

IN THE CIRCUIT COURT OF THE FIFTEEN JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA

IN RE: THE ESTATE OF
SIMON LEON BERNSTEIN,
Deceased

CASE NO. 502012CP004391XXXXSB

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);
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);

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EMERGENCY MOTION TO REMOVE ALAN B. ROSE...

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AND SUCCESSOR TRUSTEE PERSONALLY;
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MINOR CHILD);
JACOB NOAH ARCHIE BERNSTEIN (ELIOT
MINOR CHILD);
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ALEXANDRA BERNSTEIN (TED ADULT CHILD);
ERIC BERNSTEIN (TED ADULT CHILD);
MICHAEL BERNSTEIN (TED ADULT CHILD);
MATTHEW LOGAN (TED'S SPOUSE ADULT
CHILD);

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MOLLY NORAH SIMON (PAMELA ADULT CHILD);
JULIA IANTONI – JILL MINOR CHILD;
MAX FRIEDSTEIN – LISA MINOR CHILD;
CARLY FRIEDSTEIN – LISA MINOR CHILD;
PAGE, MRACHEK, FITZGERALD & ROSE, P.A.
(AND ALL PARTNERS, ASSOCIATES AND OF COUNSEL);
ALAN B. ROSE, ESQ. – PERSONALLY;
ALAN B. ROSE, ESQ. – PROFESSIONALLY;
PANKAUSKI LAW FIRM PLLC, (AND ALL PARTNERS, ASSOCIATES AND OF COUNSEL);
JOHN J. PANKAUSKI, ESQ. – PERSONALLY;
JOHN J. PANKAUSKI, ESQ. – PROFESSIONALLY;
KIMBERLY FRANCIS MORAN – PERSONALLY;
KIMBERLY FRANCIS MORAN – PROFESSIONALLY;
LINDSAY BAXLEY AKA LINDSAY GILES – PERSONALLY;
LINDSAY BAXLEY AKA LINDSAY GILES – PROFESSIONALLY;
THE ALLEGED “SIMON L. BERNSTEIN AMENDED AND RESTATED TRUST AGREEMENT” DATED JULY 25, 2012;
JOHN AND JANE DOE’S (1-5000).

EMERGENCY MOTION TO: REMOVE ALAN B. ROSE, PAGE, MRACHEK, FITZGERALD & ROSE, P.A., JOHN PANKAUSKI AND PANKAUSKI LAW FIRM PLLC FROM ALL LEGAL CAPACITIES IN THE ESTATES AND TRUSTS OF SIMON AND SHIRLEY BERNSTEIN AND THEODORE BERNSTEIN FROM ALL FIDUCIARY CAPACITIES IMMEDIATELY FOR CONFLICTS OF INTERESTS, ADVERSE INTERESTS AND THEIR DIRECT INVOLVEMENT IN THE PRIOR FRAUDS ON THIS COURT, FRAUDS ON THE BENEFICIARIES, INTERESTED PARTIES, CREDITORS AND MORE AND REPORT THE FELONY MISCONDUCT OF OFFICERS AND FIDUCIARIES OF THIS COURT IN THESE MATTERS TO THE PROPER AND NECESSARY AUTHORITIES AS LEGALLY REQUIRED UNDER JUDICIAL CANNONS AND LAW AS EVIDENCE CONTAINED HEREIN SHOWS THERE ARE THREATS TO USE “AGGRESSIVE” TACTICS AND “FORCEFUL” ACTS AGAINST PETITIONER ELIOT BERNSTEIN THAT MAY BE LIFE THREATENING OR CAUSE BODILY HARM.

COMES NOW, Eliot Ivan Bernstein (“Eliot”), PRO SE, as Beneficiary and Interested

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Party both for himself personally and Guardian for his three minor children (who may also be Beneficiaries and Interested Parties of the Estates and Trusts of Simon Bernstein (“Simon”) and Shirley Bernstein (“Shirley”)), and hereby files this “EMERGENCY MOTION TO: REMOVE ALAN B. ROSE, PAGE, MRACHEK, FITZGERALD & ROSE, P.A., JOHN PANKAUSKI AND PANKAUSKI LAW FIRM PLLC FROM ALL LEGAL CAPACITIES IN THE ESTATES AND TRUSTS OF SIMON AND SHIRLEY BERNSTEIN AND THEODORE BERNSTEIN FROM ALL FIDUCIARY CAPACITIES IMMEDIATELY FOR CONFLICTS OF INTERESTS, ADVERSE INTERESTS AND THEIR DIRECT INVOLVEMENT IN THE PRIOR FRAUDS ON THIS COURT, FRAUDS ON THE BENEFICIARIES, INTERESTED PARTIES, CREDITORS AND MORE AND REPORT THE FELONY MISCONDUCT OF OFFICERS AND FIDUCIARIES OF THIS COURT IN THESE MATTERS TO THE PROPER AND NECESSARY AUTHORITIES AS LEGALLY REQUIRED UNDER JUDICIAL CANNONS AND LAW AS EVIDENCE SHOWS THERE ARE THREATS TO USE “AGGRESSIVE” TACTICS AND “FORCEFUL” ACTS AGAINST PETITIONER ELIOT BERNSTEIN THAT MAY BE LIFE THREATENING OR CAUSE BODILY HARM.” and in support thereof states, as follows:

1. That upon the suggestive non suggestion of Your Honor at the last hearing, Eliot has filed this Motion to be heard PRIOR TO ANY OTHER MOTION OR ACTION BY THIS COURT IN THESE MATTERS to determine if legal counsel representing parties in these matters can continue to practice as Officers of this Court and Fiduciaries or if they should immediately be disqualified by this Court and all their pleadings removed, other than as further evidence of continued and ongoing FRAUD ON THIS COURT BY OFFICERS OF THIS COURT and Fiduciaries, in addition to those criminal acts that already have been proven and admitted to by the former Counsel and Fiduciaries in these matters and those crimes further alleged against

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them and under ongoing investigations.

2. That the reason for calling for an Emergency Motion is that evidence contained herein shows that Officers of this Court and a Fiduciary of the Estates and Trusts of Simon and Shirley have conspired together to use “Aggressive” and “Forceful¹” tactics against Eliot who is complaining to criminal authorities about criminal acts against them.
3. That these threats are absolute cause for this Court to consider this Motion both an Emergency and reason for immediate protective steps to protect all those who are threatened and to rid the Court once and for all of all of these Officers and Fiduciaries who were centrally involved in advancing the prior frauds on this Court and the Beneficiaries, as the new schemes exposed herein that threaten to cause harm involve further abuse of process to achieve their criminal ends.
4. That Theodore Stuart Bernstein (“Theodore”) acting as an Trustee/Officer of this Court as an ALLEGED fiduciary in a number of capacities, Alan B. Rose, Esq., (“Alan”) and John Pankauski, Esq. (“Pankauski”) are prohibited from representing any parties or the Estates and Trusts of both Shirley and Simon in any legal or fiduciary capacities in these matters due to their direct involvement in the prior CRIMINAL ACTS and ARTIFICES TO DEFRAUD Beneficiaries, Interested Parties and Creditors, acting in conjunction with, and in alleged conspiracy with, the former ATTORNEYS AT LAWS and OFFICERS OF THIS COURT who were the former EXECUTORS/PERSONAL REPRESENTATIVES/CO

¹ Dictionary Dot Com Definition of Forceful @ <http://dictionary.reference.com/browse/forceful>
“force-ful [fawrs-fuhl, fohrs-] adjective
2.acting or driven **with force.**”

Definition of Force @ Dictionary Dot Com @ <http://dictionary.reference.com/browse/force>
“force [fawrs, fohrs] noun
2.strength or power exerted upon an object; **physical coercion; violence: ... to use force on a person.**
5.**Law. unlawful violence threatened or committed against persons or property.**”

TRUSTEES/COUNSEL TO THEMSELVES AS CO TRUSTEES AND PERSONAL REPRESENTATIVES/COUNSEL TO THEODORE IN A VARIETY OF CAPACITIES, Robert Spallina, Esq. ("Spallina") and Donald Tescher, Esq. ("Tescher"), who have been already removed from these proceedings for their part in CRIMINAL FELONY ACTS they and others employed by them have admitted to and have been proven. These crimes committed, include but are not limited to, FRAUD ON THIS COURT, FRAUD ON BENEFICIARIES, ALTERING ESTATE AND TRUSTS DOCUMENTS POST MORTEM, NOTARY PUBLIC FRAUD AND FORGERY (INCLUDING POST MORTEM FORGERIES OF THE DECEDENT SIMON), USING A DEAD EXECUTOR/PERSONAL REPRESENTATIVE SIMON TO FRAUDULENTLY CLOSE THE ESTATE of SHIRLEY AND ATTEMPT TO CHANGE HER BENEFICIARIES AFTER THE ESTATE WAS LONG CLOSED and more.

