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

PROBATE DIVISION

CASE NO.: 502014CP002815XXXXSB (IY)

Honorable Martin Colin

OPPENHEIMER TRUST COMPANY

OF DELAWARE, in its capacity as

Resigned Trustee of the Simon Bernstein

Irrevocable Trusts created for the benefit

of Joshua, Jake and Daniel Bernstein,

Petitioner,

vs.

ELIOT AND CANDICE BERNSTEIN,

in their capacity as parents and natural

guardians of JOSHUA, JAKE AND

DANIEL BERNSTEIN, minors,

Respondents.

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**URGENT [Before 2/26/2015 Hearing] MOTION TO STRIKE EX PARTE COMMUNICATION AND CANCEL STATUS HEARING SET BASED UPON EX PARTE COMMUNICATION UNTIL FURTHER REVIEW AND NOTICE BY THIS COURT**

Respondents, Eliot Ivan Bernstein (“Eliot”) and Candice Michelle Bernstein (“Candice”), on behalf of their minor children ("Respondent(s)"), and where the minor children are alleged qualified beneficiaries, for the following **alleged** and **legally deficient** trusts:

1. The Daniel Bernstein Irrevocable Trust Dated September 7, 2006;
2. The Jake Bernstein Irrevocable Trust Dated September 7, 2006;
3. The Joshua Bernstein Irrevocable Trust Dated September 7, 2006;

hereby files this, “MOTION TO STRIKE EX PARTE COMMUNICATION AND CANCEL STATUS HEARING SET BASED UPON EX PARTE COMMUNICATION UNTIL FURTHER REVIEW AND NOTICE BY THIS COURT” and in support thereof, Respondents allege as follows:

1. That an Ex Parte Communication was sent to Honorable Judge Martin Colin on February 13, 2015 by Opposing Counsel and Counter Defendant, Steven Lessne, Esq. (“LESSNE”) and despite the fact that the letter stated Eliot was copied on the letter, it was then factually sent to two wrong email addresses for Eliot by LESSNE’S new law firm, Gunster, Yoakley & Stewart, P.A. (“GUNSTER”) (See Exhibit A – February 13, 2015 LESSNE Ex Parte Letter to Judge Colin)
2. The email addresses for Eliot are factually wrong, see (Exhibit B – Incorrect Email Addresses) which should have generated bounce receipts to the sender from the email servers (gmail.com and iviewit.tv) for the addresses that do not exist and yet no correction was ever made by GUNSTER or LESSNE to change the incompetent incorrect email addresses and therefore the letter was never sent or resent to the correct addresses for Eliot. It should be noted that this alleged email was the first and only alleged email that has been addressed wrong to Eliot by LESSNE perhaps accidentally on purpose.
3. That LESSNE did not attach to the alleged email the documents allegedly sent to Your Honor as Exhibits of the letter and any newly refiled and properly served correspondence with the Court and if the Court Order the Ex Parte Communication stricken it should demand that any renewed correspondence contain all exhibits.
4. That on or about February 17, 2015, seeing no response to the Ex Parte communiqué proffered by Eliot, Your Honor acted on the unopposed Ex Parte letter sent to Chambers by LESSNE regarding his request for a status hearing and had your Judicial Assistant, Sherrie Norton, then call LESSNE to have a status hearing scheduled.
5. That on February 17, 2015, Lessne contacted Eliot and stated that Sherrie Norton had contacted his office and stated that Your Honor wanted to set the “status” hearing, failing to mention that the request was based on his request in the Ex Parte letter he sent and instead made it appear that Your Honor desired the hearing on your own initiative. (See Exhibit C – Eliot/Lessne Emails Regarding Judge Colin’s Requested Status Hearing)
6. That Eliot will need time to respond to the Court to the Ex Parte letter that he just received for the first time on February 20, 2015 due to the incompetent email addressing and so requested that LESSNE contact Your Honor and explain the Ex Parte nature of the communication, cancel the hearing on February 26, 2015 and allow Eliot time to respond to the plethora of misleading statements contained in the Ex Parte Communication and to allow Your Honor to then determine if this hearing is necessary or not, after having time to review both sides of the story. LESSNE however refused to notify Your Honor of the Ex Parte nature of the letter as exhibited in the attached emails in Exhibit C and in fact told Eliot “You are free to proceed as you choose. My position is set forth in my prior e-mail” and thus the reason for this Motion to clarify the sharp practice tomfoolery of LESSNE on this Court and Pro Se Eliot and Candice.
7. That Eliot has requested all the email delivery and read receipts generated for the alleged email sent in error but has thus far been denied by LESSNE.
8. That it should be noted that LESSNE’S letter to Your Honor to stealthily gain the Status Hearing through a cleverly designed Ex Parte communication, came after LESSNE could not get a hearing time for his, at the time, unfiled and not even drafted motions until after Eliot’s Court Ordered hearing that was scheduled for March 17, 2015 in opposition to the final accounting put forth by LESSNE.
9. Opposing Counsel and Counter Defendant (perhaps Pro Se?) LESSNE’S desire through this sharp practice was to rearrange the hearing schedule to hear his legally deficient, newly filed Motions first.
10. Opposing Counsel and Counter Defendant (perhaps Pro Se?) LESSNE filed these new toxic, vexatious, violative motions, without seeking Court approval to file them first, as admitted in the Ex Parte Letter (see Exhibit A). The Court made pre approval of any new motions mandatory in the Stay Order issued that partially Stayed this case.
11. That Eliot allotted LESSNE time in his March 17, 2015 hearing for LESSNE’S Motion to Strike Objection to Final Accounting he wanted heard by the Court but LESSNE wanted to addon to Eliot’s hearing several, unfiled at the time, non-accounting related motions to be heard first, at the time of Eliot’s hearing.
12. Eliot politely refused to accommodate the additional add-ons (See Exhibit D – Correspondences Regarding Scheduling Court Ordered Objection to Final Accounting) due to the limited amount of time that day to get started on his Court Ordered accounting hearing but was happy to hear LESSNE’S other items shortly thereafter, if the Court approved his unfiled and undrafted motions first, per the stay order.
13. LESSNE, in opposite of procedural rules however ignored Eliot’s refusal to have him add-on other motions during Eliot’s Court Ordered hearing time and went ahead and filed to have the following motions, filed without Court approval, heard as add-ons to be heard at Eliot’s hearing;
	1. OPPENHEIMER TRUST COMPANY OF DELAWARE’S MOTION TO STRIKE OBJECTION TO FINAL ACCOUNTING,
	2. OPPENHEIMER TRUST COMPANY OF DELAWARE’S MOTION TO APPOINT GUARDIAN AD LITEM TO REPRESENT MINOR BENEFICIARIES IN ACCOUNTING PROCEEDINGS,
	3. ALTERNATIVE MOTION TO ESTABLISH SCHEDULE AND PROTOCOL FOR ACCOUNTING PROCEEDINGS,

Eliot requests the Court remove b and c above of the addons and have LESSNE reschedule those on dates he obtains from the Court. Eliot suggested beginning the Court Ordered accounting hearing and after determine with the Court if additional time would be necessary to finish the accounting issues and at that time arrange any other hearings with Court on motions LESSNE was going to file.

1. The Court will recollect that it was learned at the first hearing that Oppenheimer Trust Company of New Jersey and Oppenheimer Trust Company of Delaware no longer have legal standing as fiduciaries to act on behalf of the trust or file further pleadings other than Court approved, as they have admittedly officially resigned already as Trustee. Similar filings as those attempted to be added on now were already dismissed by Your Honor in the first hearing of this case.
2. After LESSNE could not schedule time before the hearing to have his newly refiled motions heard and without seeking consent from Eliot, LESSNE scheduled additional time on Eliot’s hearing that Eliot did not agree to, once again in attempts to try and have his newly filed Motions heard first, in efforts to attempt again to dismiss the case before it is heard and have Guardians appointed, etc. (which Your Honor denied in the first hearing) (See Exhibit E – Correspondences Regarding Scheduling)
3. Candice Bernstein then contacted Your Honor’s chambers once the Status Hearing was demanded to be scheduled by LESSNE at allegedly Your Honor’s request as his emails exhibited herein show but Sherrie did not get back to Candice for 2 days and until after LESSNE unilaterally scheduled the hearing.
4. Upon speaking with Sherrie, Candice asked why Your Honor suddenly wanted this hearing and she could not recollect how it metastasized and stated she was calling LESSNE’S office to recollect how this hearing came about.
5. Later that day Sherrie contacted Candice and stated that she had indeed initiated a called to LESSNE’S office on Your Honor’s behalf but that it was due to a letter that had been sent to Your Honor, at which point it was learned for the first time that an Ex Parte letter had been sent to Your Honor, which turned out to have conveniently wrong email addresses for Eliot.
6. That Eliot therefore is filing this Motion for Your Honor to decide whether to have the hearing, after allowing Eliot ample time to respond to the Ex Parte communication and hear Eliot’s reasons this hearing may be wholly unnecessary.

