

IN THE CIRCUIT COURT OF THE 15TH  
JUDICIAL CIRCUIT, IN AND FOR PALM  
BEACH COUNTY, FLORIDA

CASE NO. 502014CP002815XXXXSB  
PROBATE DIVISION

TED BERNSTEIN, as Trustee  
of the Shirley Bernstein Trust Agreement  
dated May 20, 2008, as amended

Honorable Martin Colin

Petitioner,

v.

ALEXANDRA BERNSTEIN; ERIC BERNSTEIN;  
MICHAEL BERNSTEIN; MOLLY SIMON;  
PAMELA B. SIMON, Individually and as Trustee  
f/b/o Molly Simon under the Simon L. Bernstein  
Trust Dtd 9/13/12; ELIOT BERNSTEIN, individually,  
as Trustee f/b/o D.B., Ja. B. and Jo. B. under the  
Simon L. Bernstein Trust Dtd 9/13/12, and on  
behalf of his minor children D.B., Ja. B. and Jo. B.;  
JILL IANTONI, Individually, as Trustee f/b/o J.I.  
under the Simon L. Bernstein Trust Dtd 9/13/12, and  
on behalf of her Minor child J.I.; MAX FRIEDSTEIN;  
LISA FRIEDSTEIN, Individually, as Trustee f/b/o  
Max Friedstein and C.F., under the Simon L.  
Bernstein Trust Dtd 9/13/12, and on behalf of her  
minor child, C.F., Respondents,

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**ANSWER**

COMES NOW, PRO SE, Eliot Ivan Bernstein (“Eliot”) as Beneficiary and Interested Party both for himself personally and as Guardians for his three minor children of the alleged “Shirley Bernstein Trust dated May 20, 2008, as amended” (“Shirley Trust”) and hereby files this “ANSWER AND COUNTER COMPLAINT” and in support thereof states, on information and belief, as follows:

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1. Plaintiff Ted Bernstein is over the age of 18, a resident of Palm Beach County, Florida and is the Trustee of the Shirley Bernstein Trust Agreement dated May 20, 2008, as amended, under Article IV.C.1 of the Trust (“Trustee.”).

**ANSWER** – Deny. The alleged Trust has been challenged and evidence of fraud and more has been found and proven in the Estate and Trusts of Shirley Bernstein by the alleged Trustee Theodore Bernstein’s former counsel, Robert Tescher, Esq. and Donald Tescher, Esq. That Theodore Bernstein at this time is not qualified to act in any fiduciary capacities in the Estates and Trusts for his direct advancement of the fraudulent schemes that benefited him and his counsel primarily and have caused intentional interference with expectancy with inheritances.

2. Shirley Bernstein died on December 10, 2010, and at the time of her passing was a resident of Palm Beach County, Florida.

**ANSWER** – Deny, Shirley Bernstein died on December 08, 2010.

3. Prior to her death, Shirley Bernstein created a trust known as the Shirley Bernstein Trust Agreement dated May 20, 2008 (“Shirley’s Trust”).

**ANSWER** – Deny. There is not enough information to determine if the Shirley Trust is a valid document or a further document in a series of documents in both Estates and Trusts of Simon and Shirley that have been fraudulently notarized, forged and more and distributed by the Fiduciaries and Counsel, all Officers of this Court. That the original document appears to missing at this time and requests to review and see it have been denied repeated requests by the Fiduciaries and Counsel in the matters both prior and present. Admissions of fraudulently altering trust documents have already been admitted and under ongoing investigation.

4. Shirley Bernstein was a resident of Palm Beach County, Florida when she created Shirley’s Trust.

**ANSWER** – Admit.

5. An authentic copy of Shirley’s Trust is attached as Exhibit “A”.

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**ANSWER** – Deny. The alleged Trustee is aware of the fraudulent activity and to date has failed to take any actions to inspect or allow others to inspect the alleged documents, further suppressing and denying them.

6. Shirley’s Trust, Exhibit A, is clear and unambiguous.

**ANSWER** – Deny. Shirley’s Trust along with all other dispositive documents are not known to be authentic despite the alleged clarity and unambiguity the whole document is being challenged as a part of a larger fraud to alter illegally the beneficiaries of the alleged Shirley Trust.

7. Shirley Bernstein was survived by her husband, Simon L. Bernstein.

**ANSWER** – Admit.

8. The marriage between Shirley and Simon L. Bernstein was the first and only marriage for each of them.

**ANSWER** – Admit.

9. The marriage lasted 52 years, and during that time Shirley and Simon had five natural born children. Neither Simon nor Shirley had any other children.

**ANSWER** – Admit.

10. The five children of Shirley and Simon are Plaintiff Ted Bernstein, and Defendants Pamela B.

Simon, Eliot Bernstein, Jill Iantoni and Lisa Friedstein, each of whom is living, over the age of 18 and a lineal descendant of Shirley.

**ANSWER** – Admit in part and deny in part. Admit to the names of five of Shirley’s children. Deny the remainder. Eliot states that the alleged Trust of Shirley’s that became irrevocable after her death has specific language that has removed Theodore and Pamela and their lineal descendants from her definition in the document and considered them PREDECEASED for all purposes of the purported Shirley Trust and distributions made thereunder making Theodore and Pamela currently no longer lineal descendants. The language states as follows;

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### ARTICLE III. GENERAL

E. Definitions. In this Agreement,

1. Children, Lineal Descendants. The terms "child," "children" and "lineal descendant" mean only persons whose relationship to the ancestor designated is created entirely by or through (a) legitimate births occurring during the marriage of the joint biological parents to each other, (b) children and their lineal descendants arising from surrogate births and/or third party donors when (i) the child is raised from or near the time of birth by a married couple (other than a same sex married couple) through the pendency of such marriage, (ii) one of such couple is the designated ancestor, and (iii) to the best knowledge of the Trustee both members of such couple participated in the decision to have such child, and (c) lawful adoptions of minors under the age of twelve years. No such child or lineal descendant loses his or her status as such through adoption by another person. Notwithstanding the foregoing, as I have adequately provided for them during my lifetime, for purposes of the dispositions made under this Trust, my children, TED S. BERNSTEIN ("*TED*") and PAMELA B. SIMON ("*PAM*"), and their respective lineal descendants shall be deemed to have predeceased the survivor of my spouse and me, provided, however, *if* my children, ELIOT BERNSTEIN, JILL IANTONI and LISA S. FRIEDSTEIN, and their lineal descendants **all** predecease the survivor of my spouse and me, then TED and PAM, and their respective lineal descendants shall not be deemed to have predeceased me and shall be eligible beneficiaries for purposes of the dispositions made hereunder.

That the alleged Trustee is aware of this language in the alleged Trust and yet files an improper pleading with misinformation despite the language that clearly and unambiguously predeceases him for all purposes of the alleged Trust. That for this reason alone the alleged Trustee should instantly be removed and this complaint stricken other than Eliot's Counter Complaint. Despite repeated requests for the alleged Trustee to resign in light of this language that is crystal clear, the alleged Trustee continues a Pattern and Practice of violations of fiduciary duties and law.

11. Shirley Bernstein was the original sole trustee of Shirley's Trust and, upon her death, was succeeded as sole trustee by Simon L. Bernstein.

**ANSWER** – Deny. Eliot lacks sufficient information, documents and knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies the same. Again, until these documents are now forensically analyzed and the original produced for inspection this document is

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alleged to be part of a series of fraudulent documents that may be legally void as challenged by Eliot already.

12. Simon L. Bernstein died on September 13, 2012.

**ANSWER** – Admit.

13. Simon L. Bernstein was succeeded as sole trustee of Shirley’s Trust by son Ted Bernstein, who presently serves as sole trustee of Shirley’s Trust.

**ANSWER** – Deny. Eliot lacks sufficient information, documentation and knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies the same. That Eliot disagrees that Shirley in one instance would remove Theodore for all purposes of the alleged Shirley Trust and then make him a Trustee ever since she considered him predeceased for all purposes of the alleged Shirley Trust and this exhibits further cause for this Court to analyze the validity and legality of this document, as it appears that Theodore may have been inserted fraudulently in efforts to illegally seize Dominion and Control of the Shirley Trust by his former Counsel who have already been removed for altering trust documents admittedly to benefit their client Theodore.

14. It is believed that Shirley Bernstein amended Shirley’s Trust by executing a document titled “First Amendment to Shirley Bernstein Trust Agreement” dated November 18, 2008. An authentic copy of the First Amendment to Shirley Bernstein Trust Agreement dated November 18, 2008 is attached as Exhibit “B”. This First Amendment has no bearing on the issue in this case.

**ANSWER** – Deny. Eliot lacks sufficient information, documentation and knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies the same. That the original of this alleged First Amendment document has also been repeatedly requested and denied. That Eliot states that this document has MASSIVE BEARING on this case as it is central to the admitted fraud committed by the alleged Trustees former counsel as admitted to the Palm Beach

County Sheriff Department by Robert L. Spallina, Esq. Further misinformation provided in this action to this Court.

15. There is another document which purports to have the same title, “First Amendment to Shirley Bernstein Trust Agreement”, which also purportedly is dated November 18, 2008. Such document, which the Trustee first learned of in mid-January 2014, is not a valid amendment to Shirley’s Trust, and has no bearing on this issue in this case.

**ANSWER – Deny.** Eliot lacks sufficient information, documentation and knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies the same. That the original of this alleged second First Amendment document has also been repeatedly requested and denied. That Eliot states that this document has **MASSIVE BEARING** on this case as it is central to the admitted fraud committed by the alleged Trustees former counsel as admitted to the Palm Beach County Sheriff Department by Robert L. Spallina, Esq. In his admission to altering documents in the Shirley Trust, on top of other fraudulently notarized and forged documents in the Estate, this document was used to advance a fraudulent scheme that benefited the alleged Trustee Theodore at the expense of the named beneficiaries in the irrevocable defined beneficiary class. Further misinformation provided in this action to this Court.

16. With regard to the Shirley Trust, the only genuine and authentic trust documents signed by Shirley during her lifetime are Exhibits “A” and “B”.

**ANSWER – Deny.** Eliot lacks sufficient information, documentation and knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies the same. Exhibits “A” and “B” are copies and no originals have been provided in four years to the beneficiaries and denied and suppressed upon repeated requests to produce them.

17. Pursuant to Shirley’s Trust, upon Shirley’s death, a “Family Trust” is created pursuant to Article II, ¶ C.1.

**ANSWER** – Deny. Eliot lacks sufficient information, documentation and knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies the same.

18. Pursuant to Shirley’s Trust, no “Marital Trust” is created, as that term is used in Article II of Shirley’s Trust.

**ANSWER** – Deny. Eliot lacks sufficient information, documentation and knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies the same.

19. Article II, ¶ E. 1. of Shirley’s Trust granted to Shirley’s surviving spouse, Simon L. Bernstein, a limited or special power of appointment over the Family Trust to or for the benefit of Shirley Bernstein’s “lineal descendants and their spouses.”

**ANSWER** – Deny. Eliot lacks sufficient information, documentation and knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies the same. Eliot does not know what a “special” power of appointment is as it does not appear mentioned in the alleged Shirley Trust. What is special is that lineal descendants according to the alleged Shirley Trust definition provided already herein is only Eliot, Lisa and Jill and their spouses, as again, Theodore, Pamela, their lineal descendants and spouses are considered predeceased for **all** purposes of the alleged Shirley Trust.

20. The Shirley Trust was funded by assets transferred to it during Shirley’s life and also was funded by the residue of her estate.

**ANSWER** – Deny. Eliot lacks sufficient information, documentation and knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies the same. That Eliot states that no accountings have been provided in either the Estate or Trusts of Shirley in now four years to the beneficiary IN GROSS VIOLATION OF PROBATE and TRUST RULES and STATUTES. That Theodore in two years acting as alleged Trustee has also failed to provide statutorily required accountings. That documentation regarding the information on the inventories

provided in Simon and Shirley's Estates have also been challenged and alleged as part of the larger theft of assets of Simon and Shirley that are under ongoing investigations and civil and federal actions that the alleged Trustee is the central suspect, with his sister Pamela and their minion of Attorneys at Law, with three already removed from the proceedings for their parts in these horrific crimes.

21. After Shirley's death, the beneficiary of the Shirley Trust was Simon L. Bernstein during the remainder of his life.

**ANSWER** – Deny. Eliot lacks sufficient information, documentation and knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies the same.

22. Upon Simon's death, the Shirley Trust provided to Simon a Limited Power to appoint the trust's assets "to or for the benefit of one or more of my [Shirley's] lineal descendants and their spouses."

**ANSWER** – Deny. Eliot lacks sufficient information, documentation and knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies the same. Eliot states again that Shirley's lineal descendants and their spouses specifically exclude for ALL purposes of the alleged Shirley Trust, Theodore and Pamela, their lineal descendants and their spouses as **PREDECEASED**.

23. The Shirley Trust provides an alternate or default disposition for any parts of the trust that Simon does not or cannot effectively appoint: such assets "shall be divided among and held in separate Trusts for my [Shirley] lineal descendants then living, per stirpes."

Deny. Eliot lacks sufficient information, documentation and knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies the same. Eliot states again that Shirley's lineal descendants and their spouses specifically exclude for ALL purposes of the alleged Shirley Trust, Theodore and Pamela, their lineal descendants and their spouses as **PREDECEASED**.



24. Simon exercised his Special Power in Article II in the Will of Simon L. Bernstein dated July 25, 2012 (“Simon’s Will”).

Deny. Eliot lacks sufficient information, documentation and knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies the same. Eliot states that everything Simon did allegedly in 2012 is challenged already to this Court in the Estate matters as Fraudulent, Forged, Improperly Notarized<sup>1</sup> and part of a larger fraud to seize illegally Dominion and Control of the Estates and Trusts and loot the Estates and Trusts of Simon and Shirley. That again, there is no defined “Special Power” in the alleged Shirley Trust and Eliot has never heard of a special power.

What the Trustee is hesitant to make clear to this Court is that it was a VERY LIMITED POWER OF APPOINTMENT.

25. An authentic copy of Simon’s Will is attached as Exhibit “C”.

**ANSWER** - Eliot lacks sufficient information, documentation and knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies the same. Exhibit C is a copy, no original has been provided in two years to the beneficiaries and it has been further denied and suppressed despite repeated requests to produce it. In fact, it has been claimed by the Curator Benjamin Brown, Esq. to Eliot that no original document may exist and that an original Will was not provided in the production from the former fiduciaries upon their resignation and removal.

26. Simon’s Will specifically references Shirley's Trust and the power given to him under subparagraph E.1 of Article II of Shirley's Trust. The relevant provision of Simon’s Will reads:

Under Subparagraph E.1. of Article II of the SHIRLEY  
BERNSTEIN TRUST AGREEMENT dated May 20, 2008, (the  
“Shirley Trust”), I was granted a special power of appointment

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<sup>1</sup> The alleged 2012 Will and alleged 2012 Amended and Restated Trust of Simon have already been found by Governor Rick Scott’s Notary Public division to be improperly notarized so as it make it unknown if Simon appeared before the Notary, a one Lindsay Baxley, the alleged Trustees personal assistant. There are other severe problems with the construction of all of these documents Simon was alleged to have signed already pled to the Court in the Estate matters.

upon my death to direct the disposition of the remaining assets of the Marital Trust and Family Trust established under the Shirley Trust. Pursuant to the power granted to me under the Shirley Trust, upon my death, I hereby direct the then serving Trustees of the Marital Trust and the Family Trust to divide the remaining assets into equal shares for my then living grandchildren and distribute said shares to the then serving Trustees of their respective trusts established under Subparagraph II.B. of my Existing Trust, as referenced below, and administered pursuant to Subparagraph II.C. thereunder.

**ANSWER – Deny.** Eliot lacks sufficient information, documentation and knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies the same. Eliot states that then living grandchildren only include grandchildren of Eliot, Lisa and Jill. As already stated, for all purposes of the alleged Shirley Trust(s) and distributions thereunder, Theodore and his lineal descendants, also known as grandchildren have been considered PREDECEASED.

27. In essence, through his Special Power, Simon directed Shirley's Trustee to divide the remaining trust assets into equal shares for his then living grandchildren, to be added to trusts established for each such grandchild under Simon's Trust.

**ANSWER - Deny.** Eliot lacks sufficient information, documentation and knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies the same. Eliot states that then living grandchildren only include grandchildren of Eliot, Lisa and Jill. As already stated, for all purposes of the alleged Shirley Trust(s) and distributions thereunder, Theodore and his lineal descendants, also known as grandchildren have been considered PREDECEASED. That Eliot further claims that Simon could not alter the Beneficiary Class of Shirley's Trust once it became irrevocable. That the Shirley Trust does not provide provision for Simon to illegally convert and distribute assets of the IRREVOCABLE Shirley Trust from her designated beneficiaries and to newly created trusts executed POST MORTEM of Simon. The alleged 2012 Simon Trust is further not a

valid legal document as it is improperly notarized and suffers from other construct defects already pled to this Court and before the Court in the Simon and Shirley Estate matters.

28. The persons identified by Simon, “his then living grandchildren,” all appear to be among the class of permitted appointees as defined in the Shirley Trust to be Shirley’s “lineal descendants and their spouses”.

**ANSWER - Deny.** Eliot lacks sufficient information, documentation and knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies the same. This statement hinges on the word “appear” and in fact the living grandchildren legally appear to be ONLY the living grandchildren of Eliot, Lisa and Jill, as Theodore, Pamela, their lineal descendant and their spouses, Deborah Bernstein and David B. Simon have ALL been considered PREDECEASED AND NOT LIVING for all purposes of the alleged Shirley Trust.

29. Because Simon exercised his power of appointment, the assets in the Shirley Trust do not pass under the Shirley Trust to the alternate, default beneficiaries: “my lineal descendants then living, per stirpes.”

**ANSWER - Deny.** Eliot lacks sufficient information, documentation and knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies the same. The lineal descendants legally are defined and appear to be ONLY Eliot, Lisa and Jill as defined in the IRREVOCABLE alleged Shirley Trust. This Class of Beneficiaries is therefore closed and unchangeable, despite what Simon is alleged to have attempted to do, as again, Theodore, Pamela, their lineal descendant, their spouses (Deborah Bernstein and David B. Simon, Esq.) have ALL been considered PREDECEASED AND NOT LIVING for all purposes of the alleged Shirley Trust and distributions made thereunder.

30. The class of permissible appointees for Simon's power (Shirley's "lineal descendants and their spouses") is different that the class of alternate/default beneficiaries (Shirley's "lineal descendants then living, per stirpes").

**ANSWER - Deny.** Eliot lacks sufficient information, documentation and knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies the same. That if Simon's alleged LIMITED POWER OF APPOINTMENT is different that Shirley's IRREVOCABLE Class of Beneficiaries than nothing Simon allegedly exercised could alter the IRREVOCABLE Class of Shirley's Beneficiaries that was unchangeable after her death by Simon. That this would be a construction flaw in Simon's alleged 2012 Amended and Restated Trust done allegedly 48 days before his passing while he was medically unfit to even make changes being of unfit mind and body at that time as pled to this Court in the Simon and Shirley Estate cases already before this Court.

31. Because Simon L. Bernstein exercised his Special Power in favor of his [and also Shirley's] grandchildren, none of Shirley's and Simon's children is a beneficiary under the Shirley Trust. Thus, it appears that neither Ted, Pam, Eliot, Lisa or Jill are to receive any portion of the assets in the Shirley Trust.

**ANSWER - Deny.** Eliot lacks sufficient information, documentation and knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies the same. Eliot states that Simon and Shirley's definition of grandchildren in the alleged dispositive documents is different and so the alleged Trustee, through careful wordsmithing games tries with his counsel to again mislead the Court that they are similar. From this statement the alleged Trustee then leap to an invalid conclusion based on faulty premises that Eliot, Lisa and Jill are not to receive any portion of the assets in Shirley's Trust. That if Simon could replace Eliot, Lisa and Jill with their children as beneficiaries is challenged as well under the alleged Shirley Trust and will have to be determined by

this Court, once of course the dispositive documents are analyzed for further evidence of forgery and fraud to see if they have also been tampered with.

32. Pursuant to Article IV.C.1., upon Simon's death, Ted became the Successor Trustee of the Shirley Trust. Ted also serves as the Successor Personal Representative of Shirley's Estate.

**ANSWER - Deny.** Eliot lacks sufficient information, documentation and knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies the same. That Theodore is alleged to have become Successor through further alleged fraud and fraudulently altering Shirley Trust documents to gain illegal Dominion and Control with his sister Pamela and their minion of Attorneys at Law who aided and abetted in these frauds. Eliot states that Theodore was appointed by this Court in error at the time as Successor Personal Representative and all the facts of the matter and newly discovered frauds had not been fully exposed and investigated and they are now. Therefore, despite what any documents may say Theodore is not now qualified to act as Trustee for a host of legally valid reasons already presented to this Court, including conflicting and adverse interests that prohibit his continued acts in any capacity in the Estates of Simon and Shirley. That Eliot also states that before this frivolous, vexatious and premature action was taken Eliot filed a Counter Complaint in yet another frivolous and vexatious action in the Oppenheimer v. Eliot and Candice Bernstein action now before the Court that is also related to the nexus of past and present frauds committed and thus this action for construction should have been filed in that case where the Shirley Trust is already a Defendant, along with Theodore, Alan and others. The Oppenheimer lawsuit is for Breach of Fiduciary Duties, Interference with an Expectancy, Legal Malpractice, Theft and more, all making Theodore further unqualified as pled in numerous pleadings filed by Eliot and the Creditor in the Simon Estate. That the next item up in the Estates are the motions to remove Theodore, including one for Your Honor to make the decision on your own initiative due to recent information showing

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assets under Theodore's control as fiduciary are now missing, which led to an Order from this Court in the Estate of Simon for re-inventorying that has not been complied with.

33. Sometime after Simon's death, a significant asset of Shirley's Trust (a condominium) was sold. The decision was made to make a partial interim distribution to all of the beneficiaries of the Shirley Trust. At the time of this decision, the Trustee was not aware of any question or issue as to Simon's right to appoint the assets to his ten grandchildren.