5. That the fact that Theodore, Alan and Pankauski worked together to advance these schemes with Tescher and Spallina, benefited directly from them and are under ongoing investigations and civil actions for their involvement in them have now biased Alan, Theodore and Pankauski in their professional and fiduciary judgments and therefore they can no longer act with independence and proffer unbiased legal advice and strategies or act in the best interest of the Beneficiaries, Creditors et al., as it is apparent from what is occurring currently in this Court that they will now say and do anything to prevent this Court from further adjudicating the case properly, as it may lead to their arrests and the arrests of their friends who engaged them in these matters in the first place, Tescher and Spallina, who have already been removed from these matters for their CRIMINAL ACTS IN AND UPON THIS COURT, the Beneficiaries, Creditors and others and remain under ongoing investigations.

6. That Alan and Pankauski both worked and advanced these artifices to defraud Eliot,

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Beneficiaries, Interested Parties, Creditors, this Court and others with Tescher and Spallina from day one where Tescher and Spallina illegally seized Dominion and Control of the Estates and Trusts through a series of proven and alleged Fraudulent Estate and Trust documents. Alan knew according to the Palm Beach County Sheriff Investigators, SEE SHERIFF REPORT @ www.iviewit.tv/20140131PBSORReport.pdf fully incorporated by reference herein, that on January 21, 2014 (note the date on the report is recorded improperly as January 21, 2013) that his client Theodore was taking improper distributions against the advice of counsel, as stated by Spallina to the West Palm Beach Sheriff Investigators and yet Alan and Pankauski still tried desperately after learning of this to have Eliot participate in the illegal distributions to improper parties through an extortion scheme designed to starve Eliot and his family into submission by interfering with their inheritances and more, in hopes that Eliot would take the improper monies, giving an implied consent to the crimes, in efforts to aid and abet their friends and colleagues, Tescher and Spallina, who were under investigation, SEE PANKAUSKI LETTER @ <http://www.iviewit.tv/Simon%20and%20Shirley%20Estate/20140210LetterPankauskiToEliotReDistributions.pdf> fully incorporated by reference herein. This coercion despite Alan and Pankauski's knowledge that Theodore's counsel had alleged Theodore was taking improper distributions to the Sheriff department in the January 2014 interview.

7. That quite the opposite of what Theodore and Attorneys at Law, Tescher, Spallina and Manceri, claimed to Your Honor in the September 13, 2013 Hearing and October 28, 2013 Evidentiary Hearing and to investigators initially, that the SIX FORGED and FRAUDULENTLY NOTARIZED WAIVERS (including one FORGED POST MORTEM for Simon) tendered to this Court by Tescher & Spallina, P.A. and now convicted FELON, Kimberly Moran, was merely

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a one off crime to help a grieving family by a woman who was crazed on the birth control pill Depropravara , we now however find that Spallina et al. lied to the Court and Investigators, as Spallina knew at that time of the hearings that he too had committed FRAUD by ALTERING ESTATE DOCUMENTS as he recanted to Palm Beach County Sheriff Investigators. Spallina's admitted FRAUD took place on an Amendment to Shirley's Trust to change Beneficiaries to improper parties' months before the Hearings, in efforts to benefit his close personal bedfellow and business associate Theodore and disadvantage other Beneficiaries, including Eliot and his children.

8. That further, Theodore, Manceri, Spallina and Tescher all advanced the Fraud In and Upon this Court in the hearings that the beneficiaries were ten grandchildren of the decedents, while knowing that this was achieved through a complex series of fraudulent and forged documents in the Estates and Trusts of Simon and Shirley that Spallina et al. had crafted to make it appear so. Their only strategy and defense has been to tell countless lies to this Court and continue a Pattern and Practice of legal abuse strategies that continue the Fraud on the Court in hopes that they could systematically destroy Eliot and his family, including three minor children before Eliot could expose their lies and crimes and bring them to Justice for criminal and civil prosecution, SEE Eliot's Motion filed October 10, 2013 Titled,

“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 / MOTION TO FOLLOW UP ON SEPTEMBER 13, 2013 HEARING AND CLARIFY AND SET STRAIGHT THE RECORD / 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 / MOTION TO CORRECT AND DETERMINE THE BENEFICIARIES OF THE ESTATE BASED ON PRIOR CLOSING

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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 / 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 / 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 / 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 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 @

<http://www.iviewit.tv/Simon%20and%20Shirley%20Estate/20131010%20FINAL%20SIGNED%20PRINTED%20Motion%20to%20Compel%20-%20Freeze%20-%20You%20Have%20the%20Right%20to%20Remain%20Silent%20.pdf>

9. That the number of false statements in the hearings in September and October of 2013 known at that time are pointed out in particular in the motion above in the section titled, **MOTION TO FOLLOW UP ON SEPTEMBER 13, 2013 HEARING AND CLARIFY AND SET STRAIGHT THE RECORD** and with the new information regarding Spallina's confession to Sheriff Investigators, the number of false statements and lies told to this Court further goes off the charts and would take another hundred pages to document but virtually every claim they told to this Court was false and misleading in efforts to cover up their crimes and in fact, continue them.
10. That it has recently been proven by investigation by the Florida Governor Rick Scott's Notary Public Investigations Unit that there is both an **IMPROPERLY NOTARIZED 2012 WILL** and **IMPROPERLY NOTARIZED 2012 AMENDED AND RESTATED TRUST** of Simon that has

been proven improperly notarized and thus legally void, as it is not clear that Simon was present when the documents were signed due to the notary failures and these are the documents that gave Tescher and Spallina Dominion and Control over the Estates and Trusts of Simon illegally, where they then abused all positions gained, including but not limited to, PR of Simon's Estate, Co-Trustees of Simon's Trust, Co-Trustee of Bernstein Family Investments with Ted, co-Trustee of the Eliot Bernstein Family Trust, counsel to Ted as Shirley's PR, counsel to Ted as Shirley's Trustee and Counsel to themselves in all of their Fiduciary capacities.

11. That Governor's Rick Scott's Notary Public Division's findings led to reprimand now of a second Notary Public in these matters (remember Moran's license was suspended after investigation and prosecution for FELONY FRAUD in these matters), this time Theodore's Personal Assistant, a one, Lindsay Baxley aka Lindsay Giles, who failed to notarize the ALLEGED 2012 Wills and Trusts of Simon properly by failing to acknowledge that Simon was present, one of the three critical components of a notarized document and no less on Wills and Trusts drafted, prepared and witnessed by Spallina and Moran. Baxley aka Giles also misused her notary stamp by failing to change the stamp to her legal name timely, yet another felony act and used an address in Minnesota.
12. That the ALLEGED 2012 Will and Trust of Simon are alleged to have replaced 2008 Wills and Trusts done by Simon and Shirley together while both were alive and these alleged new documents were done only a few days before Simon UNEXPECTEDLY AND SUDDENLY died and then these failed and improperly notarized documents, in combination with Spallina's admitted Altered and Fraudulent Amendment in Shirley's estate, where then used to try and change Beneficiaries Post Mortem of Shirley and Simon. The number of CRIMES and BREACHES OF FIDUCIARY DUTIES AND LEGAL VIOLATIONS AS OFFICERS OF THIS

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COURT THESE CRIMES ALONE PRESENT IS STAGGERING. These Crimes breaking all duties of Trust between Trustees and Beneficiaries with all those involved with the schemes, including but not limited to, Theodore, Tescher, Spallina, Manceri, Pankauski and Alan.