**WHEREFORE**, Respondents respectfully request that this Court enter an Order;

1. striking the Ex Parte Communication and cancel the hearing based upon it,
2. allowing Eliot to respond to a new, properly resent filing with Your Honor and Eliot within five days of receipt of the new letter that properly copies all parties,
3. sanctioning for sharp practices Opposing Counsel and Counter Defendant LESSNE,
4. award legal fees and costs for Pro Se, Eliot and Candice,
5. granting such other and further relief as the Court deems just and proper.

Signed on Monday, February 23, 2015.

Respectfully submitted,

By: ELIOT BERNSTEIN, individually and on behalf of his minor children, who are alleged qualified beneficiaries of Settlor's Estate and Trusts,

Respondent (*pro se*)

2753 N.W. 34th St.

Boca Raton, Florida 33434-3459

 (561) 245.8588 (telephone)

 Email address: iviewit@iviewit.tv

By: CANDICE BERNSTEIN, individually and on behalf of her minor children, who are alleged qualified beneficiaries of Settlor's Estate and Trusts,

Respondent (*pro se*)

2753 N.W. 34th St.

Boca Raton, Florida 33434-3459

 (561) 245.8588 (telephone)

 Email address: tourcandy@gmail.com

**CERTIFICATE OF SERVICE**

 I hereby certify that a true and correct copy of the foregoing Petition was served via electronic mail on Wednesday, January 22, 2015 to the parties listed in the attached Service List.

 Eliot Bernstein, Pro Se Petitioner

 2753 N.W. 34th St.

 Boca Raton, Florida 33434-3459

 (561) 245.8588 (telephone)

 Email address: iviewit@iviewit.tv

**EMAIL SERVICE LIST**

|  |  |  |
| --- | --- | --- |
| Steven Lessne, Esq.Gray Robinson, PA225 NE Mizner Blvd #500Boca Raton, FL 33432steven.lessne@gray-robinson.com |  |  |

**EXHIBIT A**

**February 13, 2015**

**LESSNE Ex Parte Letter to Judge Colin**

**EXHIBIT B**

**Email Cover Page with Incorrect Email Addresses for Eliot on Ex Parte Letter sent to this Court**

**EXHIBIT C**

**Eliot/Lessne Emails Correspondences Regarding Judge Colin’s ALLEGED Requested Status Hearing**

On Feb 17, 2015, at 3:38 PM, Lessne, Steven <SLessne@gunster.com> wrote:

Mr. and Mrs. Bernstein:

My assistant received a call from Judge Colin's chambers.  Judge Colin wants to set a status check on his uniform motion calendar (that's a five-minute hearing at 8:45 AM each morning). I was asked to contact you to get a mutually agreeable date. Please let me know your availability over the next two weeks.  Thank you.

**Steven A. Lessne** | Shareholder

777 South Flagler Drive, Suite 500 East
West Palm Beach, Florida 33401
561-650-0545

450 East Las Olas Boulevard, Suite 1400

Fort Lauderdale, Florida 33301

954-468-1383

gunster.com | SLessne@gunster.com

Sent from my iPhone. Please excuse typos and tone.

**From:** Lessne, Steven [mailto:SLessne@gunster.com]
**Sent:** Tuesday, February 17, 2015 3:55 PM
**To:** Eliot Ivan Bernstein; CANDICE BERNSTEIN
**Subject:** Re: Oppenheimer v. Bernstein

I overlooked that Judge Colin holds uniform motion calendar on Tuesday and Thursday only. Please provide me with your availability.

**Steven A. Lessne** | Shareholder

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450 East Las Olas Boulevard, Suite 1400

Fort Lauderdale, Florida 33301

954-468-1383

gunster.com | SLessne@gunster.com

Sent from my iPhone. Please excuse typos and tone.