**ANSWER - Deny.** Eliot lacks sufficient information, documentation and knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies the same. Eliot states that the condominium was an asset of Shirley's that according to her alleged Shirley Trust was ONLY to be distributed to her legally qualified beneficiaries at the time, which the alleged Shirley Trust clearly defines as Eliot, Lisa and Jill and their lineal descendants. That at the time the condominium was sold, Theodore signed forms, including tax forms while acting as the alleged PR of the Estate of Shirley. That at that time he sold the condominium Theodore was not the successor PR and not appointed by the Court. This was in large part due to the fact that NO successor PR was chosen when Simon died to replace Simon. Then almost defying belief, Simon was further used to close the Estate of Shirley while DEAD, yes, DEAD, by Theodore's former counsel, as part of the larger fraud to illegally seize Dominion and Control of the Estates and Trusts. The series of fraudulent documents, include documents that were forged and notarized by Simon Post Mortem and that were posited for him with the Court while he was dead for four months and whereby nobody notified the Court that he was DEAD and nobody elected a new PR to legally close the Estate. That this Fraud on the Court of using a DEAD PR to close the Estate of Shirley led this Court to reopen the Estate and further delay and stymie expected inheritances. In the September 13, 2013 hearing where Your Honor first learned of these frauds on the Court, Your Honor issued the statement that you had enough evidence there and then to read Miranda Warnings to Theodore, Spallina and Tescher. That

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all distributions made from this sale were then made after Theodore and the others who took them knew at the time that their own names had been forged and documents of theirs and their father were fraudulently notarized. None of them contacted the authorities once they had this knowledge that the documents were fraudulent making them all further unqualified to act in any fiduciary matters they claim in this lawsuit and cause for all of them to be reported by this Court to the proper authorities.

34. The Trustee attempted to make a partial interim distribution to the trusts for all ten living grandchildren of Simon, into a separate trust for each grandchild under the Simon L. Bernstein Trust Dtd 9/13/12, with the respective parent of each grandchild as the trustee.

**ANSWER - Deny.** Eliot lacks sufficient information, documentation and knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies the same. The alleged Trustee made distributions to Simon's grandchildren, which the Trustee knew were not the same as Shirley's grandchildren by definition in the document he operates under, which is a defined and closed Beneficiary Class of Eliot, Jill and Lisa and their lineal descendants only, as already defined herein. This conversion and comingling of funds benefited Theodore the most and this is a classic conflict of interest where the Trustee is acting to benefit themselves rather than the true and proper legally qualified beneficiaries. How can Theodore be Trustee if he is fighting to have language that does not exist inserted into an irrevocable trust or reconstruct it to include himself and his children at the expense of others, to the tune of approximately 33% percent of the sale price. With the monies illegally converted and comingled to his sister Pamela and her lineal descendant, who also does not belong in the beneficiary class, the amount of monies goes up to 40%. That monies from the alleged Shirley's Trust were taken out and distributed through Post Mortem Trusts of Simon, created allegedly on the day he died but Eliot as of this date has never received a trust instrument for him to review but has been urged to take distributions blindly to it and waive all rights in so doing.

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35. The Trustee was able to complete the partial interim distributions to the trusts for seven of the ten living grandchildren of Simon, but not to Eliot's children. Despite having tried on numerous occasions, the Trustee was unable to make a partial interim distribution to the trusts for the other three living grandchildren (Eliot's minor children) because Eliot refused to accept these distributions.

**ANSWER – Deny.** Eliot lacks sufficient information, documentation and knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies the same. Eliot did not refuse to accept the “partial interim distributions” for any reason other than the way they were structured is through FRAUD and Eliot, as he stated to Judge Colin in the September 13, 2013 hearing would not participate in the same FRAUD that his siblings did and convert and commingle funds illegally to knowingly improper beneficiaries and after seeking the Court's approval for the transaction, this Court after careful review of the situation and having already threatened Theodore et al. with Miranda Warnings, would not give his judicial blessing on the transaction to make it viable for Eliot to do without giving any implied consent or waiving his rights to sue others for their fraud.

36. The Trustee believes that there is a disagreement between and among the children and grandchildren of Shirley Bernstein as to effect of the exercise of the power of appointment by Simon L. Bernstein and which persons are entitled to receive a distribution from the Shirley Trust.

**ANSWER – Deny.** Eliot lacks sufficient information, documentation and knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies the same. The alleged Trustee has participated in creating the disagreement with intent and scienter so as to benefit his family personally to gain 33% of a beneficial interest in something that he and his children are prohibited from having by the language in the alleged Shirley Trust. Simon's alleged power of appointment has not been verified at this time to be a legally qualified power, as the very document it comes from, the 2012 alleged Amended and Restated Trust is improperly notarized and constructed. This may be evidence of a premeditated attempt to either force Simon to sign documents while he



was suffering mental and physical symptoms that were unexplainable by his doctors, starting approximately 60 days before his death and lasting until his final breath or to his alleged murder (where MURDER was alleged to PBSO by Theodore the day Simon died, see PBSO Report at [www.iviewit.tv/](http://www.iviewit.tv/) and Theodore pointed the finger and accused his girlfriend of poisoning him). The documents allegedly signed 48 days before his death cannot even be shown to have been signed by Simon at all that day, as the notary failed to state such appearance. To further complicate matters, all the potential witnesses to the documents allegedly signed are involved directly in the proven Fraudulent Notarizations done POST MORTEM, the admitted Altercation of trusts documents done POST MORTEM and the admitted Forgeries done POST MORTEM, all of these already before the Court and challenged as fraudulent documents. These documents are also under investigation. The Trustee and others who took ILLEGAL INTERIM DISTRIBUTIONS knowingly, knew what they were doing and that everything was challenged and that their names had been forged and fraudulent notarizations affixed upon documents in the Estate of Shirley, in fact, Eliot specifically notified them all not to make any distributions to the grandchildren at all until the Court and investigators could determine what the effects of the fraudulent documents were and if they could change in any way the Shirley Class of Beneficiaries and they rushed instead to take the monies and were advised by Theodore, Spallina, Tescher, Manceri and Rose that it was legally being executed despite their knowledge that they had committed fraud to achieve the illegal distributions.

37. The disagreement and dispute involves the interpretation of the Shirley Trust and the construction of Article III.E.1 of Shirley's Trust, which defines who is Shirley Bernstein's "child", "children", and "lineal descendant" "for the purposes of the dispositions made under this Trust."

**ANSWER** – Deny. Eliot lacks sufficient information, documentation and knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies the same. There is no disagreement or dispute involving the Shirley Trust or its construction, other than the document

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appears as fraudulent and more, as it was Irrevocable and its beneficiary class sealed and so Tescher, Spallina, Theodore, Pamela and others decided to create disputes to enable them to convert and comingle funds that benefited them all to the detriment of the true and proper beneficiaries.

38. Article III.E.1 of Shirley's Trust states that, "for purposes of the dispositions made under this Trust, my children, Ted S. Bernstein ("TED") and Pamela B. Simon ("PAM") and their respective lineal descendants shall be deemed to have predeceased the survivor of my spouse and me [Shirley]".

**ANSWER** – Deny. Eliot lacks sufficient information, documentation and knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies the same. That again, the actual language states in full,

### ARTICLE III. GENERAL

#### E. Definitions. In this Agreement,

1. Children, Lineal Descendants. The terms "child," "children" and "lineal descendant" mean only persons whose relationship to the ancestor designated is created entirely by or through (a) legitimate births occurring during the marriage of the joint biological parents to each other, (b) children and their lineal descendants arising from surrogate births and/or third party donors when (i) the child is raised from or near the time of birth by a married couple (other than a same sex married couple) through the pendency of such marriage, (ii) one of such couple is the designated ancestor, and (iii) to the best knowledge of the Trustee both members of such couple participated in the decision to have such child, and (c) lawful adoptions of minors under the age of twelve years. No such child or lineal descendant loses his or her status as such through adoption by another person. Notwithstanding the foregoing, as I have adequately provided for them during my lifetime, for purposes of the dispositions made under this Trust, my children, TED S. BERNSTEIN ("TED") and PAMELA B. SIMON ("PAM"), and their respective lineal descendants shall be deemed to have predeceased the survivor of my spouse and me, provided, however, if my children, ELIOT BERNSTEIN, JILL IANTONI and LISA S. FRIEDSTEIN, and their lineal descendants all predecease the survivor of my spouse and me, then TED and PAM, and their respective lineal descendants shall not be deemed to have predeceased me and shall be eligible beneficiaries for purposes of the dispositions made hereunder.

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39. At the time of Simon's death, there were ten grandchildren who were alive: Alexandra Bernstein, Eric Bernstein, Michael Bernstein, Molly Simon, D.B., Ja. B., Jo. B., J.I., Max Friedstein and C.F.

ANSWER - Deny. Eliot lacks sufficient information, documentation and knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies the same. Again, this Court nor any party can use language from an alleged Trust that is already found to be improperly notarized and suffers from multiple other defects and may be thrown out after forensic analysis for further evidence of Fraud and Forgery by all those already proven guilty of Fraud and have admitted to Fraudulently Notarizing Post Mortem and Fraudulently Altering Trust documents with scienter. Therefore, for this Court to rule on any language in the alleged Amended and Restated Trust prior to determining its validity and authenticity and determining if it is a legally qualified document at all would be to "put the cart before the horse" and will only make things further complicated down the road, further delaying and stymieing the expected inheritances from continued fraud and legal process abuse.

40. If the exclusionary language of Article III.E.1 of Shirley's Trust applies to Simon's exercise of his Special Power, then Simon's then living grandchildren, at the time of his death, could be construed to include only D.B., Ja. B., Jo. B., J.I., Max Friedstein and C.F.

ANSWER - Deny. Eliot lacks sufficient information, documentation and knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies the same. That again the language cannot be relied upon as the documents authenticity in toto is challenged as being a Fraud and Forged document, along with the many others already proven and admitted to as Forged and Fraudulent.

41. If the exclusionary language of Article III.E.1 of Shirley's Trust does not apply to Simon's exercise of his Special Power, then the appointment would be in favor of all ten grandchildren identified in

¶40.

**ANSWER - Deny.** Eliot lacks sufficient information, documentation and knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies the same. That again the language cannot be relied upon as the documents authenticity in toto is challenged as being a Fraud and Forged document, along with the many others already proven and admitted to as Forged and Fraudulent.

42. A telephone conference occurred in May 2012 between and among Simon L. Bernstein, his lawyer Robert Spallina, each of Shirley's and Simon's children (Ted, Pam, Eliot, Jill and Lisa), and some or all of their spouses.

**ANSWER - Deny.** Eliot lacks sufficient information, documentation and knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies the same. That Eliot states that Donald Tescher was also on the line and participated in the phone call.

43. Based upon the discussions during that telephone call, there is no uncertainty that Simon L. Bernstein advised each of his children that Shirley's and Simon's wealth was going to be divided equally among all ten grandchildren.

**ANSWER - Deny.** Eliot lacks sufficient information, documentation and knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies the same. That Eliot states that Simon did not advise his children that Shirley's and Simon's wealth was going to be divided equally among all ten grandchildren. Simon in fact called the meeting as he was being extorted to either cut Theodore and Pamela back into his Estate and Trusts or face never seeing 4 out of 5 of his children's children, depriving him of 7 of 10 of his grandchildren. That this rage against Simon promulgated by Theodore and Pamela appears to have been caused by the fact that Spallina had tipped off counsel to Pamela that she and her brother Theodore were wholly excluded from the Estates and Trusts of Simon and Shirley with their lineal descendants enraging them both and leaving Simon exposed from this release of private, highly sensitive and confidential information without his consent, **see Exhibit**

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- Pamela's Attorneys Letter to Simon. That Simon asked Eliot, Jill and Lisa, if they, as the only beneficiaries of the Estates and Trusts of Simon at that time, would be willing to agree to splitting their inheritances with the 10 grandchildren instead, giving up their interests in Simon's Estate to accommodate Theodore and Pamela who were giving up NOTHING except the promise to let Simon see his grandchildren again. That Eliot, Jill and Lisa agreed in principle and requested documentation showing their interests before making any final decisions and waiving any interests, which never came and neither did the Elder Abuse from Pamela and Theodore cease until the day he died. That Waivers were the only documents ever sent and those were discarded by the Court as being FORGED and FRAUDULENTLY NOTARIZED, including two Waivers for Simon that both are fraught with perjured statements and more, as already posited with the Court in the Simon and Shirley Estate matters. Thus, Eliot could never agree to release his interests, as he was never shown the documents or his interests and thus never agreed other than in principle upon receipt of his interests to review, in fact, after Simon died, Eliot was still denied ANY documents and had to get counsel and waste thousands of dollars to get documents owed to him and/or his children and when they were finally turned over in PART, evidence of Fraud and Forgery and more became increasingly apparent in multiple documents used to advance the fraudulent schemes that took place IN AND UPON THIS COURT BY FIDUCIARIES and OFFICERS OF THIS COURT to alter documents POST MORTEM, which means Simon did not execute any changes in he or Shirley's plans as he stated to Eliot in September 2012 when he feared for his life from the rage of Theodore who was demanding he make changes and further from Simon's learning that Theodore may have stolen millions of dollars from the Creditor Stansbury. Simon closed his office with Theodore on or about this same time in fear of his life. Stansbury was Simon's close friend and business associate who was named as the Trustee and PR of Simon's Estates and Trusts and it is also believed he was named in Shirley's mirrored estate and trust documents in these positions too and that through

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document tampering was replaced with Theodore who was considered PREDECEASED for all purposes of the alleged Shirley Trust and dispositions made thereunder, raising a red flag that Theodore was inserted into this document to replace Stansbury by others POST MORTEM. Simon died weeks after allegedly signing these documents unexpectedly.

44. Each of Simon's children, including Eliot, acknowledged and agreed with Simon's stated decision to leave all of his and Shirley's wealth to the ten grandchildren.

**ANSWER - Deny.** Eliot lacks sufficient information, documentation and knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies the same. Eliot states that he never agreed to this and was never provided the documents he was to receive to make a final determination of his interests and what he would be waiving and no agreements were drafted stating what he would be waiving anything at all and defining this transfer of his wealth. In fact, waivers by all the children that were sent in May 2012 were not even returned by all parties prior to Simon's death but were then submitted to the Court fraudulent and forged to make it appear that Simon had them all while alive because his waiver stated he did have them all in April 2012, when he is alleged to have signed waivers that again turned out to be FORGED POST MORTEM AND FRAUDULENTLY NOTARIZED. That Eliot's waiver, that was later FORGED and FRAUDULENTLY NOTARIZED for him too, had an explicit statement that Eliot was only signing the document to relieve Simon's stress from the Elder Abuse by Theodore and Pamela and was not legally valid until Eliot received all the documents promised to him to make a decision that never came and still have not come as Eliot still has NEVER received accountings of his interests in violation of Probate Rules and Statutes and thus this shows that Eliot did NOT agree other than in principle if Simon were to make the changes he was contemplating and only complete when Eliot was fully informed of what was going on, as Eliot did not even know he was a beneficiary of anything until the day before the meeting.

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45. Despite Simon L. Bernstein's stated intentions and his actual exercise of his Special Power through his Will, the Trustee presently is uncertain whether to distribute assets in favor of ten or only six grandchildren, or otherwise.

**ANSWER - Deny.** Eliot lacks sufficient information, documentation and knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies the same. That Eliot states that the word intentions has no documents legally executed to support it and thereby appears that when Simon refused to make changes and found changing anything in Shirley was legally impossible, the changes were made for him POST MORTEM. Strangely, there are virtually no documents from May 2012 to September 13, 2012 when he died showing drafts of documents changing his long established Estate and Trust documents done with Shirley turned over by the former PR's and Trustees the disgraced Tescher and Spallina. Simon may have contemplated changes that ONLY Eliot, Lisa and Jill could authorize but despite that no evidence other than improper documents have been tendered in support.

46. Palm Beach County, Florida is where the Trustee administers Shirley's Trust, is the location where the books and records of Shirley's Trust are kept, and is the principal place of administration of Shirley's Trust.

**ANSWER - Deny.** Eliot lacks sufficient information, documentation and knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies the same.

47. This proceeding seeks the intervention of this Court in the administration Shirley's Trust by an interested person, the Trustee, and declaratory relief.

**ANSWER - Deny.** Eliot lacks sufficient information, documentation and knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies the same.

48. This Court has subject matter jurisdiction pursuant to Sections 736.0203 and 736.0201, Florida Statutes.

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**ANSWER** - Deny. Eliot lacks sufficient information, documentation and knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies the same.

49. Pursuant to Article III.I, Shirley's Trust is governed by the laws of the State of Florida.

**ANSWER** - Deny. Eliot lacks sufficient information, documentation and knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies the same. Again, the documents validity and ANY language thereunder is challenged as Fraud and more already and thus NOTHING can be done until it is first determined if the document is legally valid and to date Eliot despite repeated requests has not been able to inspect and analyze the original.

50. This is a judicial proceeding concerning Shirley's Trust pursuant to Section 736.0201, Florida Statutes.

**ANSWER** - Deny. Eliot lacks sufficient information, documentation and knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies the same.

51. Venue is proper in this Court pursuant to Section 736.0204, Florida Statutes.

**ANSWER** - Deny. Eliot lacks sufficient information, documentation and knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies the same.

52. Venue is appropriate in the Probate Division of this Court pursuant to Administrative Order 6.102-9/08.

**ANSWER** - Deny. Eliot lacks sufficient information, documentation and knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies the same.

53. Plaintiff Trustee is entitled to retain counsel pursuant to Article IV.A.29 of Shirley's Trust and Section 736.0816 (20), Florida Statutes.

**ANSWER** - Deny. Eliot lacks sufficient information, documentation and knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies the same.



54. Plaintiff Trustee has retained the undersigned counsel, and has agreed to pay it reasonable attorney's fees and to reimburse it for costs and may do so from Shirley's Trust.

**ANSWER - Deny.** Eliot lacks sufficient information, documentation and knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies the same.

Defendants and Potential Beneficiaries

55. Defendants Alexandra Bernstein, Eric Bernstein, and Michael Bernstein are lineal descendants of Ted S. Bernstein. Each is over the age of 18 and claims a beneficial interest in the Shirley Trust.

**ANSWER – Affirm.** Eliot affirms the names and stated age of over 18 regarding Theodore's children. Deny. Eliot lacks sufficient information, documentation and knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies the same. Eliot further states that Theodore and his lineal descendants have absolutely no beneficial interest in the Shirley Trust and that this newest attempt to convert and comingle the funds through a wordsmithing game of an alleged FRAUDULENT document that even if allowed to stand, Theodore and his lineal descendants are wholly disinherited as were the intents and desires of both Simon and Shirley. That the fact that the alleged Trustee admits herein that there are disputes between if HIS family is to receive ANY distributions again sets up a classic Conflict of Interest and yet Theodore as an alleged Trustee and Fiduciary again Breaches his Duties and continues to act in matters he is knowingly conflicted and adverse to other beneficiaries. That he is also arguing for his life as if these documents are fraudulent as others have been and is found to be part of a larger Fraud and more, he is the central accused party with his minion of Attorneys at Law who have all broken laws to aid their friend and business associate Theodore and themselves.

56. Defendant Molly Simon is a lineal descendant of Defendant Pamela B. Simon. She is over the age of 18 and claims a beneficial interest in the Shirley Trust.

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**ANSWER** – Affirm. Eliot affirms the names and stated age of over 18 regarding Pamela’s child. Deny. Eliot lacks sufficient information, documentation and knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies the same. Eliot further states that Pamela and her lineal descendant have absolutely no beneficial interest in the Shirley Trust and that this newest attempt to convert and comingle the funds through a wordsmithing game of an alleged FRAUDULENT document that even if allowed to stand, Theodore and his lineal descendants are wholly disinherited as were the intents and desires of both Simon and Shirley.

57. Defendant Pamela B. Simon, Individually and as Trustee f/b/o Molly Simon under the Simon L. Bernstein Trust Dtd 9/13/12, is over the age of 18. As Trustee, she claims a beneficial interest in the Shirley Trust, and individually also may claim a beneficial interest in the Shirley Trust.

**ANSWER** – Deny. Eliot lacks sufficient information, documentation and knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies the same. Eliot further states that Pamela and her lineal descendants have absolutely no beneficial interest in the alleged Shirley Trust and that this newest attempt to convert and comingle the funds through a wordsmithing game of an alleged FRAUDULENT document evidences further fraud even if the document were later allowed to stand. Pamela and her lineal descendants are wholly disinherited as were the intents and desires of both Simon and Shirley. That Pamela is also arguing for her life as if these documents are fraudulent as others have been and is found to be part of a larger Fraud and more, she is one of the central accused party that benefited her and where she allowed distributions acting as Trustee for her child while knowing of fraudulent documents and that the beneficiaries as stated did not include her and her lineal descendants.

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Ted S. Bernstein is the Trustee of three separate trusts created f/b/o Alexandra, Eric and Michael Bernstein under the Simon L. Bernstein Trust Dtd 9/13/12. Solely in the capacity as Trustee of each of these three trusts, each of which received an partial interim distribution, Ted S. Bernstein has signed a Receipt of Partial Distribution, agreeing to return the distribution if the Court determines that the distribution should not have been made. Ted S. Bernstein believes that the power of appointment was validly exercised by Simon L. Bernstein and that the prior partial interim distributions were proper; however, individually he takes no position in this lawsuit and agrees to abide by any final, non-appealable order entered by this Court with respect to the construction of the Shirley Trust. Ted S. Bernstein, individually, makes no claim of entitlement to any individual right to receive any devise, bequest, inheritance or beneficial interest in any portion of the Shirley Trust or her estate.

**ANSWER** – Deny. Eliot lacks sufficient information, documentation and knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies the same.

