

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

SIMON BERNSTEIN IRREVOCABLE)
INSURANCE TRUST DTD 6/21/95,)

Plaintiff,)

v.)

HERITAGE UNION LIFE INSURANCE)
COMPANY,)

Defendant,)

HERITAGE UNION LIFE INSURANCE)
COMPANY)

Counter-Plaintiff)

v.)

SIMON BERNSTEIN IRREVOCABLE)
INSURANCE TRUST DTD 6/21/95)

Counter-Defendant)

and,)

FIRST ARLINGTON NATIONAL BANK)
as Trustee of S.B. Lexington, Inc. Employee)
Death Benefit Trust, et al.)

Third-Party Defendants,)

and)

ELIOT IVAN BERNSTEIN,)

Cross-Plaintiff)

v.)

TED BERNSTEIN, individually et al.)

Case No. 13 cv 3643
Honorable John Robert Blakey
Magistrate Mary M. Rowland

RESPONSE TO SUMMARY
JUDGEMENT

Filers:

Eliot Ivan Bernstein, Third-Party Defendant
and Counter-Plaintiff.

Third-Party Defendants_)
)
 BRIAN M. O’CONNELL, as Personal)
 Representative of the Estate of)
 Simon L. Bernstein,)
)
 Intervenor.)
 _____/

**THIRD-PARTY DEFENDANT ELIOT I. BERNSTEIN’S RESPONSE TO PLAINTIFFS
 AMENDED MOTION FOR SUMMARY JUDGEMENT AS TO COUNT 1 & II;
 PLAINTIFFS CLAIM TO POLICY PROCEEDS**

COMES NOW Eliot Ivan Bernstein (“Eliot”), a Third Party Defendant, Pro Se and files this “Response to Summary Judgement” and states under information and belief as follows:

1. Because there are multiple genuine issues of material fact as to virtually every material fact alleged by Plaintiffs, Plaintiffs motion for Summary judgment must be denied. There is a genuine dispute on material issues of fact rendering summary judgement for Plaintiff’s improper at this time.

2. There is a primary beneficiary, LaSalle National Trust, NA (“LASALLE”) and it appears that no one has contacted them or its Successors and this Summary Judgement is instead attempting to have this Court pay an ALLEGED Contingent Beneficiary instead of the Primary Beneficiary. When there is the existence of a Primary Beneficiary the contingent beneficiary cannot be paid benefits.

3. No executed copy of a “Simon Bernstein Irrevocable Insurance Trust Dtd 6/21/95” (“Legally Nonexistent Unexecuted Trust”) the trust alleged by Plaintiff to be the Contingent Beneficiary has been produced to this Court to establish legal standing as a Plaintiff or a Contingent Beneficiary.

4. As no executed copy of the 95 Legally Nonexistent Unexecuted Trust has been presented by Plaintiffs and produced to this Court, the legal standing of TED as a legally valid trustee of

such nonexistent trust is therefore disputed and Plaintiffs have failed to bring forward competent proof to demonstrate the absence of material issues of fact on this matter and therefore Summary Judgment must be denied. Thus, it is disputed whether this Trust even exists and without competent proof and-or further discovery, the Trust and alleged Trustee must be presumed to not exist or at minimum certainly not proven sufficient for Summary Judgment at this stage of litigation.

5. There is also an executed 2000 insurance trust done by Proskauer Rose that would supersede any 95 Legally Nonexistent Unexecuted Trust (FOOTNOTE 9 – Response to Plaintiffs Motion for Summary Judgment Statement of Facts), which the Plaintiffs and attorney SPALLINA coordinated and colluded to secret.

6. That SPALLINA, TESCHER, TED, PAM and DAVID SIMON are acting fraudulently before this Court by their intentional secreting of this 2000 Trust document (secreted from Eliot until turned over when TESCHER and SPALLINA resigned and were court Ordered to turn over their records) with the intent to defeat the wishes and intent of Simon Bernstein, best illustrated at TED'S recent deposition (EXHIBIT 10 – Pages 37-53) where it is shown that the 2000 Trust was intentionally secreted from the carrier and this Court by SPALLINA, TESCHER, TED and PAM as it did not suit their ends to produce the document as it cut certain parties out any benefits.

7. This concealment of pertinent evidence constitutes a fraud on the court and the beneficiaries and other interested parties who have been damaged by this intentional and with scienter obstruction and this deserves both sanctions and reporting of the intentional fraud on the court and others to the proper authorities by the long and strong arm of the law exercised through this Court.