**From:** Eliot Ivan Bernstein [mailto:iviewit@iviewit.tv]
**Sent:** Friday, February 20, 2015 11:51 AM
**To:** Lessne, Steven
**Cc:** Andrew Dietz @ Rock-It Cargo USA, Inc.; Candice Bernstein; Caroline Prochotska Rogers Esq.; Eliot I. Bernstein; Marc R. Garber Esq.; Marc R. Garber Esq. @ Flaster Greenberg P.C.; Marc R. Garber Esq. @ Flaster Greenberg P.C.; Michele M. Mulrooney ~ Partner @ Venable LLP
**Subject:** RE: Oppenheimer v. Bernstein

Steven,

I have contacted Judge Colin’s chambers and Sherry stated that this hearing was being set due to a letter you sent to Judge Colin.   Please send me a copy of the letter you sent to Judge Colin as I do not have it.  Thank you, Eliot

Eliot I. Bernstein

Inventor

[remaining footer removed]

**From:** Lessne, Steven [mailto:SLessne@gunster.com]
**Sent:** Friday, February 20, 2015 12:00 PM
**To:** 'Eliot Ivan Bernstein'
**Subject:** RE: Oppenheimer v. Bernstein

The letter was sent to you the same day it was sent to the Judge.  Here it is again.



**Steven A. Lessne** | Shareholder

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561-650-0545

450 East Las Olas Boulevard, Suite 1400

Fort Lauderdale, Florida 33301

954-468-1383

gunster.com | SLessne@gunster.com

**From:** Eliot Ivan Bernstein [mailto:iviewit@iviewit.tv]
**Sent:** Friday, February 20, 2015 12:47 PM
**To:** Lessne, Steven
**Cc:** Andrew Dietz @ Rock-It Cargo USA, Inc.; Candice Bernstein; Caroline Prochotska Rogers Esq.; Eliot I. Bernstein; Marc R. Garber Esq.; Marc R. Garber Esq. @ Flaster Greenberg P.C.; Marc R. Garber Esq. @ Flaster Greenberg P.C.; Michele M. Mulrooney ~ Partner @ Venable LLP
**Subject:** RE: Oppenheimer v. Bernstein

Mr. Lessne,

Your continued practice of misrepresentation will be noted to Judge Colin and I request that we cancel this hearing immediately as it was set up under false pretenses with me and the court and notify Judge Colin’s of the tomfoolery used to schedule the hearing.  You contacted me saying Judge Colin wanted to have a Status Hearing he was requesting and had contacted you to arrange with and then demanded times from me as is indicated in your emails below.  You did not tell me Judge Colin was sent an ex parte letter that I never received and that is why he was calling for a “status” check.  I would like that you contact Judge Colin and his assistant immediately to inform them that I never received the Ex-Parte communication and was misled by you as to what the status check was all about and why it was being scheduled.  I will then respond to the Ex Parte communication I received today from you for the first time and the myriad of false statements contained therein and see if Judge Colin would still want such a hearing after my response is sent to him informing him of several issues with your strange and delusional behavior exhibited in the letter that led to the hearing be scheduled under false pretenses by you.  It will take me a few days to respond to the letter that you just sent me for the very first time as I am tied up through the weekend.

Please refrain from further Ex Parte communications with Judge Colin and misleading both the Court and me in order to try and procure your hearings forward.  Also, have you notified your new law firm that you are a counter defendant in this case and have you reported such to your liability carrier?

Eliot

**From:** Lessne, Steven [mailto:SLessne@gunster.com]
**Sent:** Friday, February 20, 2015 1:14 PM
**To:** 'Eliot Ivan Bernstein'
**Cc:** Andrew Dietz @ Rock-It Cargo USA, Inc.; Candice Bernstein; Caroline Prochotska Rogers Esq.; Marc R. Garber Esq.; Marc R. Garber Esq. @ Flaster Greenberg P.C.; Marc R. Garber Esq. @ Flaster Greenberg P.C.; Michele M. Mulrooney ~ Partner @ Venable LLP
**Subject:** RE: Oppenheimer v. Bernstein

Mr. Bernstein:

I generally don’t “reply to all” in response to your e-mails, but because your below e-mail contains serious, defamatory remarks about my character and professionalism, I will make an exception here to set the record straight.

