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Via e-mail bbrown@matbrolaw.com
and U.S. Mail

Benjamin P. Brown, Esq.
625 North Flagler Drive
Suite 401
West Palm Beach, FL 33401

RE: Estate of Simon Bernstein - Intervention in Simon Bernstein Irrevocable Trust DTD 6/21/95 v. Heritage Mutual Life Insurance Company
Case No. 13 cv 3643 (No. Dist. Ill., Eastern Division-Chicago)

Dear Mr. Brown:

This letter is in follow-up to our discussion of last week wherein we discussed several matters that may be of interest to you as you assume your responsibilities as Curator of the Estate of Simon Bernstein (the "Estate"). Of particular concern to our client, Bill Stansbury, which we believe should also be of concern to the Estate, is the lawsuit filed in Chicago regarding the proper disposition of life insurance proceeds payable upon the death of Simon to beneficiaries that will be determined by the court. We attempted to intervene in that case on behalf of Mr. Stansbury to assert the interests of the Estate, but our intervention was denied. We have attached a copy of our motion and all the attachments for your review, along with a copy of the court's decision denying intervention. Should you decide, on behalf of the Estate, to attempt to intervene, these materials may be of assistance to you.

While the attached documents should set forth what you need to know about the nature of this proceeding, it may be useful for us to outline the important sequence of events.

At the time of Simon Bernstein's death, it was determined that there existed a life insurance policy issued by Heritage Mutual Insurance Company ("Heritage") allegedly payable to the Simon Bernstein Irrevocable Insurance Trust DTD June 21,1995 as beneficiary (the "Trust"). The current death benefit is approximately $1.7 million.

According to the SS-4 Application for EIN form submitted to the IRS on June 21, 1995, Shirley Bernstein, Simon's wife, was identified as Trustee of the Trust. On November 1, 2012, despite the fact that the SS-4 identified Shirley as the Trustee, Robert Spallina, one of the now

resigned Co-Personal Representatives, represented on the insurance claim form submitted to Heritage on behalf of the Trust that he was the Trustee. (*See* Exhibit "1") Spallina submitted this form seeking to have the proceeds of the policy paid directly to Simon's five children, not the Estate. Spallina made these representations despite having informed Heritage by letter shortly thereafter that he was "unable to locate the Simon Bernstein Irrevocable Insurance Trust dated June 1, 1995." (*See* Exhibit "2" attached.)

As you know, if the Trust instrument cannot be found and the beneficiaries cannot be identified, the insurance proceeds would be payable to the Estate, and as such, would be available to pay creditors of the Estate such as Stansbury. Spallina, we believe with the knowledge of Ted Bernstein, represented that he was Trustee of the Insurance Trust in an effort to collect the insurance proceeds on behalf the Trust for the benefit of the grown children of Simon Bernstein so as to circumvent the Estate.

Predictably, since no trust document exists that clearly identifies the appropriate beneficiary or beneficiaries, Heritage refused to pay the insurance proceeds to anyone without a court order. The Trust then sued Heritage in the Circuit Court of Cook County, Illinois (the case was then removed to Federal Court). To make matters worse, in paragraph 2 of the Complaint, the Plaintiff, the Trust, alleges that Ted Bernstein is the "trustee" of the Trust. This is alleged even though no trust document has ever been found establishing the continued existence of the Trust, let alone that either Spallina or Ted Bernstein is or ever was the Trustee. As a result, Ted's representation, like that of Spallina, appears plainly false.

The five children of Simon Bernstein - Ted Bernstein, Pamela Simon, Lisa Friedstein, Jill Iantoni and Eliot Bernstein - are all parties to the case as Third Party Defendants. It seems to us that the Estate should be an indispensable party to the action in Illinois.

A reading of Eliot's filed court documents suggests that, at least at this point in time, Eliot is an ally of the Estate and will advance the Estate's interests in the Chicago litigation. Unfortunately, Eliot is the only advocate, if anyone is, on behalf of the Estate, which imperils the interests of the Estate and places the Estate in a precarious position for several reasons. First, Eliot is proceeding *pro se,* which means his effectiveness in advocating his position to a Federal Judge is questionable at best. He was recently scolded by the Judge for failure to follow court procedural rules in a written decision denying one of his motions.

The deceased's grandchildren are the residual beneficiaries of the funds in the Estate after payment of creditors, yet have no representation at this point.

This is why we believe it is in the best interests of the Estate that the Estate attempt to intervene in the Chicago case to protect its interests and the interests of its beneficiaries and creditors. Failure to do so could result in an adverse court decision with no real opposition.

effective or otherwise, to the Plaintiff's position, or in the settlement of the case by the current parties which results in a disposition of the insurance proceeds outside the Estate.

Please advise as to your position on this.

Very truly yours,

PETER M. FEAMAN, P.A.

By: Peter Feaman

Peter M. Feaman

PMF/mk
Enclosures
cc: William E. Stansbury