8. There is also a missing Simon Bernstein Trust, NA that the carrier production records show was the Contingent Beneficiary at Simon's death that would supersede any 95 Legally Nonexistent Unexecuted Trust.

9. It is noted that Adam Simon is brother to David Simon who is married to Pam Bernstein-Simon. Without this lawsuit scheme, if the money passes to the estate instead of the 95 Legally Nonexistent Unexecuted Trust, then Pam Bernstein Simon and Ted Bernstein would receive NO benefits. Their children may receive benefits depending on the outcome of estate beneficiary disputes ongoing in Florida. Adam Simon represents TED as "Trustee" of the 95 Legally Nonexistent Unexecuted Trust and if there is no legal trust with standing, then there is no Trustee with standing and there ultimately is no counsel that has standing.

10. Virtually all the "undisputed facts" presented by Plaintiffs are disputed by Eliot in his counter complaint/cross claim, hereby included by reference herein.

11. There is no insurance contract "Policy", which is admitted by Plaintiffs and through the Affidavit submitted by Don Sanders of Jackson Nation (See Plaintiffs Summary Judgement EXHIBIT 29) that has been produced by any Plaintiff or any party to this action and thus Plaintiffs asserted fact that there is a life insurance "Policy" and reliance upon it or its terms at this time is all disputed as there is no legally binding insurance contract produced at this time.

12. As there is no legally binding insurance contract proven or provided or produced, as such there can be no "Policy Proceeds." determined to award Plaintiffs Summary Judgment at this time.

13. This lawsuit is a Breach of Contract lawsuit spawned from a denied insurance claim filed with HERITAGE that arose after Plaintiff TED'S attorney SPALLINA within weeks of Simon's death began illegally attempting to impersonate himself as the Trustee of LASALLE by

correspondences (FOOTNOTE 6 – Response to Plaintiffs Summary Judgement Statement of Facts), which was done within weeks after Simon Bernstein passed away. Thus, this lawsuit is not a dispute between various claimants as Plaintiffs suggest to this Court as there are not competing claimants.

14. There is no copy or record of the 95 Legally Nonexistent Unexecuted Trust produced in these matters and thus Plaintiff's standing is disputed, if there is no trust there is no Trustee and therefore TED'S legal standing is disputed.

15. Further, Plaintiffs individually, TED, Pamela Simon, Jill Iantoni and Lisa Friedstein, likewise have legal standing issues in dispute, as if the trust does not exist then they have no rights thereunder as alleged beneficiaries and whereby they have asserted no claims to this Court or the carrier that they are beneficiaries of the missing policy deserving standing in any individual capacity. Thus, their lawsuit should be dismissed or at least reviewed and-or investigated as a fraud upon this Court and their attorneys at law involved should all be reported to the proper authorities and sanctioned for intentional misconduct and acting with scienter in tortious interference with an expectancy.

16. While corresponding with HERITAGE, SPALLINA acted as the Trustee of LASALLE, the Primary Beneficiary, and filed a death benefit claim on behalf of the alleged Contingent Beneficiary, the 95 Legally Nonexistent Trust with HERITAGE, not on behalf of the primary beneficiary LASALLE (for unknown reasons) and that claim was subsequently DENIED because SPALLINA could not provide ANY document to HERITAGE to evidence a legally binding trust instrument to pay and this is the reason for the Breach of Contract lawsuit being filed NOT a claimant dispute.

17. There is no document or record or proof in this Court or any other court of any jurisdiction including the Palm Beach County Circuit Court and Probate Court that ever made or makes SPALLINA the Trustee of LASALLE or provides any authority to act as same and thus within six weeks of the death of Simon Bernstein, attorney SPALLINA on behalf of his legal client TED was already acting fraudulently in attempts to secret control over assets and property in this case and as indicated in correspondences with the carrier, SPALLINA was attempting to convert the monies to his law firm's trust account with no legal authority (EXHIBIT 1).

18. There is no document or record or proof in this Court or any other court of any jurisdiction including the Palm Beach County Circuit Court and Probate Court that ever made or makes SPALLINA the Trustee of a 95 Legally Nonexistent Unexecuted Trust or provides any authority to act as same and thus on November 01, 2012 within 6 weeks after the death of Simon Bernstein, attorney SPALLINA was already acting fraudulently in attempts to secret control over assets and property in this case (see FOOTNOTES 6, 7 & 8 – Response to Plaintiffs Summary Judgement Statement of Facts), attempting to convert the monies to his law firm's trust account.

