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IN THE SUPREME COURT OF FLORIDA

CAUSE NO._____

UNDERLYING CASES NUMBERS

1. **CASE: 502015CP002717XXXXNB - SIMON BERNSTEIN ESTATE - JUDGE COATES**
   CASE: 502012CP004391XXXXSB – SIMON BERNSTEIN ESTATE - JUDGE COLIN
   CASE: 20I2CP004391 IX – SIMON BERNSTEIN ESTATE - JUDGE DAVID FRENCH
2. **CASE: 502011CP000653XXXXSB – SHIRLEY BERNSTEIN ESTATE - JUDGE COLIN**
3. **CASE: 502014CP002815XXXXSB – OPPENHEIMER V. BERNSTEIN MINOR CHILDREN - JUDGE COLIN**
4. **CASE: 502014CP003698XXXXSB – SHIRLEY TRUST CONSTRUCTION - JUDGE COLIN**
5. **CASE: 502015CP001162XXXXSB – ELIOT BERNSTEIN V. TRUSTEE SIMON TRUST CASE - JUDGE COLIN**
6. **CASE: 502014CA014637XXXXMB - JUDGE KEYSER**
   ***ALL SIX CASES WERE TRANSFERRED TO JUDGE COATES WHO RECUSED SUA SPONTE AT THE FIRST HEARING**

OTHER RELATED CASE

7. **CASE: 13-CV-03643 - FEDERAL LAWSUIT IN THE US DISTRICT COURT OF EASTERN ILLINOIS, BEFORE THE HON. JUDGE JOHN ROBERT BLAKEY, PREVIOUSLY BEFORE JUDGE AMY ST. EVE.**

IN THE ESTATES AND TRUSTS OF SIMON LEON BERNSTEIN, SHIRLEY BERNSTEIN AND PETITIONER'S MINOR CHILDREN TRUSTS

ELIOT IVAN BERNSTEIN,

PETITIONER

PETITION FOR ALL WRITS, WRIT OF PROHIBITION, WRIT OF MANDAMUS AND PETITION TO STAY CASES AND TEMPORARILY RESTRAIN SALE, TRANSFER, DISPOSITION OF ANY ASSET AND FOR PRESERVATION OF ALL EVIDENCE

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PETITION FOR ALL WRITS, WRIT OF PROHIBITION, WRIT OF MANDAMUS AND PETITION TO STAY CASES AND TEMPORARILY RESTRAIN SALE, TRANSFER, DISPOSITION OF ANY ASSET AND FOR PRESERVATION OF ALL EVIDENCE

Now comes ELIOT IVAN BERNSTEIN ("PETITIONER") who respectfully petitions and pleads and shows this court as follows:

1. This is a Petition for All Writs and is a Writ of Mandamus, Writ of Prohibition and a Temporary Restraining Order-Stay prohibiting any transfer, sale or disposition of any assets herein under the Estates and Trusts of Simon and Shirley Bernstein and Trusts of PETITIONER'S minor children and further requiring the parties to preserve any and all evidence, documents, records, notes, statements, properties and materials relating to these Estate and Trust matters in all cases stated in the caption.

2. It is respectfully submitted that Hon. Judge Martin Colin ("COLIN") has failed to perform mandatory duties under Florida law by failing to mandatorily Disqualify himself under the Judicial Canons by instead issuing a "Recusal" Order sua sponte within 24 hours of Denying the Disqualification motion "as legally insufficient" and then after "Recusal" acted outside of his jurisdiction to poison and prejudice these cases by communicating with other Judges to transfer the cases while acting as a "material witness" to fraud upon and in his own court. In so doing Judge Martin Colin has acted in excess of his jurisdiction and outside the law and must be prohibited by the writ herein. Because the Orders of Judge Colin

who should have mandatorily Disqualified are a nullity and void and must be officially voided, there are no valid and proper Orders under which the parties are acting and thus the parties herein and each case listed in the caption shall be temporarily restrained from any further transfers, sale, disposition or compromise of any asset herein pending proper determinations of authority to act, proper determinations of who is and should be Trustee, the Personal Representative and what Dispositive documents prevail and other substantive orders in the case.

I. BASIS FOR INVOKING JURISDICTION

3. This is an Original Proceeding filed in the Florida Supreme Court pursuant to Florida Rule of Civil Procedure 9.100(b) and 9.030 for extraordinary writs.

