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

TED BERNSTEIN, as Trustee Probate Division

of the Shirley Bernstein Trust Agreement Case No.: 502014CP003698XXXXSB

dated May 20, 2008, as amended,

Plaintiff,

v.

ALEXANDRA BERNSTEIN; et al.

Defendants.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_/

**VERIFIED SWORN EMERGENCY PETITION AND AFFIDAVIT FOR**

**IMMEDIATE DISQUALIFICATION OF JUDGE MARTIN COLIN**

COMES NOW Eliot Bernstein (“Petitioner”) and files under information and belief this Verified Emergency Petition and Affidavit for Immediate Disqualification of Judge Martin Colin, pursuant to Fla R. Admin P. 2.330 and section 38.10, Florida Statutes, for the following grounds and reasons:

1. Rule 2.330 (a) **Application**. This rule applies only to county and circuit judges in all matters in all divisions of court. Martin Colin is a circuit judge in the 15th Judicial Circuit.
2. Rules 2.330 (b) **Parties**. Any party, including the state, may move to disqualify the trial judge assigned to the case on grounds provided by rule, by statute, or by the Code of Judicial Conduct.

Petitioner, a party to the case moves to disqualify trial Judge Colin provided by rules, statute and by the Code of Judicial Conduct.

* 1. Judge Colin has violated the following Judicial Canons
		1. Canon 1 - A Judge Shall Uphold the Integrity And Independence of the Judiciary
		2. Canon 2 - A Judge Shall Avoid Impropriety and the Appearance of Impropriety in all of the Judge's Activities
		3. Canon 3 - A Judge Shall Perform the Duties of Judicial Office Impartially and Diligently
	2. Judge Colin has violated Statutes, including but not limited to,
		1. Fraud on the Court – Resets case, all OFFICERS and FIDUCIARIES are replaced and more.
		2. Fraud in the Court
		3. Fraud by the Court
		4. Aiding and Abetting
	3. Judge Colin has violated Rules
1. Rules 2.330 (c) **Motion**. A motion to disqualify shall:

(1) be in writing.

This Motion is in writing.

(2) allege specifically the facts and reasons upon which the movant relies as the grounds for disqualification.

This Motion specifically alleges specific facts and reasons upon which the movant relies as the grounds for disqualification.

(3) be sworn to by the party by signing the motion under oath or by a separate affidavit.

Petitioner is acting pro se and has no attorney and therefore Petitioner has sworn to and signed this Motion for Disqualification under oath and before a notary as required by Rule 2.330 (c)

(4) include the dates of all previously granted motions to disqualify filed under this rule in the case and the dates of the orders granting those motions.

There has been no previously granted motions to disqualify in this case filed under Rule 2.330

(4) The attorney for the party shall also separately certify that the motion and the client’s statements are made in good faith. In addition to filing with the clerk, the movant shall immediately serve a copy of the motion on the subject judge as set forth in Florida Rule of . Petitioner movant is acting Pro Se and thus has no attorney at law representing him.

1. Rule 2.330 (d) **Grounds**. A motion to disqualify shall show:

(1) that the party fears that he or she will not receive a fair trial or hearing because of specifically described prejudice or bias of the judge.

That Petitioner fears that he will not receive a fair trial or hearing because of the following specifically described prejudice or bias of Judge Colin under Rule 2.330 (d), including but not limited to:

1. Colin’s Court is the scene of a crime involving himself, the Officers of his Court, including Attorneys at Law practicing before him, Fiduciaries appointed by him (Personal Representatives and Trustees) and other Court employees.
2. That once it was determined that crimes had been committed in Judge Colin’s court constituting Fraud on the Court and Fraud in the Court, to avoid the appearance of impropriety and conflicts, Judge Colin should have voluntarily on his own initiative disqualified himself and distanced himself from the matters and allowed a conflict free adjudicator to replace him who could have investigated the Court’s involvement, the Officers of the Court’s involvement and the Fiduciaries of the Court’s involvement without giving the appearance of impropriety due to involvement in the matters.
3. That Judge Colin’s acts forward in the matters constitute Fraud by the Court and it is alleged that Judge Colin has created a Pattern and Practice by so ruling in conflict of creating a Cover Up of the crimes committed in his Court by Officers, Fiduciaries and others he appointed and has oversight of, to protect them and contain exposure of the crimes so as to evade criminal investigations.
4. Colin is biased and prejudiced against Petitioner who has exposed the crimes of his Court and those committed in Judge David E. French’s court in the Simon Bernstein Estate, which case was improperly transferred to Colin’s court.
5. Once Colin had evidence that FELONY crimes were committed in his Court and Judge French’s court by Officers of their courts and fiduciaries of their courts, Colin and French had obligations under Judicial Cannons, Rules of Professional Conduct and Law (aiding and abetting) to report the misconduct to the proper criminal and civil authorities, instead Judge Colin has allowed them to continue to practice in the matters and further commit fraud upon fraud upon the Court.
6. That Colin has allowed a pattern and practice of retaliation against Eliot for his efforts in exposing the criminal acts and has continuously allowed conflicted attorneys at law and fiduciaries, involved with the original fraudsters to file pleading after pleading to attempt to harm Eliot and his family, including several contempt and guardianship hearings to be held.
7. That Judge Colin and Judge French will be material and fact witnesses to the crimes that have occurred in their courts and therefore Judge Colin should disqualify on his own initiative according to Judicial Cannons but has refused several requests of Petitioner to so do.
8. Petitioner has blown the whistle on corruption in Colin’s court and has also been involved in many year whistleblowing lawsuit and other actions against members of this court, the 15th Judicial, The Florida Bar and many Judges of the Supreme Court of Florida and creates prejudice and bias against Eliot with virtually the entire State of Florida legal machine.
9. Judge Colin is acting outside his jurisdiction and outside the color of law and therefore he should disqualify on his own initiative and his orders must be voided and must be stricken. Judge Colin is a disqualified judge who has not relinquished his unlawful jurisdiction.
10. Judge Colin has a personal interest to be adverse to Petitioner because Petitioner has filed with a Federal Court exposing the corruption in his Court and seeking to have his cases transferred to Hon. Judge John Robert Blakey’s court for investigation, review and further adjudication.
11. Petitioner has sought Federal Court intervention due to the fact that Petitioner is adverse to all Florida State Bar Members and where he has taken civil and criminal actions against the Florida State Bar and thus all members are conflicted and adverse to Petitioner as members of the organization.

Petitioner has been viciously retaliated by Judge Colin by denying him due process in one manner or another and removing rights of Eliot and his minor children, while protecting his Court from exposure of the crimes committed in his and Judge French’s court, where it may be learned by investigation that they are both involved directly in the crimes and were willing participants in such crimes against Eliot and his family, including but not limited to, Fraud on the Court, Fraud in the Court, Fraud by the Court, Forgeries proffered to the Court, Fraudulent Notarizations (including Post Mortem for decedents in the actions) and an alleged, by Ted Bernstein and others (not Petitioner) of the Murder of Simon L. Bernstein .

1. Judge Colin has repeatedly retaliated against Petitioner and shown favoritism against him to protect and shield the Court, its Officers and Fiduciaries from prosecution.
	1. Identifies FELONY criminal misconduct, asserts he has enough for Miranda’s and does nothing.
	2. Privilege Letter – Buries as it relates to Iviewit, Gerald Lewin and Proskauer
	3. Fails to Report Felony Misconduct
	4. Interferes with Sheriff Investigations
2. Judge Colin can now be considered an accomplice to fraud against Eliot and Eliot’s minor children who are beneficiaries of the Estates and Trusts of Simon and Shirley Bernstein.

 (2) That the judge before whom the case is pending, or some person related to said judge by consanguinity or affinity within the third degree, is a party thereto or is interested in the result thereof, or that said judge is related to an attorney or counselor of record in the cause by consanguinity or affinity within the third degree, **or that said judge is a material witness for or against one of the parties to the cause**.

1. Judge Colin and will be a material and fact witness for Petitioner and the Officers of his Court, the Fiduciaries of his Court and his Court employees in this case regarding the criminal misconduct that has occurred in and on his Court and that of Judge French’s court.
2. Judge Colin cannot investigate his own court due to the appearance of impropriety this creates and prejudices Petitioner from due process rights.
3. Rule 2.330 (e) **Time**. A motion to disqualify shall be filed within a reasonable time not to exceed 10 days after discovery of the facts constituting the grounds for the motion and shall be promptly presented to the court for an immediate ruling. Any motion for disqualification made during a hearing or trial must be based on facts discovered during the hearing or trial and may be stated on the record, provided that it is also promptly reduced to writing in compliance with subdivision (c) and promptly filed. A motion made during hearing or trial shall be ruled on immediately.

This Motion is being made within 10 days from Petitioner’s receipt of the 4 COURT ORDERS JUST RECEIVED.

This Motion is timely because all actions past and future of Judge Colin are void as his disqualification from the matters should have occurred the instant he was aware that crimes occurred in his Court and on his Court by his appointed Officers and Fiduciaries and thus all acts both past, present and future are all grounds for immediate disqualification and sanctions.