13. That with this new information it appears that the 2012 Wills and Trusts of Simon are void and the documents in Shirley's Estate that were used void, in fact, already in Shirley's Estate the Frauds have led to the Estate being reopened and resurrected by this Court after it had been laid to rest and closed by Your Honor for years.
14. That this Court must recognize here and now that the dispositive documents being operated under in the Estates and Trusts may all be BOGUS and FRAUDULENT AND FORGED AND MAY HAVE BEEN DONE ALL POST MORTEM and that those who have been legally retained or acting in any fiduciary capacities may all be acting under these fraudulent documents illegally. That further, from new production documents tendered by Spallina and Tescher upon their resignations and removal from the proceedings, many new alleged criminal acts are revealed that appear to have been PREMEDITATED and ready to put in place the minute Simon died and remember hours after Simon died, Theodore (not Eliot as Alan would have this Court believe) ordered both a Criminal Investigation by the Palm Beach County Sheriff office, SEE http://www.iviewit.tv/20120913_Sheriff_Report_Alleged_Simon_Murder_and_Follow_Up.pdf fully incorporated by reference herein, and an Autopsy, claiming SIMON HAD BEEN MURDERED and blaming his girlfriend stating she had poisoned him.
15. That Dominion and Control of the Estates and Trusts was achieved through FRAUDS that TOOK PLACE IN AND UPON THIS COURT BY OFFICERS OF THIS COURT AND FIDUCIARIES OF THIS COURT through a LEGAL PROCESS ABUSE SCHEME that involved POST MORTEM FRAUD AND FORGED DOCUMENTS and USING SIMON

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WHILE DEAD TO ACT AS IF ALIVE AND PERSONAL REPRESENTATIVE TO CLOSE SHIRLEY'S ESTATE and despite this factual evidence of CRIMINAL ACTS in and upon this Court by Officers of this Court, this Court while dismissing some of the ROGUE Attorneys at Law that conspired together has somehow allowed the other ROGUE Attorneys at Law who were directly involved in the frauds to continue representing the matters before the Court as Officers of the Courts and Fiduciaries, despite their direct involvement in the prior criminal acts, as if nothing happened. Now that these representatives lives are on the line, their own personal interests have and will continue to interfere with their abilities to administer the estates and trusts fairly and just and without bias, making them all not now qualified to act as legal counsel to parties or fiduciaries.

16. That allowing them to continue and begin yet another campaign of terror upon Eliot and his family, Creditors and others, through legally abusive, vexatious and improper pleadings that should be stricken as they are reported to the authorities by Your Honor as they were filed with the intent of covering up for their involvement in the crimes by further committing new FRAUDS IN AND UPON THIS COURT to attempt to stop and derail further prosecution of the crimes. There only strategy now will be to try and defame Eliot and turn him into the bad guy while they continue to now harass and extort him and as new evidence contained herein will show use "Aggressive" and "Forceful" tactics against him while still controlling the Estate and Trust assets of Simon and Shirley as allowed by this Court despite the Court's knowledge of their involvement in the crimes, other than Simon's estate, which Benjamin Brown, Esq., was appointed to in replacement of Tescher and Spallina.

17. That not only were fraudulent and forged documents tendered to this Court but these documents were then used to fraudulently begin to loot the Estates and Trusts and convert assets illegally to

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improper parties and unknown business entities knowingly and with scienter and all the while the Attorneys at Law billing wildly to bleed the Estates and Trusts to profit further. Let the record show that the Estate of Simon was billed for Spallina to attend the Sheriff's office interrogation of their employee Kimberly Moran who was later arrested and it is believed he also billed when he went to the Sheriff's to be investigated and confessed his direct FRAUD of Altering Estate Documents POST MORTEM in efforts to illegally change Beneficiaries to benefit Theodore at the expense of others.

18. That these fraudulent documents were then used together in various combinations in a variety of alleged frauds currently under ongoing investigations that Alan, Pankauski, Theodore are in addition to Tescher and Spallina also prime suspects in, including charges of Extortion of Eliot through further frauds with Estate and Trust documents, Insurance Fraud, Fraud on a Federal Court in Illinois and more and where they will also be included as suspects in all future criminal and civil actions relating to the crimes and alleged crimes that are ongoing.
19. That Eliot has contacted the Sheriff's department to correct the incidence report of the MURDER ALLEGATIONS by Theodore, which failed to properly docket the incidence as an Alleged Murder and Eliot also contacted the Coroner's office where it was learned that no poison screening had been completed, only a drug screen and where the Coroner has stated that he is now running poison screening tests, that Eliot somberly awaits the results of.
20. That many of these other alleged crimes, including the alleged Insurance Fraud regarding Simon's life insurance policy now before Hon. Judge Amy St. Eve in the US District Court of Illinois all have similar threads of corruption being achieved through legal abuse schemes and using these schemes to commit fraud on insurance companies, banks and institutional trust companies by using improper fiduciary claims, including now committing Fraud In and Upon a

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Federal Court. Again, these schemes costing the Estates and Trusts a fortune to unravel and represent and again all of these crimes committed by the Fiduciaries and Officers of this Court, in conjunction with and to benefit both Theodore and Pamela, who have been wholly DISINHERITED from any interests in the Estates and Trusts of Simon and Shirley, in any Beneficiary designations that this Court eventually determines are valid due to the Fraudulent documents and crimes that attempted to change the true and proper Beneficiaries. It is amazing however that with this knowledge presented to this Court in numerous pleadings filed but yet not ruled on for over a year, the Court allows them to continue to act as Officers of the Court and Fiduciaries to commit further continuing and ongoing FRAUDS against the already injured victims, including but not limited to, Beneficiaries, Creditors and Interested Parties.

21. That the FRAUDULENT AND FORGED documents were not only tendered to this Court as part of a FRAUD ON THIS COURT but they were also sent to lawyers at Tripp Scott law firm, banks, including Goldman Sachs, Northern, Ameritrade, and JP Morgan insurance and trust companies and then apparently a host of other parties via mail and wire fraud, to convince them to act and transact assets and monies to improper parties knowingly and with scienter.
22. That Eliot has alleged to this Court and Florida State authorities that Alan, Pankauski, Theodore, Spallina, Tescher, Manceri and others, since learning that authorities, including the Palm Beach County Sheriff Office and Governor Rick Scott's Notary Public Investigation Department were investigating closing in on them, have launched a conspiracy to EXTORT, HARASS and DEFAME Eliot through further legal process abuse in and upon this Court and through other criminal acts and have since stepped up their campaign to INTERFERE WITH ELIOT AND HIS CHILDREN'S INHERITANCES through a new series of further criminal acts as defined further herein.

23. That these new acts are in continuation of a series of EXTORTIONARY tactics effectuated through this Court to harm Eliot and his family in efforts to deprive him and his family of their inheritances, monies, business entities and shares in other entities that he and his children were to inherit. They have forced motions to deprive Eliot's children of the home they own that Simon and Shirley secured for them prior to their deaths through funds from the children's prefunded Trusts and all achieved through a further series of further frauds on this Court, through further felonious legal pleadings, as prior plead to this Court in Eliot's unheard Motions and all in efforts to destroy Eliot before he can destroy them. They are now wholly acting for their own personal interests and not the interests of Beneficiaries, Creditors and Interested Parties, in fact, they are working to wreak havoc upon them. In fact, the home of Eliot's children or the alleged Mortgage to Simon and alleged Promissory Note (both done by Spallina and Tescher) was not listed on the original inventory of Simon's Estate as an asset and was only added on the Amended Inventory, which was prepared a year after the first and only after Moran was arrested and Spallina and Tescher were contacted by investigators to come into the station for questioning, in yet another attempt to leverage and extort Eliot that if he did not stop pursuing them he would lose his children's home through further legal abuse and debauchery.

24. That these same Attorneys at Law and Fiduciaries even have attempted to steal Eliot's son's automobile that was a birthday gift given him by his grandfather two weeks prior to death by claiming the KIA was an asset of the Estate and not exempt property despite all of them knowing it was a birthday gift.

25. That only after Spallina and Tescher were busted and resigning and the new Curator Benjamin Brown, Esq. entered did they abandon the Fraud on the Court to get the KIA they were claiming as an estate asset and admit the car was Eliot's son's but only after harassing and torturing Eliot's

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son for over a year and all the while billing the Estate a year of legal expenses totaling over \$20,000 that are known so far, including hearings which wasted everyone's time but the lawyers billing for this fraud to make such false claims to this Court regarding an \$11,000 Kia Soul that they knew all along and had irrefutable proof that it was a gift. That the KIA is listed in no inventory or accounting of Simon's Estate as an asset of the Estate showing further accounting fraud.

26. That to top this all off Eliot was then sent an email on Thursday, May 22, 2014 10:52 PM directly to him and only to him by Theodore and NO OTHER PARTY was addressed or copied on the email. Where neither Theodore nor Eliot are Attorneys at Law and are not in any way clients of each other and thus no Attorney/Client Privilege can be claimed.
27. That Eliot read the email and as soon he did he began distributing it widely, as the letter contained what appeared threats to harm, harass and defame not only Eliot and his family but also the decedents close personal friends and business associates, through a LEGAL ABUSE STRATEGY with threats to harass and harm Eliot and others and gain information into criminal and civil complaints against Theodore by misusing legal process with Alan to force production of documents from Eliot and others that could incriminate Theodore and his friends. The email is clear and convincing evidence of their intent to continue to abuse their powers to harm Eliot, his children and others and NOT to use judicial process to act fairly, just and trustworthy but instead to Abuse Process to continue the harassment and abuse and suppress estate and trust information.
28. That Theodore, Rose and Pankauski knowing they and their friends they were engaged by and worked legally with in perpetrating the past frauds, Spallina, Tescher, Moran, Manceri and Baxley aka Giles, in order to advance the artifices to defraud and knowing they too are under ongoing investigations whereby they are all named suspects, now, in what appears a last ditch

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effort to stave off prosecution are exposed using further LEGALLY ABUSIVE STRATEGIES TO ATTEMPT TO COVER UP THEIR CRIMES AND PERPATRATE NEW CRIMES IN AND UPON THIS COURT, the beneficiaries, creditors and others. This new evidence reveals a continuing the Pattern and Practice of FRAUD ON THIS COURT and ABUSE OF PROCESS SCHEMES WHILE STILL HOLDING ON AND CONTINUING TO ACT AS OFFICERS AND FIDUCIARIES OF THIS COURT and this new abuse of process scheme appears to be allowed by YOUR HONOR despite Your Honor knowing of their direct involvement in the past crimes and ongoing investigation, which defies logic and gives an irrefutable Appearance of Impropriety.