That Eliot believes that no Receipts were initially signed or agreement to return the ILLEGAL and IMPROPER distributions made to parties knowing they were committing fraud and ignoring repeated warnings and that these documents are further an effort to cover up their crimes by adding POST distribution documents to cover their crimes when the authorities began contacting them. That Eliot states the statement that Theodore takes “no position in this lawsuit” is a flat out lie as Theodore is the Plaintiff and Theodore is acting as Trustee for his children and stands to gain the most if this attempted FRAUD ON THE COURT and FRAUD ON THE BENEFICIARIES, INTERESTED PARTIES and CREDITOR and these two positions are conflicting and cause adverse interests with other beneficiaries.

58. D.B., Ja. B. and Jo. B. are minors and are lineal descendants of Defendant Eliot Bernstein, who is their father and claims on behalf of each minor child a beneficial interest in the Shirley Trust.

**ANSWER** – Admit in Part. The names and relation to Eliot of his children. Deny. Eliot lacks sufficient information, documentation and knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies the same. Eliot also does not claim that his minor

children have a beneficial interest in the Shirley Trust directly and only as Eliot's lineal descendants would they inure interests.

59. Eliot Bernstein, Individually, as Trustee f/b/o D.B., Ja. B. and Jo. B. under the Simon L. Bernstein Trust Dtd 9/13/12, and on behalf of his minor children D.B., Ja. B. and Jo. B., is over the age of 18. As Trustee, he claims a beneficial interest in the Shirley Trust, and individually also may claim a beneficial interest in the Shirley Trust.

**ANSWER** –Deny. Eliot lacks sufficient information, documentation and knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies the same. Eliot states that he is not Trustee of D.B., Ja. B. and Jo. B. trusts created allegedly POST MORTEM under the challenged Simon L. Bernstein Trust Dtd 9/13/12 and that he has never seen a copy of any such trusts allegedly created under an alleged legally void document.

60. J.I. is a minor and a lineal descendant of Jill Iantoni, who is her mother and claims on behalf of her minor child a beneficial interest in the Shirley Trust.

**ANSWER** – Admit in Part. The names and relation of Jill and her child. Deny. Eliot lacks sufficient information, documentation and knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies the same. Eliot states that Jill, not her child directly has a beneficial interest in the alleged Shirley Trust.

61. Jill Iantoni, Individually, as Trustee f/b/o J.I. under the Simon L. Bernstein Trust Dtd 9/13/12, is over the age of 18. As Trustee, she claims a beneficial interest in the Shirley Trust, and individually also may claim a beneficial interest in the Shirley Trust.

**ANSWER** – Deny. Eliot lacks sufficient information, documentation and knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies the same.

62. Defendant Max Friedstein is a lineal descendant of Defendant Lisa Friedstein. He is over the age of 18 and claims a beneficial interest in the Shirley Trust.

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**ANSWER** – Admit in Part. The names and relation of Lisa and her child. Deny. Eliot lacks sufficient information, documentation and knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies the same. Eliot states that Lisa, not her child directly has a beneficial interest in the alleged Shirley Trust.

63. C.F. is a minor and lineal descendant of Lisa Friedstein, who is her mother and claims on behalf of her minor child a beneficial interest in the Shirley Trust.

**ANSWER** – Deny. Eliot lacks sufficient information, documentation and knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies the same.

64. Lisa Friedstein, Individually, as Trustee f/b/o Max Friedstein and C.F. under the Simon L. Bernstein Trust Dtd 9/13/12, and on behalf of her minor child, C.F., is over the age of 18. As Trustee, she claims a beneficial interest in the Shirley Trust, and individually also may claim a beneficial interest in the Shirley Trust.

**ANSWER** – Deny. Eliot lacks sufficient information, documentation and knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies the same.

65. Each of the Defendants is subject to personal jurisdiction pursuant to Section 736.0202, Florida Statutes.

**ANSWER** – Deny. Eliot lacks sufficient information, documentation and knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies the same.

WHEREFORE, Defendant, Eliot Bernstein, respectfully requests that this lawsuit be dismissed or stayed until the documents it relies upon are thoroughly investigated and inspected by the beneficiaries and this Court and the Court determines if the document can legally stand or to simply dismiss this lawsuit based on parties that have no legal interest in the Shirley Trust filing it to make prior conversions and comingling done fraudulently be somehow rewritten to make the documents fit the crime and thus is further FRAUD ON THIS COURT and FRAUD ON THE

BENEFICIARIES TO INTENTIONALLY DELAY AND INTERFERE WITH EXPECTANCIES.

That any dismissal of the Plaintiffs lawsuit still retain Eliot's rights to his Counter Complaint for damages and Eliot requests such other and further relief as the Court deems just and proper.

COUNT I –DECLARATORY AND OTHER RELIEF

66. Trustee restates the allegations contained in Paragraphs 1-65.

**ANSWER** – Deny. Eliot lacks sufficient information, documentation and knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies the same.

67. This is a cause of action to ascertain beneficiaries, to determine a question arising in the administration or distribution of Shirley's Trust, to obtain a declaration of rights, and to instruct and discharge the trustee.

**ANSWER** – Deny. Eliot lacks sufficient information, documentation and knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies the same.

68. This cause of action seeks a declaration and other relief or intervention by this Court as to who should receive Shirley's Trust; whether and to what extent Simon L. Bernstein's exercise of his limited or special power of appointment pursuant to his will should be given effect; which if either of the documents titled First Amendment of Shirley's Trust is valid; to whom the Trustee should distribute the assets of Shirley's Trust; and a discharge of the Trustee.

**ANSWER** – Deny. Eliot lacks sufficient information, documentation and knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies the same.

69. It is in doubt as to whether Eliot Bernstein adequately represents the interests of his minor children and whether there are conflicts of interest between Eliot and the interests of his minor children, each of whom is expressly named in the Special Power.

**ANSWER** – Deny. Eliot lacks sufficient information, documentation and knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies the same. That Eliot has admitted to this Court that he is directly conflicted with his children due to the frauds taking place and Eliot sought separate and distinct counsel to parse the conflict as is required. By this statement, the Trustee is admitting that all the children of Shirley are conflicted with their children similar to Eliot and yet Eliot is the only one who sought separate and distinct counsel for he and his children to avoid this Breach of Fiduciary Duty as a Trustee of his children as required by Probate Rules and Statutes.

70. This is an action for declaratory relief pursuant to Chapter 86 of the Florida Statutes and seeking the intervention of the Court in the administration of the Trust, pursuant to Section 736.0201, Florida Statutes.

**ANSWER** – Deny. Eliot lacks sufficient information, documentation and knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies the same.

71. The Trustee, and the Trust, will suffer irreparable harm if relief is not granted.

**ANSWER** – Deny. Eliot lacks sufficient information, documentation and knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies the same. That Eliot states massive irreparable harm has already come from the Fraud that has interfered and delayed inheritances by Officers and Fiduciaries under the tutelage of this Court, including both Theodore and Alan who are alleged central parties in advancing the frauds and more.

72. There is no other adequate remedy at law.

**ANSWER** – Deny. Eliot lacks sufficient information, documentation and knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies the same.

73. The relief sought constitutes and deals with a bona fide question between the Trustee and the Defendants.

**ANSWER** – Deny. Eliot lacks sufficient information, documentation and knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies the same.

74. The declaration sought deals with a present state of facts or presents a controversy as to a state of facts.

**ANSWER** – Deny. Eliot lacks sufficient information, documentation and knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies the same.

75. The Trustee has a justiciable question and has a bona fide, actual, and present practical need for a declaration from this Court.

**ANSWER** – Deny. Eliot lacks sufficient information, documentation and knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies the same.

76. The Trustee's rights, duties, and obligations are dependent upon the facts or law applicable to the facts.

**ANSWER** – Deny. Eliot lacks sufficient information, documentation and knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies the same.

77. The seeds of litigation are ripening such that a declaration from this Court will benefit the Trust.

**ANSWER** – Deny. Eliot lacks sufficient information, documentation and knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies the same. That Eliot states that the only seeds ripening at this time are the seeds of fraud that are under multiple ongoing state and federal investigations and civil actions, all involving a mass of fraudulent acts to convert, comeingle and outright steal assets in what is alleged to be anywhere from 40-100 million dollars as Alan has stated in prior pleadings to this Court in the probate cases of Simon and Shirley.

78. Further, to the extent that the Court determines any prior interim distribution to have been improper, Plaintiff seeks supplemental relief in the form of an order directing and compelling the recipients of the any and all such distributions to return the funds. To date, funds were distributed to Lisa



Friedstein, as Trustee for Max Friedstein and C.F.; Jill Iantoni, as Trustee for J.I.; Pamela B. Simon, as Trustee for Molly; and Ted S. Bernstein, as Trustee for Alexandra, Eric and Michael. Eliot as Trustee for his three children refused the interim distribution, even though it appears that his minor children should receive some distribution under the exercise of the Special Power. Each of the trustees who received a distribution for their children signed a Receipt of Partial Distribution, agreeing to return the distribution if the Court determines that the distribution should not have been made.

**ANSWER** – Deny. Eliot lacks sufficient information, documentation and knowledge to form a belief as to the truth of the allegations of this paragraph and therefore denies the same. That Eliot states the distributions were not just improper but **ILLEGAL** and felonious conversions and comingling done knowingly and with scienter by those who took them, all against the advice of Eliot and his counsel and others. Note that Eliot is the only party that did not have to sign anything about receiving improper illegal fraudulent distributions that he converted and comingled to improper parties with knowledge that it was illegal. That for these reasons, again, Eliot suggests Guardians for the children of each child of Simon and Shirley’s who knowingly did these fraudulent distributions, knowing of fraudulent and forged documents in their own names and their father’s name and failed to take any legally required steps to report the crimes, in fact suppressing their knowledge, while acting as Fiduciaries for their children are unfit to be Trustees to their children any longer.

79. “Plaintiff, TED BERNSTEIN, as trustee of the Shirley Bernstein Trust Agreement dated May 20, 2008, as amended (the “Trust”), files this Complaint against and provides notice to those interested in the Trust, Defendants, ALEXANDRA BERNSTEIN; ERIC BERNSTEIN; MICHAEL BERNSTEIN; MOLLY SIMON; PAMELA B. SIMON, Individually and as Trustee f/b/o Molly Simon under the Simon L. Bernstein Trust Dtd 9/13/12; ELIOT BERNSTEIN, individually, as Trustee f/b/o D.B., Ja. B., and Jo. B. under the Simon L. Bernstein Trust Dtd 9/13/12, and on behalf

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of his minor children D.B., Ja. B., and Jo. B.; JILL IANTONI, Individually, as Trustee f/b/o J.I. under the Simon L. Bernstein Trust Dtd 9/13/12, and on behalf of her Minor child J.I.; MAX FRIEDSTEIN; LISA FRIEDSTEIN, Individually, as Trustee f/b/o Max Friedstein and C.F. under the Simon L. Bernstein Trust Dtd 9/13/12, and on behalf of her minor child, C.F., and states that at all times relevant.”

**ANSWER** – Deny. Theodore is alleged to be Trustee through a fraudulent document and that document needs to be further analyzed by beneficiaries and authorities to determine its alleged authenticity. That Theodore’s Trustee would be doomed even if he were named in the document as he is firmly stated to be PREDECEASED for ALL purposes of the alleged Shirley Trust and distributions made thereunder and thus is not now qualified as Ted is dead for all purposes of this trust and distributions made thereunder. That the alleged Defendants are not at all named as beneficiaries in the Shirley Trust and are prohibited from being included as the Shirley Trust is irrevocable with a specific beneficiary class and trusts created thereunder that already exist and could not be altered Post Mortem by any party. These alleged Defendant trusts are created years after Shirley’s death and after Simon’s death as well and are alleged to be part of fraudulent conversion of benefits to improper parties. That Eliot has never seen or been given any such trusts in he or his children’s names as listed by the alleged Trustee as Defendants and knows not who has executed these or how.

WHEREFORE, Defendant, Eliot Bernstein, respectfully requests that this lawsuit be dismissed or stayed until the documents it relies upon are thoroughly investigated and inspected by the beneficiaries and this Court and the Court determines if the ALLEGED dispositive documents can legally stand. Or simply dismiss this lawsuit based on the fact that the parties that have no legal interest and standing in the Shirley Trust and this lawsuit is a further Fraud on the Court by Officers

of this Court and Fiduciaries to attempt to make prior conversions and comingling done fraudulently somehow now post criminal acts legal. This attempt by using this TOXIC, VEXATIOUS, FRIVOLOUS, HARASSING and COSTLY pleading make the documents now fit the crimes. Thus is yet another FRAUD ON THIS COURT and FRAUD ON THE BENEFICIARIES TO INTENTIONALLY DELAY AND INTERFERE WITH EXPECTANCIES. That any dismissal of the Plaintiffs lawsuit however retain all Eliot's rights to his Counter Complaint for damages and Eliot requests such other and further relief as the Court deems just and proper.

Filed on Wednesday, July 30, 2014

Eliot Bernstein, Pro Se, Individually and as legal guardian on behalf of his three minor 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, Wednesday, July 30, 2014.

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

X\_\_\_\_\_

**SERVICE LIST**

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ANSWER

Wednesday, July 30, 2014

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ANSWER

Wednesday, July 30, 2014

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ANSWER

Wednesday, July 30, 2014

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ANSWER

Wednesday, July 30, 2014

Page 39 of 112

IN THE CIRCUIT COURT OF THE 15TH  
JUDICIAL CIRCUIT, IN AND FOR PALM  
BEACH COUNTY, FLORIDA

CASE NO. 502014CP002815XXXXSB  
HONORABLE MARTIN COLIN

Eliot Ivan Bernstein, Individually and as Natural  
Guardian for Joshua Ennio Zander Bernstein,  
Jacob Noah Archie Bernstein;  
Candice Michelle Bernstein, Individually and  
as Natural Guardian for Joshua Ennio Zander  
Bernstein, Jacob Noah Archie Bernstein;

JURY TRIAL REQUESTED

Plaintiffs,

v.

Alan B. Rose, Personally and Professionally;  
Theodore Stuart Bernstein, Personally and as  
alleged Trustee of the Shirley Bernstein Trust;  
John and Jane Does 1-5000;

Defendants,

---

DECLARATION THAT THIS PROCEEDING AND OTHERS RELATED ARE ADVERSARY

The Undersigned, Eliot Ivan Bernstein, alleges:

1. There is now pending in the above Estates and Trusts of Simon and Shirley Bernstein proceedings in addition to this proceeding Case No. 502014CP002815XXXXSB the,
  - i. 502012CP004391XXXXSB Simon Bernstein Estate;
  - ii. 502011CP000653XXXXSB Shirley Bernstein Estate;
  - iii. Simon Bernstein Amended and Restated Trust;
  - iv. Shirley Bernstein Trust Agreement;
  - v. 502014CP002815XXXXSB Trusts created for the benefit of Joshua, Jacob and Daniel Bernstein.

DECLARATION THAT THIS PROCEEDING AND OTHERS RELATED ARE ADVERSARY

Wednesday, July 30, 2014



2. Pursuant to Florida Probate Rule, 5.025(b), the undersigned hereby declares the proceedings to be adversary.
3. Hereafter all proceedings relating thereto, as nearly as practicable, shall be constructed similar to suits of a civil nature, and the Florida Rules of Civil Procedure shall govern.

Under penalties of perjury, I declare that I have read the foregoing, and the facts alleged are true, to the best of my knowledge and belief.

Signed on **Wednesday, July 30, 2014**,

---

Declarant

Eliot Bernstein, Pro Se, Individually and as  
legal guardian on behalf of his three minor  
children.  
2753 NW 34<sup>th</sup> Street  
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**SERVICE LIST**

DECLARATION THAT THIS PROCEEDING AND OTHERS RELATED ARE ADVERSARY

**Wednesday, July 30, 2014**

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DECLARATION THAT THIS PROCEEDING AND OTHERS RELATED ARE ADVERSARY

Wednesday, July 30, 2014

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IN THE CIRCUIT COURT OF THE 15TH  
JUDICIAL CIRCUIT, IN AND FOR PALM  
BEACH COUNTY, FLORIDA

CASE NO. 502014CP002815XXXXSB

ELIOT BERNSTEIN, INDIVIDUALLY AND  
IN HIS CAPACITY AS PARENTS AND AS  
NATURAL GUARDIAN OF JOSHUA,  
JAKE AND DANIEL BERNSTEIN, MINORS,

HON. JEFFREY DANA GILLEN  
TRANSFERRED TO HON. MARTIN  
COLIN  
JURY TRIAL REQUESTED

Plaintiffs,

v.

1. Tescher & Spallina, P.A., and all Partners  
Associates and of Counsel;
2. Robert L. Spallina, Esq., Personally;
3. Robert L. Spallina, Esq., Professionally;
4. Donald R. Tescher, Esq., Personally;
5. Donald R. Tescher, Esq., Professionally;
6. Gutter Chaves Josepher Rubin Forman Fleisher Miller, P.A.
7. Theodore Stuart Bernstein, Individually;
8. Theodore Stuart Bernstein, as alleged  
Trustee of the Shirley Bernstein Trust;
9. Theodore Bernstein as alleged Personal Representative;
10. Lisa Sue Friedstein, Individually;
11. Jill Marla Iantoni, Individually;
12. Pamela Beth Simon, Individually;
13. Mark Manceri, Esq., Personally;
14. Mark Manceri, Esq., Professionally;
15. Mark R. Manceri, P.A., and all Partners, Associates  
and of Counsel;
16. Page, Mrachek, Fitzgerald & Rose, P.A., and all Partners  
Associates and of Counsel;
17. Alan B. Rose, Esq. – Personally;
18. Alan B. Rose, Esq. – Professionally;
19. Pankauski Law Firm PLLC, and all Partners,  
Associates and of Counsel;
20. John J. Pankauski, Esq. – Personally;
21. John J. Pankauski, Esq. – Professionally;
22. Kimberly Francis Moran – Personally;
23. Kimberly Francis Moran – Professionally;
24. Lindsay Baxley aka Lindsay Giles – Personally;
25. Lindsay Baxley aka Lindsay Giles – Professionally;
26. “Simon L. Bernstein Amended and Restated  
Trust Agreement” Dated July 25, 2012;

- 27. Simon Bernstein Trust Agreement Dated 2008;
- 28. Shirley Bernstein Trust Agreement Dated 2008;

**JOHN AND JANE DOE'S (1-5000).**

Defendants,

- 29. JUDGE MARTIN COLIN, PERSONALLY;
- 30. JUDGE MARTIN COLIN,  
PROFESSIONALLY;
- 31. JUDGE DAVID FRENCH, PERSONALLY;
- 32. JUDGE DAVID FRENCH,  
PROFESSIONALLY;

Material and Fact Witnesses who may become  
Defendants in any amended complaint.

\_\_\_\_\_ /

### **COUNTER COMPLAINT**

Comes now, Plaintiffs, Eliot Ivan Bernstein (“Eliot”) Individually, PRO SE<sup>2</sup> and as the Natural Guardians of his three minor children and sues the following parties, hereby demanding trial by jury of all issues so triable and so states, **on information and belief:**

### **Parties, Jurisdiction and Venue**

1. This is an action for money damages in excess of \$15,000.00 and for equitable, compensatory, punitive and other reliefs.

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

**COUNTER COMPLAINT**

**Wednesday, July 30, 2014**

Page 2

2. Plaintiffs, Eliot Ivan Bernstein (“Eliot”) is the parent and natural guardians of minors, Joshua Ennio Zander Bernstein (“Joshua”) or (“Josh”), Jacob Noah Archie Bernstein (“Jacob”) or (“Jake”) and Daniel Elijsa Abe Ottomo Bernstein (“Daniel”) or (“Danny”), and reside with them in Palm Beach County, Florida.

3. Defendant, Theodore Stuart Bernstein (“Theodore”) or (“Ted”), Individually, is a resident of Florida and a central defendant in all allegations contained herein.

4. Defendant, Theodore Bernstein as the,

i. Personal Representative and Fiduciary of the ESTATE AND WILL OF SHIRLEY BERNSTEIN (2008);

ii. alleged Successor Trustee and Fiduciary of the SHIRLEY BERNSTEIN TRUST AGREEMENT (2008);

iii. alleged Successor Trustee and Fiduciary of the SIMON L. BERNSTEIN AMENDED AND RESTATED TRUST AGREEMENT (2012);

iv. as the alleged Trustee and Fiduciary of the SIMON L. BERNSTEIN TRUST AGREEMENT (2008);

v. as alleged Successor Trustee and Fiduciary of the MARITAL TRUST and FAMILY TRUST created by SHIRLEY BERNSTEIN TRUST (2008);

vi. as the alleged Trustee and Fiduciary of the SIMON BERNSTEIN IRREVOCABLE INSURANCE TRUST DATED 6/21/1995;

vii. as an alleged Trustee and Fiduciary of the SIMON L. BERNSTEIN IRREVOCABLE TRUST AGREEMENT (2008);

viii. as alleged Manager of Bernstein Family Realty LLC;

ix. an Employee, Officer and Director of LIC Holdings, Inc.;



- x. as alleged Trustee and Fiduciary to the WILMINGTON TRUST 088949-000 SIMON L BERNSTEIN IRREVECOBABLE TRUST;
- xi. as an Officer, Director, Shareholder of Life Insurance Concepts, Inc. of all of the following; Defendant, LIC Holding, Inc.; LIC Holdings, LLC; CFC of Delaware, LLC.; Life Insurance Connection, Inc.; TSB Holdings, LLC; TSB Investments LLLP; Life Insurance Concepts, LLC; Life Insurance Innovations, Inc.; Arbitrage International Management LLC; Arbitrage International Marketing, Inc.; Arbitrage International Holdings, LLC; Total Brokerage Solutions LLC; Cambridge Financing Company; National Service Association, Inc.; National Service Corp (Florida);
- xii. as plan administrator and Trustee for, National Services Pension Plan; Arbitrage International Marketing, Inc. 401 (K) Plan.

5. Defendant, Pamela Beth Simon (“Pamela”) or (“Pam”), Individually, is a resident of Illinois.

6. Defendant, Robert Spallina, Esq. (“Spallina”), Individually, is a resident of Florida.

7. Defendant, Robert Spallina, Esq., Professionally, is a resident of Florida and a central defendant in all allegations contained herein.

