING DUE TO ALLEGED THEFT OF ASSETS AND FALSIFIED INVENTORIES; (IV) NOT CONSOLIDATE THE ESTATE CASES OF SIMON AND SHIRLEY BUT POSSIBLY INSTEAD DISQUALIFY YOUR HONOR AS A MATTER OF LAW DUE TO DIRECT INVOLVEMENT IN FORGED AND FRAUDULENTLY NOTARIZED DOCUMENTS FILED BY OFFICERS OF THIS COURT AND APPROVED BY YOUR HONOR DIRECTLY; (V) THE COURT TO SET AN EMERGENCY HEARING ON ITS OWN MOTION DUE TO PROVEN FRAUD AND FORGERY IN THE ESTATE OF SHIRLEY CAUSED IN PART BY OFFICERS OF THE COURT AND THE DAMAGING AND DANGEROUS FINANCIAL EFFECT IT IS HAVING ON PETITIONER, INCLUDING THREE MINOR CHILDREN AND IMMEDIATELY HEAR ALL PETITIONER'S PRIOR MOTIONS IN THE ORDER THEY WERE FILED dated January 02, 2014 and in support thereof states, on information and belief, as follows:

BACKGROUND

1. That first off, Judge Martin Colin may not be able to review these Motions herein, including requests for Emergency Hearings to be scheduled immediately, as possible

¹ Pleadings in this case are being filed by Plaintiff In Propria Persona, wherein pleadings are to be considered without regard to technicalities. Propria, pleadings are not to be held to the same high standards of perfection as practicing lawyers. See Haines v. Kerner 92 Sct 594, also See Power 914 F2d 1459 (11th Cir1990), also See Hulsey v. Ownes 63 F3d 354 (5th Cir 1995). also See In Re: HALL v. BELLMON 935 F.2d 1106 (10th Cir. 1991)." In Puckett v. Cox, it was held that a pro-se pleading requires less stringent reading than one drafted by a lawyer (456 F2d 233 (1972 Sixth Circuit USCA). Justice Black in Conley v. Gibson, 355 U.S. 41 at 48 (1957)"The Federal Rules rejects the approach that pleading is a game of skill in which one misstep by counsel may be decisive to the outcome and accept the principle that the purpose of pleading is to facilitate a proper decision on the merits." According to Rule 8(f) FRCP and the State Court rule which holds that all pleadings shall be construed to do substantial justice.

Disqualification of Judge Colin is asserted in Motion for valid legal reasons under law and it would appear improper under law for a Judge to adjudicate his own Disqualification Motion. As Emergency Hearings due to life threatening situations thrust upon Petitioner by Fiduciaries and Counsel in these matters, who have been proven to have committed criminal acts in and upon this Court and the Beneficiaries as fully defined herein and in prior unheard Motions and Petitions filed by Petitioner since May 2013 and largely unheard by this Court, ruling on these Motions herein must be had by NON CONFLICTED justices of the Court who are not involved in the nexus of events defined herein. That Petitioner is requesting this Court take Judicial Notice of the criminal acts proven of Officers of the Court and others and make on its own Motion an EMERGENCY HEARING FOR EMERGENCY RELIEF to Petitioner and his three minor children, which would have to be heard in a timely fashion as Emergencies.

2. That Petitioner prudently filed all of the following Motions and Petitions in the Estates of Shirley and Simon timely since May 2013 that remain largely unheard in particular to each Motion within the pleadings and languishing before the courts of Judge French and Your Honor and that have not been responded to by several of the Respondents since May 2013 and may impart their default as well;

PRIOR MOTIONS AND PETITIONS FILED BY PETITIONER

- i. That on May 6, 2013 Petitioner filed an **"EMERGENCY PETITION TO: FREEZE ESTATE ASSETS, APPOINT NEW PERSONAL REPRESENTATIVES, INVESTIGATE FORGED AND FRAUDULENT DOCUMENTS SUBMITTED TO THIS COURT AND OTHER INTERESTED PARTIES, RESCIND SIGNATURE OF ELIOT BERNSTEIN IN ESTATE OF SIMON/SHIRLEY BERNSTEIN AND MORE."** Filed in both estates.
 - www.iviewit.tv/20130506PetitionFreezeEstates.pdf 15th Judicial Florida Probate Court and
 - www.iviewit.tv/20130512MotionRehearReopenObstruction.pdf US District Court Southern District of New York, Most Honorable Shira A. Scheindlin. Pages 156-582 reference estate matters in Simon and Shirley as it relates to RICO allegations.