First, you were served by e-mail with a copy of my letter to Judge Colin the same day it was sent to the Judge.  Attached is the e-mail containing the letter.

Second, the letter, which addresses a scheduling issue, is accurate in all respects, as illustrated by the attached January 23 e-mail exchange between you and me.

Finally, a floater in my office received a call from Judge Colin’s assistant on February 17.  The floater was informed that Judge Colin wanted me to schedule a “status check” on the Court’s motion calendar.  I promptly sent you an e-mail reporting the call and requesting dates from you.  When you failed to respond, I set the status check for next Thursday.  All of this is confirmed by the attached February 17-19 e-mail exchange between you and me.

I know you don’t like lawyers, but please at least be honest in your disparaging remarks.



**Steven A. Lessne** | Shareholder

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450 East Las Olas Boulevard, Suite 1400

Fort Lauderdale, Florida 33301

954-468-1383

gunster.com | SLessne@gunster.com

**From:** Eliot Ivan Bernstein [mailto:iviewit@iviewit.tv]
**Sent:** Friday, February 20, 2015 4:28 PM
**To:** Lessne, Steven; Alan B. Rose Esq.; Alan B. Rose Esq.
**Cc:** Brian M. O'Connell PA ~ Partner @ Ciklin Lubitz Martens & O'Connell ; Peter Feaman, Esq. ~ Attorney at Law @ Peter M. Feaman, P.A.; Peter Feaman; Andrew Dietz @ Rock-It Cargo USA, Inc.; Candice Bernstein; Caroline Prochotska Rogers Esq.; Eliot I. Bernstein; Marc R. Garber Esq.; Marc R. Garber Esq. @ Flaster Greenberg P.C.; Marc R. Garber Esq. @ Flaster Greenberg P.C.; Michele M. Mulrooney ~ Partner @ Venable LLP
**Subject:** RE: Oppenheimer v. Bernstein

Mr. Lessne,

First off, you need to be contacting Judge Colin regarding all of this and cancel your surreptitious scheduled hearing.  Again, I did not receive nor did my wife any email from you on the alleged date and only have received copy today and if you could please provide your exchange receipts for that day on the alleged email that would be great.  As for your character, well, as you know from my counter complaint against you, in which you are a counter defendant, your character has been in question since you first contacted me and my wife under false pretense, acting as my children’s newly hired counsel, talking with us about our strategies going forward with you and then later learning that you were not representing our minor children and were in fact representing Oppenheimer instead.

Your Ex Parte letter is inaccurate in many ways and I would have responded to Judge Colin with a response to your claims and most likely he would have not wanted to schedule anything other than what is already scheduled.  In fact, you have tried to schedule around my hearing for accounting, to have your newly filed plethora of toxic and vexatious filings heard first and when that did not work you concocted this scheme to make it look like Judge Colin just woke up and told his assistant Sherry to have you call me and schedule a non-related to anything status hearing.  Hopefully by now you have contacted Judge Colin and cancelled this ill-gotten hearing and notified him I will respond to your ex parte communication with him next week in writing and then he can decide if he wants to have a status check at all.

I am not sure what a “floater” is in your office, do they have a formal name you can provide me?  I did not fail to respond, I was waiting for Judge Colin’s chambers to contact me back to confirm that this was a hearing Judge Colin wanted and why.  You just went ahead and scheduled and even Sherry was confused when we called as to what transpired and called your offices to recollect what happened.  She then contacted us back then stated the meeting impetus was based on a communication you sent to the judge requesting such and we informed her that we had never received any letter regarding scheduling a hearing for status from you, thus the Ex Parte part of the communication with Judge Colin.  You’re a clever fellow I must admit.

As you responded to all in my email you can see that I do like many lawyers despite your pining that I do not like all lawyers.  There are many more friends of mine that practice law nationwide who are good and honest lawyers and it is only a rotten few bad apples like you that give the whole profession a bad name.  I am certain you can understand my dislike for attorneys like Robert Spallina, Esq. and Donald Tescher, Esq. whose law firm forged and fraudulently notarized dispositive documents in my mother and father estate and trust documents and more.  And understand my distaste and continued actions against the lawyers who are alleged to have stolen my Intellectual Properties. Or for example, after reading the email exchange below between a good attorney at law who I like, Peter Feaman, Esq., who is representing a creditor of the estate of my father and the newly appointed Personal Representative/Executor of my father’s estate, another good lawyer I like, Brian O’Connell, Esq., you will see why I do not like Alan B. Rose, Esq, (another counter defendant like you in this case) for his immoral, unethical, unprofessional and possibly criminal behaviors.