8. Defendant, Robert L. Spallina, Esq. as the **former**,

- i. Co-Personal Representative, Counsel and Fiduciary of the ESTATE and WILL OF SIMON BERNSTEIN (2012);
- ii. Co-Trustee, Counsel and Fiduciary of the alleged SIMON L. BERNSTEIN AMENDED AND RESTATED TRUST AGREEMENT (2012);
- iii. Counsel to the Co-Personal Representatives and Co-Trustees of the alleged WILL OF SIMON BERNSTEIN (2012);
- iv. Counsel to the Co-Personal Representatives and Co-Trustees of the alleged SIMON L. BERNSTEIN AMENDED AND RESTATED TRUST AGREEMENT (2012);

- v. Trustee, Counsel and Fiduciary of the SIMON L. BERNSTEIN IRREVOCABLE TRUST AGREEMENT (2008);
- vi. Trustee and Fiduciary of the MARITAL TRUST and FAMILY TRUST created by SHIRLEY BERNSTEIN TRUST (2008);
- vii. Trustee, Counsel and Fiduciary of the SIMON BERNSTEIN IRREVOCABLE INSURANCE TRUST DATED 6/21/1995;
- viii. Trustee, Counsel and Fiduciary of the SIMON L. BERNSTEIN TRUST AGREEMENT (2008);
- ix. Personal Representative, Fiduciary and Counsel to the ESTATE and WILL OF SIMON BERNSTEIN (2008);
- x. Trustee, Fiduciary and Counsel to the SIMON BERNSTEIN IRREVOCABLE TRUST U/A 9/7/06;
- xi. Trustee, Fiduciary and Counsel to the SHIRLEY BERNSTEIN IRREVOCABLE TRUST U/A 9/7/06;
- xii. Trustee, Fiduciary and Counsel to the WILMINGTON TRUST 088949-000 SIMON L BERNSTEIN IRREVECOBABLE TRUST;
- xiii. Counsel to the Personal Representative and Fiduciary Simon Bernstein and Successor Personal Representative Theodore Bernstein for the ESTATE AND WILL OF SHIRLEY BERNSTEIN (2008);
- xiv. Counsel to the Trustee and Fiduciary Simon Bernstein and Successor Trustee Theodore Bernstein for the SHIRLEY BERNSTEIN TRUST AGREEMENT (2008);

- xv. Counsel to the alleged Successor Trustee and Fiduciary Theodore Bernstein of the MARITAL TRUST and FAMILY TRUST created by SHIRLEY BERNSTEIN TRUST (2008);
- xvi. Trustee, Fiduciary and Counsel to the ELIOT BERNSTEIN FAMILY TRUST DATED MAY 20, 2008;
- xvii. Trustee, Fiduciary and Counsel to the SHIRLEY BERNSTEIN IRREVOCABLE TRUST U/A 9/7/06;
- xviii. Trustee, Fiduciary and Counsel to the SIMON BERNSTEIN IRREVOCABLE TRUST U/A 9/7/06;
- xix. Trustee, Fiduciary and Counsel to the DANIEL BERNSTEIN IRREVOCABLE TRUST DATED SEPTEMBER 7, 2006;
- xx. Trustee, Fiduciary and Counsel to the JAKE BERNSTEIN IRREVOCABLE TRUST DATED SEPTEMBER 7, 2006;
- xxi. Trustee, Fiduciary and Counsel to the JOSHUA Z. BERNSTEIN IRREVOCABLE TRUST DATED SEPTEMBER 7, 2006;
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- xxiv. Counsel to the Defendant, JOSHUA Z BERNSTEIN IRREVOCABLE TRUST 07-JUL-10 0497381;
- xxv. Counsel and Registered Agent to the Defendant, BERNSTEIN FAMILY REALTY, LLC;
- xxvi. Counsel, Registered Agent and Manager of Bernstein Holdings LLC;
- xxvii. Counsel and Registered Agents for Bernstein Family Investments LLLP;

xxviii. Counsel and Trustee to Defendants, Trust f/b/o Joshua Bernstein under the Simon L. Bernstein Trust dtd 9/13/2012; Trust f/b/o Daniel Bernstein under the Simon L. Bernstein Trust dtd 9/13/2012; Trust f/b/o Jake Bernstein under the Simon L. Bernstein Trust dtd 9/13/2012.

9. Defendant, Donald R. Tescher, Esq. (“Tescher”), Personally, is a resident of Florida.

10. Defendant, Donald R. Tescher, Esq., Professionally, is a resident of Florida and a central defendant in all allegations contained herein.

11. Defendant, Donald Tescher, Esq. as the **former**,

- i. Co-Personal Representative, Counsel and Fiduciary of the ESTATE and WILL OF SIMON BERNSTEIN (2012);
- ii. Co-Trustee, Counsel and Fiduciary of the alleged SIMON L. BERNSTEIN AMENDED AND RESTATED TRUST AGREEMENT (2012);
- iii. Counsel to the Co-Personal Representatives and Co-Trustees of the alleged WILL OF SIMON BERNSTEIN (2012);
- iv. Counsel to the Co-Personal Representatives and Co-Trustees of the alleged SIMON L. BERNSTEIN AMENDED AND RESTATED TRUST AGREEMENT (2012);
- v. Trustee, Counsel and Fiduciary of the SIMON L. BERNSTEIN IRREVOCABLE TRUST AGREEMENT (2008);
- vi. Trustee and Fiduciary of the MARITAL TRUST and FAMILY TRUST created by SHIRLEY BERNSTEIN TRUST (2008);
- vii. Trustee, Counsel and Fiduciary of the SIMON BERNSTEIN IRREVOCABLE INSURANCE TRUST DATED 6/21/1995;
- viii. Trustee, Counsel and Fiduciary of the SIMON L. BERNSTEIN TRUST AGREEMENT (2008);

- ix. Personal Representative, Fiduciary and Counsel to the ESTATE and WILL OF SIMON BERNSTEIN (2008);
- x. Trustee, Counsel and Fiduciary of the SIMON BERNSTEIN IRREVOCABLE TRUST U/A 9/7/06;
- xi. Trustee, Fiduciary and Counsel to the SHIRLEY BERNSTEIN IRREVOCABLE TRUST U/A 9/7/06;
- xii. Trustee, Fiduciary and Counsel to the WILMINGTON TRUST 088949-000 SIMON L BERNSTEIN IRREVECOBABLE TRUST;
- xiii. Counsel to the Personal Representative and Fiduciary Simon Bernstein and Successor Personal Representative Theodore Bernstein for the ESTATE AND WILL OF SHIRLEY BERNSTEIN (2008);
- xiv. Counsel to the Trustee and Fiduciary Simon Bernstein and Successor Trustee Theodore Bernstein for the SHIRLEY BERNSTEIN TRUST AGREEMENT (2008);
- xv. Counsel to the alleged Successor Trustee and Fiduciary Theodore Bernstein of the MARITAL TRUST and FAMILY TRUST created by SHIRLEY BERNSTEIN TRUST (2008);
- xvi. Trustee, Fiduciary and Counsel to the ELIOT BERNSTEIN FAMILY TRUST DATED MAY 20, 2008;
- xvii. Trustee, Fiduciary and Counsel to the SHIRLEY BERNSTEIN IRREVOCABLE TRUST U/A 9/7/06;
- xviii. Trustee, Fiduciary and Counsel to the SIMON BERNSTEIN IRREVOCABLE TRUST U/A 9/7/06;
- xix. Trustee, Fiduciary and Counsel to the DANIEL BERNSTEIN IRREVOCABLE TRUST DATED SEPTEMBER 7, 2006;

xx. Trustee, Fiduciary and Counsel to the JAKE BERNSTEIN IRREVOCABLE TRUST  
DATED SEPTEMBER 7, 2006;

xxi. Trustee, Fiduciary and Counsel to the JOSHUA Z. BERNSTEIN IRREVOCABLE  
TRUST DATED SEPTEMBER 7, 2006;

xxii. Counsel to the DANIEL BERNSTEIN IRREVOCABLE TRUST 07-JUL-10 049738;

xxiii. Counsel to the Defendant, JAKE BERNSTEIN IRREVOCABLE TRUST 07-JUL-10  
0497381;

xxiv. Counsel to the Defendant, JOSHUA Z BERNSTEIN IRREVOCABLE TRUST 07-JUL-  
10 0497381;

xxv. Counsel and Registered Agent to the Defendant, BERNSTEIN FAMILY REALTY,  
LLC;

xxvi. Counsel, Registered Agent and Manager of Bernstein Holdings LLC;

xxvii. Counsel and Registered Agent for Bernstein Family Investments LLLP;

xxviii. Counsel and Trustee to Defendants, Trust f/b/o Joshua Bernstein under the Simon L.  
Bernstein Trust dtd 9/13/2012; Trust f/b/o Daniel Bernstein under the Simon L.  
Bernstein Trust dtd 9/13/2012; Trust f/b/o Jake Bernstein under the Simon L. Bernstein  
Trust dtd 9/13/2012.

12. Defendant, Gutter Chaves Josepher Rubin Forman Fleisher Miller, P.A., is domiciled in Florida and  
was Counsel to Simon and Shirley Bernstein for Estate planning work and more prior to Donald  
Tescher's removal from that firm and forming Tescher & Spallina, P.A. on or about the time that  
Simon became a client of the firm.

13. Defendant, Tescher & Spallina, P.A. ("TSPA") is domiciled in Florida and was Counsel to Simon  
and Shirley Bernstein for Estate planning and more.

14. Defendant, Mark Manceri, Esq. ("Manceri"), Personally, is a resident of Florida.

15. Defendant, Mark Manceri, Esq., Professionally, is a resident of Florida and as, Counsel to the Defendant, BERNSTEIN FAMILY REALTY, LLC; Counsel to Defendants Tescher and Spallina; Counsel to Defendant Theodore Bernstein as an Individual; Counsel to Theodore Bernstein as alleged Successor Trustee of Shirley Bernstein Trust Agreement 2008; Counsel to Theodore Bernstein as Personal Representative of the Estate and Will of Shirley Bernstein; Counsel to the Estate and Will of Simon Bernstein 2012.
16. Defendant, Mark R. Manceri, P.A. (“MRMPA”) is domiciled in Florida.
17. Defendant, Page, Mrachek, Fitzgerald & Rose, P.A. (“PMFR”) is domiciled in Florida.
18. Defendant, Alan B. Rose, Esq., (“Alan”), Personally, is a resident of Florida.
19. Defendant, Alan B. Rose, Esq., Professionally, is a resident of Florida and as Counsel to Defendant Theodore Bernstein as an Individual; Counsel to Theodore Bernstein as alleged Successor Trustee of the alleged Shirley Bernstein Trust Agreement 2008; Counsel to Theodore Bernstein as Personal Representative of the Estate and Will of Shirley Bernstein; Counsel to the alleged Successor Trustee Theodore Bernstein of the alleged Simon Bernstein Amended and Restated Trust (2012); Counsel to Theodore Bernstein in the Stansbury Creditor Lawsuit in various capacities of various entities named hereunder.
20. Defendant, Pankauski Law Firm PLLC (“PLF”), is domiciled in Florida.
21. Defendant, John J. Pankauski, Esq. (“Pankauski”), Personally, is a resident of Florida.
22. Defendant, John J. Pankauski, Esq., Professionally, is a resident of Florida and as Counsel to Defendant Theodore Bernstein as an Individual; Counsel to Theodore Bernstein as alleged Successor Trustee of the alleged Shirley Bernstein Trust Agreement 2008; Counsel to Theodore Bernstein as Personal Representative of the Estate and Will of Shirley Bernstein; Counsel to the alleged Successor Trustee Theodore Bernstein of the alleged Simon Bernstein Amended and Restated Trust (2012).
23. Defendant, Kimberly Francis Moran (“Moran”), Personally, is a resident of Florida.

24. Defendant, Kimberly Francis Moran, Professionally, is a resident of Florida and was Notary Public/Legal Assistant for Spallina & Tescher P.A. and was convicted of Felony Fraudulent Notarization in the Estate of Shirley Bernstein and admitted Forgeries, including Post Mortem Forgery of Simon's name while working and under direction of Defendants Tescher, Spallina and Tescher & Spallina, P.A. Moran has also had her Notary Public license revoked by Governor of Florida Rick Scott's Notary Public Division.
25. Defendant, Lindsay Baxley aka Lindsay Giles ("Baxley"), Personally, is a resident of Florida.
26. Defendant, Lindsay Baxley aka Lindsay Giles, Professionally, is a resident of Florida and has been reprimanded by the Governor of Florida Rick Scott's Notary Public Division for having improperly notarized the alleged 2012 Will and Amended and Restated Trust of Simon. That Baxley aka Giles was also reprimanded by the Governor's office for failing to notify the Governor's Notary Public Division of her name change and misusing her Notary Stamp.
27. Defendant, SIMON L. BERNSTEIN TRUST AGREEMENT (2008) is a Trust established in Florida by Simon and where the Beneficiaries, include but are not limited to, Eliot and/or his children or both.
28. Defendant, SIMON L. BERNSTEIN IRREVOCABLE TRUST AGREEMENT (2008) is a Trust established in Florida by Simon and where the Beneficiaries, include but are not limited to, Eliot and/or his children or both.
29. Defendant, ESTATE and WILL OF SIMON BERNSTEIN (2008) is a Will established in Florida by Simon and where the Beneficiaries, include but are not limited to, Eliot and/or his children or both.



30. Defendant, ESTATE and WILL OF SIMON BERNSTEIN (2012) is a Will established in Florida by Simon and where the Beneficiaries, include but are not limited to, Eliot and/or his children or both.

31. Defendant, SIMON L. BERNSTEIN AMENDED AND RESTATED TRUST AGREEMENT (2012) is a Trust established in Florida by Simon and where the Beneficiaries, include but are not limited to, Eliot and/or his children or both.

32. Defendant, SIMON BERNSTEIN IRREVOCABLE TRUST U/A 9/7/06 is a Trust established in Florida by Simon and where the Beneficiaries, include but are not limited to, Eliot and/or his children or both.

33. Defendant, WILMINGTON TRUST 088949-000 SIMON L BERNSTEIN IRREVECOBABLE TRUST is a Trust established in Florida by Simon and where the Beneficiaries, include but are not limited to, Eliot and/or his children or both.

34. Defendant, Wilmington Trust Company, is domiciled in Wilmington Delaware and doing business in Florida with the Bernstein family.

35. Defendant, SHIRLEY BERNSTEIN IRREVOCABLE TRUST U/A 9/7/06 is a Trust established in Florida by Shirley. Information is currently unavailable regarding the Trustees, etc. as it is alleged missing or destroyed and where the Beneficiaries, include but are not limited to, Eliot and/or his children or both.

36. Defendant, ESTATE and WILL OF SHIRLEY BERNSTEIN (2008) is a Will established in Florida by Shirley and where the Beneficiaries, include but are not limited to, Eliot and/or his children or both.

37. Defendant, SHIRLEY BERNSTEIN TRUST AGREEMENT (2008) is a Trust established in Florida by Shirley and where the Beneficiaries, include but are not limited to, Eliot and/or his children or both.

38. Defendant, SHIRLEY BERNSTEIN IRREVOCABLE TRUST AGREEMENT (2008) is a Trust established in Florida by Shirley and where the Beneficiaries are presumed to include but are not limited to, Eliot and/or his children or both. Information is currently unavailable regarding the Trustees, etc. as it is alleged missing or destroyed.

39. Defendant, SIMON BERNSTEIN IRREVOCABLE INSURANCE TRUST DATED 6/21/1995, is a suppressed and denied trust that is alleged missing and lost and yet a Plaintiff in a US Federal Court case and where the Beneficiaries, include but are not limited to, Eliot and/or his children or both and the Estate of Simon.

40. Defendant, SIMON BERNSTEIN 2000 INSURANCE TRUST (dated august 15, 2000), is a Trust established in Florida by Simon and where the Beneficiaries, include but are not limited to, Eliot and/or his children or both.

41. Defendant, SHIRLEY BERNSTEIN 2000 INSURANCE TRUST (DATED AUGUST 15, 2000), is a Trust established in Florida by Shirley and where the Beneficiaries, include but are not limited to, Eliot and/or his children or both.

42. Defendant, the 2000 LAST WILL AND TESTAMENT OF SIMON BERNSTEIN, is a Will established in Florida by Simon and where the Beneficiaries, include but are not limited to, Eliot and/or his children or both.

43. Defendant, the 2000 LAST WILL AND TESTAMENT OF SHIRLEY BERNSTEIN, is a Will established in Florida by Shirley and where the Beneficiaries, include but are not limited to, Eliot and/or his children or both.

44. Defendant, Albert Gortz, Esq., Personally, is a resident of Florida and was doing business in Florida with the Bernstein family.
45. Defendant, Albert Gortz, as the Trustee and/or Personal Representative of the, SIMON BERNSTEIN 2000 INSURANCE TRUST (dated august 15, 2000) 6/21/1995; SHIRLEY BERNSTEIN 2000 INSURANCE TRUST (dated august 15, 2000); 2000 LAST WILL AND TESTAMENT OF SIMON BERNSTEIN; 2000 LAST WILL AND TESTAMENT OF SHIRLEY BERNSTEIN.
46. Defendant, Albert Gortz, Esq., Professionally, is a resident of Florida and was doing business in Florida with the Bernstein family.
47. Defendant, Proskauer Rose LLP, is domiciled in New York, New York and was doing business in Florida with the Bernstein family.
48. Defendant, MARITAL TRUST and FAMILY TRUST created by SHIRLEY BERNSTEIN TRUST (2008), are Trusts established in Florida by Shirley and where the Beneficiaries, include but are not limited to, Eliot and/or his children or both.
49. Defendant, alleged Trust f/b/o Joshua Bernstein under the Simon L. Bernstein Trust dtd 9/13/2012, is a trust set up in Florida by an unknown. Information is currently unavailable regarding the Trustees, etc. as it is alleged missing or destroyed.
50. Defendant, alleged Trust f/b/o Daniel Bernstein under the Simon L. Bernstein Trust dtd 9/13/2012, is a trust set up in Florida by an unknown. Information is currently unavailable regarding the Trustees, etc. as it is alleged missing or destroyed.
51. Defendant, alleged Trust f/b/o Jake Bernstein under the Simon L. Bernstein Trust dtd 9/13/2012, is a trust set up in Florida by an unknown. Information is currently unavailable regarding the Trustees, etc. as it is alleged missing or destroyed.
52. Defendant, ELIOT BERNSTEIN FAMILY TRUST DATED MAY 20, 2008, is a Trust established in Florida by Shirley and Simon.

53. Defendant, DANIEL BERNSTEIN IRREVOCABLE TRUST DATED SEPTEMBER 7, 2006, is a Trust established in Florida by Shirley and Simon.

54. Defendant, JAKE BERNSTEIN IRREVOCABLE TRUST DATED SEPTEMBER 7, 2006, is a Trust established in Florida by Shirley and Simon.

55. Defendant, JOSHUA Z. BERNSTEIN IRREVOCABLE TRUST DATED SEPTEMBER 7, 2006, is a Trust established in Florida by Shirley and Simon.

56. Defendant, DANIEL BERNSTEIN IRREVOCABLE TRUST 07-JUL-10 049738, is a Trust established in Florida by Shirley and Simon.

57. Defendant, JAKE BERNSTEIN IRREVOCABLE TRUST 07-JUL-10 0497381, is a Trust established in Florida by Shirley and Simon.

58. Defendant, JOSHUA Z BERNSTEIN IRREVOCABLE TRUST 07-JUL-10 0497381 is a Trust established in Florida by Shirley and Simon.

59. Defendant, JILL MARLA IANTONI, Personally.

60. Defendant, LISA SUE FRIEDSTEIN, Personally.

61. Defendants, JOHN AND JANE DOE 1-5000 are John Doe.

62. Jurisdiction and venue are proper in Palm Beach County, Florida because the beneficiaries of the trusts reside here, the trusts were allegedly created in Florida, the corporate entities are domiciled here and/or do business in the State of Florida.

### **BACKGROUND SPECIFIC TO THIS CASE**

63. That to save the Court a lengthy filing by Eliot attempting to recap the many criminal acts and civil torts of each of the counter defendants, including those proven, admitted and further alleged crimes committed by Fiduciaries and Attorneys at Law who are and were acting as Officers of this Court before the Honorable Judge Martin Colin and Honorable David French, in the Estates and Trusts of

Simon and Shirley Bernstein, hereby incorporates by reference all ongoing cases before this Court related to the Simon and Shirley Bernstein Estates and Trusts, including but not limited to all, pleadings, rulings, evidence, etc.

64. That this Court is the SCENE OF THE CRIME in part, as the fraudulent and forged documents were posited with this Court, by Officers of this Court that enabled the illegal seizure of Dominion and Control of the Estates and Trusts of both Simon and Shirley in a highly sophisticated legal process abuse scheme committed by the fiduciaries and counsel to the fiduciaries (including certain of the fiduciaries acting as their own counsel) committing felony acts while acting as Fiduciaries and Officers of this Court.
- 65.
66. That these crimes include but are far from limited to, proven Frauds on the Court, alleged Fraud on a Federal Court, proven Frauds on the Beneficiaries, proven Fraudulent Notarizations, Admitted Forgery of six persons including Simon POST MORTEM, Creditor Fraud, Bank Fraud, Insurance Fraud, Theft of Assets and more, all committed primarily by Attorneys as Law acting as Officers of this Court who proceeded to then use the fraudulent and forged documents to commit a Fraud on the Court, including using Simon as an acting PR while dead for several months.
67. That Simon was used while DEAD to make the crimes complete as it needed to look like Simon made changes and signed documents then delivered them to the Court while he was alive in his deceased spouse Shirley's Estate and Trusts and closed it properly after making such alleged changes.
68. That documents were fraudulently notarized for Simon POST MORTEM.
69. That documents were fraudulently notarized for five of Simon's children.
70. That documents were forged for Simon Post Mortem.
71. That documents were forged for five of Simon's children.