19. The claim form submitted by SPALLINA on November 01, 2012 makes no mention of the fact that at that time there were ongoing investigation by the Palm Beach County Sheriff and an autopsy being performed to determine if Simon Bernstein had been murdered ordered by TED.

20. The initial breach of contract action was not even filed in Cook County Illinois until after the Law Office of SPALLINA and TESCHER had already filed fraudulent documents in the Palm Beach County Circuit Court of COLIN on or about Oct. 24, 2012, including but not limited to, a false Petition of Discharge (full Waiver) (EXHIBIT 2) of Simon Bernstein dated April 9, 2012, which sought to use a document allegedly executed by Simon Bernstein and

witnessed by SPALLINA five months earlier, submitted POST MORTEM for Simon who was now deceased, enabling a deceased Simon to act as Personal Representative while dead to close the Estate of his wife Shirley Bernstein. In addition to the fraudulent submission of the document, the document contained numerous false and fraudulent recitals of acts allegedly signed to by Simon Bernstein, which clearly had not occurred by the date of the alleged signing on April 9, 2012, for instance Simon claims to have all beneficiaries Waivers and the waivers were not sent to beneficiaries until May of 2012 and certain beneficiaries did not submit them until after Simon died on September 13, 2012.

21. While the precise circumstances of COLIN'S knowledge and possible involvement in the fraud are not presently fully known, after certain frauds had been exposed, including COLIN learning at the hearing that a dead Simon had been illegally used to close the Estate of wife Shirley months after his death, COLIN stated on the record in a hearing on September 13, 2013 (EXHIBIT 3) that he had enough evidence at that time to read TED, TESCHER, SPALLINA and their counsel their Miranda Rights.

22. That the law firm of Tescher & Spallina, PA also submitted to the Court forged and fraudulent Waivers for six parties, including POST MORTEM forgery and fraudulent notarizations of Simon's, also used to close the Estate of Simon's deceased wife Shirley using Simon while dead to act as the Personal Representative as part of an elaborate fraud on the court of COLIN, the beneficiaries, the creditors and others. Upon learning of the six fraudulent waivers, including POST MORTEM forgery and fraudulent notarization for Simon that were proven fraudulently notarized and admitted to being forged by a member of the Tescher & Spallina PA law firm, Kimberly Moran who was then arrested and convicted, COLIN again stated he had enough evidence at that moment to read them all their Miranda Rights (See

EXHIBIT 3 September 13, 2013 Hearing Pages 14-18). The Court should note that COLIN however failed to take any corrective or administrative actions against those involved and in fact proceeded as if a crime had not taken place and allowed TESCHER, SPALLINA and TED to continue to be fiduciaries and counsel in the proceedings and forced Eliot and others to spend years attempting to remove them through pleading after pleading evaded by COLIN who should have removed them and instantly disqualified himself once he discovered the Fraud in and on his court committed by his appointed Fiduciaries, Counsel and involving him and his employees directly.

23. COLIN further failed to inform this Court of the crimes related parties to this Action were involved in in his court and instead began a two year denial of due process and procedure and retaliation against Eliot who was exposing the crimes of his court, while he was mandated under Judicial Canons to disqualify on his own initiative due to his direct involvement as a material and fact witness to the criminal acts that took place in and on his court that were committed by his appointed Officers and Fiduciaries, attorneys at law, TESCHER, SPALLINA and TED and other retained counsel, MANCERI and PANKAUSKI.

24. COLIN also acted outside the color of law as he could not investigate his own court, himself, his court appointed fiduciaries and officers without exuding the Appearance of Impropriety and Judicial Canons require mandatory disqualification in such situations, yet he hung on as long as he could despite numerous attempts to remove him and force disqualification on his own initiative and instead choose a day after denying Eliot's Petition for Disqualification to instead Recuse himself Sua Sponte on May 19, 2015 from six cases relating to the Bernstein family.

25. That the law firm of Tescher & Spallina, PA used Simon Bernstein POST MORTEM to close the Estate of Shirley in January 2013 where Simon who died on September 13, 2012 and was dead for four months closed the Estate of Shirley. At no time prior to Simon closing Shirley's estate while dead did TESCHER and SPALLINA who were acting as his counsel while he was dead notify the Florida probate court that Simon had passed away. At least there is no proof or record in the probate court that shows COLIN was so notified by Tescher & Spallina.