Both of the foregoing are grounds for Judge Colin’s disqualifications as described herein and in the attachments to this Motion..

1. (f) **Determination** — Initial Motion. The judge against whom an initial motion to disqualify under subdivision (d)(1) is directed shall determine only the legal sufficiency of the motion and shall not pass on the truth of the facts alleged. If the motion is legally sufficient, the judge shall immediately enter an order granting disqualification and proceed no further in the action. If any motion is legally insufficient, an order denying the motion shall immediately be entered. No other reason for denial shall be stated, and an order of denial shall not take issue with the motion.

Petitioner states that the Motion is legally sufficient under Rule 2.330.

1. (g) Determination — Successive Motions. If a judge has been previously disqualified on motion for alleged prejudice or partiality under subdivision (d)(1), a successor judge shall not be disqualified based on a successive motion by the same party unless the successor judge rules that he or she is in fact not fair or impartial in the case. Such a successor judge may rule on the truth of the facts alleged in support of the motion.

Petitioner states there have been no Successive Motions.

1. (h) **Prior Rulings**. Prior factual or legal rulings by a disqualified judge may be reconsidered and vacated or amended by a successor judge based upon a motion for reconsideration, which must be filed within 20 days of the order of disqualification, unless good cause is shown for a delay in moving for reconsideration or other grounds for reconsideration exist.

Petitioner seeks that upon disqualification of Judge Colin, that all prior factual or legal ruling be vacated by the successor judge due to the alleged criminal acts and civil torts against Petitioner and her mother.

1. (i) Judge’s **Initiative**. Nothing in this rule limits the judge’s authority to enter an order of disqualification on the judge’s own initiative.

Petitioner states that Judge Colin should have already entered an order of disqualification on his own initiative according to Judicial Canons, Statutes and Rules when he became aware that disqualification was mandated of him but refused to do so on the repeated requests of Petitioner. If for any reason Judge Colin finds this Motion legally insufficient for any reason, Judge Colin must disqualify himself on his own initiative as set forth under this rule 2.330 (i).

1. (j) **Time for Determination**. The judge shall rule on a motion to disqualify immediately, but no later than 30 days after the service of the motion as set forth in subdivision (c). If not ruled on within 30 days of service, the motion shall be deemed granted and the moving party may seek an order from the court directing the clerk to reassign the case.

Petitioner demands due to the EMERGENCY NATURE of this case where claims have been made that Petitioner’s children are in life threatening dangers due to the abusive Probate rulings thus far that have interfered intentionally with their expectancy that this Disqualification be made instantly as it is legally sufficient. Delays could cause further harm of Petitioner’s minor children and Petitioner which would result in additional damages and liabilities to those parties ultimately held accountable for the acts of Judge Colin outside the Color of Law.

That PRIOR to any other actions by Judge Colin, this Disqualification must first be ruled on.

1. Florida Statutes 38.10 - Disqualification of judge for prejudice; application; affidavits; etc.—Whenever a party to any action or proceeding makes and files an affidavit stating fear that he or she will not receive a fair trial in the court where the suit is pending on account of the prejudice of the judge of that court against the applicant or in favor of the adverse party, the judge shall proceed no further, but another judge shall be designated in the manner prescribed by the laws of this state for the substitution of judges for the trial of causes in which the presiding judge is disqualified. Every such affidavit shall state the facts and the reasons for the belief that any such bias or prejudice exists and shall be accompanied by a certificate of counsel of record that such affidavit and application are made in good faith.

Petitioner has supplied a legally sufficient Affidavit herein.

WHEREFORE, the PRO SE Petitioner requests that Judge Colin immediately disqualify as this is a legally sufficient pleading. In the alternative if it is determined by Judge Colin that this Pro Se pleading is legally insufficient than he must on his own motion and initiative disqualify himsefl as required by Judicial Cannons, Attorney Conduct Codes and Law.

Under Penalties of perjury, I swear under oath and affirm that I have read the foregoing and the facts alleged are made in good faith and are true to the best of my knowledge and belief.

Dated this 25th day of April, 2015

 Respectfully Submitted,

 Eliot Ivan Bernstein

 2753 NW 34th ST

 Boca Raton, FL 33434 Telephone. 561-245-8588

 iviewit@iviewit.tv

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Eliot Ivan Bernstein

**CERTIFICATE OF SERVICE**

Petitioner does hereby certify that the foregoing Petition was served on all parties by e-file with the clerk of the court this 25th day of April, 2015.