72. That documents were altered in the Shirley Bernstein Trust.
73. That when Shirley Bernstein passed her Shirley Trust became irrevocable.
74. That when Shirley Bernstein passed her Shirley Trust and other trusts beneficiaries were Eliot, Jill and Lisa and their lineal descendants only.
75. That Theodore and Pamela are both disinherited entirely and considered predeceased for all purposes of the Shirley Trust and distributions made thereunder.
76. That Theodore and Pamela are both disinherited entirely and considered predeceased for all purposes of the 2008 Simon Trust and distributions made thereunder, which is alleged restated in 2012, allegedly signed and improperly notarized 48 days prior to Simon's unexpected and sudden death.
77. That Theodore and Pamela are both disinherited entirely and considered predeceased for all purposes of the 2012 Simon alleged Amended and Restated Trust and distributions made thereunder, allegedly signed and improperly notarized 48 days prior to Simon's unexpected and sudden death.
78. That Eliot through trusts already established in his name is a beneficiary of 1/3<sup>rd</sup> of the 2008 Shirley Trust.
79. That Eliot is a 1/3<sup>rd</sup> beneficiary of the 2008 Simon Trust.
80. That Eliot, if the alleged 2012 documents do not survive and fail to amend the 2008 Simon Trust, which there is already evidence of fraud, improper construction and proven improper notarizations in the 2012 documents that indicate that they are doomed to fail, Eliot is a 1/3<sup>rd</sup> beneficiary of the Simon Trust.
81. That in a May 2012 meeting Eliot was asked by Simon if he would be willing to give up his 1/3<sup>rd</sup> interests in the Estates and Trusts of Simon and Shirley and transfer it to Simon's 10 grandchildren if Simon decided he could and would do this to end disputes with Theodore and Pamela.

82. That in that May 2012 meeting Eliot stated he would do whatever Simon wanted and that he would in no way do anything until seeing what interests he was giving up and transferring before doing so and what the tax and other consequences would be.
83. That Eliot to date, despite repeated requests of the former and current alleged fiduciaries for accountings of his interests, has never received the accounting of his interests asked for in the May 2012 meeting and in multiple written requests since that time.
84. That Simon did not have the right to change the beneficiary class of the Shirley Trust as it was closed when she died and it became irrevocable with Eliot, Jill and Lisa beneficiaries only.
85. That Theodore and Pamela in the Shirley and Simon trust documents done in 2008 for them had wholly disinherited Theodore and Pamela and considered them deceased for all purposes of the trusts and distributions made thereunder.
86. That Theodore and Pamela in the May 2012 meeting with Simon agreed that if Simon were to decide to try and do what he was considering in having Eliot, Jill and Lisa give up their interests and transfer them to the 10 grandchildren, they would cease their harassment and extortion of him to make changes to he and Shirley's trusts and allow him to see his grandchildren from them again. That this was all Theodore and Pamela were asked to give up as they had nothing at that point in either Simon or Shirley's trusts as they were disinherited.
87. That the disputes between Theodore and Pamela with Simon did not cease until the day he died and in fact became worse after that meeting as Simon had never done anything to make any changes, nor asked Eliot again to consider giving up his interests to benefit Theodore and Pamela's family and cease the elder abuse Simon was claiming.
88. That the May 2012 meeting was called for by Simon to end disputes with his four other children, other than Eliot whom he had no disputes with and was only called in to agree that if Simon wanted Eliot to transfer his inheritance after reviewing his interests that had been suppressed and denied by

the former fiduciaries after Shirley's death for almost two years, he would consider doing so as Simon was aware he could not take away Eliot's interests or change Eliot's interests or change Shirley's irrevocable trust beneficiaries even if he wanted to.

89. That the alleged 2012 Will and Amended and Restated Trust of Simon were drafted by Spallina and Tescher, gave Spallina and Tescher interests via their alleged roles as Co-PR's and Co-Trustees and were witnessed in part by Spallina.
90. That these schemes to attempt to change beneficiaries through committing a Fraud on the Court and the beneficiaries by advancing fraudulent and forged documents in 2012 was perpetrated primarily by counter Defendants, Tescher, Spallina, Tescher & Spallina, P.A., Moran, Baxley, Theodore, Pamela and others acting in conspiracy.
91. That Moran has admitted to allegedly forging six documents for six separate parties, including one for Simon done Post Mortem and one for Eliot.
92. That Moran has admitted to fraudulently notarizing six documents for six separate parties, including one for Simon Post Mortem.
93. That Robert Spallina has admitted to Palm Beach County Sheriff Investigators that he fraudulently altered a trust document of Shirley's Trust after consulting with Donald Tescher about what to do to attempt to make changes to the Shirley Trust beneficiary class despite the trust being irrevocable and then took it upon himself to alter a trust document.
94. That distributions were made in the Shirley Trust to improper parties as the only beneficiaries of Shirley's Trust despite any efforts Simon may or may not have made to change them were Eliot, Lisa and Jill and trusts created under the Shirley Trust for the benefit of them and their lineal descendants only.
95. That Spallina and Tescher have resigned and withdrawn due to the fraudulent activities that have now caused intentional disputes with Eliot's inheritance and interfered and delayed distributions for



now almost two years by feloniously attempting to change beneficiaries to benefit Theodore and Pamela primarily.

96. That Theodore introduced Tescher and Spallina to Simon as Theodore was doing business with them and was a close personal friend with Tescher primarily and Spallina.
97. That Theodore Bernstein was asked by Eliot Bernstein to contact the FBI in relation to his having been the last party to take possession of Eliot's car and have it towed to where it was blown up and blew up three cars next to it in what is alleged to have been an attempted murder of Eliot and his family, see [www.iviewit.tv](http://www.iviewit.tv) for graphic images.
98. This case is related<sup>3</sup> to ALL of the following ongoing actions worldwide involving Eliot Bernstein where there are claims of conspiracy committed by Attorneys at Law in each and where shockingly there are many links in each of the cases to the same Attorneys at Law acting in various combinations in each case, including the instant action;
  - i. UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK, ELIOT I. BERNSTEIN, et al., Plaintiffs, - against - APPELLATE DIVISION FIRST DEPARTMENT DISCIPLINARY COMMITTEE, et al., Defendants. Case No. 07 Civ. 11196 (SAS), Honorable Judge SHIRA A. SCHEINDLIN, U.S.D.J. (HEREBY FULLY INCORPORATED BY REFERENCE IN ENTIRETY HEREIN, ALL PLEADINGS, ORDERS, ETC.) (TO BE PETITIONED TO REOPEN BASED UPON FRAUD ON THE COURT AND OBSTRUCTION RECENTLY DISCOVERED).
  - ii. SIMON BERNSTEIN ESTATE PROBATE CASE IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL ESTATE OF SIMON LEON BERNSTEIN CASE NO.

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<sup>3</sup> The estate and trust cases all should be related legally related by the Court but appear not yet related and Eliot is asking this Court to do so in the administration of justice and to save costs.

502012CP004391 IZ XXXX SB (HEREBY FULLY INCORPORATED BY REFERENCE IN ENTIRETY HEREIN, ALL PLEADINGS, ORDERS, ETC.).

- iii. SHIRLEY BERNSTEIN ESTATE PROBATE CASE IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL ESTATE OF SHIRLEY BERNSTEIN CASE NO. 502011CP00653XXXXSB (HEREBY FULLY INCORPORATED BY REFERENCE IN ENTIRETY HEREIN, ALL PLEADINGS, ORDERS, ETC.).
- iv. IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION, Case No. 13cv3643, before the Hon. Judge Amy St. Eve (HEREBY FULLY INCORPORATED BY REFERENCE IN ENTIRETY HEREIN, ALL PLEADINGS, ORDERS, ETC.).
  - a. Where the Estate of Simon was recently allowed to intervene in the Il. case as it directly relates to the Estate of Simon that was not previously represented in the case by the former PR's of the Estate Tescher and Spallina, which is similar to the instant case where these matters are trying to be separated into other Courts to diffuse the situations unfolding involving criminal acts and civil torts that are directly related.
- v. OBSIDIAN FINANCE GROUP, LLC ET AL. V. COX CASE NO. 3:11-CV-00057-HZ. (HEREBY FULLY INCORPORATED BY REFERENCE IN ENTIRETY HEREIN, ALL PLEADINGS, ORDERS, ETC.). (Note Bernstein is not a Defendant but was tried to be added as a Defendant after the case was heard).
- vi. RANDAZZA ET AL V. COX, BERNSTEIN ET AL., CASE NO. 2:12-CV-02040-GMN-PAL. (HEREBY FULLY INCORPORATED BY REFERENCE IN ENTIRETY HEREIN, ALL PLEADINGS, ORDERS, ETC.)

- vii. COX VS. RANDAZZA, ET AL. – NEVADA RICO CASE NO. 2:13-CV-00297-JCM-VCF CHANGED TO 2:13-CV-00297 JCM (NJK) CHANGED TO 2:13-CV-00297 MMD-VCF. (HEREBY FULLY INCORPORATED BY REFERENCE IN ENTIRETY HEREIN, ALL PLEADINGS, ORDERS, ETC.)
- viii. MARC J. RANDAZZA ET AL. V GODADDY, LLC ET AL. ISSUED BY THE MIAMI-DADE COUNTY, FLORIDA 11TH JUDICIAL CIRCUIT COURT, CIVIL ACTION NO. 2014-5636-CA. (HEREBY FULLY INCORPORATED BY REFERENCE IN ENTIRETY HEREIN, ALL PLEADINGS, ORDERS, ETC.)
- ix. OPPENHEIMER V CANDICE AND ELIOT BERNSTEIN CASE NO. 502014CP002815XXXXSB
- x. IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT IN AND FOR PALM BEACH COUNTY, FLORIDA, CASE NO. CA 01-04671 AB, PROSKAUER ROSE LLP, A NEW YORK LIMITED LIABILITY PARTNERSHIP, PLAINTIFF, VS. IVIEWIT.COM, INC., A DELAWARE CORPORATION, IVIEWIT HOLDINGS, INC., A DELAWARE CORPORATION, AND IVIEWIT TECHNOLOGIES, INC., A DELAWARE CORPORATION, DEFENDANT. (To be petitioned to reopen based upon fraud on the court and obstruction recently discovered)

99. That Tescher, Spallina, Moran, Theodore, Manceri, Pamela, Baxley and others are all under INVESTIGATION with Palm Beach County Sheriff Office (“PBSO”) detectives and Moran and Baxley were investigated and found guilty of various Notary violations in these matters by Florida’s Governor Rick Scott’s Notary Public Division for allegations of Fraud, Fraudulent Notarizations,

Forgery and other crimes<sup>4</sup>, instigated by Eliot and Candice in relation to criminal acts taking place in the Estates and Trusts of Simon and Shirley.

100. That Spallina filed an insurance death benefit claim form with Heritage Union Life acting as the Trustee of a lost 1995 trust that no executed copies have been produced for and that he claimed never to have seen or possessed and that death benefit claim was denied for good and just cause by the insurance carrier for failure to produce a qualified legal beneficiary.
101. That Theodore Bernstein filed a Breach of Contract lawsuit in an Illinois Circuit Court that was moved to an Illinois Federal Court for Heritage's Union's failure to pay the death claim filed by Spallina as the alleged trustee for the missing 1995 trust.
102. That Spallina had in his possession an alleged 2000 insurance trust done by Simon allegedly with Proskauer Rose LLP that would have made legally void any 1995 prior insurance trust claimed to be the beneficiary by Spallina and this document was secreted from the insurance company and the

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1. <sup>4</sup> Palm Beach County Sheriff Report – Case No. 12121312 – Alleged Murder of Simon Bernstein filed by Theodore Bernstein
  2. Palm Beach County Sheriff Report – Case No. 13097087 - Forgery and Fraudulent Notarizations
  3. Palm Beach County Sheriff Report – Case No. 13159967 - Theft of Assets of Estates
  4. Palm Beach County Sheriff Report – Case No. 14029489 - Continuation of Fraud, Extortion and more.
    - a. PBSO REPORTS @ [http://www.iviewit.tv/Sheriff Reports.pdf](http://www.iviewit.tv/Sheriff%20Reports.pdf)
  5. State Attorney FL – - Case No. 13CF010745 - Forgery and Fraudulent Notarizations
  6. Jacksonville, IL. Police Department – Case No. #2014000865 – Insurance Fraud - Directed to Federal Authorities.
  7. Case No. 13-cv-03643 United States District Court – Northern District II.
  8. Florida Probate Simon – Case No. 502012CP004391XXXXSB
  9. Florida Probate Shirley – Case No. 502011CP000653XXXXSB
  10. Heritage Union Fraud Investigation – Case No. TBD
  11. Florida Medical Examiner – Autopsy Case No. 12-0913 – Filed by Theodore Bernstein
  12. Governor Rick Scott Notary Public Division – Moran – Case No. Eliot and Simon Bernstein v. Moran
    - a. [http://www.iviewit.tv/Simon and Shirley Estate/20131014%20Office%20of%20the%20Governor%20Moran%20Suspension%20of%20Notary.pdf](http://www.iviewit.tv/Simon%20and%20Shirley%20Estate/20131014%20Office%20of%20the%20Governor%20Moran%20Suspension%20of%20Notary.pdf)
  13. Governor Rick Scott Notary Public Division – Baxley – Case No. Eliot and Simon Bernstein v. Baxley
    - a. [http://www.iviewit.tv/Simon and Shirley Estate/20140421 Office Of Governor Lindsay Baxley Complaint Misconduct.pdf](http://www.iviewit.tv/Simon%20and%20Shirley%20Estate/20140421%20Office%20Of%20Governor%20Lindsay%20Baxley%20Complaint%20Misconduct.pdf)

beneficiaries by Spallina, until it was discovered in the production documents Spallina and Tescher were forced to turn over by this Court's Order upon their removal.

103. That Theodore Bernstein filed the Breach of Contract lawsuit claiming he was the alleged trustee of the lost 1995 trust that no copies exist of and he claims to have never seen or possessed and mysteriously replaces his former counsel Tescher and Spallina as the trustee of this lost and missing trust that neither he nor his Attorneys at Law, Spallina and Tescher, who were also representing the Estate and Trust of Simon at the time as Co-PR's, Co-Trustees and Counsel to the Co-PR's and Co-Trustees.
104. That Theodore and Pamela would receive 2/5<sup>th</sup> of the insurance policy proceeds that are currently unknown amounts, as the policy is also missing and lost even claimed as such by the insurance carriers but if the policy were paid to the Estate, which owns the policy allegedly, they would receive NOTHING as they have been disinherited.
105. That Theodore sold a condominium and signed tax forms as the Personal Representative in the process prior to this Court having issued him Letters.
106. That Robert Spallina and Donald Tescher informed Eliot and others the day Simon died that Theodore was going to be the successor trustee and PR of the Estate and Trusts of Shirley because he was the oldest living child and that was the law in Florida.
107. That later Spallina and Tescher stated they discovered documents, the Will and Shirley Trust that actually named Theodore as the Trustee contradicting their prior claims that Theodore was only a successor as the oldest living child, after Eliot had contacted a lawyer and found this was not always true.
108. That it seems to defy logic and raise the brow in a case already fraught with document tampering by several parties that Shirley would draft documents completely disinheriting and considering Theodore deceased for all purposes and for distributions made thereunder and then contradict those

claims and name him as alleged trustee. That Eliot has challenged this document as fraudulent for these reasons and more.

109. That Theodore has been accused by the Creditor Stansbury of having architected a scheme to defraud him of over two million dollars in the Creditors action against the Estates of Simon and Shirley.
110. That Theodore with his counsel Rose have negotiated an alleged settlement with Stansbury for himself personally and at the same time also settled with the Estate of Shirley, a classic conflict of interest where Theodore negotiated for his personal interests while negotiating simultaneously as a PR waiving others interests to benefit himself at their expense.
111. That beneficiaries were not made aware of the settlement discussions and were not given any documents to review of the transactions in a black box settlement for the Estate where the terms are still unknown.
112. That the beneficiaries of IRA accounts for Simon, that may have had a rollover of Shirley IRA's are now claimed missing by Spallina, Tescher and JP Morgan.
113. That Theodore Bernstein was transferred the position of Manager of a company, Bernstein Family Realty LLC owned by Eliot's minor children by Janet Craig who simultaneously upon Theodore's acceptance sent over personal and confidential information she maintained regarding this company to Theodore.
114. That Theodore later claimed he knew nothing about this transfer of the Manager role by Craig while simultaneously paying bills of Bernstein Family Realty LLC over a several month period.
115. That Spallina transferred the role of Manager of Bernstein Family Realty LLC to Craig at Oppenheimer by violating the operating agreement of BFR, which called for a vote for successor by the members, which would have been Eliot and Candice Bernstein as Guardians of their children.
116. That Craig accepted the transfer from Spallina in violation of the operating agreements of BFR.

117. That Craig transferred the documents and role of Manager of BFR to Theodore in violation of the operating agreements of BFR.
118. That Legacy Bank accounts that Simon was the only signatory party on the accounts were used for several months after Simon was deceased by several parties who were unauthorized.
119. That Legacy Bank froze accounts of Simon's that were being used after his death by several months.
120. That Robert Spallina alleges to have transferred monies frozen at Legacy Bank of Simon's for BFR to new Oppenheimer BFR accounts months after Simon's death.
121. That Jewelry of Shirley's, estimated to be worth millions of dollars was not properly inventoried on Shirley's inventory when she passed.
122. That Jewelry of Shirley's estimated to be worth millions of dollars that was transferred to Simon as his personal property when she died was not properly inventoried in Simon's inventory and appears to have stolen and has been reported to authorities as such.
123. That furniture and other personal properties of Shirley and Simon's, estimated to be worth millions of dollars was not properly inventoried on Shirley or Simon's inventory when they passed.
124. That furniture and other personal properties of Simon's estimated to be worth millions of dollars that was transferred to Simon as his personal property when Shirley died and was inventoried (but challenged already by Eliot and Creditor Stansbury as to the value) no appears to be missing.
125. That this Court was told by Alan Rose and Theodore Bernstein that furniture of Simon's that was his personal property was moved when the Condominium was fraudulently sold and was taken to Simon's other residence in Saint Andrews Country Club, to confirm this, this Court order a re-inventorying of the furniture and other properties of the Condominium.
126. That Donald Tescher and Alan Rose, in a deposition of Tescher's conducted by his friend and colleague who Tescher and Theodore retained in these matters, Alan Rose, then claimed that the furniture had been sold with Condominium and that they would "true it up" later with the

beneficiaries. That this statement directly contradicts the statements to this Court about where the furniture went.

127. That Theodore Bernstein gave Eliot a gold ten commandment necklace Simon had told Eliot he was bequeathing him along with other items (specific bequeathed items are missing from the Estates and Trust documents despite reference to them in the ALLEGED dispositive documents) and told him he was accounting for this Jewelry with Tescher and Spallina and it would be deducted from any distributions later made to Eliot. That nowhere on the inventory of Simon or Shirley is this jewelry listed or accounted for.
128. That an appraisal of Shirley's Jewelry done for an insurance policy done are materially different in character and substance of the quality and type of the alleged same pieces Theodore then had appraised. It appears that there are either similar looking pieces inventoried and appraised and there then should be two separate pieces of jewelry that look the same and appear to be named similarly but that have wholly different characteristics and MASSIVE discrepancy in worth over several hundred thousand dollars on one jewel alone. Alternatively, the Jewels were changed from the time the insurance company appraised them to when Theodore took possession of them and had them appraised.
129. Theodore took possession for months of Jewelry that was an asset of Simon's Estate, despite the fact that Spallina and Tescher upon Simon's death were the alleged PR's responsible for these jewels. This has been reported to Sheriff Investigators.
130. That Theodore, Pamela, Lisa and Jill, acting as alleged trustees for their children, all knew documents were forged and fraudulently notarized in their names that could change the beneficiaries of the Estates and Trusts of Simon and Shirley and took no actions for months to notify authorities or this Court and instead during that time rushed to liquidate assets and convert and comingle monies to knowingly questionable parties.



131. That Theodore, Pamela, Lisa and Jill, instead of reporting the forged and fraudulent documents in their names now proven and admitted by them as such, then tried to waive the forgery and fraud through perjured new waivers filed with this Court in attempts to replace the illegally done ones. That further they attempted to forgive the felony crimes done in their names, their father Post Mortem and Eliot's names without reporting such crimes. That this behavior imparts aiding and abetting in the crimes. misprision of a felony and breach of fiduciary duties.
132. That Theodore Bernstein opened a criminal investigation on the day Simon died into what he alleged was a possible murder of Simon with Palm Beach Sheriff Investigators claiming that Simon's girlfriend Maritza Puccio had poisoned Simon.
133. That Theodore Bernstein ordered on the day Simon died an autopsy of Simon for what he alleged was a possible murder of Simon with the Palm Beach Medical Examiners office claiming that Simon's girlfriend Maritza Puccio had poisoned Simon.
134. That Simon Bernstein owned 30% of initial shares of stock in several companies<sup>5</sup> he formed together with Eliot and some that were formed without their knowledge identically named to their companies, as listed in footnote one and herein together these companies are referred to as "Iviewit Stock."