26. That when Simon died no Successor Personal Representative for Shirley's Estate was legally chosen and instead TESCHER, SPALLINA and TED used Simon to close Shirley's Estate as they needed for Simon to appear alive at the time of the closing of Shirley's Estate in order to attempt to then have Simon (while appearing alive) fraudulently change Shirley's Irrevocable Trust Beneficiaries that were set in stone two years earlier upon her death on December 08, 2010.

27. A fair review of the evidence thus far shows this complex scheme was created and designed in order for TESCHER, SPALLINA, TED et al. to seize Dominion and Control of the Estates and Trusts of Simon and Shirley Bernstein and then begin to steal assets of the estates and trusts, including through this secreted insurance scheme before this Court, while they breached fiduciary duties and law and denied beneficiaries access to information and accounting for any of the assets, all in violation of a mass of Probate Rules and Statutes and felony criminal laws and resulting in a mass of civil torts against beneficiaries and creditors and all allowed to continue through the closed eyes of COLIN.

28. That upon the resignations of TESCHER and SPALLINA after it was admitted and proven that their law firm committed fraud and forgery on the court and there were admissions to the Palm Beach Sheriff of intentionally and with scienter alteration of Shirley's Trust Document,

COLIN allowed them as their last act to transfer Trusteeship in the Florida Simon Trust to TED, despite COLIN knowing they acted as TED'S counsel to commit the frauds that directly benefited TED. COLIN'S acts can only be seen as an effort to continue the cover up of the crimes committed in his court by allowing TED to continue to breach fiduciary duties and deny documents, records and accountings from beneficiaries.

29. Continuing a Pattern and Practice of Fraud, simultaneous and in connection with the frauds in the Florida probate courts of COLIN and FRENCH were the illegal attempts by TESCHER, SPALLINA, TED and PAMELA SIMON to get the HERITAGE insurance proceeds initially converted illegally outside of the true and proper beneficiaries of the Estate and Trusts or LASALLE, with SPALLINA even fraudulently impersonating himself as Trustee of the institutional trust company LASALLE, the alleged Primary Beneficiary of the missing insurance policy at the center of this Action.

30. Attorney SPALLINA and his client TED continuing an alleged Pattern and Practice of Fraud then filed a death benefit claim with HERITAGE with SPALLINA who signed the death claim form as the "Trustee" of the 95 Legally Nonexistent Unexecuted Trust (the Contingent Beneficiary alleged by Plaintiff of the missing insurance policy) which no Plaintiff or party working in concert with the Plaintiffs or any party who responded in this complaint have yet been able to provide to this Court or any court.

31. Numerous ancillary crimes were committed once Dominion and Control of the Estates and Trusts were seized and these crimes are under ongoing criminal investigations, including this insurance fraud scheme, with the primary suspects alleged to be the fiduciaries and counsel in the matters, including but not limited to, TED, ROSE, TESCHER, SPALLINA, PAMELA SIMON, MANCERI, SWERGOLD and now to be added COLIN and FRENCH.

32. TESCHER and SPALLINA were acting at the same time in many other conflicting capacities to fraudulently maintain complete control of the Estates and Trusts, including but not limited to: Alleged “Trustee” of the 95 Legally Nonexistent Unexecuted Trust when filing the death benefit claim; Counsel to TED as “Trustee” of the 95 Legally Nonexistent Unexecuted Trust, (prior to their falling out after the claim was denied and Adam Simon then replacing TESCHER and SPALLINA upon filing of this lawsuit, which according to Jackson National’s initial Answer (EXHIBIT 4) TED was advised by SPALLINA as his Counsel that he had no legal standing to file this lawsuit, “Subsequent to the Insured's death, Ted Bernstein, through his Florida counsel (who later claimed Bernstein did not have authority to file the instant suit in Illinois on behalf of the Bernstein Trust and withdrew representation...”); Alleged “Trustee” of LaSalle National Trust, NA; Co-Personal Representatives of the Simon Bernstein Estate; Co-Trustees of the Simon Bernstein Trust; Counsel to themselves as Co-Personal Representatives and Co-Trustees for Simon’s Estate and a Florida Simon Trust; Counsel to TED as alleged Successor Trustee of the Shirley Bernstein Trust; and, Counsel to TED as Successor Personal Representative to the Shirley Bernstein Estate.