- ii. That on May 29, 2013, Petitioner filed a **"RENEWED EMERGENCY PETITION"** in the estates of Shirley and Simon.
 - www.iviewit.tv/20130529RenewedEmergencyPetitionShirley.pdf
- iii. That on June 26, 2013, Docket #39 Petitioner filed in both estates a **"MOTION TO: CONSIDER IN ORDINARY COURSE THE EMERGENCY PETITION TO FREEZE ESTATE ASSETS, APPOINT NEW PERSONAL REPRESENTATIVES, INVESTIGATE FORGED AND FRAUDULENT DOCUMENTS SUBMITTED TO THIS COURT AND OTHER INTERESTED PARTIES, RESCIND SIGNATURE OF ELIOT BERNSTEIN IN ESTATE OF SHIRLEY BERNSTEIN AND MORE FILED BY PETITIONER."**
 - www.iviewit.tv/20130626MotionReconsiderOrdinaryCourseShirley.pdf
- iv. That on July 15, 2013, Petitioner filed a **"MOTION TO RESPOND TO THE PETITIONS BY THE RESPONDENTS"** in both estates.
 - www.iviewit.tv/20130714MotionRespondPetitionShirley.pdf
- v. That on July 24, 2013, Petitioner filed a **"MOTION TO REMOVE PERSONAL REPRESENTATIVES"** for insurance fraud and more in both estates.
 - www.iviewit.tv/20130724ShirleyMotionRemovePR.pdf
- vi. That on August 28, 2013, Petitioner filed a **"NOTICE OF MOTION FOR: INTERIM DISTRIBUTION FOR BENEFICIARIES NECESSARY LIVING EXPENSES, FAMILY ALLOWANCE, LEGAL COUNSEL EXPENSES TO BE PAID BY PERSONAL REPRESENTATIVES AND REIMBURSEMENT TO BENEFICIARIES SCHOOL TRUST FUNDS"** in both estates.
 - www.iviewit.tv/20130828MotionFamilyAllowanceSHIRLEY.pdf
- vii. That on September 04, 2013, ELIOT filed Docket #TBD, in the estate of Simon, a **"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."** Hereby incorporated by reference in entirety herein.
 - www.iviewit.tv/20130904MotionFreezeEstatesSHIRLEYDueToAdmittedNotaryFraud.pdf
- viii. That on September 21, 2013 Petitioner filed in the IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT COURT ILLINOIS EASTERN DIVISION, Case No.. 13-cv-03643, an Answer and Cross Claim titled **"ELIOT IVAN BERNSTEIN ("ELIOT") (1) ANSWER TO JACKSON NATIONAL LIFE INSURANCE COMPANY ("JACKSON") ANSWER AND COUNTER-CLAIM AND THIRD-PARTY COMPLAINT FOR INTERPLEADER AND (2) CROSS CLAIM."**

- www.iviewit.tv/20130921AnswerJacksonSimonEstateHeritage.pdf

ix. That on October 10, 2013 Petitioner filed in Shirley's estate case Motions titled,

- (I) **MOTION TO ORDER ALL DOCUMENTS BOTH CERTIFIED AND VERIFIED REGARDING ESTATES OF SHIRLEY AND SIMON (SIMON'S DOCUMENT ARE REQUESTED AS IT RELATES TO SHIRLEY'S ALLEGED CHANGES IN BENEFICIARIES) BE SENT TO ELIOT AND HIS CHILDREN IMMEDIATELY IN PREPARATION FOR THE EVIDENTIARY HEARING ORDERED BY THIS COURT**
- (II) **MOTION TO FOLLOW UP ON SEPTEMBER 13, 2013 HEARING AND CLARIFY AND SET STRAIGHT THE RECORD**
- (III) **MOTION TO COMPEL FOR IMMEDIATE, EMERGENCY RELIEF!!!, INTERIM DISTRIBUTIONS AND FAMILY ALLOWANCE FOR ELIOT, CANDICE & THEIR THREE MINOR CHILDREN DUE TO ADMITTED AND ACKNOWLEDGED FRAUD BY FIDUCIARIES OF THE ESTATE OF SHIRLEY AND ALLEGED CONTINUED EXTORTION**
- (IV) **MOTION TO CORRECT AND DETERMINE THE BENEFICIARIES OF THE ESTATE BASED ON PRIOR CLOSING OF THE ESTATE THROUGH FRAUD ON THE COURT BY USING FRAUDULENT DOCUMENTS SIGNED BY SIMON WHILE HE WAS DEAD AND POSITED BY SIMON IN THIS COURT WHEN HE WAS DEAD AS PART OF A LARGER FRAUD ON THE ESTATE BENEFICIARIES**
- (V) **MOTION TO ASSIGN NEW PERSONAL REPRESENTATIVES AND ESTATE COUNSEL TO THE ESTATE OF SHIRLEY FOR BREACHES OF FIDUCIARY DUTIES AND TRUST, VIOLATIONS OF PROFESSIONAL ETHICS, VIOLATIONS OF LAW, INCLUDING BUT NOT LIMITED TO ADMITTED AND ACKNOWLEDGED FRAUD, ADMITTED AND ACKNOWLEDGED FRAUD ON THE COURT, ALLEGED FORGERY, INSURANCE FRAUD, REAL PROPERTY FRAUD AND MORE**
- (VI) **MOTION FOR GUARDIAN AD LITUM FOR THE CHILDREN OF TED, P. SIMON, IANTONI AND FRIEDSTEIN AND ASSIGN A TRUSTEE AD LITUM FOR TED FOR CONFLICTS OF INTEREST, CONVERSION AND MORE**
- (VII) **MOTION TO RECONSIDER AND RESCIND ORDER ISSUED BY THIS COURT "ORDER ON NOTICE OF EMERGENCY MOTION TO FREEZE ASSETS" ON SEPTEMBER 24TH FOR ERRORS AND MORE AND**
- (VIII) **MOTION TO RECONSIDER AND RESCIND ORDER ISSUED BY THIS COURT "AGREED ORDER TO REOPEN THE ESTATE AND APPOINT SUCCESSOR PERSONAL REPRESENTATIVES" ON SEPTEMBER 24TH FOR ERRORS AND MORE**