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Iviewit Holdings, Inc. – DL  
Iviewit Holdings, Inc. – DL (yes, two identically named)  
Iviewit Holdings, Inc. – FL (yes, three identically named)  
Iviewit Technologies, Inc. – DL  
Uviewit Holdings, Inc. - DL  
Uview.com, Inc. – DL  
Iviewit.com, Inc. – FL  
Iviewit.com, Inc. – DL  
I.C., Inc. – FL  
Iviewit.com LLC – DL  
Iviewit LLC – DL  
Iviewit Corporation – FL  
Iviewit, Inc. – FL  
Iviewit, Inc. – DL  
Iviewit Corporation

135. That Proskauer Rose LLP and Gerald Lewin formed these companies and have held the Iviewit Stock that was supposed to be in Simon's Estate and Trusts.
136. That Tescher and Spallina after contacting Proskauer and Lewin were unable to find the missing Iviewit Stock.
137. That the Iviewit Stock may be worth hundreds of BILLIONS of dollars as certain of the Iviewit Stock companies held rights to Intellectual Properties of Eliot's where the technologies have been estimated to have those values by others who reviewed the Intellectual Properties and Invested in them, including Wayne Huizenga and Wayne Huizenga Jr., Crossbow Ventures, Wachovia Bank and others who evaluated them such as Real 3D, Inc. (owned by Intel 20%, Lockheed Martin 70% and Silicon Graphics Inc. 10%) and now owned wholly by Intel, Warner Bros., Sony, AOL, Time Warner, Proskauer Rose, Foley & Lardner, Goldman Sachs and others.
- 138.
- 139.
- 140.
- 141.
- 142.
143. alleged and other criminal acts and civil torts that directly relate to this instant legal action. Eliot, since these cases should all be related by the Court but appear not yet related, instead hereby incorporates by reference currently before Hon. Judge Colin for almost two years that outline the mass of proven, admitted and further alleged and under investigation criminal acts in these matters.
144. This instant lawsuit is yet another Fraud on the Court, beneficiaries and others, in efforts to make prior illegal and fraudulent acts committed now legal. This attempt to reconstruct the language of an irrevocable trust of Shirley Bernstein ("Shirley") and change the Class of Beneficiaries defined at her

death on December 08, 2010 through documents that are challenged and alleged to be fraudulent and have no effect on Shirley's Class of Beneficiaries that Simon could not alter.

145. That attempts to alter the Class of Beneficiaries has occurred through a series of frauds and forged documents in both Simon and Shirley's Estate with some already proven admitted to be fraudulent and forged.
146. That in Eliot's Federal RICO and ANTITRUST Lawsuit, recent news shows a massive fraud on the courts occurred and Obstructions of Justice directly committed by heads of the New York Attorney at Law Disciplinary Committees and more, see all of the following articles. These articles relate to Eliot Bernstein's Federal RICO and ANTITRUST lawsuit that was legally related by Hon. Judge Shira Scheindlin to the Whistleblower Lawsuit of Attorney at Law and Disciplinary Expert former New York Supreme Court Attorney, Christine C. Anderson, Esq. Eliot's RICO is one of the cases mentioned in the articles related to her case that due process and procedure was obstructed with intentionally. All of these matters will be cause for the lawsuits, including Eliot's that are legally related to Anderson to be reopened due to fraud on the court and obstruction newly learned of, as evidenced in the following articles. That the articles in reference to Senator John Sampson being threatened and taking bribes to stifle corruption he was aware of are also related to Eliot's testimony before the New York Senate Judiciary Committee on Public Corruption in the New York Supreme Court Disciplinary Departments of New York (akin to the Florida Bar) that Sampson chaired while head of the Democratic Party of New York.

SELECTED ARTICLES RELATING TO THE ELIOT BERNSTEIN RICO AND NEW  
INFORMATION ABOUT OBSTRUCTION OF JUSTICE AND MORE:

**BREAKING NEWS!!!**

**INDICTMENTS COMING! US SENATOR JOHN SAMPSON FORMER HEAD OF THE  
NEW YORK DEMOCRATIC PARTY AND CHAIRMAN OF THE NEW YORK SENATE**

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**JUDICIARY COMMITTEE WAS THREATENED & BRIBED TO COVER UP NY & FEDERAL CORRUPTION!!**

UPDATE - INDICTMENTS COMING : Iviewit Breaking News: NY Supreme Court Ethics Oversight Bosses Alleged MISUSE of Joint Terrorism Task Force Resources & Funds & Violations of Patriot Acts Against Civilian Targets for Personal Gain... US Senator John Sampson Threatened & Bribed to Cover Up NY & Federal Corruption!!

<http://www.free-press-release.com/news-iviewit-breaking-indictments-coming-us-senator-john-sampson-threatened-bribed-to-cover-up-ny-federal-corruption-1369140092.html>

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Wednesday, May 15, 2013  
Expose Corrupt Courts

**INSIDER SAYS NY STATE OFFICIALS BRIEFED ON JUDICIAL CORRUPTION INDICTMENTS**

BREAKING NEWS: A New York State Court administrative insider says that top state officials have been briefed by the feds on pending federal corruption indictments that will include New York state court employees....

And late this morning, a Washington, D.C. source confirmed the information, adding that the target of one federal corruption indictment will include at least one sitting New York State judge and other individuals- all with ties to major banks.....

<http://exposecorruptcourts.blogspot.com/2013/05/insider-says-ny-state-officials-briefed.html>

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**UPDATE: SENATOR JOHN SAMPSON, FORMER NEW YORK SENATE JUDICIARY CHAIR THREATENED AND BRIBED TO COVER UP OFFICIAL CORRUPTION**

FRIDAY, MAY 17, 2013

Washington, D.C. Insider Says Senator John Sampson Covered-Up Court Corruption

BREAKING NEWS: Washington, D.C. insider says NYS Senator John Sampson covered-up evidence of widespread corruption in New York Surrogate's Courts.

Source says Sampson was first threatened, but then successfully bribed, to bury evidence involving countless state and federal crimes involving billions of dollars.

Syracuse, Rochester, Albany, White Plains, Brooklyn and Manhattan Surrogate's Courts are said to top the list of areas involved.

It was revealed on Wednesday that a New York State Court administrative insider said that top state officials had been briefed by the feds on pending federal corruption indictments that would

include employees of New York's Office of Court Administration (a/ka/ "OCA"). Most court employees, including judges, are employed by OCA.

It was further confirmed by the Washington, D.C. source that judges, with ties to banks, would be among those charged.

<http://ethicsgate.blogspot.com/2013/05/washington-dc-insider-says-senator-john.html>

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**IVIEWIT BREAKING NEWS: NY SUPREME COURT ETHICS OVERSIGHT BOSSES ALLEGED MISUSE OF JOINT TERRORISM TASK FORCE RESOURCES & FUNDS & VIOLATIONS OF PATRIOT ACTS AGAINST CIVILIAN TARGETS FOR PERSONAL GAIN..**

May 14,2013

See Full Story at:

<http://www.free-press-release.com/news-iviewit-breaking-news-ny-supreme-court-ethics-oversight-bosses-alleged-misuse-of-joint-terrorism-task-force-resources-funds-violations-of-patriot-1368533731.html>

and

<http://ethicsgate.blogspot.com/2013/04/formal-complaint-filed-against-nys.html>

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**FORMAL COMPLAINT FILED AGAINST NYS EMPLOYEES FOR ILLEGAL WIRETAPPING...THE WIDESPREAD ILLEGAL WIRETAPPING INCLUDED TARGETED NEW YORK STATE JUDGES AND ATTORNEYS.....**

<http://ethicsgate.blogspot.com/2013/04/formal-complaint-filed-against-nys.html>

SELECT QUOTES FROM THAT NEWS STORY

April 3, 2013

Robert Moossy, Jr., Section Chief  
Criminal Section, Civil Rights Division  
US Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, D.C. 20530

RE: FORMAL COMPLAINT AGAINST NEW YORK STATE EMPLOYEES INVOLVING CONSTITUTIONAL VIOLATIONS, INCLUDING WIDESPREAD ILLEGAL WIRETAPPING

Dear Mr. Moossy,

COUNTER COMPLAINT

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At some point in time shortly after 9/11, and by methods not addressed here, these individuals improperly utilized access to, and devices of, the lawful operations of the Joint Terrorism Task Force (the JTTF). These individuals completely violated the provisions of FISA, ECPA and the Patriot Act for their own personal and political agendas. Specifically, these NY state employees essentially commenced black bag operations, including illegal wiretapping, against whomever they chose- and without legitimate or lawful purpose.

This complaint concerns the illegal use and abuse of such lawful operations for personal and political gain, and all such activity while acting under the color of law. This un-checked access to highly-skilled operatives found undeserving protection for some connected wrong-doers, and the complete destruction of others- on a whim, including the pre-prosecution priming of falsehoods (set-ups). The aftermath of such abuse for such an extended period of time is staggering.

It is believed that most of the 1.5 million-plus items in evidence now under seal in Federal District Court for the Eastern District of New York, case #09cr405 (EDNY) supports the fact, over a ten-year-plus period of time, of the illegal wiretapping of New York State judges, attorneys, and related targets, as directed by state employees.

One sworn affidavit, by an attorney, confirms the various illegal activity of Manhattan's attorney ethics committee, the Departmental Disciplinary Committee (the DDC), which includes allowing cover law firm operations to engage in the practice of law without a law license. Specifically, evidence (attorney affidavits, etc.) supports the claim that Naomi Goldstein, and other DDC employees supervised the protection of the unlicensed practice of law. The evidence also shows that Ms. Goldstein knowingly permitted the unlicensed practice of law, over a five-year-plus period of time, for the purpose of gaining access to, and information from, hundreds of litigants.

Evidence also supports the widespread illegal use of black bag operations by the NYS employees for a wide-range of objectives: to target or protect a certain judge or attorney, to set-up anyone who had been deemed to be a target, or to simply achieve a certain goal. The illegal activity is believed to not only have involved attorneys and judges throughout all of the New York State, including all 4 court-designated ethics departments, but also in matters beyond the borders of New York.

The set-up of numerous individuals for an alleged plot to bomb a Riverdale, NY Synagogue. These individuals are currently incarcerated. The trial judge, U.S. District Court Judge Colleen McMahon, who publicly expressed concerns over the case, saying, I have never heard anything like the facts of this case. I don't think any other judge has ever heard anything like the facts of this case. (2nd Circuit 11cr2763).

**The concerted effort to fix numerous cases where confirmed associates of organized crime had made physical threats upon litigants and/or witnesses, and/or had financial interests in the outcome of certain court cases.**

The judicial and attorney protection/operations, to gain control, of the \$250 million-plus Thomas Carvel estate matters, and the pre-prosecution priming of the \$150 million-plus Brooke Astor estate.

The wire-tapping and ISP capture, etc., of DDC attorney, Christine C. Anderson, who had filed a lawsuit after being assaulted by a supervisor, Sherry Cohen, and after complaining that certain evidence in ethics case files had been improperly destroyed. (See SDNY case #07cv9599 - Hon. Shira A. Scheindlin, U.S.D.J.)

The eToys litigation and bankruptcy, and associates of Marc Dreier, involving over \$500 million and the protection by the DDC of certain attorneys, one who was found to have lied to a federal judge over 15 times.

The set-up and chilling of effective legal counsel of a disabled woman by a powerful CEO and his law firms, resulting in her having no contact with her children for over 6 years.

The wrongful detention for 4 years, prompted by influential NY law firms, of an early whistleblower of the massive Wall Street financial irregularities involving Bear Sterns and where protected attorney-client conversations were recorded and distributed.

The blocking of attorney accountability in the \$1.25 billion Swiss Bank Holocaust Survivor settlement where one involved NY admitted attorney was ultimately disbarred- in New Jersey. Only then, and after 10 years, did the DDC follow with disbarment. Gizella Weisshaus v. Fagan.

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**NY SUPREME COURT BOSSES ILLEGALLY WIRETAPPING JUDGES CHAMBERS & HOMES. CHRISTINE ANDERSON WHISTLEBLOWER ILLEGALLY TARGETED FOR 24/7/365 SURVEILLANCE IN RELATED CASE TO IVIEWIT ELIOT BERNSTEIN RICO...**

FOR IMMEDIATE RELEASE

(Free-Press-Release.com) May 14, 2013 -- According to news reports, yes, the heads of the NY Supreme Court Ethics Department have been accused of derailing Justice by targeting victims and misusing Government Resources against private citizens with no other motive than Obstruction of Justice in court and regulatory actions against them or their cronies.

World Renowned Inventor Eliot Bernstein files NEW RICO RELATED CRIMINAL ALLEGATIONS against Law Firms Proskauer Rose, Foley & Lardner, Greenberg Traurig and more. Allegations that Bernstein was a target of these criminals cloaked as ATTORNEY AT LAW ETHICS BOSSES at the NY Supreme Court were presented to Federal Judge Shira A. Scheindlin. That evidence was presented that Bernstein's father may have been a target and murdered for his efforts to notify the authorities and more!!!

READ ALL ABOUT IT @

<http://www.iviewit.tv/CompanyDocs/United%20States%20District%20Court%20Southern%20District%20NY/20130512%20FINAL%20Motion%20to%20Rehear%20and%20Reopen%20Obstruction%20of%20Justice165555%20WITH%20EXHIBITS.pdf>

PREVIOUS PRESS RELEASES RELATING TO JUDGES ILLEGALLY WIRETAPPED

That on Tuesday, February 19, 2013, ECC released the story,

**ETHICSGATE UPDATE FAXED TO EVERY U.S. SENATOR THE ULTIMATE VIOLATION OF TRUST IS THE CORRUPTION OF ETHICS OVERSIGHT EXCLUSIVE UPDATE:**

<http://exposecorruptcourts.blogspot.com/2013/02/ethicsgate-update-faxed-to-every-us.html>

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**IVIEWIT LETTER TO US DOJ OFFICE OF INSPECTOR GENERAL MICHAEL E. HOROWITZ**

<http://www.iviewit.tv/CompanyDocs/United%20States%20District%20Court%20Southern%20District%20NY/20130520%20FINAL%20Michael%20Horowitz%20Inspector%20General%20Department%20of%20Justice%20SIGNED%20PRINTED%20EMAIL.pdf>

**IVIEWIT RICO MOTION FOR CLARIFICATION:**

<http://www.iviewit.tv/CompanyDocs/United%20States%20District%20Court%20Southern%20District%20NY/20130513%20FINAL%20Motion%20for%20Clarification%20of%20Order%20174604%20WITH%20NO%20EXHIBITS.pdf>

Investigative Blogger Crystal Cox Sues Forbes and the New York Times for Defamation. March 6, 2013

<http://www.free-press-release.com/news-investigative-blogger-crystal-cox-sues-forbes-and-the-new-york-times-for-defamation-1362547010.html>

**COURT CASES OF INTEREST**

COX VS. RANDAZZA, ET AL. “ NEVADA RICO CASE NO. 2:13-CV-00297-JCM-VCF CHANGED TO 2:13-CV-00297 JCM (NJK) CHANGED TO 2:13-CV-00297 MMD-VCF

OBSIDIAN FINANCE GROUP, LLC ET AL. V. COX CASE NO. 3:11-CV-00057-HZ (Famed First Amendment Rights Attorney at Law and Professor, Eugene Volokh, Esq., Professor at UCLA School of Law is representing Cox on Appeal)

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**THE BEGINNING OF THE END ~ NEW YORK SENATE JUDICIARY COMMITTEE HEARINGS**

September 24, 2009 - Second Hearing

Public Hearing: Standing Committee On The Judiciary New York Senate Judiciary Committee  
John L. Sampson Chairman

SENATE STANDING COMMITTEE ON THE JUDICIARY NOTICE OF PUBLIC HEARING

SUBJECT: The Appellate Division First Department Departmental Disciplinary Committee, the grievance committees of the various Judicial Districts and the New York State Commission on Judicial Conduct

PURPOSE: This hearing will review the mission, procedures and level of public satisfaction with the Appellate Division First Department Departmental Disciplinary Committee, the grievance committees of the various Judicial Districts as well as the New York State Commission on Judicial Conduct

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ORAL TESTIMONY BY:

Witness List for Judiciary Hearing 9/24/09 The Judicial & Attorney Disciplinary Process in the State of New York

1. Richard Kuse of New City, NY
2. Victor Kovner of the Fund for Modern Courts
3. Douglas Higbee of Mamaroneck, NY
4. Judith Herskowitz of Miami Beach, FL
5. Peter Gonzalez of Troy, NY
6. Andrea Wilkinson of Rensselaer, NY
7. Maria Gkanios of Mahopac, NY
8. Dominic Lieto of Mahopac, NY
9. Regina Felton Esq of Brooklyn, NY
10. Kathryn Malarkey of Purchase, NY
11. Nora Renzuli, Esq. of Staten Island, NY
12. Stephanie Klein of Long Beach, NY
13. Ike Aruti of Rosedale, NY
14. Terrence Finnan of Keene, NY
15. Gizella Weissshaus, NY
- 16. Eliot I. Bernstein of Boca Raton, FL**
17. Suzanne McCormick & Patrick Handley of NY

The Appellate Division of the Supreme Court is the entity that is legally responsible for enforcing the Rules of Professional Conduct governing the conduct of attorneys in New York State. The Appellate Division Departments have created grievance committees that are charged with the investigation of complaints against attorneys. Within the First Judicial Department the Departmental Disciplinary Committee of the Appellate Division investigates complaints against attorneys. The New York State Commission on Judicial Conduct was created by the State Constitution and is charged with investigating complaints against Judges and Justices of the Unified Court System.

According to the 2009 Report of the Commission on Judicial Conduct, there were 1,923 complaints filed in 2008. Yet of these complaints only 262 were investigated and of those, 173 were dismissed. This hearing will examine the processes and procedures that are followed by the various agencies charged with the responsibility of enforcing the rules and regulations that must be followed by the Judiciary and the Bar in the State of New York. It will also evaluate public satisfaction with the disciplinary process.

**COUNT 1 - CIVIL CONSPIRACY**

147. This is an action for Civil Conspiracy under Florida Statutes.
148. Plaintiffs hereby reiterate and incorporate herein by reference, as if fully restated herein, preceding paragraphs 1 through 147, inclusive.
149. That as with any conspiracy, all of the facts regarding the actions of each of the defendants is largely unknown at this time and with ongoing investigations and new production documents that reveal

even more alleged criminal acts and civil torts, more is being learned every day but one thing is for certain in this illegal legal conspiracy, the primary participants known at this time are licensed Attorneys at Law who have acted together to deprive Eliot and his family of legal rights through further abuse of process and complex illegal legal frauds constructed to obstruct justice and deny Eliot of due process and procedure and his and his children's inheritances.

150. That Theodore, on the day Simon died on September 13, 2012 alleged that Simon was murdered and filed a Palm Beach County Sheriff report already evidenced herein, claiming that Simon's girlfriend poisoned Simon.
151. That Theodore, on the day Simon died on September 13, 2012 alleged that Simon was murdered and ordered an Autopsy<sup>6</sup> be done, alleging that Simon's girlfriend poisoned Simon.
152. That Simon may have been murdered but now a growing body of evidence uncovered involves proven and further alleged FELONY criminal misconduct by the Defendants in combination.
153. That Simon may have been murdered not by his girlfriend but by those involved in the criminal conspiracy that has taken place to illegally seize Dominion and Control of the Estates and Trusts of Shirley and Simon and loot their assets to the tune of between \$20-100 Million dollars (not including the Iviewit Stock and interests in Eliot's Intellectual Properties which would raise the values into the BILLIONS) and deprive Eliot and his family of their inheritances.
154. That Simon may have been murdered not by his girlfriend but by those involved in the criminal conspiracy to steal intellectual properties worth billions upon billions of dollars, a conspiracy that has already been filed in a RICO and ANTITRUST lawsuit, already embodied herein, whereby there are allegations that ATTORNEYS AT LAW and others put a bomb in the Minivan of Eliot to murder he and his family, have made repeated and reported death threats to Eliot, OBSTRUCTED JUSTICE (allegedly in this Court as well in a prior lawsuit already mentioned herein), ABUSED PROCESS,

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<sup>6</sup> [www.iviewit.tv/SIMONBERNSTEINAUTOPSYREPORTHEAVYMETAL.pdf](http://www.iviewit.tv/SIMONBERNSTEINAUTOPSYREPORTHEAVYMETAL.pdf)

ILLEGALLY WIRETAPPED AND MISUSED JOINT TERRORISM TASK FUNDS AND  
RESOURCES TO VIOLATE ELIOT and others PRIVACY RIGHTS and more.

155. That Eliot is the midst of attempting to bring about a change in the legal system in efforts to root out systemic corruption at the highest levels by a rogue group of criminals disguised as Attorneys at Law, Judges, Politicians and more.
156. That Eliot has been targeted as a related case to Anderson, in efforts to silence his efforts to take a large bite out of crime in New York and Florida, through a complete violation of his personal property rights, privacy rights and more.
157. That this lawsuit and all the other related Probate cases and other legal cases Eliot is in are a coordinated and conspiratorial efforts to harm Eliot and his family through legal process abuse and RICO type activities that use the legal system to deprive victims of their due process rights against those that hold seats of power and honor who were fixing the cases against them and their friends and misusing government resources to do so.
158. That this legal conspiracy may relate to other legal actions Eliot is currently involved in as described in Eliot's first Petition in the Estate cases<sup>7</sup>, which are again involving conspiracy charges against primarily Attorneys at Law.

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<sup>7</sup> That on May 6, 2013 Petitioner filed an "EMERGENCY PETITION TO: FREEZE ESTATE ASSETS, APPOINT NEW PERSONAL REPRESENTATIVES, INVESTIGATE FORGED AND FRAUDULENT DOCUMENTS SUBMITTED TO THIS COURT AND OTHER INTERESTED PARTIES, RESCIND SIGNATURE OF ELIOT BERNSTEIN IN ESTATE OF SIMON/SHIRLEY BERNSTEIN AND MORE." Filed in both estates.

15th Judicial Florida Probate Court

[www.iviewit.tv/20130506PetitionFreezeEstates.pdf](http://www.iviewit.tv/20130506PetitionFreezeEstates.pdf)

and

Most Honorable Shira A. Scheindlin. Pages 156-582 reference estate matters in Simon and Shirley as it relates to RICO allegations.