33. Where TESCHER and SPALLINA then resigned (EXHIBIT 5) from the fiducial capacities listed above amidst admission in an ongoing investigation with Palm Beach County Sheriff Investigators (EXHIBIT 6) that they fraudulently altered and disseminated a Shirley Trust document and other documents and where many other dispositive documents and other records are under ongoing investigation at this time, including Wills and Trusts of both Simon and Shirley.

34. The insurer removed this lawsuit from the Illinois Circuit Court where it was originally filed to this Court and added Eliot as third party defendant, as the lawsuit had been secreted from Eliot despite claims from Plaintiffs that he is entitled to benefits.

35. The fact that the insurance carrier HERITAGE/JACKSON failed to produce a bona fide insurance policy is a liability to the carrier that should have caused them to remain in this lawsuit and the Court erred in allowing them to be dismissed prematurely. HERITAGE/JACKSON should be re-entered in the lawsuit by this Court enjoining them until such time that a bona fide policy is produced to this Court and they provide analysis of the law regarding LOST or MISSING insurance policies and the liabilities resulting from such loss of contract and demand they contact the Primary Beneficiary LASALLE and notify them of the claim.

36. There were no conflicting “claimants” to the proceeds as suggested by Plaintiffs as Eliot never filed a claim on his or anyone else’s behalf with the insurer HERITAGE and the insurer misled the Court that there was a claimant dispute over policy proceeds when interpleading their funds and did not correctly notify the Court that a fraudulent death benefit claim had been made by SPALLINA that was denied. When HERITAGE could not produce a policy with contracted values to be paid to the Court they paid instead an amount they claim represents the nonexistent policy amount but cannot prove this amount to be the policy amount due. Plaintiffs similarly have tried to restyle their pleadings to claim that there was a claimant dispute but have filed a Breach of Contract Lawsuit for the failure of the carrier to pay the Spallina fraudulent death benefit claim made.

37. That discovery needs to be expanded for the insurance carrier to contact the Primary Beneficiary LASALLE before any payment can be made to any alleged contingent beneficiary or to the Estate or any party.

38. Additionally, it took over a year and half for Eliot to get Judge COLIN to allow counsel to represent the Estate's potential interest in this lawsuit, which was blocked by the fiduciaries and their counsel, TED, SPALLINA, TESCHER et al. acting in conflicts of interest and through fraud to deny such Intervenor intervening in these matters.

39. Finally, documents have been secreted from this Court, the beneficiaries and others, for over two and half years making discovery almost impossible. The need for further discovery is essential in this lawsuit and the Florida estate and trust cases to determine the facts in this matter.

40. TED'S legal standing and qualifications as a legitimate Trustee are challenged in the Florida estate and trusts cases and until they heard and it determined if he is now qualified and has standing, discovery is being blocked due to TED'S alleged fiduciary roles and his continued breaches for failure to investigate the crimes committed by his former counsel or provide information to beneficiaries to investigate.

41. The evidence submitted by Plaintiffs is disputed and does not support Plaintiffs own motion that Simon Bernstein intended the Contingent Beneficiary to be the 95 Legally Nonexistent Unexecuted Trust. In fact, the 95 Legally Nonexistent Unexecuted Trust is only an alleged Contingent Beneficiary and thus should not be paid as Plaintiffs admit that LASALLE is the Primary Beneficiary and no one has proven that it is not a viable beneficiary that should be paid before any Contingent Beneficiary would be considered.

42. TED is being petitioned to be removed in the Florida probate court as Successor Personal Representative of Shirley's Estate, alleged Successor Trustee of Simon's Trust and Successor Trustee of Shirley's Trust, as he is not now qualified to be Trustee for a multitude of reasons, including but not limited to: breaches of fiduciary duties; conflicts of interest; adverse interests; alleged violations of state and federal laws under ongoing investigations; the fact that

the language in the Florida Simon Trust TED alleges to be trustee of, precludes him from such fiduciary role, as the Successor Trustee cannot be related to the issuer (his father Simon) and TED is considered PREDECEASED for all purposes of the Florida Simon Trust; the fact that it was TED'S former attorneys at law TESCHER and SPALLINA and their law firm members, who were acting as TED's counsel committed a series of crimes to benefit their client and business associate TED. Even if TED were the Successor Trustee of the 95 Legally Nonexistent Unexecuted Trust, TED's failure to take any action regarding SPALLINA'S fraudulent insurance claim would be cause for TED to be removed see (EXHIBIT 7).