4. Florida Rule of Appellate Procedure Provides:

> **Original Jurisdiction.** The Supreme Court may issue writs of prohibition to courts and all writs necessary to the complete exercise of its jurisdiction, and may issue writs of mandamus and quo warranto to state officers and state agencies. The supreme court or any justice may issue writs of habeas corpus returnable before the supreme court or any justice, a district court of appeal or any judge thereof, or any circuit judge.

5. This Court has jurisdiction to issue writs of mandamus, prohibition and any other writ within the exercise of its judicial authority. See McFadden vs. Fourth Dist. Court of Appeal, 682 So.2d 1068 (Fla. 1996).

6. Florida Rule of Appellate procedure 9.100(n) provides:

> **Order to Show Cause.** If the petition demonstrates a preliminary basis for relief, a departure from the essential requirements of law that will cause material injury for which there is no adequate remedy by appeal, or that review of final administrative action would not provide an adequate remedy, the court may issue an order either directing the respondent to show cause, within the time set by the court, why relief should not be granted or directing the respondent to otherwise file, within the time set by the court, a response to the petition. In prohibition proceedings, the issuance of an order directing the respondent to show cause shall stay further proceedings in the lower tribunal.

7. Petitioner filed a "VERIFIED SWORN EMERGENCY PETITION AND AFFIDAVIT FOR IMMEDIATE DISQUALIFICATION OF JUDGE MARTIN COLIN" (EXHIBIT A) and seeks Mandamus to compel Hon. Judge Martin Colin to strike his Order Denying the Petition (EXHIBIT B) for mandatory Disqualification as "legally insufficient," further strike his Order (EXHIBIT C) for Sua Sponte Recusal ordered the day after denying the Petition for Disqualification and enter an Order of Disqualification as required by law. Petitioners also seek Prohibition which is also appropriate to prevent Judge Colin from further acting in excess of lawful authority and outside his jurisdiction as Judge Colin acted unlawfully in denying the Motion for Mandatory Disqualification as "legally insufficient" and by his own Sua Sponte Recusal Order issued within 24 hours thereafter showed he had continued to act outside the law and further tainting and poisoning the case by communicating with two

other local Judges which ultimately lead the action which is immersed in fraudulent filings, fraudulent documents and fraud on the court to somehow be Transferred to one Hon. Judge Coates who himself was a Partner working at Proskauer Rose whose conduct and actions are clearly implicated in the case and in fact Judge Coates worked in the office of Proskauer Rose right across the hall from Petitioner here in Boca Raton, Florida during key times at issue in the underlying actions.

II. IMMINENT AND IMMEDIATE PENDING ACTIONS MAKING PROHIBITION, STAY AND TEMPORARY RESTRAINING ORDER APPROPRIATE

8. Prohibition and further Stay and Temporary Restraining Order is further appropriate since the unlawful acts of Judge Colin in denying Disqualification and instead issuing "Recusal" could have the effect of leading the parties herein to further act in fraud such as an immediately imminent illegal Sale of the deceased Simon Bernstein home in Boca Raton, Florida pursuant to an illegal Order of Sale by Judge Colin which should have been vacated as a nullity upon his mandatory disqualification, yet despite being a legal nullity and there being no lawful authority to act, the parties acting in fraud could infer this Sale still proper to move forward and thus must be Stayed and temporarily restrained pending further hearings and determinations. Of fundamental relevance herein and as set out in the mandatory Disqualification motion of Judge Colin, actions were

permitted to continue in fraud in his courts for nearly 2.5 years yet Judge Colin had never held a hearing to determine a proper Trustee of the Trusts, meaning of the Trusts, and likewise never held a hearing to determine the validity of any Will or Trust nor the Personal Representative of either estate and instead Judge Colin's Court simply permitted parties intertwined in the Fraud such as Ted Bernstein to continue to act illegally selling off property, stealing personal property and making other dispositions and now the illegal sale of the deceased Simon Bernstein home by Ted Bernstein is imminently scheduled for sale by tomorrow, June 10, 2015.