[www.iviewit.tv/20130512MotionRehearReopenObstruction.pdf](http://www.iviewit.tv/20130512MotionRehearReopenObstruction.pdf) US District Court Southern District of New York

159. That many defendants in the RICO and ANTITRUST who stand as the primary accused are similar to parties alleged to be involved in the criminal misconduct in the probate and trust cases before this Court.
160. That Simon may have been murdered but not by his girlfriend as alleged, as he may have been talking with State and/or Federal Authorities regarding his knowledge in Proskauer Rose's alleged involvement in the Sir Robert Allen Stanford Ponzi scheme<sup>8</sup> and more and to gain control or destroy his interests in Eliot's Intellectual Properties and the Iviewit Stock companies.
161. That Eliot is pursuing Defendants, Proskauer Rose LLP, Gerald Lewin, CPA and Albert Gortz, Esq. as the main initial parties involved in the theft of Simon and Eliot's Intellectual Properties and companies that were set up to hold those assets, worth estimated billions of dollars.
162. That the RICO CONSPIRACY has reached into the estates and trusts, again through corruption involving complex legal frauds committed through misuse of the legal system now by new Attorneys at Law acting as Officers of this Court, now committed in efforts to deprive Eliot and his family of their inheritances to interfere and hinder their efforts to bring about justice in several of the other now legal battles Eliot and they are involved in.
163. That the Simon and Shirley probate and trust matters before this Court now have several elements of RICO in Florida, including but not limited to, proven fraudulent notarizations, admitted forgery, alleged Extortion, alleged Murder (by Theodore and Pamela primarily and Theodore's past employee

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<sup>8</sup> "U.S. justices say Allen Stanford victims can sue lawyers, brokers" REUTERS, By Lawrence Hurley, WASHINGTON Wed Feb 26, 2014 4:09pm EST <http://www.reuters.com/article/2014/02/26/us-usa-court-stanford-idUSBREA1P17220140226>

and

"Proskauer, Chadbourne Could Face Billions In Damages" Law 360, By Stephanie Russell-Kraft, New York (February 26, 2014, 10:16 PM ET)

<http://www.law360.com/articles/513782/proskauer-chadbourne-could-face-billions-in-damages>

and

"How Allen Stanford kept the SEC at bay" Reuters, By Murray Waas, January 27, 2012 11:06 AM ET <http://business.financialpost.com/2012/01/27/how-allen-stanford-kept-the-sec-at-bay>

Rachel Walker), Conversion, Mail and Wire Fraud, Insurance Fraud, Institutional Trust Company Fraud, Theft, Fraud on this Court, Fraud on a Federal Court and more.

164. That two or more parties have conspired in each of the frauds described herein, some acting as Fiduciaries in the Estates and Trusts of Simon and Shirley while serving as Officers of this Court under this Court's Jurisdiction to effectuate the different frauds to illegally seize Dominion and Control of the Estates and Trusts and loot the assets of Simon and Shirley through various state and federal criminal acts and civil torts both alleged and under investigations and proven and admitted.
165. That new evidence reveals that Eliot and his family have been targeted by high ranking members of the legal community (disciplinary department members, judges and attorneys at law) illegally misusing Joint Terrorism Task Force funds and resources to specifically Obstruct Justice in the prior cases by targeting them and surveilling them directly to interfering with their rights to due process and procedure.
166. That Simon and Shirley left vast wealth to their beneficiaries under their years of elaborate estate plans, costing thousands upon thousands of dollars to set up these trusts, business entities and other vehicles. Simon and Shirley went to Proskauer for Estate planning in 2000 primarily to protect their interests in Eliot's technologies but fired them upon learning of their involvement in the criminal acts involved in the stolen Intellectual Properties.
167. That Simon and Shirley's interests in the technologies and companies that held them is missing from the Estates and Trusts at this time.
168. That Spallina contacted Lewin and Proskauer to find out where the stocks were that they held for the companies they formed to hold the Intellectual Properties and did not receive any information back.
169. That Oppenheimer and JP Morgan were both initially involved in Eliot's technologies and signed various agreements with the companies that held the Intellectual Properties, see <http://iviewit.tv/CompanyDocs/Appendix%20A/>.

170. That all of these complex estate plans, including multiple layers of trusts, business entities and other vehicles have been seized illegally and interfered with by various of the Defendants, acting alone and/or in concert with other Defendants and assets have been converted to improper parties through a combination of frauds and thefts to defeat Eliot of his inheritance, including but not limited to, the shares of the companies that hold the Intellectual Properties. That many of these crimes have occurred in and on this Court as the scene of the crimes, which were committed by Officers of this Court.
171. That in order to achieve this looting of the Estate, Trusts and Corporate Entities, financial of the beneficiaries accounting information due to the Beneficiaries was further suppressed and denied and now it is learned in some instances even destroyed, to keep the information from the true and proper Beneficiaries, in violation of probate statutes, trust statutes, state law, federal law, attorney conduct codes and through breach upon breach of fiduciary duties.
172. That all parties sued hereunder have acted alone and in combination with others to violate the trusts, business entities and other vehicles to fraudulently remove assets from the corpuses of the trusts, business entities and other vehicles, in various artifices to defraud the true and proper Beneficiaries.
173. That if this Court would like a more definite type statement at this time of all known participants and each act they have committed in the Conspiracies, including those already pled in the Estate cases Petitioner will be happy to provide a statement similar to a RICO Statement to tie the conspirators together in any Amended Complaint where further elaboration is requested.
174. That more on the Conspiracy can be found in Eliot's first Petition in the Estate cases of Simon and Shirley under the section titled "The Elephant in the Room"<sup>9</sup> and while this was done over a year

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<sup>9</sup> That on May 6, 2013 Petitioner filed an "EMERGENCY PETITION TO: FREEZE ESTATE ASSETS, APPOINT NEW PERSONAL REPRESENTATIVES, INVESTIGATE FORGED AND FRAUDULENT DOCUMENTS SUBMITTED TO THIS COURT AND OTHER INTERESTED PARTIES, RESCIND SIGNATURE OF ELIOT BERNSTEIN IN ESTATE OF SIMON/SHIRLEY BERNSTEIN AND MORE." Filed in both estates.

ago, many of the main allegations of criminal misconduct and civil torts have now been either proven or admitted and many more recently uncovered.

175. All conditions precedent to this action have been performed or occurred and continue.

WHEREFORE, Plaintiffs prays for judgment against Defendants for Civil Conspiracy, jointly and severally, personally and professionally, for remedies as may be awarded Plaintiff under other Counts herein, together with such other and further relief as the Court may deem just and appropriate.

### **COUNT 2 - CIVIL EXTORTION**

176. This is an action for Civil Extortion under Florida Statutes.

177. Plaintiffs hereby reiterate and incorporate herein by reference, as if fully restated herein, preceding paragraphs 1 through 176, inclusive.

178. That many of the claims of Extortion have already been pled before this Court<sup>10</sup> in filings yet unheard at this time.

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[www.iviewit.tv/20130506PetitionFreezeEstates.pdf](http://www.iviewit.tv/20130506PetitionFreezeEstates.pdf) 15th Judicial Florida Probate Court and [www.iviewit.tv/20130512MotionRehearReopenObstruction.pdf](http://www.iviewit.tv/20130512MotionRehearReopenObstruction.pdf) US District Court Southern District of New York, Most Honorable Shira A. Scheindlin. Pages 156-582 reference estate matters in Simon and Shirley as it relates to RICO allegations.

<sup>10</sup> That on September 04, 2013, ELIOT filed Docket #TBD, in the estate of Simon, a "NOTICE OF EMERGENCY MOTION TO FREEZE ESTATES OF SIMON BERNSTEIN DUE TO ADMITTED AND ACKNOWLEDGED NOTARY PUBLIC FORGERY, FRAUD AND MORE BY THE LAW FIRM OF TESCHER & SPALLINA, P.A., ROBERT SPALLINA AND DONALD TESCHER ACTING AS ALLEGED PERSONAL REPRESENTATIVES AND THEIR LEGAL ASSISTANT AND NOTARY PUBLIC, KIMBERLY MORAN: **MOTION FOR INTERIM DISTRIBUTION DUE TO EXTORTION BY ALLEGED PERSONAL REPRESENTATIVES AND OTHERS**; MOTION TO STRIKE THE MOTION OF SPALLINA TO REOPEN THE ESTATE OF SHIRLEY; CONTINUED MOTION FOR REMOVAL OF ALLEGED PERSONAL REPRESENTATIVES AND ALLEGED SUCCESSOR TRUSTEE."

<http://www.iviewit.tv/20130904MotionFreezeEstatesShirleyDueToAdmittedNotaryFraud.pdf>  
and

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

(I) MOTION TO ORDER ALL DOCUMENTS BOTH CERTIFIED AND VERIFIED REGARDING ESTATES OF SHIRLEY AND SIMON (SIMON'S DOCUMENT ARE REQUESTED AS IT RELATES TO SHIRLEY'S ALLEGED CHANGES IN BENEFICIARIES) BE SENT TO ELIOT AND HIS CHILDREN IMMEDIATELY IN PREPARATION FOR THE EVIDENTIARY HEARING ORDERED BY THIS COURT

(II) MOTION TO FOLLOW UP ON SEPTEMBER 13, 2013 HEARING AND CLARIFY AND SET STRAIGHT THE RECORD

179. That the Defendants worked together and with others to interfere and deprive in combinations and separately to illegally seize Dominion and Control of BFR and the children's trust funds, which were the primary sources of funding for Eliot's family, along with intentional interference with Eliot and his children's inheritances.
180. That Defendants worked together in concert and with others to interfere and deprive in combinations and separately to then begin a Pattern and Practice of frauds to destroy BFR and the children's trusts, in efforts to deplete Eliot of resources and then extort Eliot to either accept improper distributions to his children by participating in their fraud or else deprive Eliot of his and his children's inheritances.
181. That the Defendants worked together in concert and with others to interfere and deprive in combinations and separately to illegally seize Dominion and Control of the Estates and Trusts and delay and interfere with expectancies and inheritances of Eliot and his children.
182. That the Defendants worked together in concert and with others to interfere and deprive in combinations and separately to illegally seize Dominion and Control of Telenet Systems and delay and interfere with Eliot and Candice's income and interests in that company.

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**(III) MOTION TO COMPEL FOR IMMEDIATE, EMERGENCY RELIEF!!!, INTERIM DISTRIBUTIONS AND FAMILY ALLOWANCE FOR ELIOT, CANDICE & THEIR THREE MINOR CHILDREN DUE TO ADMITTED AND ACKNOWLEDGED FRAUD BY FIDUCIARIES OF THE ESTATE OF SHIRLEY AND ALLEGED CONTINUED EXTORTION**

(IV) MOTION TO CORRECT AND DETERMINE THE BENEFICIARIES OF THE ESTATE BASED ON PRIOR CLOSING OF THE ESTATE THROUGH FRAUD ON THE COURT BY USING FRAUDULENT DOCUMENTS SIGNED BY SIMON WHILE HE WAS DEAD AND POSITED BY SIMON IN THIS COURT WHEN HE WAS DEAD AS PART OF A LARGER FRAUD ON THE ESTATE BENEFICIARIES

(V) MOTION TO ASSIGN NEW PERSONAL REPRESENTATIVES AND ESTATE COUNSEL TO THE ESTATE OF SHIRLEY FOR BREACHES OF FIDUCIARY DUTIES AND TRUST, VIOLATIONS OF PROFESSIONAL ETHICS, VIOLATIONS OF LAW, INCLUDING BUT NOT LIMITED TO ADMITTED AND ACKNOWLEDGED FRAUD, ADMITTED AND ACKNOWLEDGED FRAUD ON THE COURT, ALLEGED FORGERY, INSURANCE FRAUD, REAL PROPERTY FRAUD AND MORE

(VI) MOTION FOR GUARDIAN AD LITUM FOR THE CHILDREN OF TED, P. SIMON, IANTONI AND FRIEDSTEIN AND ASSIGN A TRUSTEE AD LITUM FOR TED FOR CONFLICTS OF INTEREST, CONVERSION AND MORE

(VII) MOTION TO RECONSIDER AND RESCIND ORDER ISSUED BY THIS COURT "ORDER ON NOTICE OF EMERGENCY MOTION TO FREEZE ASSETS" ON SEPTEMBER 24TH FOR ERRORS AND MORE AND

(VIII) MOTION TO RECONSIDER AND RESCIND ORDER ISSUED BY THIS COURT "AGREED ORDER TO REOPEN THE ESTATE AND APPOINT SUCCESSOR PERSONAL REPRESENTATIVES" ON SEPTEMBER 24TH FOR ERRORS AND MORE

[www.iviewit.tv/20131010MotionCompelFreezeYouHaveTheRighttoRemainSilent.pdf](http://www.iviewit.tv/20131010MotionCompelFreezeYouHaveTheRighttoRemainSilent.pdf)



183. That once Defendants had seized Dominion and Control of the Estates, Trusts and Corporate Entities and diminished available funds to Eliot's family, they began an extortive attempt to have Eliot either participate in the fraudulent activity they were caught in or to face intentional financial calamity they now controlled.
184. That when Eliot refused and instead continued to pursue investigations with civil and criminal authorities, Defendants worked together in concert and with others to interfere and deprive in combinations and separately to interfere and deprive Eliot and his family of inheritances due them and deplete trust funds in his three minor children's trusts and leave them with no income that had been set up by Simon and Shirley in their estate plans virtually cutting them off of essential monies owed them.
185. That Eliot and his children had been set up financially through entities created by both Simon and Shirley while living and these finances were intended to continue after their deaths through their ELABORATE estate plans, some of these entities done exclusively for Eliot and his family's PROTECTION, which were designed to provide monthly income and school funds for his family into the future for many years.
186. That intentional delays in Eliot's inheritance have been caused in Shirley's Estate and Trusts where ELIOT is a one third beneficiary by the former PR's and Trustees of Simon's Estate attempted to claim that Simon had changed Shirley's beneficiaries from her three children to her ten grandchildren, through a series of fraudulent documents and frauds on this Court.
187. That Eliot's siblings Theodore and his sister Pamela had been wholly disinherited and considered predeceased for Shirley and Simon's Estate and Trusts in 2008. When Shirley died in 2010 her Trusts that held millions of dollars in assets then became irrevocable with Eliot, Lisa and Jill and their lineal descendants as the only ultimate beneficiaries.

188. That both Simon and Shirley completed mirrored Wills and Trusts in 2008, according to deposition statements made by Donald Tescher on July 09, 2014, and these plans wholly left their Estates and Trusts and all properties to Eliot, Lisa and Jill and their lineal descendants only.
189. That documents recently provided by Court Order in the Estate of Simon have revealed that the 2008 Wills and Trusts of Shirley and Simon's appear materially different and not mirrored and these documents have already been questioned in prior filed and unheard motions of Eliot's as to their legal validity and questioned again herein.
190. That Shirley died with her 2008 Will and Trusts as the Dispositive documents, with Simon as a beneficiary while alive and Trustee and only Eliot, Lisa and Jill and their lineal descendants as the beneficiary class when it became irrevocable. Simon could neither add nor subtract beneficiaries to Shirley's plans once she died as the trusts became irrevocable, despite efforts by the former PR/Executors/Trustees, Tescher, Spallina and Ted to illegally achieve changes to the Beneficiaries through a series of proven fraudulent and admitted forged and fraudulently altered documents, That then subsequent illegal distributions were converted as if these changes were legal and this to the advantage of Theodore and Pamela primarily and to the disadvantage of other beneficiaries.
191. That Simon in no way could execute a Power of Appointment to make any changes to the Class of Beneficiaries (Eliot, Lisa and Jill and their lineal descendants) once she passed away. Yet, efforts were made to change the beneficiaries of these irrevocable trusts through fraudulent documents and assets were then sold and distributions made to knowingly improper parties by the former PR's, Fiduciaries and Counsel for Simon and Shirley's Estates and Trusts.
192. That in 2012 Shirley's Estate was reopened by Hon. Judge Martin Colin due to Fraud committed by Tescher, Spallina, TSPA, Theodore, Manceri and Moran et al. and remains open today, pending ongoing litigation.

193. That in 2012 it is ALLEGED that Simon annulled his 2008 Will (instead of Amending it) and replaced it with an alleged 2012 Will and further allegedly Amended his 2008 Trusts and replaced it with a 2012 Amended and Restated Trust, only 48 days before he passed suddenly and unexpectedly.
194. That in 2013 it is proven in this Court in the Estate and Trust cases that POST MORTEM, Simon closed the Estate of Shirley, while dead for four months acting as Personal Representative, yes dead and done with Fraudulently Notarized, Fraudulent and Forged documents that has already led to one an arrest for felony acts and admissions of fraudulently altering trust documents and more.
195. That in 2013 it was learned from the Governor Rick Scott's Office Notary Public Division that the notarizations on the ALLEGED 2012 Will and Amended and Restated Trust were improper and where Simon cannot now said to have been present on the date the document is alleged signed, due to such improper notarization and legally void for this and other defects. The documents have been challenged before this Court for the 2012 Will and Trusts of Simon.
196. That Eliot has assisted the PBSO financial crimes division in making the arrests and forcing the admissions and pursuing other alleged criminal acts that are under ongoing investigations and civil actions and many committed by the Officers and Fiduciaries of this Court and due to this fact they have conspired to deny Eliot and his family, including three minor children of their inheritances, have stolen monies from Eliot and his children's pre-funded trusts and stolen companies left to them and then knowing that they were harming Eliot and his family, they proceeded to repeatedly attempt to force Eliot to either partake in illegal activities by signing waivers and giving them implied consent and partaking in the same fraudulent activity to further waive his rights for retribution or starve and be foreclosed on through more fraud already pled in the estate and trust cases before the Court and evicted from their home and more. Classic extortion, either play or pay, even using the kids in certain of the alleged attempts to force Eliot to take illegal distributions or watch his THREE

MINOR CHILDREN suffer as they delayed his family's inheritance through criminal acts they committed that have caused the delays in distributions.

197. That the soon to be DOOMED efforts to force foreclose on the home Eliot's children own and further starve out Eliot and his family completely, wholly defeats the wishes of both Simon and Shirley Bernstein and the elaborate estate planning mechanisms they put in place to protect Eliot and his family's assets, in some instances these plans were solely for Eliot and his family knowing that Eliot and his family's lives are in danger and where set up to provide steady monthly income to Eliot to work on protecting his and Simon's patent interests and to work on protecting himself from another TERRORIST STYLED CAR BOMBING ASSASSINATION ATTEMPT.

198. All conditions precedent to this action have been performed or occurred and continue.

WHEREFORE, Plaintiffs prays for judgment against Defendants for Civil Extortion, jointly and severally, personally and professionally, for remedies as may be awarded Plaintiff under other Counts herein, together with such other and further relief as the Court may deem just and appropriate.

### **COUNT 3 - THEFT**

199. This is an action for Civil Theft under the Florida Statutes.

200. Plaintiffs hereby reiterate and incorporate herein by reference, as if fully restated herein, preceding paragraphs 1 through 265, inclusive.

201. That theft of property has occurred with the misuse of bank accounts, including POST MORTEM held in the Estates and Trusts.

202. That a series of property frauds have left assets missing and unaccounted for at this time, including but not limited to, Jewelry, Artwork and Furnishings, which has been reported to authorities and remains under ongoing investigation.

203. All conditions precedent to this action have been performed or occurred and continue.

WHEREFORE, Plaintiffs prays for judgment against Defendants for Theft, jointly and severally, personally and professionally, for remedies as may be awarded Plaintiff under other Counts herein, together with such other and further relief as the Court may deem just and appropriate.

#### **COUNT 4 – FRAUDULENT CONVERSION**

204. This is an action for Fraudulent Conversion under Florida Statutes.

205. Plaintiffs hereby reiterate and incorporate herein by reference, as if fully restated herein, preceding paragraphs 1 through 270, inclusive.

206. That Spallina, Tescher, Theodore, Craig, Worth, Manceri, Rose, Pankauski and others have interfered with Eliot and his children's inheritances by falsifying documents and other criminal acts and civil torts to convert assets to improper parties and seize Dominion and Control of various trusts and estates assets with intent and destroy, suppress and deny Eliot and his family of their inheritances.

207. All conditions precedent to this action have been performed or occurred and continue.

WHEREFORE, Plaintiffs prays for judgment against Defendants for Conversion, jointly and severally, personally and professionally, for remedies as may be awarded Plaintiff under other Counts herein, together with such other and further relief as the Court may deem just and appropriate.

#### **COUNT 5 – INTENTIONAL INTERFERENCE WITH AN INHERITANCE/EXPECTANCY**

208. This is an action for Torturous Interference with an Inheritance under Florida Statutes.

209. Plaintiffs hereby reiterate and incorporate herein by reference, as if fully restated herein, preceding paragraphs 1 through 274, inclusive.
210. That Eliot and/or his children had expectancy from the Trusts, Estates and Corporate Entities of Simon and Shirley Bernstein sued hereunder and there has been intentional interference with the expectancy through tortuous conduct that caused and continue to cause damages.
211. That Spallina, Tescher, Theodore, Craig, Worth, Manceri, Rose, Pankauski and others have interfered with Eliot and his children's inheritances through a number of schemes and artifices to defraud and by falsifying dispositive documents to convert assets to improper parties and seize Dominion and Control of various trusts and estates assets with intent and destroy, suppress and deny Eliot and his family of their inheritances.
212. That Eliot and his family have been denied access to Estate and Trust documents and accountings for now four years in Shirley's Estates and Trusts and two years in Simon's Estates and Trusts in efforts to deny them their inheritances and convert the properties to improper parties.
213. That despite the fact that Simon and Shirley's Estate and Trusts were to be distributed to Eliot and his children immediately upon their deaths to provide income for their health, maintenance, schooling and more, through intentional egregious acts of bad faith and criminal activity Eliot and his family have not received any inheritance in almost two years, which was intentionally caused to harm them.
214. All conditions precedent to this action have been performed or occurred and continue.

WHEREFORE, Plaintiffs prays for judgment against Defendants for Intentional Interference with an Inheritance/Expectancy, jointly and severally, personally and professionally and for remedies as may be awarded Plaintiff under other Counts herein, together with such other and further relief as the Court may deem just and appropriate.