43. TED has already acted with his counsel in this lawsuit to block the estate/trust beneficiaries in Florida from being represented in this matter and acted in his own self-dealing best interests at the expense of the estate/trust beneficiaries, which is cause for his instant removal in these matters as alleged Trustee of the 95 Legally Nonexistent Unexecuted Trust (EXHIBIT 8).

44. O'CONNELL, the newly appointed Successor Personal Representative/Executor of the Simon Estate and Intervenor in this lawsuit has filed an affirmative defense (EXHIBIT 9) that claims that TED is acting as an illegal and not valid alleged Successor Trustee of the Simon Bernstein Trust in Florida, based on the fact that the language in the alleged Simon Trust precludes the Successor Trustee from being a related party to the issuer and thus TED as Simon's son is not a valid Trustee and also TED is considered predeceased for all purposes of the trust.

45. TED has admitted in his deposition that despite having alleged his father may have been murdered and contacting and opening a Sheriff investigation and Coroner Autopsy that TED did not feel there was any need to notify this Court or the insurance carrier that his father

may have been murdered, which could materially affect the payout of any proceeds. (See Intervenor Response to Summary Judgement EXHIBIT A – TED Deposition Pages 127-134.)

46. The primary beneficiary LASALLE and/or its successor has not been contacted by the life insurance carriers or the Plaintiffs and thus again further discovery is needed as to what happened to LASALLE and what the terms of the VEBA trust they acted as Successor Trustee for that was beneficiary of the policy and what happened upon the alleged dissolution. Movant David Simon's affidavit claims that he dissolved a VEBA trust but he was not the Trustee of LASALLE who would have had legal obligations to dissolve the VEBA and distribute any assets held by it to the plan participants according to the VEBA trust instrument, which again has not been produced to this Court by Plaintiffs who maintained the trust document at their offices.

47. The Contingent Beneficiary according to the insurance parole evidence is not the 95 Legally Nonexistent Unexecuted Trust but instead the Simon Bernstein Trust, NA and this contradiction remains disputed. The only evidence produced by Plaintiffs contrary to the records of the carrier stating the Simon Bernstein Trust NA is an affidavit produced by a Jackson National Insurance Company executive stating that the name of the Contingent Beneficiary was a mistake but where the insurance company produced NO legally existent policy to prove such claim showing the policy beneficiary and where SANDERS statements are made in conflict as the carrier has an interest in having this case resolved quietly as it has LOST an insurance policy on the life of an insured and the liabilities from potential beneficiaries could be enormous.

48. The "drafts" of the alleged 95 Legally Nonexistent Unexecuted Trust prove that there is no legally executed trust that allows Plaintiff to have standing in these matters and have no legal basis to attempt to act as a contingent beneficiary. The "drafts" while alleged to have been done

by Hopkins and Sutter law firm before they were acquired by Foley & Lardner, LLP are suspiciously missing any law firm markings to identify their work.

49. Each of the “Consenting Children” have conflicted interests with their own children in these matters as if this Action is successful each child will receive 1/5th of the missing policy benefits and if unsuccessful in this Action all of them will receive nothing from the missing policy. If the estate is successful in this Action and the beneficiaries are determined to be Simon’s grandchildren again the children will get nothing. The beneficiaries of the Estate and Trusts of Simon Bernstein are all in question in the probate court due to the frauds committed by TED’S former counsel and former fiduciaries of the Estate and Trusts of Simon Bernstein, TESCHER and SPALLINA. Finally, the grandchildren may not be beneficiaries in Simon’s Estate either as the dispositive documents have been challenged and have already been found by Governor Rick Scott’s Notary Public Division to have been improperly notarized and they are alleged fraudulent and under ongoing investigations and validity hearings were petitioned for but remain unheard by COLIN after two years making it impossible to move forward without the questions of validity and construction heard.

50. That it is alleged that Simon signed Dispositive Documents a 2012 Will and Amended and Restated Trust but those documents have also been legally challenged and remain in dispute and under investigation.

51. Further, it is unknown who the beneficiaries LASALLE, the primary beneficiary, is mandated to pay under the trust they operate under. The beneficiary remains disputed and unknown at this time, even according to the Court’s recent Order denying Eliot’s claim for emergency interim distribution until resolution of the beneficiaries is determined.