III. STATEMENT OF FACTS

9. Petitioner herein, Eliot I. Bernstein, filed a detailed and specified Motion for mandatory Disqualification of Judge Colin on or about May 14, 2015. The motion satisfied all requirements under the law and rules pertaining to mandatory Disqualification under the Canons of Judicial Conduct and was proper in all respects. The motion, which is annexed hereto, set out mandatory Disqualification under several provisions (Florida Rule of Judicial Administration 2.330, Florida Statute 38, and Florida Code of Judicial Conduct, Canon 3(B)7, 3(B)5, 3E(1), 3(E)1a, 3(E)1b and 3(E)1b(iv)) pertaining to (a) the judge has a personal bias or prejudice concerning a party or a party's lawyer; (b) or personal

knowledge of disputed evidentiary facts concerning the proceeding; (c) is to the judge's knowledge likely to be a material witness in the proceeding.

10. While Petitioner set out a proper legally sufficient motion to mandate Disqualification under all three grounds, most troubling and critical for purposes of the Writ of Prohibition as it relates to Judge Colin's conduct acting in excess and outside jurisdiction is the continuing to act and interfere in proper adjudication of the cases with other judges while being a material witness to the ongoing and continuing frauds in his courts and on his court. See, COLIN Sua Sponte Recusal issued within 24 hours of illegal denial of mandatory disqualification motion.

11. It is noted that at the time this mandatory disqualification motion had been filed, Judge Colin had already permitted the cases to continue for nearly 2.5 years without ever holding a hearing to determine who the proper Trustees were, who proper Personal Representatives of the Estate were and are, what the construction and meaning of the Trusts and Estates should be all the while permitting parties such as Ted Bernstein and attorneys Tescher and Spallina who are involved in the direct frauds upon his court to nonetheless continue acting permitting properties to be illegally sold, substantial monies and assets transferred and disposed of while denying Petitioner and Petitioner's minor children rights of inheritancy causing substantial financial and related harm.

12. Such Disqualification motion was filed against the further backdrop of a case wherein the Trustee being illegally allowed to act, Ted Bernstein, had such concerns and suspicions that deceased Simon Bernstein (his father) may have been murdered that he sought action by the Coroner, action to get an independent autopsy and a complaint to the Palm Beach County Sheriff's all within a short amount of hours after Simon Bernstein passed.

13. The Motion for Mandatory Disqualification was filed nearly two years after Petitioner had first filed an Emergency Motion in both the Estate cases of Shirley and Simon Bernstein showing direct fraud on the Court by the filings of Attorneys Donald R. Tescher, Esq. and Robert L. Spallina, Esq. and by the time the May 2015 Disqualification was filed a paralegal Notary Public Kimberly Moran who was employed by Tescher and Spallina had already been under investigation and later charged and convicted in Notary Fraud. Attorney Spallina later admitted to the Palm Beach Sheriff of fraudulent actions by himself personally in conspiracy with his partner Tescher involving one of the Trusts (2008 Shirley Bernstein Trust), yet Judge Colin, despite stating on the Record at the first hearing on September 13, 2013 that Miranda warnings were appropriate for Ted Bernstein and his attorneys Tescher and Spallina and others, continued to allow the parties to move forward in fraud and held no hearings to correct the

frauds and took no actions to refer the attorneys Spallina and Tescher to proper authorities.

14. While Judge Colin's full involvement in the frauds is presently unknown, it is clear that he was made directly aware of the frauds by Petitioner's Emergency motion filing in May, 2013, if not directly aware or involved earlier.

IV. MANDAMUS

15. A Writ OF Mandamus is appropriate and required to direct JUDGE COLIN to vacate his prior illegal ORDERS, specifically the Sua Sponte Order of Recusal and Order Denying the motion for Disqualification as "legally insufficient" and to further enter an Order of Disqualification and Vacating all other Orders in the case. The writ of mandamus is appropriately used to require a government actor to perform a nondiscretionary duty or obligation that he or she has a clear legal duty to perform. See Austin v. Crosby, 866 So. 2d 742, 743 (Fla. 5th D.C.A. 2004) (holding that mandamus may only be granted if there is a clear legal obligation to perform a duty in a prescribed manner). It applies to enforce a right already established. Austin, 866 So. 2d at 744. The writ of mandamus will issue to require a trial court to comply with the mandate of an appellate court. Superior Garlic Int'l, Inc. v. E&A Produce Corp., 29 Fla. L. Weekly D2341 (Fla. 3d D.C.A. Oct. 20, 2004).

