

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

SIMON BERNSTEIN IRREVOCABLE)
INSURANCE TRUST DTD 6/21/95,)
)
Plaintiff,)

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

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)
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.)

HERITAGE'S COMBINED MOTION TO: (1) AMEND ATTORNEY APPEARANCE; (2) AMEND NOTICE OF REMOVAL; AND (3) FOR ADDITIONAL TIME TO RESPOND TO PLAINTIFFS' AMENDED COMPLAINT

Defendant, Heritage Union Life Insurance Company ("Heritage"), by and through Jackson National Life Insurance Company ("Jackson") as successor in interest to ReAssure America Life Insurance Company, reinsurer of Heritage's subject policy, and as administrating and servicing agent for Heritage, moves this Court for leave to: (1) amend the attorney

appearances filed on behalf of Heritage/Jackson; (2) amend the notice of removal; and (3) for additional time to file a responsive pleading to Plaintiffs' amended complaint. In support of the motion, Heritage states:

1. On January 23, 2014, this Court ordered Jackson to address allegations that defendant Heritage was its predecessor in interest, including, if necessary, filing a Rule 25(c) motion to substitute parties. [D.E. 79].

2. That order led the undersigned counsel to conduct further inquiry into information that it was previously provided. Eventually it was determined that due to the complexities of Jackson's series of business combinations and mergers in the recent past, the information previously provided to the undersigned was incorrect.

3. Accordingly, the proper relationship between the parties is set out below, and such clarification necessitates this motion.

4. This litigation, which was removed to federal court, involves a dispute over the proper beneficiaries of the death benefit proceeds of a life insurance policy (the "Policy") originally issued by Capitol Bankers Life Insurance Company ("Capitol").

5. On or about May 30, 2000, Capitol and ReAssure America Life Insurance Company ("ReAssure") entered into an administrative reinsurance agreement whereby Capitol ceded to ReAssure and ReAssure accepted on a reinsurance basis certain rights, obligations, liabilities and risks of all Capitol policies and plans of insurance and annuity contracts, including the Policy. Under the agreement, ReAssure would collect premiums and pay out policy benefits, and otherwise assume additional administrative services for Capitol, including processing, investigating and paying claims, as well as handling claims litigation.

6. Subsequently, Capitol, through a series of mergers, became part of Heritage.

7. On May 17, 2011, Heritage Union, LLC ("HUC"), Heritage's parent, entered into a purchase agreement to sell all of HUC's shares to Wilton Reassurance Company, Inc. ("Wilton Re"), a Minnesota domestic life insurance corporation with its principal place of business in Connecticut.

8. Heritage is now a wholly owned, operating subsidiary of Wilton Re, and is also a Minnesota domiciled corporation with its principal place of business in Connecticut.

9. Finally, effective December 31, 2012, ReAssure merged with and into Jackson, including Jackson assuming all of the obligations under ReAssure's above-mentioned reinsurance contract with Capitol (now Heritage).

10. Accordingly, Jackson, as the successor in interest to ReAssure, is the reinsurer of Heritage's Policy, and is serving as the administrating and servicing agent for Heritage in prosecuting this interpleader action and defending against Plaintiffs' claims against Heritage.

11. As such, Heritage, by and through Jackson, requests leave to amend both the appearances filed by its attorneys in this matter and the notice of removal filed to confer jurisdiction with this Court, in order to correct the previous misstatements.

12. Importantly, diversity jurisdiction has always existed in this case and remains. Therefore, such amendment does not affect the jurisdiction of this Court.

13. In addition, on January 13, 2014, Plaintiffs filed a first amended complaint. Heritage's responsive pleading is due on February 3, 2014.

14. Heritage, through Jackson, anticipates filing a motion to dismiss because, among other things, it has fully satisfied its obligations as interpleader, including already tendering the Policy death benefit proceeds to the registry of this Court and joining all parties with potential claims to and/or interest in the Policy.

15. Prior to filing any such dismissal motion, Heritage, through Jackson, determined it prudent to first spread of record the correction to the proper party entities, and seek further direction from this Court whether any further action beyond that proposed in this motion is necessary.

16. Accordingly, in conjunction, Heritage requests additional time to file its responsive pleading to the amended complaint.

WHEREFORE, Defendant, Heritage Union Life Insurance Co., by and through Jackson National Life Insurance Company, as successor in interest to ReAssure America Life Insurance Company, reinsurer of Heritage's subject Policy, and as administrating and servicing agent for Heritage, respectfully requests that this Court enter an order granting Heritage: (1) leave to file amended attorney appearances; (2) leave to file an amended notice of removal; (3) for an extension of time to file its responsive pleading to the amended complaint, and (4) for such other and further relief as the Court deems just and proper.

**JACKSON NATIONAL LIFE INSURANCE
COMPANY**

By: /s/ Alexander D. Marks
One of Its Attorneys

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312-840-7900 (facsimile)

CERTIFICATE OF SERVICE

The undersigned, an attorney, states that on February 3, 2014 he caused to be filed electronically with the Clerk of the United States District Court for the Northern District of Illinois a copy of the foregoing Combined Motion for Leave to File Amended Appearances, Amended Notice of Removal, and for an Extension of Time to File Responsive Pleading to Amended Complaint, a copy of which is served electronically upon the following:

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/s Alexander D. Marks