29. That Theodore claims in the email he sent to Eliot that any attorney who does not want to go along with this abuse of Eliot scheme and use “Aggressive” and “Forceful” tactics against him be fired and if they did not think Theodore was acting properly as the Trustee and misusing Trust funds, including to defend himself in numerous actions against him, as Pankauski apparently was advising Theodore, that he be fired for his refusal to cooperate with apparently criminal acts.
30. That it appeared from the email that Theodore knows that he and Rose are in hot water and under investigation and even against the advice of his other expensive counsel Pankauski, Theodore intends on launching an all-out costly legal abuse campaign on anyone who has information that could further prosecute Spallina, Tescher, Theodore, Rose, Manceri, et al. or are helping Eliot and his family in anyway.
31. Then after knowing Eliot would read the letter and distribute it to others so as to effectuate his threat, Theodore and Rose now are trying to claim the email Privileged and claim that Eliot and those people who read it be bound by Privilege and ordered by this Court to destroy it and not use it as evidence against them, however it is essential evidence of criminal misconduct being

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planned that evidences the conspiracy among them and further harm they plan to do not only against Eliot but anyone with information against them who may be talking to investigators, etc.

32. That this failed attempt to claim the email was Attorney/Client Privileged through further costly LEGAL PROCESS ABUSE IN AND UPON THIS COURT has since delayed the Court and other investigators of gaining this damning piece of evidence, since Alan and Theodore know that it will be the end of their scheme and this Court would sanction them or finally read them their Miranda Rights. The emails contents expose acts that are definitely not the acts Trustees and Legal Counsel should be partaking in and in fact appear to be criminal.
33. That Alan is an Attorney at Law and knows the communication occurred between two non-lawyers that are not clients of each other and that when Theodore sent it to a third party solely and directly, any claim of Attorney Client Privilege was lost. Yet, this now failed legal trickery did not work as some of those who received the email before a claim of Privilege was made or known by Eliot have since published the information far and wide on the worldwide web.
34. That hours after Eliot had read and distributed the email to all the people named in the document and many others before knowing of any Privilege claim, minutes before a hearing in this Court on May 24, 2014, Eliot was confronted by Alan and Alan stated that he was requesting this email now become Attorney Client/Privileged information and demanded Eliot not disclose it, as fully discussed in the prior hearings before this Court.
35. That Eliot informed Alan at that time that he had already distributed and published the email to several thousand of his friends who could have read and distributed it already, as Eliot believed he published it on social network sites as well, where he has thousands of friends who would have republished the document to expose the threatening contents.

36. That after being advised by this Court to go home and read the rules of Privileged

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communications, Eliot responded to Alan timely and per the rules that he did not believe the information was Attorney/Client Privileged as the communication was not between an Attorney and Client.

37. That Eliot despite not believing it to be Attorney/Client Privileged, as again it was an email Theodore sent to Eliot directly and solely to him, then notified the parties he sent it by email to of the claim of privilege asserted by Alan and requested they destroy the email if they felt necessary after reading the statute attached by Eliot governing privilege but Eliot cannot control what they did next with it.
38. That this Court has entertained an evidentiary hearing for this frivolous and vexatious attempt to claim Privilege to suppress a threatening letter sent to Eliot through further legal process abuse and where Alan as an Attorney at Law and Your Honor know all too well the problem with this email being claimed to be privileged is that Theodore lost all claim to privilege when he sent the letter to a 3rd party non-attorney directly and solely, despite what his later claimed intent was, as Privilege is a form over intent issue, where Theodore's intent that he wanted to send it to someone else has no bearing once he sent the letter to a 3rd party and not his Attorney at Law.
39. That one recipient of the email sent prior to any claim of Privilege was made to Eliot by Alan, Crystal Cox, has notified Alan and others that she did not care about their frivolous and vexatious legal claims in efforts to hide the threatening email (as she is also one of the people targeted in the email) and stated to Alan and other Attorneys involved in these matters that she thought his claim was baseless and thus was posting the information and email on her blogs and elsewhere throughout the world wide web.
40. That Cox stated to Alan and other Attorneys at Law involved in these matters that she did so with the intent of exposing the threatening email and those who crafted it as part of her job as a

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professional expert legal corruption blogger, who just won a landmark reversal of an Oregon Court ruling against her that liberates citizen blogger/journalists to report on corruption no matter how much those being reported on dislike her style. One site she posted the contents of the email from Theodore to Eliot on is at RipOff Report where removing things is difficult, which can be found at <http://www.ripoffreport.com/r/alan-rose-of-mrachek-fitzgerald-rose/west-palm-beach-florida-33401/alan-rose-of-mrachek-fitzgerald-amp-rose-alan-b-rose-suppress-free-speech-cover-up-1149197> , fully incorporated by reference herein.

41. That this Court must determine before ANY further legal actions are represented or RULED ON in these matters that are advanced by Theodore, Alan and Pankauski before the Court, if they can continue to act in any legal or fiduciary capacities as Officers of the Court in any way or on behalf of others and where their disqualification is necessary with removal of all their pleadings, as they have direct interests in protecting themselves from prosecution at all costs that without doubt factually bias their legal representations and actions as fiduciaries before the Court, due to the simple fact that they are all directly involved in the prior criminal acts and frauds and may end up being prosecuted if they lose in this Court or are arrested by the authorities currently investigating a series of frauds they are ALL alleged involved in.
42. That if this Court rightfully determines they are not legally qualified at this time to act in ANY legal or fiduciary capacities then many of the upcoming hearings, depositions, production requirements they have pled for will become moot and the Court, the Beneficiaries, the Creditors and other Interested Parties will all be saved tens of thousands of dollars defending frivolous and vexatious pleadings that were tendered improperly as part of further criminal acts. As your Honor said when Ben Brown was hired as Curator “this is the first step in the right direction” it is now time to make the second step and remove all the actors that were involved in any with the past

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criminal acts and artifices to defraud.

43. That the estates and trusts interested persons are in desperate need of the second step which is to REMOVE all the Attorneys at Law and Fiduciaries that have breached their duties and continue misconduct. THEN AND ONLY THEN can the Estates and Trusts of both Simon and Shirley be administered without costly and dangerous (as will be defined herein) intentional interference.
44. That Eliot requests the Court prior to compelling production of Eliot to Rose, Pankauski or Theodore of ANYTHING, or be deposed or respond to pleadings or orders based upon frivolous and vexatious prohibited pleadings, first take a look at the published email of Theodore to Eliot first, as it is now published by another party, in part, online @ <http://www.ripoffreport.com/r/alan-rose-of-mrachek-fitzgerald-rose/west-palm-beach-florida-33401/alan-rose-of-mrachek-fitzgerald-amp-rose-alan-b-rose-suppress-free-speech-cover-up-1149197>, fully incorporated by reference herein. That Eliot will no quote from that online publication of the email some of the key information regarding their schemes to harass and harm Eliot and others.
45. That this email falls under the evidence rule and not the Attorney/Client privilege rules as outlined in Florida Statute 90.502 and the email shows Theodore seeking legal services from Attorneys Alan and Pankauski to enable and commit a plan that Theodore knew was criminal and fraught with fraud, as the email describes Theodore's illegal legal strategy with Alan and Pankauski, which is described as one that harasses Eliot and urges counsel to be "FORCEFUL" and "AGGRESSIVE" against Eliot. That Theodore states in the email posted at RipOff Report in a letter to Alan embodied in the email sent to Eliot,

"If John [Respondent John Pankauski, Esq. Theodore's other lawyer in these matters replacing Spallina and Tescher along with Alan] does

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not want to tangle with Eliot, remove John immediately. I am sorry to be this blunt, but I do not want to address the John issue again. If he **is not 100% in support of me as trustee** [emphasis added], including how I have protected myself with trust assets and will continue doing so as necessary, and being **aggressive and forceful** [emphasis added], if need be, with eliot, remove him as counsel.”