16. "Mandamus is a common law remedy used to enforce an established legal right by compelling a person in an official capacity to perform an indisputable ministerial duty required by law." Poole v. City of Port Orange, 33 So. 3d 739, 741 (Fla. 5th DCA 2010) (citing Puckett v. Gentry, 577 So. 2d 965, 967 (Fla. 5th DCA 1991)). "A duty or act is ministerial when there is no room for the exercise of discretion, and the performance being required is directed by law." Austin v. Crosby, 866 So. 2d 742, 744 (Fla. 5th DCA 2004)."

17. "Mandamus is a common law remedy used to enforce an established legal right by compelling a person in an official capacity to perform an indisputable ministerial duty required by law." Poole v. City of Port Orange, 33 So. 3d 739, 741 (Fla. 5th DCA 2010) (citing Puckett v. Gentry, 577 So. 2d 965, 967 (Fla. 5th DCA 1991)). "A duty or act is ministerial when there is no room for the exercise of discretion, and the performance being required is directed by law." Austin v. Crosby, 866 So. 2d 742, 744 (Fla. 5th DCA 2004).

18. Petitioner's motion for Disqualification clearly shows it was properly filed according to law and was facially valid and sufficient and thus Petitioner has established a clear legal right to Disqualification by Judge Colin and mandamus is thus appropriate to enforce this right. The only question before this Court is whether Petitioner met this burden in the filing of the original Disqualification and this Petition and such original Disqualification motion (EXHIBIT A) clearly

shows the burden was met by Petitioner thus making mandamus appropriate at this time.

DISQUALIFICATION MOTION SHOWS JUDGE COLIN AS MATERIAL FACT WITNESS

19. The Disqualification motion clearly demonstrated Colin as a material fact witness in relation to the fraud by Attorneys Spallina and Tescher specifically in relation to an Oct. 24, 2012 filing wherein Attorney Spallina files multiple documents allegedly signed by then Deceased Simon Bernstein nearly 6 months before, thus using a Deceased person to attempt to close the Estate of Shirley Bernstein. The Disqualification motion further shows Judge Colin and his Court Officer having Ex Parte contact with Attorney Spallina two weeks later on Nov. 5, 2012 but not even this Ex Parte communication is docketed until the next day, Nov. 6, 2012.

20. An excerpt of the Disqualification motion shows as follows:

> 19. This lack of impartiality by Judge Colin and his Court is further compounded by the facts shown by the face of the Court's own Docket and files that it took at least overnight to even Docket the Nov. 5, 2012 Ex Parte Memo on Nov. 6th, 2012 which leads right in and goes hand in hand with the other mandatory grounds for Disqualification on his own initiative for now having knowledge of disputed evidentiary facts involving the proceeding and being likely to be called as a material and-or fact witness, as it is unknown:
>
> a. Were the Oct. 24, 2012 Filings filed in person and if so by whom?;
> b. If filed in person is Case Manager Astride Limouzin the person who "received' the filings for the Court or is she just the go between with Spallina office and Judge Colin on the Ex Parte Memo?

c. Who communicated on the file with Judge Colin? Just Limouzin or any other Clerks and Case Managers?
d. If filed by Mail then by whom and where is the correspondence and envelopes that the filings arrived in to show who signed the correspondence and mailed them if so? ;
e. If filed by mail then where are the envelopes and correspondence or has this evidence been destroyed?
f. Why such a long delay between when the Nov. 5th 2012 Ex Parte Memo was created and then Docketed on Nov. 6, 2012?
g. How was the Memo transmitted to Spallina office? By fax, by mail? Were any phone calls made by the Court or Court Clerks and Case Managers? Any other Ex Parte communications?
h. Why was the Nov. 5th, 2012 Memo done Ex Parte and not Communicated to all parties with standing in Shirley's case not only for purposes of avoiding impartiality but also to timely apprise the parties of said filings and defects?
i. Did Judge Colin review the documents?
j. Did Judge Colin know if Simon was deceased and when did he know? Who told him?

DISQUALIFICATION MOTION SHOWS LACK OF IMPARTIALITY, BIAS PREJUDICE AND REASONABLE FEAR OF NOT GETTING FAIR TRIAL

21. The motion for mandatory disqualification further shows as follows:

20. For purposes of avoiding even the appearance of impropriety, Judge Colin should have Disqualified on Nov. 5, 2012 or at the moment his Court and - or Court Clerk or Case Manager had any involvement in the receipt, handling and processing of any of the filings of Oct. 24, 2012 made by a deceased Personal Representative/Executor, Simon Bernstein.