WHEREFORE, Eliot I. Bernstein, Pro Se Third party defendant, respectfully prays for an Order denying Plaintiffs' Summary Judgement motion in its entirety to Count I & II, dismissing the Plaintiffs' claims if appropriate, Ordering further Discovery as requested, ordering sanctions or a hearing on sanctions against Plaintiffs if appropriate, and for such other and further relief as this Court deems just and proper.

I declare under the penalty of perjury under the laws of the United States that the foregoing is true and correct.

Note: All URL'S contained herein are hereby incorporated by reference in entirety herein.

DATED: June 05, 2015

/s/ Eliot Ivan Bernstein
Third Party Defendant/Cross Plaintiff PRO SE
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on June 05, 2015 I electronically filed the foregoing with the Clerk of the Court using CM/ECF. I also certify that the foregoing is being served this day on all counsel of record identified below via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner.

/s/ Eliot Ivan Bernstein
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EXHIBITS

1. SPALLINA LETTER TO HERITAGE TO PAY DEATH BENEFIT TO TESCHER & SPALLINA PA LAW FIRM TRUST ACCOUNT. PAGE 11, BULLET NUMBER 5.

<http://www.iviewit.tv/Simon%20and%20Shirley%20Estate/20121101%20Heritage%20Claim%20Form%20Spallina%20Insurance%20Fraud.pdf>

2. APRIL 09, 2012 PETITION FOR DISCHARGE (FULL WAIVER)

<http://www.iviewit.tv/Simon%20and%20Shirley%20Estate/20121024%20Petition%20for%20Discharge%20NOTE%20signed%20April%2009%202012%20not%20filed%20until%20October%2024%202012%20COMMENTS.pdf>

3. SEPTEMBER 13, 2013 HEARING - COLIN DISCOVERS FRAUD UPON THE COURT - PAGES 14-18

<http://www.iviewit.tv/Simon%20and%20Shirley%20Estate/20130913%20TRANSCRIPT%20Emergency%20Hearing%20Colin%20Spallina%20Teschher%20Ted%20Manceri.pdf>

4. JACKSON NATIONAL ANSWER AND COUNTER COMPLAINT (PAGE 8)

<http://www.iviewit.tv/Simon%20and%20Shirley%20Estate/20130626%20Jackson%20Answer%20to%20Complaint%20and%20Counterclaim%20and%20Third%20Party%20for%20Interpleader.pdf>

5. TESCHER AND SPALLINA RESIGNATION LETTER

<http://www.iviewit.tv/Simon%20and%20Shirley%20Estate/2014014%20Teschher%20Spallina%20Manceri%20Resignation%20Letters%20and%20Withdrawal%20as%20Counsel%20and%20Executors.pdf>

6. SHERIFF REPORTS (PAGE 6 OF 51)

<http://www.iviewit.tv/Simon%20and%20Shirley%20Estate/20140912%20Sheriff%20and%20Coroner%20Reports.pdf>

7. TED DEPOSITION STATEMENT REGARDING SPALLINA ACTING AS TRUSTEE (PAGES 35-37)

<http://www.iviewit.tv/Simon%20and%20Shirley%20Estate/20150506%20Ted%20Bernstein%20Deposition.pdf>

8. ATTORNEY AT LAW PETER FEAMAN LETTER TO O'CONNELL REGARDING ALLEGED MISCONDUCT OF TED AND ROSE IN THE ILLINOIS INSURANCE LITIGATION.

<http://www.iviewit.tv/Simon%20and%20Shirley%20Estate/20140829%20Feaman%20Stansbury%20Letter%20to%20Brian%20O%27Connell.pdf>

9. O'CONNELL AFFIRMATIVE DEFENSE THAT TED IS NOT A LEGALLY VALID TRUSTEE.

<http://www.iviewit.tv/Simon%20and%20Shirley%20Estate/O%27Connell%20Ted%20is%20not%20Valid%20Trustee%20in%20Simon%20Trust%20Simon%20Estate%20Answer%20and%20Affirmative%20Defenses%20Shirley%20Trust%20Case.pdf>

10. TED'S DEPOSITION - EXHIBITS 1, 2 AND 23 (SIMON BERNSTEIN 2000 INSURANCE TRUST DATED AUGUST 15, 2000) AND TESTIMONY PAGES 37-53. 82-87

<http://www.iviewit.tv/Simon%20and%20Shirley%20Estate/20150506%20Ted%20Bernstein%20Deposition.pdf>