Subject: Bernstein Estate
Date: Tue, 16 Dec 2014 15:57:54 -0500
From: pfeaman@feamanlaw.com
To: boconnell@ciklinlubitz.com
CC: jroyer@feamanlaw.com

Brian,

When you and I spoke last week you indicated that you were in favor of the settlement that Mr. Stansbury had signed and sent to you for signature.

You indicated that you had to work out funding with the trust.

Meanwhile, the Life insurance litigation in Chicago is moving forward.

Our attorneys are taking a deposition in Chicago the week after New Years of "Scooter" Bernstein, I think.

They also want to depose Ted Bernstein and Robert Spallina in early January as well.

I offered my office as a locale for those depositions.

**Deposing Ted Bernstein in the Chicago action poses some serious conflict of interest issues for Ted Bernstein and ethical issues for Mr. Rose as the Florida attorney for Mr. Ted Bernstein.**

He is being deposed as a party Plaintiff in the Chicago action, the purpose of which is to direct $1.7 million in life insurance to the 5 adult children of Simon Bernstein away from the Bernstein estate.

Yet Mr. Rose represents Ted Bernstein as Successor Trustee to the Simon Bernstein Trust, the beneficiaries of which are the GRANDCHILDREN OF Simon Bernstein, and the Trust is the beneficiary of the Simon Estate which is directly opposed to the position of Ted Bernstein as Plaintiff in the Chicago Life Insurance litigation.

**Just as Ted Bernstein cannot wear both hats, it seems that Alan Rose cannot represent a client so conflicted.**

Further, it would seem to me **that the estate (you as Personal Representative) has an absolute duty to demand Ted's resignation as Successor Trustee, as his continued role as such imperils the interests of the grandchildren, to whom you owe a fiduciary duty as the Personal Representative.**

The bottom line is that the more this drags on, **the worse it is going to get for all concerned**.

At some point, respectfully, I think you are going to have to take the bull by the horns and **1.) demand that Ted Bernstein resign as Successor Trustee** and 2.) Take an active role in directing the attorneys in Chicago to push the case in order to bring it to a successful resolution on behalf of the estate, either by settlement or trial. This means taking over the responsibility for the litigation from Mr. Stansbury in light of the favorable position that the Estate is now in as a result of Mr. Stansbury 's efforts.

I welcome your thoughts on this.

Peter M. Feaman

Peter M. Feaman, P.A.

3695 West Boynton Beach Boulevard

Suite 9

Boynton Beach, FL 33436

Telephone:      561-734-5552

Facsimile:        561-734-5554

www.feamanlaw.com

**Confidentiality: The email message and any attachment to this email message may contain privileged and confidential information, intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, or copy of this communication is strictly prohibited. If you receive this communication in error, please immediately notify the sender by return email and delete this message.**

I bring up Mr. Rose as you have been noted to be working with him on your futile defense in this case and wanted you to be aware of his alleged misconduct and fear that you’re working with him in these matters may have affected you further to continue crossing ethical and legal lines.  I see you are working at Mr. Rose’s old law firm now, Gunster, since your recent and sudden departure from Gray Robinson and wondered if your termination from Gray Robinson was predicated or had anything to do with this matter and your being a counter defendant in this matter.   Finally, I will be seeking leave to amend my counter complaint to add your new law firm as counter defendant, so can you please provide me with the managing partners contact information so that I may serve him properly for the firm?  Have the liability carriers, personally and professionally, that were notified of the lawsuit against you at both of your firms allowed you to continue to practice in this matter that you are a counter defendant in for good and just cause?

If you refuse to notify Judge Colin of these matters and my objections to the hearing and provide him with all of the communications surrounding this hearing than I will contact his chambers first thing Monday morning and provide him with a letter explaining all of this myself.