- www.iviewit.tv/20131010MotionCompelFreezeYouHavetheRighttoRemainSilent.pdf

x. That on October 10, 2013 Petitioner filed in Simon's estate, a "PETITION TO DETERMINE AND RELEASE TITLE OF EXEMPT PROPERTY."

- www.iviewit.tv/20131010PETITIONDETERMINERELEASETITLEOFEXEMPTPROPERTYJOSHUA KIA.pdf

- xi. That on December 08, 2013 Petitioner filed in the IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT COURT ILLINOIS EASTERN DIVISION, Case No.. 13-cv-03643, a motion 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.”**
 - www.iviewit.tv/20131208MotionStrikePleadingAdamSimonForFraudOnCourt.pdf
- xii. That on December 10, 2013 Petitioner filed in the estate of Shirley, an Objection titled **“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”**
 - www.iviewit.tv/20131210PetitionerObjectionToObjectionsToDiscovery.pdf
- xiii. That on December 10, 2013 Petitioner filed in the estate of Shirley, a **“MOTION TO TAX ATTORNEY' S FEES AND COSTS AND IMPOSE SANCTIONS.”**
 - www.iviewit.tv/20131210TaxAttorneyFees.pdf
- xiv. That on December 17, 2013 Petitioner filed in the estate of Simon, a **“OBJECTION TO MOTION TO STRIKE PETITION TO DETERMINE AND RELEASE TITLE OF EXEMPT PROPERTY”**
 - www.iviewit.tv/20131217ObjectionToMotionReKIAFrench.pdf

3. That the following Motions and Petitions were filed by Petitioner in the courts that remain unheard other than limited items by this Court, including Motions for all of the following,

- i. MOTION TO FREEZE ESTATE ASSETS,
- ii. MOTION TO APPOINT NEW PERSONAL REPRESENTATIVES,
- iii. MOTION TO INVESTIGATE FORGED AND FRAUDULENT DOCUMENTS SUBMITTED TO THIS COURT AND OTHER INTERESTED PARTIES,
- iv. MOTION TO RESCIND SIGNATURE OF ELIOT BERNSTEIN IN ESTATE OF SHIRLEY BERNSTEIN,
- v. MOTION TO RESPOND TO THE PETITIONS BY THE RESPONDENTS,
- vi. SECOND MOTION TO REMOVE PERSONAL REPRESENTATIVES,
- vii. MOTION FOR INTERIM DISTRIBUTION FOR BENEFICIARIES NECESSARY LIVING EXPENSES,
- viii. MOTION FOR FAMILY ALLOWANCE,
- ix. MOTION FOR LEGAL COUNSEL EXPENSES TO BE PAID BY PERSONAL REPRESENTATIVES,
- x. MOTION FOR REIMBURSEMENT TO BENEFICIARIES SCHOOL TRUST FUNDS,
- xi. SECOND 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

**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,)

-----)
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.)

CERTIFICATE OF SERVICE

The undersigned, an attorney, certifies that he caused a copy of his Memorandum in Opposition to Eliot Bernstein Motion to Disqualify and Strike Pleadings to be filed and served upon the following persons and entities electronically by ECF notification or by US Mail (if so indicated):

Alexander David Marks
Frederic A. Mendelsohn
Burke Warren MaCkay & Serritella
330 N. Wabash Ave.
22nd Floor
Chicago, IL 60611
312-840-7000
*Attorneys for Heritage Union Life Insurance Company
And Jackson National Insurance Company*

Eliot Ivan Bernstein
2753 NW 34th St.
Boca Raton, FL 33434
Appearing Pro Se
(Served by ECF notification and by depositing
in the U.S. Mail on January 18, 2014)

Glenn E. Heilizer
Law Offices of Glenn E. Heilizer
Five N. Wabash Ave.
Ste. 1304
Chicago, IL 60602
*Attorney for Third-Party Defendant
JPMorgan Chase Bank, N.A.*

on the 17th day of January, 2014.

/s/ Adam Simon
Adam M. Simon (#6205304)
303 E. Wacker Drive, Suite 210
Chicago, IL 60601
Phone: 313-819-0730
Fax: 312-819-0773
E-Mail: asimon@chicagolaw.com
Attorneys for Plaintiffs