46. That in the email to Eliot Theodore claims further in the letter embodied inside the email to Alan,

“I do not want to spend another unnecessary dollar with counsel that is not going to zealously defend me as trustee and protect trust assets. I cannot be more decisive re this and I say this with no animosity - simply for efficiency sake **and my best interest** [emphasis added].”

Showing that Theodore is acting in his own best interest, despite the advice of counsel and with grave adversity to Eliot and Beneficiaries, thus further cause for immediate removal of Theodore in these matters in ANY FIDUCIARY CAPACITIES that Eliot or his family have interests in. Keep in mind that Theodore claimed unbelievably to Palm Beach County Sheriffs that he had NOT READ the dispositive documents he was operating under as illustrated in the Sheriff’s report already referenced herein from January 2014.

47. That Theodore is also found in the Palm Beach County Sheriff Report from January 2014 to have also been alleged to have taken improper distributions from the Estates and Trusts knowingly and AGAINST THE ADVICE OF COUNSEL and where these allegations to the Sheriffs Investigators came from his counsel Spallina who was being interrogated. Where apparently Theodore only considers legal advice mere suggestion and when he does not like the advice of counsel his intent is to fire them and get rid of them and continue to act as sees fit, despite the illegality of his actions.

48. That Alan Rose is aware that Theodore is alleged to have acted in BREACH OF FIDUCIARY



DUTIES by taking the distributions against the advice of counsel, as he learned from the Palm County Sherriff Report that he has been provided copy of, as well as the fact that he attended as Theodore's counsel the interrogation and yet Alan has failed to notify this Court, the authorities or the Beneficiaries regarding the alleged criminal misconduct of a fiduciary of this Court that he represents. This reporting of a fiduciary by counsel may be required under Florida Rules of Professional Conduct and Law, especially where the alleged Criminal Conduct involves a Trustee/Fiduciary as Client. Again however, Alan's legal and ethical obligations are perverted by his bias against Eliot for exposing their schemes and the fact that he may soon be arrested if Eliot is further successful and it appears he will do whatever is required to keep the fraud from unraveling despite his ethical and legal obligations and law, in efforts to evade his own doom.

49. That according to the Florida Bar Rules as cited at

<https://www.floridabar.org/divexe/rtrfb.nsf/FV/5D85A06CB499716685257919006C529D>

The confidentiality rule is subject to limited exceptions. In becoming privy to information about a client, a lawyer may foresee that the client intends serious harm to another person. However, to the extent a lawyer is required or permitted to disclose a client's purposes, the client will be inhibited from revealing facts that would enable the lawyer to counsel against a wrongful course of action. While the public may be protected if full and open communication by the client is encouraged, several situations must be distinguished.

First, the lawyer may not counsel or assist a client in conduct that is criminal or fraudulent. See rule 4-1.2(d). Similarly, a lawyer has a duty under rule 4-3.3(a)(4) not to use false evidence. This duty is essentially a special instance of the duty prescribed in rule 4-1.2(d) to avoid assisting a client in criminal or fraudulent conduct.

50. That Theodore who knows he is under ongoing investigations and knows Eliot is pursuing him and his legal bedfellows and business partners (Tescher, Spallina, Manceri, Alan, Pankauski,

Moran and Baxley et al.) through criminal authorities and civil actions, goes on to say in the email to Eliot in the letter to Alan contained therein:

“Anything and everything pertaining to Iviewit [Eliot’s Technology Companies that are subject of numerous ongoing investigations and civil actions], including his harassment of Jerry Lewin, Al Gortz of Proskauer and their firms [the two main alleged perpetrators of the theft of Eliot and Simon’s Intellectual Properties]. I want court proceedings, lawsuits, all correspondence to him and from him including paper and electronic, including video tapes and electronic interviews.”

Here the Court can see that Theodore is not concerned in his letter to Alan contained in the email to Eliot with a legal strategy pertaining to these Probate matters but more using the Legal Process and this Court to attempt to gain information for his close personal friends Proskauer and Lewin regarding Eliot’s actions against them and to gain insight into Eliot’s legal strategies in ongoing state and federal actions against him and others in these matters, as these other actions also involve Theodore, as Eliot’s first Petition to this Court explains. In the first Petition filed with this Court by Eliot in May 2013, Theodore’s involvement in a car bombing of Eliot’s family minivan is explained in more detail.

51. That Theodore’s scheme exposes further his intent to misuse Estate and Trusts assets to shield himself with attorneys at law who will aid and abet his actions and achieve these LEGAL ABUSE STRATEGIES and why not, Theodore was disinherited entirely from the Estates and Trusts of his mother and father, so he has nothing to lose by using the Estate and Trusts assets improperly to defend himself for all the actions he is centrally involved in, as long as this Court allows him to continue having continued fiduciary roles.
52. That in Theodore’s next statements in his email to Eliot claims he wants Alan to get information on Eliot’s minor children when he claim that he wants,



“History of incidents at st. Andrews school. [emphasis added]”

What does Eliot’s MINOR children’s school records have to do with the Estates and Trusts of Simon and Shirley, NOTHING! but it acts as a threat to Eliot that Theodore and Alan will be coming after his children next, perhaps “forcefully” and “aggressively” too.

53. That next in the email published at RipOff Report comes threats to harass anyone related to or helping Eliot, including his parents close personal friends and business associates that have information against Theodore and may be talking to investigators already and providing evidence against he and Alan, Spallina, Manceri, Pankauski, Moran and Baxley. Theodore tells Alan that he wants confidential information pertaining to the investigations against him and others and the way he wants to achieve this with Alan is through further costly LEGAL PROCESS ABUSE.

Theodore states to Alan that he want,

“All correspondence of every type with: walker [Decedents Simon and Shirley’s Personal Assistant], puzzio [Simon’s partner], SAHM [Simon’s Business Associate and Friend], Diana banks [Simon’s Business Assistant and friend], Scott banks [Simon’s Business Partner and friend], NACLERIO [Simon and Shirley’s 30+ year friends], Dietz [Eliot and Candice’s former Employer and 30+ year friends], Gefen [Not sure who this is] and every person on his email distribution list [which includes state and federal investigators and more]. If he doesn't comply, I want all of them deposed. Everything in which he has mentioned my name including emails, phone calls, letters, **complaints to whatever agencies he has made complaints including police, federal, state, regulatory.** [emphasis added] Everything and anything he is doing that we are not yet aware of such as online web site attacks.”

This statement fully exposes the nature of the sudden recent deposition requests and production requests by Alan to Eliot in these matters, picking up where Manceri left off trying to attack Eliot

through these same legal abuse strategies and to waste Eliot's time and monies gathering information for their fishing expedition that has no relation to the current probate matters at hand. Manceri was busted with Tescher and Spallina and wisely bailed ship overnight when he became a Respondent in the matters, resigning as counsel in these matters in all his myriad of capacities he represented and where Manceri like Alan failed to file proper Notices of Appearances before the Court for each capacity and party he represented at hearings and represented through his abusive, vexatious and toxic pleadings.

54. That Theodore's letter shows that these legal abuse strategies are actually a part of a fishing expedition to gather information from depositions and production to actually harm people, in which they intend to use this information not for the benefit of the Estates and Trusts but to further a legal abuse strategy to try and save themselves.
55. That if they are able to gain this highly confidential information that exposes them through this legal abuse strategy enabled by a complicit Court and find out who has information and what information they have through productions or depositions with bad intent, they can then harass and harm these innocent people and this Court allowing this continued misconduct to prevail any longer and allowing them to get this information from Eliot or others may endanger the lives of innocent third parties and Eliot, all who have information that may put them all in prison as it exposes their crimes.
56. That Eliot has spoken to two parties already that received the email prior to any Privilege claim who are fearful of Theodore and especially concerned that information pertaining to them that they have against Theodore may cause him to take actions against them to harm them.
57. In efforts to protect the public and future attacks on innocent people these abusive legal actions with the intent to be "forceful" against Eliot need to be stopped and those responsible instantly

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held accountable, removed from the proceedings without hesitation on Your Honor's own motion and then reported to the proper criminal and ethical authorities for immediate investigation before they carry through on their threats to be "AGGRESSIVE" and "FORCEFUL" against Eliot.