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 Eliot Ivan Bernstein

STATE OF FLORIDA

COUNTY OF PALM BEACH COUNTY

Sworn to or affirmed and subscribed before me this 25th day of April, 2015 by Eliot Bernstein who is known to me or produced the following identification.\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

NOTARY PUBLIC

Print name of Notary: \_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Stamp

My commission expires: \_\_\_\_\_\_\_\_\_\_\_\_

**AFFIDAVIT**

Affiant, Eliot Bernstein hereby states under oath that the attached Verified Emergency Petition and Affidavit for Immediate Disqualification of Judge Martin Colin is true and correct to the best of his knowledge and belief

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Eliot Ivan Bernstein

April 25, 2015

STATE OF FLORIDA

COUNTY OF PALM BEACH

Sworn to or affirmed and subscribed before me this 25th day of April, 2015 by Eliot Ivan Bernstein who is known to me or produced the following identification \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Notary Public

Print name: \_\_\_\_\_\_\_\_\_

Stamp

My commission expires: \_\_\_\_\_\_

**EXHIBIT 1**

**EXHIBIT 2**

**EXHIBIT 3**

**EXHIBIT 4**

**RULE 1.080 SERVICE OF PLEADINGS AND PAPERS**

**(a) Service; When Required.** Unless the court otherwise orders, every pleading subsequent to the initial pleading and every other paper filed in the action, except applications for witness subpoena, shall be served on each party. No service need be made on parties against whom a default has been entered, except that pleadings asserting new or additional claims against them shall be served in the manner provided for service of summons.

**(b) Service; How Made.** When service is required or permitted to be made upon a party represented by an attorney, service shall be made upon the attorney unless service upon the party is ordered by the court. Service on the attorney or party shall be made by delivering a copy or mailing it to the attorney or the party at the last known address or, if no address is known, by leaving it with the clerk of the court. Service by mail shall be complete upon mailing. Delivery of a copy within this rule shall be complete upon: (1) handing it to the attorney or to the party, (2) leaving it at the attorney's or party's office with a clerk or other person in charge thereof, (3) if there is no one in charge, leaving it in a conspicuous place therein, (4) if the office is closed or the person to be served has no office, leaving it at the person's usual place of abode with some person of his or her family above 15 years of age and informing such person of the contents, or (5) transmitting it by facsimile to the attorney's or party's office with a cover sheet containing the sender's name, firm, address, telephone number, and facsimile number, and the number of pages transmitted. When service is made by facsimile, a copy shall also be served by any other method permitted by this rule. Facsimile service occurs when transmission is complete. Service by delivery after 5:00 p.m. shall be deemed to have been made on the next day that is not a Saturday, Sunday, or legal holiday.

**(c) Service; Numerous Defendants.** In actions when the parties are unusually numerous, the court may regulate the service contemplated by these rules on motion or on its initiative in such manner as may be found to be just and reasonable.

**(d) Filing.** All original papers shall be filed with the court either before service or immediately thereafter. If the original of any bond or other paper is not placed in the court file, a certified copy shall be so placed by the clerk.

**(e) Filing Defined.** The filing of papers with the court as required by these rules shall be made by filing them with the clerk, except that the judge may permit the papers to be filed with the judge, in which event the judge shall note the filing date before him or her on the papers and transmit them to the clerk. The date of filing is that shown on the face of the paper by the judge's notation or the clerk's time stamp, whichever is earlier.

**(f) Certificate of service.** When any attorney shall certify in substance:

"I certify that a copy hereof has been furnished to (here insert name or names) by (delivery) (mail) (fax) on .....(date)......

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Attorney"

the certificate shall be taken as prima facie proof of such service in compliance with these rules.

**(g) Service by Clerk.** If a party who is not represented by an attorney files a paper that does not show service of a copy on other parties, the clerk shall serve a copy of it on other parties as provided in subdivision (b).

**(h) Service of Orders.**

(1) A copy of all orders or judgments shall be transmitted by the court or under its direction to all parties at the time of entry of the order of judgment. No service need be made on parties against whom a default has been entered except orders setting an action for trial as prescribed in rule 1.440(c) and final judgments that shall be prepared and served as provided in subdivision (h)(2). The court may require that orders or judgments be prepared by a party, may require the party to furnish the court with stamped, addressed envelopes for service of the order or judgment, and may require that proposed orders and judgments be furnished to all parties before entry by the court of the order or judgment.

(2) When a final judgment is entered against a party in default, the court shall mail a conformed copy of it to the party. The party in whose favor the judgment is entered shall furnish the court with a copy of the judgment, unless it is prepared by the court, and the address of the party to be served. If the address is unknown, the copy need not be furnished.

(3) This subdivision is directory and a failure to comply with it does not affect the order or judgment or its finality or any proceedings arising in the action.