21. Judge Colin should have disqualified then and must be disqualified now.

22. Even assuming arguendo that Judge Colin had no actual knowledge of the Oct. 24, 2012 filings attempting to use Deceased Simon Bernstein to close the Estate of Shirley Bernstein and had no actual knowledge of the Nov. 5th 2012 Ex Parte communication on his behalf to Attorney Spallina directly involved in the fraudulent

illegal acts of using Deceased Simon Bernstein to close Shirley's Estate, at that time, clearly by the time Judge Colin issued the Order to Close the Estate in Jan. 2013[1] Judge Colin must be presumed to have read and reviewed the documents and filings upon which he issues and rationally bases his Order closing the Estate in Jan. 2013 upon and thus should have not only not issued such an Order but should have halted, frozen and stayed the case and case files of all those involved for investigation by this time and then Disqualified himself as clearly at minimum his own Court officers and Case Manager Astride Limouzin had direct involvement and knowledge of material facts and he could not be in charge of investigating himself and his officers.

23. Now if it is assumed arguendo that Judge Colin will somehow claim he had no knowledge of the Court Docket and filings upon which he issued in Jan. 2013 closing Shirley's Estate upon documents filed by Attorney Spallina which purport to have Simon Bernstein take action as the Personal Representative/Executor while deceased because somehow Judge Colin will claim that he had not read the documents upon which he based this Order, then this raises a separate basis of Disqualification under the rule requiring the Judge to diligently (and competently) hear cases that are assigned and thus Judge Colin should have been disqualified then and must now be disqualified.

24. Yet even if it is assumed arguendo that Judge Colin had no knowledge of these matters as of the date he issues the Jan. 2013 Order to close Shirley's estate, which of course again raises Disqualification under the rule of "diligently" hearing cases assigned, clearly by the time of May 06, 2013 upon the first filing of Petitioner's "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 SHIRLEY BERNSTEIN AND MORE"[2] this Court

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[1] Order of Discharge
http://www.iviewit.tv/Simon%20and%20Shirley%20Estate/20130103%20Order%20of%20Discharge%20Shirley%20Signed%20Judge%20Colin%20Scratched%20Date%20no%20initials.pdf

[2] May 06, 2013 Petition @ URL
http://www.iviewit.tv/Simon%20and%20Shirley%20Estate/20130506%20FINAL%20SIGNED%20Petition%20Freeze%20Estates%20Orginal%20Large.pdf

and Attorney Spallina are both put on Notice by Petitioner's motion of :

a. The fraud and alleged fraud in the filings directly involving Spallina including but not limited to documents filed to close Shirley's Estate by Simon Bernstein acting as the Personal Representative of Shirley when Simon Bernstein was already Deceased (Pages 40-43 - Section "IX.FORGED AND FRAUDULENT DOCUMENTS FILED IN THE ESTATE OF SHIRLEY IN THIS COURT BY TESCHER AND SPALLINA CONSTITUTING A FRAUD ON THIS COURT AND THE BENEFICIARIES AND MORE);
b. That there were improper notarizations in Dispositive Documents including a Will and Trust (Pages 43-45 Section "X. INCOMPLETE NOTARIZATION IN THE ALLEGED 2012 AMENDED TRUST OF SIMON AND MORE" and "XI. INCOMPLETE NOTARIZATION IN THE 2012 WILL OF SIMON AND MORE")
c. That Spallina and Tescher had withheld from beneficiaries in violation of Probate Rules and Statutes any documents on Shirley's Estate and Trusts for approximately 18 months which should have created further bases for this Court to Order investigation and a prompt hearing to determine truth and authenticity in the Trusts and Estate dispositive documents (Pages 37-40 Section "VIII. PETITIONER FORCED TO RETAIN COUNSEL DUE TO PERSONAL REPRESENTATIVES LACK OF DUTY AND CARE, BREACHES OF FIDUCIARY DUTIES AND CONFLICTS OF INTEREST REGARDING MISSING ESTATE ASSETS AND DOCUMENTS AND MORE");
d. Of utmost importance should have been information that Ted Bernstein himself and with the aid of his counsel reported the possible Murder of he and Petitioner's Father, which was reported by Ted Bernstein on the date Simon passes away to the Palm Beach County Sheriff and the Coroner and starting two official inquiries into allegations of Murder[3] (Pages 85-