58. That even if Alan could prove Privilege on the email, which he cannot, he would be legally obligated under the rules to break Privilege on the Communication as it violates Privilege in two ways, according to the Florida Bar, where it is stated,

"4 RULES OF PROFESSIONAL CONDUCT 4-1 CLIENT-LAWYER RELATIONSHIP RULE 4-1.6 CONFIDENTIALITY OF INFORMATION

(b) When Lawyer Must Reveal Information. A lawyer must reveal such information to the extent the lawyer reasonably believes necessary:

- (1) to prevent a client from committing a crime; or
- (2) to prevent a death or substantial bodily harm to another."²

59. That since the email contains both the intent to commit criminal misconduct through legal process abuse and indicates the use of "Aggressive" and "Forceful" acts against Eliot that could be construed as intent to cause bodily harm or death to Eliot with force and to further fire anyone not willing to go along with Theodore and Alan's schemes, including his own lawyers when they advise him against this apparently criminal misconduct.

60. That this email from Theodore to Eliot can reasonably be seen as a communication that even if it were privileged, a reasonable lawyer would believe it is necessary to immediately bring these claims of using "aggressive" and "forceful" tactics against another party to this Court and the proper authorities to prevent any possible bodily harm and injury to Eliot or death. Instead, we have Alan trying to hide the letter under a claim of Privilege on a communication

² The Florida Bar <https://www.floridabar.org/divexe/rtrfb.nsf/FV/5D85A06CB499716685257919006C529D>

that in no way can be construed as attorney client privileged. Again, Alan has so much skin in the game if he loses and he is further exposed and perhaps jailed that he will say or do anything to move this Court in a biased way despite the legality or integrity of the acts and thus why he must be removed from all legal capacities immediately.

61. That what is most troubling about the Privilege claim is that while delaying the Evidentiary Hearing to an unknown date, in the interim Alan rushed to get Eliot's information from production and suddenly needed depositions of Eliot instantly, in efforts to execute he and Theodore's scheme of LEGAL PROCESS ABUSE and attempt to gain information about who is investigating them through these recently ordered Depositions and Production by this Court, before the Evidentiary Hearing which will invalidate the Privilege claim, in efforts to then allegedly use the information with the stated intent described in the email to Eliot from Theodore, which is to harass and harangue Eliot and others and this information if gained to the wrong parties with the wrong intent would put innocent third parties lives in danger. Therefore, why Eliot has stated to the Court that ruling on pleadings of Alan's before hearing the Motions to Remove Theodore and Alan and the Privilege claim, to determine if they are even qualified based on the existing evidence submitted to the Court for months are capable of acting further as Officers of the Court and Fiduciaries and this forcing Eliot to respond to their illegal and abusive schemes could be construed as the Court aiding and abetting the crimes by giving them the ability to commit the crimes outlined in the communication between Eliot and Theodore by allowing the orders for deposition and production to parties that should be precluded from receiving it. **ELIOT WILL NOT ALLOW THIS COURT TO ENDANGER FURTHER INNOCENT THIRD PARTIES THROUGH THESE CONTINUED FRAUDS ON THE COURT ENABLED BY FURTHER ABUSE OF PROCESS** and has so stated that he will

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DISOBEY any ORDERS that are toxic and dangerous and were prepared by Attorneys at Law and Fiduciaries ACTING OUTSIDE THE COLOR OF LAW that instead should have already been reported by Your Honor to the proper authorities according to Judicial Cannons and Law and removed once Your Honor learned of their crimes In and Upon this Court and against Beneficiaries, Creditors and Interested Parties.

62. That there are enough lawyers in Florida to find lawyers not DIRECTLY involved in the criminal acts and fiduciaries who have no direct interests in the matters who can represent the parties involved and there are certainly enough qualified Fiduciaries capable of reading the documents they operate under and who will follow probate statutes and rules, for this Court to remove instantly from all legal and fiduciary capacities ALL parties who were engaged and worked with the former criminals who committed the crimes and who participated in any way in the advancement of the criminal misconduct already proven and those admitted to and those crimes alleged and under ongoing investigations and cease instantly any chance of further legal process abuse in and on the Court that ENDANGERS LIVES. Especially, where there is now an established Pattern and Practice of Fraud on this Court, Fraud on the Beneficiaries, Fraud on the Creditors that has been proven that they are all directly and intimately involved in that have perverted them and biased them against the Beneficiaries, Creditors, Interested Parties and now innocent third parties.

63. That Theodore, Rose, Pankauski and their firms need also now retain CONFLICT FREE counsel for each capacity they are sued under in these matters, as they are now all Respondents in these matters and they must declare to this Court that they are either represented by Counsel or representing themselves Pro Se forward.

64. That the Court and Eliot recently learned in hearings before Your Honor that Alan was

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representing parties in the proceedings in a multiplicity of legal capacities for a number of parties and had been representing these parties in hearings for months and filed numerous pleadings on their behalf, all without filing any Notices of Appearances as required for each and every person and every capacity he was representing them in. Then immediately after he was busted before Your Honor for this failure to file Appearances, Rose left the building and immediately filed Appearances, in efforts to repair the violations, however, a few months to late.

65. That the Court should note that Pankuaski was also cited for Conflicts of Interest by Eliot for his meetings with Eliot and Candice to retain him, whereby Eliot and Candice gave him highly private, sensitive and confidential information while considering engaging his services and then he without notifying Eliot and Candice went and became Theodore's counsel instead, again exposing Eliot and Candice to risks, as they had given him information that was highly confidential regarding the investigations of Theodore et al. and more.

66. That the only reason that Pankauski was not charged with the conflict was that Eliot failed to file the pleading on his own behalf, as Creditor Stansbury's attorney, Peter Feaman, Esq. filed it through a Stansbury pleading and thus Your Honor determined that while it appeared he was conflicted the pleading was technically not substantively flawed. As Pankauski was vying to be Theodore's counsel in their attempt to make Theodore the Successor Personal Representative of the Estate Simon to replace Tescher and Spallina (who Theodore brought into the Bernstein family in the first place), despite knowing of his misconduct at the time Alan and John desperately tried to get him anointed by Your Honor but as that failed the conflict issue appeared moot as Pankauski it appeared would not be representing Theodore it seemed. Yet, Pankauski has continued to represent Theodore before this Court in joint pleadings with Alan in defense of Theodore's actions as Trustee and more and thus this Conflict matter with Pankuaski will have to

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again be taken up with this Court, wasting more time and money of everyone's to remove him for Conflicts if this Motion does not succeed in removing him entirely other than as a Respondent. Unless of course, after reviewing the hearing on Pankauski, this Court finds that he was conflicted and with that knowledge Your Honor acts on your own motion to remove him as it would appear Attorney Conduct Codes and Judicial Cannons would require and not wait for Pro Se Eliot to file a proper pleading.

67. That Theodore, Alan and Pankauski's direct involvement with the criminal matters in the Estates and Trusts and knowledge that they are under ongoing investigations have caused them to become hostile and adverse to Eliot, which again is influenced by their bias in the matters and the interests they have in attempting to cover up the crimes in the Court and move the Court continuously to harm and harass Eliot in efforts to shut him down and prevent him from having them prosecuted to the fullest extent of the law and ultimately jailed and leave them penniless for their crimes.
68. That it appears that their current legal strategies exposed in Theodore's communication to Eliot are part of an abusive and harassing LEGAL PROCESS ABUSE scheme done in efforts to try and smear and defame Eliot, who is now the bane of their existence, especially as Eliot is spearheading the investigations with authorities and the courts on behalf of the true and proper beneficiaries, including this Court and the Illinois Federal Court and others.
69. That these direct personal and professional interests in the outcome of the matters bias their representations before the Court and to their clients and the fact that they are now Respondents both personally and professionally make their continued practice before this Court in these matters on behalf of others further prohibited.
70. That Theodore must be compelled to get representation that was not part of the prior schemes and

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artifices to defraud this Court, the Beneficiaries, Creditors and others, using his own personal monies to defend the multiplicity of criminal acts and civil torts he is accused of by a number of parties, including but not limited to, the Creditor Stansbury and therefore he must be removed from any fiduciary capacities in the Estates and Trusts of Shirley and Simon at once, as he is the one who has brought all of these Attorneys at Law who committed all these crimes that benefit him and his family directly into the Bernstein family as they are his close personal bedfellows and business associates.

71. That Theodore acting as an alleged fiduciary has allegedly violated virtually the entire Probate and Trust Statutes as already pled to this Court and has committed many other violations of State and Federal Law, as detailed at length in Eliot's prior filed and yet unheard Motions and Petitions to the Court. Theodore is one of two children of the decedents, along with his sister Pamela, who are benefactors of all these criminal acts, due to the fact that no matter how the Beneficiaries turn out they were both cut out of anything but personal property interests and this provides their motives and further they have been enraged since they were tipped off by Spallina of their being disinherited while Simon was still alive and allegedly informed without Simon's knowledge or consent and this exposure by Spallina to his friends Theodore and Pamela left Simon a sitting duck to their rage and anger at their disinheritances, which for good and just causes.