## COUNT 6 – CIVIL FRAUD

215. This is an action for Civil Fraud under Florida Statutes.
216. Plaintiffs hereby reiterate and incorporate herein by reference, as if fully restated herein, preceding paragraphs 1 through 281, inclusive.
217. That a complex set of frauds have taken place in the Estates and Trusts of Simon and Shirley and some are already proven such as improper notarizations of Wills and Trusts of Simon, proven fraudulently notarized Waivers in Shirley's Estate, proven Fraud on this Court through use of a deceased person, Simon, to act as Personal Representative to close an Estate through documents filed by the law offices of Tescher and Spallina on behalf of a dead PR and with no notice to the Court for months that the PR that was filing the documents had passed and this was done with scienter with this Court POST MORTEM.
218. That when Simon died the Estate of Shirley had not been closed and in order to attempt to change her Beneficiaries of her Estate and Irrevocable Trusts, the scheme needed Simon to be alive and close the Estate and then attempt to use an ALLEGED Power of Appointment to make changes that could not be made legally, therefore Simon was used POST MORTEM for several months while dead to close Shirley's Estate and then try and make changes to her Beneficiaries, again, POST MORTEM.
219. That similar fraudulent activity is taking place with the children's Trusts, BFR, the Estates, virtually all of the Trusts and entities sued hereunder, where documents are not complete, there are missing signatures, assets are being stolen and funds improperly used by the fiduciaries in self-dealing transactions that have benefited the Defendants.
220. That virtually every act of the Fiduciaries and their Counsel has been fraudulent since the altering and changing of dispositive documents to illegally seize Dominion and Control of the Estates, Trusts and Corporate Entities in efforts to loot the Estates, Trusts and Corporate Entities of Simon and Shirley through various subsequently fraudulent acts.

221. All conditions precedent to this action have been performed or occurred and continue.

WHEREFORE, Plaintiffs prays for judgment against Defendants for Frauds, jointly and severally, personally and professionally, for remedies as may be awarded Plaintiff under other Counts herein, together with such other and further relief as the Court may deem just and appropriate.

**COUNT 7 - BREACH OF FIDUCIARY DUTIES**

222. This is an action for Breach of Fiduciary Duties under Florida Statutes.

223. Plaintiffs hereby reiterate and incorporate herein by reference, as if fully restated herein, preceding paragraphs 1 through 288, inclusive.

224. That the fiduciaries of the Estates, Trusts and Corporate Entities sued hereunder are alleged to have gained their fiduciary positions through a series of fraudulent documents and other acts and thus EVERY action they have taken forward is a breach of fiduciary duties through combinations of self-dealing transactions, excessive compensations, excessive and unjustified legal fees (including billing for time to respond to investigators and more), improper and illegal investment decisions and a mass of pilfering and stealing of assets.

225. That despite being aware of their involvement in criminal acts, the fact that they are under ongoing investigations, the fact that the dispositive documents have been challenged and found fraught with fraud and more, the fiduciaries, primarily now Theodore since the counsel he brought to the Bernstein family, Tescher and Spallina, are removed, continues to act and abuse his alleged fiduciary powers to harm and deceive beneficiaries despite his absolute and irrefutable conflicts of interest and adverse interests that factually preclude his involvement further as fiduciary.

226. That despite Theodore knowing and being informed repeatedly of the reasons he cannot now serve in any fiduciary capacities in the Estates and Trusts of Simon and Shirley he continues with his counsel



to act in disregard of his fiduciary duties to resign, in efforts to liquidate assets in fire sale self-dealing transactions before he is removed.

227. That Theodore is alleged by his counsel to have took distributions against the advice of counsel as claimed by Spallina to PBSO, all in efforts to loot further the Estates and Trusts before he is fully removed in every capacity in the Estates and Trusts of Simon and Shirley.
228. That all Fiduciaries to the Estates, Trusts and Corporate Entities sued hereunder have committed multiple Egregious Acts of Bad Faith with Unclean Hands in violation of their fiduciary duties causing a mass of civil torts against Plaintiffs.
229. All conditions precedent to this action have been performed or occurred and continue.

WHEREFORE, Plaintiffs prays for judgment against all Defendants in any Fiduciary role for any of the trusts sued hereunder for Breach of Fiduciary Duties under 736.1001 Remedies for breach of trust and other applicable statutes both jointly and severally, personally and professionally, and for remedies as may be awarded Plaintiff under other Counts herein, together with such other and further relief as the Court may deem just and appropriate.

#### **COUNT 8 - ABUSE OF PROCESS**

230. This is an action for Abuse of Process under Florida Statutes.
231. Plaintiffs hereby reiterate and incorporate herein by reference, as if fully restated herein, preceding paragraphs 1 through 296, inclusive.
232. That improper use of the court's process through vexatious litigations and other legal debauchery has taken place repeatedly, including the filing of this instant action with ulterior and improper motives of the Defendants in exercising such illegal use of process and damages to the Eliot and his family have resulted from such abuse of process with malice.

233. That all of the document Frauds have been implemented using the Court processes to achieve Dominion and Control of the Estates and Trusts through a series of fraudulent dispositive documents crafted to commit fraud both on the Court and the Beneficiaries, Interested Parties and Creditors.
234. That several instances of Fraud on this Court by Officers and Fiduciaries of this Court are already proven and this represents irrefutable evidence of Abuse of Process, similar to the abuse of process in this action, whereby the Courts are being used to attempt to diffuse and cover up the crimes that have taken place in the children's school trusts and BFR.
235. That there are multiple abuses of process that are expensive and abusive to the Beneficiaries, including legal harassment in efforts to further harm beneficiaries by causing expensive delays in estate administration and billing up outrageous attorney fees and costs through frivolous and fraudulent pleadings.
236. That Gray Robinson and Steven Lessne have abused process by contacting Eliot and Candice under false premises to gain insight into highly confidential and sensitive information regarding their legal strategies against Oppenheimer, initially claiming to represent BFR and Eliot's children's pre funded school trusts when really representing Oppenheimer's Craig as Trustee and Manager of BFR. Then using this ill gained information to file a lawsuit to further harass Eliot and Candice.
237. That Gray Robinson knowing of Fraud allegations against Craig, Worth and others involved in these matters, then tried to escape from their fiduciary obligations to report the crimes and filed this instant action with a separate Judge at this Court and without notifying the Court, the new Judge or the authorities of the illegally activities alleged against their client Oppenheimer et al.
238. That Lessne also did not file this instant action as part of the Court cases before Hon. Judge Martin Colin, while knowing of the related Estate and Trusts actions already in play and directly related to these matters.
239. All conditions precedent to this action have been performed or occurred and continue.

WHEREFORE, Plaintiffs prays for judgment against Defendants, jointly and severally, personally and professionally, for Abuse of Process and for remedies as may be awarded Plaintiff under other Counts herein, together with such other and further relief as the Court may deem just and appropriate, together with such other and further relief as the Court may deem just and appropriate.

### **COUNT 9 - LEGAL MALPRACTICE**

240. Plaintiffs hereby reiterate and incorporate herein by reference, as if fully restated herein, preceding paragraphs 1 through 306, inclusive.
241. This is an action for Legal Malpractice under Florida Statutes.
242. That in the instant action Gray Robinson and Steven Lessne have committed legal malpractice by contacting Eliot and Candice under false premises to gain insight into highly confidential and sensitive information regarding their legal strategies against Oppenheimer, Spallina, Tescher, Theodore, Manceri et al. initially claiming to represent BFR and Eliot's children's pre funded school trusts when really Lessne was representing Oppenheimer's Craig as Trustee of the children's trusts and Manager of BFR, not the entities and beneficiaries of the entities.
243. That Attorneys at Law, Spallina, Tescher, Manceri, Rose, Pankauski, Gortz and others have worked together in concert and with others to interfere and deprive in combinations and separately to commit frauds, frauds on the courts and more in direct efforts to commit a series of criminal wrongdoings and civil torts against parties to the Estates and Trusts of Simon and Shirley and other related entities, which have enriched them greatly through legal fees and more.
244. That all Attorneys at Law named as Defendants hereunder have committed malpractice by subverting their clients' interests and participating in a variety of criminal acts resulting in a mass of civil torts to the true and proper Beneficiaries of the Estates and Trusts of Simon and Shirley and others.

245. That through a web of conflicting interests and adverse interests the Attorneys at Law involved in this action and those involved in the probate of the Estates of Simon and Shirley have worked together in concert and with others to interfere and deprive in combinations and separately to violate virtually the entire Attorney Conduct Codes and State and Federal Laws.
246. That the Attorneys at Law have enriched themselves through these fraudulent activities to the disadvantage of Eliot and his family.
247. That the Attorneys at Law named hereunder as Defendant, in some instances even admittedly, altered Estate and Trusts documents to enrich themselves and others, including their friend and client Theodore, while intentionally causing problems with the Beneficiaries to gin up disputes that resulted in excessive legal fees for themselves and the fiduciaries, in some cases the Attorneys also acting as the Fiduciaries and then counsel to themselves as the fiduciaries, as the case is with Tescher and Spallina.
248. That Tescher and Spallina conspired together to change and alter Trust documents in Shirley's Estate in efforts to benefit their CLIENT, FRIEND and BUSINESS ASSOCIATE, Theodore.
249. That all Attorneys at Law to the Estates, Trusts and Corporate Entities sued hereunder have committed multiple Egregious Acts of Bad Faith with Unclean Hands in violation of their Attorney Conduct Codes and Law causing a mass of civil torts against Plaintiffs.
250. All conditions precedent to this action have been performed or occurred and continue.

WHEREFORE, Plaintiffs prays for judgment against Defendants for Legal Malpractice, jointly and severally, professionally and personally and for remedies as may be awarded Plaintiff under other Counts herein, together with such other and further relief as the Court may deem just and appropriate.

**COUNT 10 – EQUITABLE LIEN**

251. Plaintiffs hereby reiterate and incorporate herein by reference, as if fully restated herein, preceding paragraphs 1 through 316, inclusive.
252. This is an action to impose an Equitable Lien on the Estates and Trusts Assets in both the Simon and Shirley Estates that were seized illegally from December 08, 2010 when Shirley deceased and then further from September 13, 2012 when Simon deceased through a series of fraudulent activities that transferred Dominion and Control of the assets to improper parties and have since led to numerous other fraudulent activities under ongoing State and Federal investigations both civil and criminal.
253. That this is an action for an Equitable Lien on the children's Trusts, all Trusts sued hereunder and all Estates, Trusts and Corporate Entities sued hereunder that Simon and Shirley had interests in, due to the fraudulent activity taking place and to preserve and protect the assets.
254. That the Defendants have become enriched unjustly due to the criminal acts and civil torts defined herein.
255. All conditions precedent to this action have been performed or occurred and continue.

WHEREFORE, Plaintiffs prays for judgment for an Equitable Lien and for remedies as may be awarded Plaintiff under other Counts herein, together with such other and further relief as the Court may deem just and appropriate.

#### **COUNT 11 - ACCOUNTING**

256. Plaintiffs hereby reiterate and incorporate herein by reference, as if fully restated herein, preceding paragraphs 1 through 322, inclusive.
257. This is an action against Theodore, Craig, Worth, Spallina and Tescher and others who have failed to provide accountings for the Estates or Trusts to the Beneficiaries and Interested Parties as statutorily required for full formal accountings of all Trusts, Estates and Entities involved in the estate plans of Simon and Shirley and sued hereunder.

258. That Theodore has failed to provide accounting in any of his alleged roles as a fiduciary in the Estates and Trusts of Shirley and Simon as required by law since he allegedly began acting as a fiduciary.
259. That Spallina and Tescher and all other current and former trustees (excluding Benjamin Brown, Esq. the Curator of Simon’s Estate and the new Successor PR of the Estate of Simon, Brian O’Connell, Esq.) failed to provide accountings or tender documents to Beneficiaries and Interested Parties according to well established probate rules and statutes in their roles as fiduciaries and counsel to the Estates and Trusts of Simon and Shirley as required by law.
260. That Theodore after allegedly becoming Successor Trustee to the Trusts of Simon has failed to provide an accounting or any other evidence that he was elected legally as the Successor Trustee.
261. That Theodore after acting for almost a year in Shirley’s Estates and Trusts with no legal authority or notice or accountings to beneficiaries, was then appointed PR of the Estate of Shirley by Judge Colin and since October 2013 has failed to provide an accounting, his letters or any other documents to the beneficiaries in violation of Probate Rules and Statutes.
262. All Trustees in ALL of the Trusts created by Simon and Shirley Bernstein and so sued hereunder have failed under;

736.0813 Duty to inform and account.—The trustee shall keep the qualified beneficiaries of the trust reasonably informed of the trust and its administration.

(1) The trustee’s duty to inform and account includes, but is not limited to, the following:

(a) Within 60 days after acceptance of the trust, the trustee shall give notice to the qualified beneficiaries of the acceptance of the trust, the full name and address of the trustee, and that the fiduciary lawyer-client privilege in s. 90.5021 applies with respect to the trustee and any attorney employed by the trustee.

(b) Within 60 days after the date the trustee acquires knowledge of the creation of an irrevocable trust, or the date the trustee acquires knowledge that a formerly revocable trust has become irrevocable, whether by the death of the settlor or otherwise, the trustee shall give notice to the qualified beneficiaries of the trust’s existence, the identity of the settlor or settlors, the right to request a copy of the trust instrument, the right to accountings under this section, and that the fiduciary lawyer-client privilege in s. 90.5021 applies with respect to the trustee and any attorney employed by the trustee.

(c) Upon reasonable request, the trustee shall provide a qualified beneficiary with a complete copy of the trust instrument.

(d) A trustee of an irrevocable trust shall provide a trust accounting, as set forth in s. 736.08135, from the date of the last accounting or, if none, from the date on which the trustee became accountable, to each qualified beneficiary at least annually and on termination of the trust or on change of the trustee.

(e) Upon reasonable request, the trustee shall provide a qualified beneficiary with relevant information about the assets and liabilities of the trust and the particulars relating to administration.

263. That all Fiduciaries and Attorneys at Law to the Estates, Trusts and Corporate Entities sued hereunder have committed multiple Egregious Acts of Bad Faith with Unclean Hands in violation of their fiduciary duties by failing to provide legally timely accountings and have intentionally and with scienter have failed to provide accountings and more causing a mass of civil torts against Plaintiffs.

264. All conditions precedent to this action have been performed or occurred and continue.

WHEREFORE, Plaintiffs demands judgment for accountings for ALL Estate and Trusts of both Shirley and Simon sued hereunder that have been denied in violation of statutes and for remedies as may be awarded Plaintiff under other Counts herein, together with such other and further relief as the Court may deem just and appropriate.

**COUNT 12 – REMOVE DEFENDANTS IMMEDIATELY FROM ALL FIDUCIARY AND LEGAL POSITIONS IN THE ESTATES, TRUSTS AND OTHER CORPORATE ENTITIES SUED HEREUNDER**

265. Plaintiffs hereby reiterate and incorporate herein by reference, as if fully restated herein, preceding paragraphs 1 through 331, inclusive.

266. This is an action to remove the current ALLEGED Trustee of the Estate and trusts of Shirley, Theodore, the Trustee of Simon's trusts, again Theodore, the Trustee of the children's school Trusts, Craig and Worth and the Manager of BFR, Craig.

736.0706 Removal of trustee

267. This is an action to remove the current ALLEGED Counsel to the Trustee of the Estate and trusts of Shirley, Rose and Pankauski, the Counsel to the Alleged Trustee of Simon's trusts, again Rose and

Pankauski, the Counsel for the Trustee of the children's school Trusts, Gray Robinson, the Counsel for the Manager of BFR, Gray Robinson and all other unknown counsel to any of the trustees who have acted alone and in combination with each other, with the fiduciaries of the various trusts and wills and other defendants to violate the trusts and wills of Simon and Shirley sued hereunder.

268. That on July 11<sup>th</sup> 2014 Theodore's Motion to be Appointed Personal Representative of the Estate of Simon to replace the Curator, Benjamin Brown, Esq. that was installed after Tescher and Spallina were removed in all capacities from the Estates and Trusts of Simon and Shirley Bernstein amidst the criminal acts and civil torts proven, admitted and alleged in the Estates and Trusts thus far and where after making a bid to become the Successor PR, against a tidal wave of opposition and legally sound reasons that do not make him qualified now to act in any fiduciary capacities in either the Estates and Trusts of Simon and Shirley, Theodore withdrew his request after wasting this Court and everyone's time, including a mass of legal fees encumbered by all parties and allowed an independent Third Party Personal Representative to be elected, Brian O'Connell, Esq.

269. That Theodore is not now qualified to be Personal Representative or Trustee or Manager of any of Simon and Shirley's Wills and Trusts and entities created by them for the beneficiaries, as he has a plethora of Conflicts of Interests, he has absolute Adverse Interests in both Simon and Shirley's Estates and Trusts, he is under ongoing criminal investigations and civil actions that further make him conflicted and unable to legally serve and he must instantly be removed by this Court to preserve and protect the assets of Simon and Shirley from further Fraud and more that Theodore is the central alleged perpetrator of. Where Theodore has directly benefited the most from the criminal acts already proven, admitted and alleged and Theodore has been considered in all Wills and Trusts of Simon and Shirley as PREDECEASED and wholly disinherited. Theodore therefore has no real beneficial interest in these matters in light of the allegations against him, to be a Fiduciary in light of the ongoing messes caused under his tutelage and aided and abetted by Attorneys at Law that are his



friends and business associates who all came in to the Estate and Trust matters through their relations to Theodore. Theodore must be removed as he and his sister Pamela are the direct benefactors of all these problems and criminal acts committed thus far, to the disadvantage of other beneficiaries, interested parties and creditors.

270. All conditions precedent to this action have been performed or occurred and continue.

WHEREFORE, Plaintiffs prays for judgment to REMOVE COUNTER DEFENDANTS IMMEDIATELY FROM ALL FIDUCIARY AND LEGAL POSITIONS IN THE ESTATES AND TRUSTS AND OTHER ENTITIES OF SIMON AND SHIRLEY BERNSTEIN, to SIEZE ALL RECORDS and Estate and Trust Assets from all Defendants regarding the Estates, Trusts and Corporate Entities Sued hereunder and for remedies as may be awarded Plaintiff under other Counts herein, together with such other and further relief as the Court may deem just and appropriate.

### **COUNT 13 - PRELIMINARY INJUNCTION**

271. Plaintiffs hereby reiterate and incorporate herein by reference, as if fully restated herein, preceding paragraphs 1 through 337, inclusive.

272. This is an action under Florida Statute 526.312 and any other applicable statutes to prohibit instantly the current ALLEGED Trustee of the Estate and trusts of Shirley, Theodore, the Trustee of Simon's trusts, again Theodore, the Trustee of the children's school Trusts, Craig and Worth and the Manager of BFR, Craig from any further actions in any capacities until these matters of fraud and more can be fully resolved both criminally and civilly before this Court and state and federal civil agencies.

273. That this injunction should freeze all assets held in ALL Trusts, Estates and Entities named hereunder to preserve them from further fraud being committed by fiduciaries and counsel to the fiduciaries, who are all alleged to be directly involved in the prior criminal acts, ongoing alleged criminal acts and admitted criminal acts and that no further acts regarding the assets should be made without direct Court approval, including ALL Attorney at Law fees, costs or any other transactions

other than those already arranged by the Court with Brian O'Connell and Benjamin Brown. That this is to include all properties held in all Trusts, Estates and Corporate Entities sued hereunder that Simon and Shirley owned or had interests in.

274. All conditions precedent to this action have been performed or occurred and continue.

WHEREFORE, Plaintiffs prays for judgment a Preliminary Injunction and for remedies as may be awarded Plaintiff under other Counts herein, together with such other and further relief as the Court may deem just and appropriate.

275. All conditions precedent to this action have been performed or occurred and continue.

WHEREFORE, Eliot prays for judgment a Preliminary Injunction and for remedies as may be awarded Plaintiff under other Counts herein, together with such other and further relief as the Court may deem just and appropriate.

Wherefore, Eliot further prays further for judgment for the following,

- i. to have 120 days to Amend this Counter Complaint and notices this Court that this complaint was done while Eliot is undergoing dental work that has had him medicated on narcotic analgesics and the muscle relaxer flexeril and thus has had Candice help him and keep him focused but where since they are Pro Se this pleading was done in state of medical duress as an only option and thus seeks this lengthy extension to recover and file a more cognizant version due to such medical impairment. This pleading is not as perfectly poetically just as Eliot's other Pro Se pleadings the Court is used to due to these limitations.
- ii. A verified statement by Judge Martin Colin and David French stating that they have no conflicts of interest with these matters where the crimes have occurred in and upon their Courts and further stating that their involvement directly in the case and fact that they will both be material and fact witnesses to the crimes that occurred in their

Courts by Officers of the Court that they approved and had Jurisdiction over who committed felonious acts in and upon their Courts. This request is to help overcome any appearance of impropriety that is created by their handling a lawsuit where they and the Officers of their Courts are centrally involved in the criminal misconduct and civil torts. In other words so the general public would not think that any judge could be covering up crimes committed in and upon their court for themselves and officers of their court involved directly and indirectly in the crime. This statement should affirm to the beneficiaries, interested parties and creditors that any involvement in the cases forward would violate no known, attorney conduct codes, judicial canons, state and federal law and in no way can be viewed to prejudice the rights of any parties subject to the lawsuit.

- iii. That Eliot prays this Court demand the alleged Fiduciaries to release funds to Eliot for counsel in these matters that they have deemed essential to the administration of the Estate and Trusts of Simon and Shirley and since these legal actions are the direct result of fraud caused by the fiduciaries and their counsel in part and have forced Eliot and his children to need separate and distinct counsel to defend their interests. The PR's and Trustees have refused repeated requests for legal fees even for the minor children and so this Court must Order them to pay.
- iv. That as this case is similar and related to the probate estate and trust cases before this Court already and the Counter Defendants are similar to the Respondents in those matters that Service of this Counter Complaint be waived by the Court, other than through email service and ECF service to save Eliot monies as he is indigent due to the delays in his inheritance caused by Officers of this Court and others. Any fees to file this Counter Complaint should also be paid for by the Estates and Trusts until it

can be recovered from the responsible parties who caused these costs to be necessary as a result of their frauds and more. That already in the Oppenheimer Counter Complaint many parties that are in the related cases including many attorneys at law are refusing to waive service and force Eliot to send a Marshal instead and waste more monies. Attorneys hiding from service of process, unheard of in matters they created from their criminal acts in many of the instances of service dodging in the Oppenheimer matter by Respondents in the Estate and Trust cases.

Filed on **Wednesday, July 30, 2014,**

Eliot Bernstein, Pro Se, Individually and as legal guardian on behalf of his three minor 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, **Wednesday, July 30, 2014,**

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

X\_\_\_\_\_

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