Thanks, Eliot

**From:** Lessne, Steven [mailto:SLessne@gunster.com]
**Sent:** Friday, February 20, 2015 4:35 PM
**To:** 'Eliot Ivan Bernstein'; Alan B. Rose Esq.; Alan B. Rose Esq.
**Cc:** Brian M. O'Connell PA ~ Partner @ Ciklin Lubitz Martens & O'Connell ; Peter Feaman, Esq. ~ Attorney at Law @ Peter M. Feaman, P.A.; Peter Feaman; Andrew Dietz @ Rock-It Cargo USA, Inc.; Candice Bernstein; Caroline Prochotska Rogers Esq.; Marc R. Garber Esq.; Marc R. Garber Esq. @ Flaster Greenberg P.C.; Marc R. Garber Esq. @ Flaster Greenberg P.C.; Michele M. Mulrooney ~ Partner @ Venable LLP
**Subject:** RE: Oppenheimer v. Bernstein

You are free to proceed as you choose.  My position is set forth in my prior e-mail.



**Steven A. Lessne** | Shareholder

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561-650-0545

450 East Las Olas Boulevard, Suite 1400

Fort Lauderdale, Florida 33301

954-468-1383

gunster.com | SLessne@gunster.com

**From:** Eliot Ivan Bernstein [mailto:iviewit@iviewit.tv]
**Sent:** Saturday, February 21, 2015 5:14 AM
**To:** 'Lessne, Steven'; 'Alan B. Rose Esq.'; 'Alan B. Rose Esq.'
**Cc:** 'Brian M. O'Connell PA ~ Partner @ Ciklin Lubitz Martens & O'Connell '; 'Peter Feaman, Esq. ~ Attorney at Law @ Peter M. Feaman, P.A.'; 'Peter Feaman'; 'Andrew Dietz @ Rock-It Cargo USA, Inc.'; 'Candice Bernstein'; 'Caroline Prochotska Rogers Esq.'; 'Marc R. Garber Esq.'; 'Marc R. Garber Esq. @ Flaster Greenberg P.C.'; 'Marc R. Garber Esq. @ Flaster Greenberg P.C.'; 'Michele M. Mulrooney ~ Partner @ Venable LLP'; Joielle "Joy" A. Foglietta, Esquire @ Ciklin Lubitz Martens & O'Connell (jfoglietta@ciklinlubitz.com)
**Subject:** RE: Oppenheimer v. Bernstein

Forgot to add your newly sent attachments to show improper email address ivewit v. iviewit.  They are attached herein.

Mr. Lessne,

Your email alleged sent to me on February 13, 2015 was sent to the wrong email addresses according to the email I received today from you for the first time.  Certainly it could not have gotten to me with wrong email addresses, how quaint.  I am sure you have all the email bounce receipts and read receipts and will send them over, I just wonder why you did not call once you received bounced return mail from gmail for the incompetent addresses or after getting the bounced emails then correcting and resending the email but you can explain that to Judge Colin.  How strange that all your other emails seem to get to me with the right addressing but this one.  Sure, blame it on the sender or blame it on incompetence, either way I was never in receipt of the Ex Parte letter and thus it remains an Ex Parte communication and I had no chance to reply to the Judge regarding my objections to the Ex Parte letter.  Therefore, again, I urge you notify Judge Colin immediately of your incompetence, send him all the emails regarding this incompetence and show the Ex Parte nature of your clever communication that led to the scheduling of hearing based on Ex Parte letter and have him determine what to do after he receives my forthcoming response to your letter. You should seek to have him cancel the hearing for status you have scheduled until further notice by the Court if it so desires, after Judge Colin has time to review my retort.  Since this is your screw up I would have anticipated you’re fixing the matter with Judge Colin in a gentlemanly way but your refusal to contact Judge Colin appears steadfast.  Therefore, I will do the work and will add it to the tolling damages you and your client have caused thus far as asserted in the Counter Complaint you were served as a Counter Defendant.  By the way, I hate to keep asking but have you reported this matter to your liability carriers both personally and professionally, for both firms you have worked for on these matters and informed them of your standing as a bona fide Counter Defendant that has been served process?  Have you notified Gunster that you are a Counter Defendant and have they notified their carrier that they will be added if they continue to allow you to represent these matters in conflict?  Please send over the name of the managing partner and his email so that I may notify him if you have not.

Thanks, Eliot

**EXHIBIT D**

**Correspondences Regarding Scheduling Court Ordered Objection to Final Accounting**