72. That there rage, hate and anger lasted until Simon's final breath, as it is alleged that Simon refused to include them or their children into the Estates and Trusts as once contemplated months before his death and where Simon, through the Creditor Stansbury lawsuit, learned that Theodore may have stolen over \$2,000,000.00 from his close personal friend and business, Stansbury, who this Court will learn, from a recently produced 2008 Trust of Simon that was secreted and denied by Tescher and Spallina until they were forced to turn over their dockets to the new Curator, that

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allegedly in this document, Stansbury, NOT THEODORE, was the intended Personal Representative and Trustee for the entire Estate and all Trusts of Simon, does the Court wonder why this document was suppressed despite repeated written requests for it by both Eliot and his counsel, Christine Yates of Tripp Scott and others.

73. That this Court should note, that since it is alleged that in 2008 Simon and Shirley did their Estate and Trust work together while alive with Spallina and Tescher, and Simon being an EXPERT IN ESTATES AND TRUSTS with far superior knowledge to Tescher and Spallina in Estate Planning, it would seem strange that Shirley's Estate and Trust Documents are not MIRRORS of Simon's, yet oddly they are not similar, including but not limited to, their choice of Personal Representatives and Trustees, which in Shirley's Estate it is alleged to be Theodore, yet even stranger, Theodore in that same document is **CONSIDERED PREDECEASED AND DISINHERITED ENTIRELY ALONG WITH HIS LINEAL DESCENDANTS**. Further, forensic document analysis will have to be performed but according to the new Curator, only one page out of the 7000 or more pages of records turned over to him have an original signature on them, which may indicate even more crimes and torts committed.

74. That without the removal of Theodore by this Court, due to delay after delay in hearing motions pertaining to his removal proffered by Alan and designed with the intent to delay the proceeding at all costs, and yet, despite the Court's knowledge of these facts about their involvement in criminal acts and subsequent failure to act swiftly and remove them (or read them their Miranda Rights as once threatened by Your Honor), the Court has instead allowed the Beneficiaries, Creditors and Interested Parties to all be exposed to months of continuing and ongoing further fiduciary and legal process abuse, fraud and waste, resulting in massive loss of assets under this Court's custody and causing further intentional delays and interference with inheritances that are

especially harming to three minor children who are also in the custody of this Court via their inheritances, especially where this Court has had the West Palm Beach County Sheriff Office Report indicating Theodore has violated a host of fiduciary statutes to perpetrate self-dealing distributions **AGAINST THE ADVICE OF COUNSEL, AS RECANTED TO THE SHERIFF'S OFFICE BY HIS COUNSEL AND THAT FURTHER SPALLINA FRAUDULENTLY ALTERED TRUST DOCUMENTS OF SHIRLEY TO ENABLE THOSE IMPROPER DISTRIBUTIONS WITH INTENT AND SCIENTER AS HE CONFESSED TO SHERIFF INVESTIGATORS!!!!!!!!!!!!!!**

75. That how can this Court continue to allow this? That it could be construed, rightly or wrongly, that Your Honor may have adverse interests to contain these crimes and keep them concealed from public scrutiny as well, due to the fact that the Crimes occurred IN and UPON this Court with Your Honor's direct involvement, including the fact that Your Honor may be called as a material and fact witness regarding the various criminal acts that occurred in Your Court.
76. That to date, despite the now admitted Fraud by Spallina and the other crimes this admission then involves subsequently, **NOT A SINGLE ATTORNEY AT LAW WHO HAS COMMITTED THESE CRIMES HAVE BEEN ARRESTED OR READ THEIR MIRANDA WARNINGS AS THREATENED BY YOUR HONOR** (in fact, not even reported by Your Honor to the proper authorities) upon learning that Simon had closed his wife Shirley's Estate while acting as Personal Representative and Trustee for four months after he was dead, yes he was **DEAD WHEN HE CLOSED THE ESTATE OF HIS DECEASED WIFE**. Where Your Honor stated that you had enough evidence at that moment in the September 13, 2013 hearing to read, Tescher, Spallina, Manceri and Theodore, all of them, their Miranda's but have since then despite new and further damaging proof of new crimes had a change of heart and allowed them to withdraw

quietly and without notifying the proper authorities and failed to read them their Miranda Rights on the way out the door. Even after allowing their withdrawal under the umbrella of fraud they committed Your Honor then allowed them to continue to act in the matters and even complete a Final Accounting after they had resigned and withdrawn in all capacities, which it turns out is a complete joke as no back up data was attached and it was also signed improperly and illegally, as further explained in Eliot's Objections to the Final Accounting already filed.

77. The mere fact that in the September 13, 2013 hearing in Shirley's Estate Your Honor stated that Simon came into your chambers to close the Estate in January 2013, will lead to the first question to Your Honor as a witness will be what Simon was wearing that day and if he was wearing skin, as he was DEAD for four months already in January 2013. The next question would be, if not Simon, who came to your chambers that day? Finally, why when you found out about this criminal misconduct committed by Officers and Fiduciaries of Your Court, in and upon Your Court and others, did you not freeze and protect the Estates and Trusts assets and records, then seize all records and assets of those involved and finally seize and arrest all those involved for their crimes in order to protect the Beneficiaries, Interested Parties, Creditors and others and instead opted to let this circus court continue to be influenced and moved by those directly involved in the criminal acts, acting possibly outside the color of law, allowing for continuing DAMAGES to the Beneficiaries, Creditors, Interested Parties and others? In fact, why have you not done these things as of today? That now with evidence that these same people intend to be "AGGRESSIVE" and "FORCEFUL" with Eliot and target others with information against them there can be no further delay, as this may lead to forceful bodily harm or death of innocent people who may have knowledge and information, including information that Simon may have been MURDERED. That it is the proverbial "SHIT OR GET OFF THE POT" time, where failure for

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this Court to cease this insanity in the Court will leave Eliot with no recourse but to file Criminal Obstruction Charges and Aiding and Abetting charges against ALL OFFICERS OF THE COURT INVOLVED, including Your Honor and DEMAND FORMAL DISQUALIFICATIONS TO BE HEARD BY NEW OFFICERS OF THE COURT, no disrespect to Your Honor but delays and obfuscation and derelict of duties outside the Color of Law will make this personal liability as well and if anything is to happen to any of the parties or others in the interim as outlined in Theodore and Alan's email, ELIOT WILL HOLD YOUR HONOR ACCOUNTABLE DIRECTLY FOR ANY HARMS TO OTHERS OR ELIOT.

78. That Alan, Theodore and Pankauski can no longer act unbiased in these matters as their lives and livelihoods depend on the outcome of this litigation and where they may soon all be arrested in these matters or read their Miranda Rights by Your Honor for the past crimes and those they continue to commit IN and UPON this Court, the Beneficiaries, Creditors et al. and as long as this Court permits them to continue to wreak havoc on these proceedings and the victims of the crimes.

79. That to allow Alan, Pankauski, their firms and Theodore who are all involved in the prior FRAUD ON THE COURT and advanced these fraudulent schemes with Tescher and Spallina who engaged them and worked alongside them, to further move this Court in any way as Officers of the Court in these matters in any legal or fiduciary capacities where they are so obviously biased that they will say or do anything to continue the Frauds and attempt to cover up them up for this Court and more would violate several judicial cannon's in so doing, as follows,

Canon 1. A Judge Shall Uphold the Integrity and Independence of the Judiciary

Canon 2. A Judge Shall Avoid Impropriety and the Appearance of Impropriety in all of the Judge's Activities

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Canon 3. A Judge Shall Perform the Duties of Judicial Office Impartially and Diligently

3D. Disciplinary Responsibilities.

(1) A judge who receives information or has actual knowledge that substantial likelihood exists that another judge has committed a violation of this Code shall take appropriate action.

(2) A judge who receives information or has actual knowledge that substantial likelihood exists that a lawyer has committed a violation of the Rules Regulating The Florida Bar shall take appropriate action.

(3) Acts of a judge, in the discharge of disciplinary responsibilities, required or permitted by Sections 3D(1) and 3D(2) are part of a judge's judicial duties and shall be absolutely privileged, and no civil action predicated thereon may be instituted against the judge.

E. Disqualification.

(1) A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to instances where:

(a) the judge has a personal bias or prejudice concerning a party or a party's lawyer, or personal knowledge of disputed evidentiary facts concerning the proceeding;

(d) the judge or the judge's spouse, or a person within the third degree of relationship to either of them, or the spouse of such a person:

(iv) is to the judge's knowledge likely to be a material witness in the proceeding;

Canon 5. A Judge Shall Regulate Extrajudicial Activities to Minimize the Risk of Conflict With Judicial Duties

80. That if this Court were to take the appropriate actions require by Law and Judicial Cannons immediately, as in now and report and remove these parties and seize all records and properties of the Estates and Trusts they possess and make them posts bonds or other remedy instantly, this Court could restore Order instantly and the proceedings would move along without all of these distractions caused directly and with intent to delay and hamper due process and procedure by Alan, Pankauski and Theodore, who are all continuing to move the Court in all sorts of new criminal directions to continue the crimes and cover up the crimes already proven through a

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LEGAL ABUSE STRATEGY against Eliot. All now in efforts to make Eliot out to be the bad guy for having them prosecuted and their friends arrested, even requesting in Alan's latest toxic, vexatious and abusive Omnibus pleading, SEE FOR A GOOD LAUGH @ www.iviewit.tv/20140613OMNIBUSMOTIONWHATAJoke.pdf that this Court have a guardian placed over Eliot, accusing Eliot of wasting Estate Assets, as exhibited in Alan and Pankauski's delusional pleading that should have been prohibited and removed from the record, along with all their other toxic pleadings for all those reasons already stated herein but this further shows there intent to legally harass and be aggressive with Eliot, leaving one to conclude of sound mind that they may soon take lethal "forceful" actions if necessary.

81. That without these remedies provided by Your Honor to protect all those involved and innocent parties, Eliot will again request voluntary Disqualification of Your Honor and if that is not complied with, Eliot will seek out Criminal Authorities to stop this Denial of Due Process and Procedure through Legal Abuse that acts to Obstruct Justice in efforts to cover up CRIMINAL ACTS of OFFICERS OF THIS COURT and allows for threatened use of force that may lead to death or bodily injury of parties acting before the Court and innocent third parties including three minor children.³ That Eliot was coming to respect and honor Your Honor but if this farce is

³ That Spallina, Tescher, Theodore, Manceri, Rose, Pankauski, Moran and others have presented fraudulent information to this court, in which has harmed Eliot, his family, Beneficiaries, Creditors and others. In the United States, when an officer of the court is found to have fraudulently presented facts to court so that the court is impaired in the impartial performance of its legal task, the act, known as "fraud upon the court", is a crime deemed so severe and fundamentally opposed to the operation of justice that it is not subject to any statute of limitation.

Officers of the court include: Lawyers, Judges, Referees, and those appointed; Guardian Ad Litem, Parenting Time Expeditors, Mediators, Rule 114 Neutrals, Evaluators, Administrators, special appointees, and any others whose influence are part of the judicial mechanism.

"Fraud upon the court" has been defined by the 7th Circuit Court of Appeals to "embrace that species of fraud which does, or attempts to, defile the court itself, or is a fraud perpetrated by officers of the court so that the

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allowed a moment longer Eliot will have lost all respect and move to have all parties and officers of this Court prosecuted by criminal and civil authorities in order to protect those parties named herein and his family from a Court that refuses to follow its own rules and law and regulate and discipline the Officers of this Court who have committed and confessed in part to criminal acts.

WHEREFORE, Eliot requests that this Court enter an order granting,

- I. THE REMOVAL OF ALAN B. ROSE, PAGE, MRACHEK, FITZGERALD & ROSE, P.A., JOHN PANKAUSKI AND PANKAUSKI LAW FIRM PLLC FROM ALL LEGAL CAPACITIES IN THE ESTATES AND TRUSTS OF SIMON AND SHIRLEY BERNSTEIN AND THEODORE BERNSTEIN FROM ALL FIDUCIARY CAPACITIES IMMEDIATELY FOR CONFLICTS OF INTERESTS, ADVERSE INTERESTS AND THEIR DIRECT INVOLVEMENT IN THE PRIOR FRAUDS ON THIS COURT, FRAUDS ON THE BENEFICIARIES, INTERESTED PARTIES, CREDITORS AND MORE
- II. REPORT THE FELONY MISCONDUCT OF OFFICERS AND FIDUCIARIES OF THIS COURT IN THESE MATTERS TO THE PROPER AND NECESSARY AUTHORITIES AS LEGALLY REQUIRED UNDER JUDICIAL CANNONS AND LAW AS EVIDENCE CONTAINED HEREIN SHOWS

judicial machinery can not perform in the usual manner its impartial task of adjudging cases that are presented for adjudication". *Kenner v. C.I.R.*, 387 F.3d 689 (1968); 7 *Moore's Federal Practice*, 2d ed., p. 512, ¶ 60.23

In *Bulloch v. United States*, 763 F.2d 1115, 1121 (10th Cir. 1985), the court stated "Fraud upon the court is fraud which is directed to the judicial machinery itself and is not fraud between the parties or fraudulent documents, false statements or perjury. ... It is where the court or a member is corrupted or influenced or influence is attempted or where the judge has not performed his judicial function --- thus where the impartial functions of the court have been directly corrupted."

What effect does an act of "fraud upon the court" have upon the court proceeding? "Fraud upon the court" makes void the orders and judgments of that court.

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THERE ARE THREATS TO USE “AGGRESSIVE” TACTICS AND
“FORCEFUL” ACTS AGAINST PETITIONER ELIOT BERNSTEIN THAT
MAY BE LIFE THREATENING OR CAUSE BODILY HARM.

- III. Deny and remove from the record ANY Orders issued on pleadings filed by Alan B. Rose, Esq. and John Pankauski, Esq. and also remove any Orders and pleadings filed by former Attorneys at Law acting in these matters due to the Fraud proven and admitted and ANY pleadings or rulings that were based upon improperly filed pleadings that violated Attorney Conduct Codes, the Rules of this Court and Law that were filed by legally incompetent and prohibited counsel with direct personal and professional interests in the outcome, including their interest in staving off prosecution for FELONY MISCONDUCT they are being investigated in both in Federal and State, civil and criminal, ongoing actions.
- IV. Remove Theodore Bernstein, Alan Rose and John Pankauski in any fiduciary and/or legal capacities regarding these matters in the Estates and Trusts of both Simon and Shirley Bernstein, instantly and before hearing any other pleadings filed by Alan or Pankauski acting as counsel in these matters, which are exhibited herein to be filed as part of an Abuse of Process scheme.
- V. Seize all Records for the Estates and Trusts of both Shirley and Simon and all other assets, until a new Personal Representative and Trustee can be properly chosen from a qualified pool after determining which dispositive documents are legally valid. In the interim appoint Benjamin Brown, Esq., as interim curator of both the Estates and Trusts and allow immediate full forensic document analysis and forensic accountings to take place and bill these costs directly to the parties

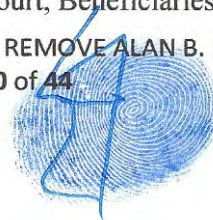
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who have committed the crimes necessitating these expenses as is within Your Honor's scope of remedies for situations like this, especially when they are directly caused by Officers of this Court acting in Violation of Law in and upon this Court all while under Your Honor's Tutelage.

VI. Voluntarily Disqualify yourself as a judge in these matters immediately if the sought after reliefs herein are not granted entirely, due to adverse interests with Eliot and Your Honor's direct involvement in the criminal acts already proven and admitted to that took place here in Your Court, which may make impartiality impossible, as this case would cast a most ominous and dark light on one of the most egregious probate cases fraught with fraud in and upon the Court and Beneficiaries that apparently has been ignored and suppressed to this point as if it did not really happen here in this Court, in the history of probate law and that it has all been caused entirely by Officers of this Court who are charged with protecting those rights and who have all eluded criminal prosecution and reading of their Miranda Rights due to the Court's failure to follow Attorney Conduct Codes, Judicial Cannons and Law in so executing its powers and now may be putting Eliot and innocent third parties of grave risk.

VII. That if Your Honor chooses to voluntarily disqualify or fails to order ALL the reliefs requested herein, that an Emergency Hearing be scheduled with a new Judge by Your Honor acting on Your Own Motion to schedule, to these matters herein and Your Honor's disqualification be heard by an impartial and conflict free Judge, as lives are in danger and continued FRAUD, WASTE AND ABUSE are continuing in and upon this Court, Beneficiaries, Creditors and Minor Children

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every second of delay.

Filed on June 23, 2014,

Eliot Bernstein, Pro Se, Individually and as
legal guardian on behalf of his minor three
children.

X

CERTIFICATE OF SERVICE

I, ELIOT IVAN BERNSTEIN, HEREBY CERTIFY that a true and correct copy of
the foregoing has been furnished by email to all parties on the following Service List, June 23,
2014.

Eliot Bernstein, Pro Se, Individually and as
legal guardian on behalf of his minor three
children

X

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SERVICE LIST

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