[3]Palm Beach County Sheriff and Coroner's Reports (Pages 25-28 Sheriff Report and Pages 32-41 Coroner Report) http://iviewit.tv/Simon%20and%20Shirley%20Estate/20140912%20Sheriff%20and%20Coroner%20Reports.pdf
The Court should note that the initial autopsy failed to run a poison heavy metal test but Petitioner upon finding out that this had not been done ordered the Coroner to test for poison and on March 10, 2014, over a year and

86 Section "XVII. ALLEGED MURDER OF SIMON BERNSTEIN");

e. That the Court and Spallina are notified of substantial personal property missing (stolen) including jewelry and artwork worth millions of dollars and that Shirley's condominium had already been sold by Ted Bernstein and yet no Determination had been made by this Court regarding the validity of the Trusts and Ted Bernstein's right to act and dispose of assets (Pages 51-57 "XIV. VANISHING ESTATE ITEMS AND ASSETS");

f. That the Court and Spallina are notified of the "Elephant in the Room" relating to the Iviewit stock and Intellectual Property Interests that Simon Bernstein had, worth an estimated billions of dollars, which is tied into a prior RICO action and a prior car-bombing of Petitioner's Minivan (see www.iviewit.tv for graphic images of the Car Bombing that looks like a scene from a war) that was now relating to the case before this Court (Pages 57-82 Section "XV. THE ELEPHANT IN THE ROOM THE IVIEWIT COMPANIES STOCK AND PATENT INTEREST HOLDINGS OWNED BY SIMON AND SHIRLEY, AS WELL AS, INTERESTS IN A FEDERAL RIC0 ACTION REGARDING THE THEFT OF INTELLECTUAL PROPERTIES AND ONGOING STATE, FEDERAL AND INTERNATIONAL INVESTIGATIONS."

g. That the Court is notified of an alleged Life Insurance fraud scheme (Pages 27-37 Sections "VI. MISSING LIFE INSURANCE TRUST AND LIFE INSURANCE POLICY OF SIMON" and "VII. INSURANCE PROCEED DISTRIBUTION SCHEME");

h. That other assets were remaining that should have been been frozen such as the St. Andrew's home recently listed by Petitioner's father weeks before his passing for over $3 million.

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half after Simon died, it was completed (Pages 42-44) and several poisons showed elevated levels and the deceased had morphed to a **113 year old male.**

25. Simply reviewing the September 13, 2013 Hearing Transcript[4] of a proceeding before Judge Colin regarding the Emergency Petition filed on May 06, 2013 and heard on September 13, 2013 (held on the anniversary of Simon's death four months after filing) shows further clear basis for Disqualification of Judge Colin on numerous grounds including knowledge of disputed evidentiary facts and likelihood of being called as a fact witness premised upon his involvement and knowledge of the Ex Parte Communications with Attorney Spallina on Nov. 5th 2012 after the fraudulent filings of Spallina on Oct. 24, 2012 but also based upon clear bias and prejudice and lack of impartiality as by this date September 13, 2013 Judge Colin:

a. knows about Tescher and Spallina using alleged documents of Deceased Simon Bernstein to close Shirley's Estate filed on Oc. 24, 2012;
b. knows of the fraudulent Notaries made upon the Waivers that had first been rejected by his Court via the Ex Parte Memo of Nov. 5, 2012 for having no Notaries and then later submitted with the fraudulent Notaries to help close the Estate;
c. knows that Tescher and Spallina have never been Ordered to Show Cause before his Court about the fraud;
d. knows he had not referred Tescher and Spallina's law firm's conduct for Attorney Discipline investigation;
e. knows of the claims of substantial personal properties stolen and missing from Shirley's Estate;
f. knows of Spallina's firm withholding any documents on Shirley's Trusts from beneficiaries for over two years, which should have raised clear red flags particularly in light of the frauds on his own Court by Tescher and Spallina's firm;
g. knows of the failure to have any Accounting of Shirley's Estate with the failure ongoing for years by this time in violation of Probate Rules and Statutes;
h. knows he has conducted no Hearing to determine the proper construction and meaning of Shirley's Trusts and Estate, which remains incomplete to this date and determine who the proper Beneficiaries, Trustee and Representatives should be, all which remains unknown to this date;

[4] September 13, 2013 Hearing Judge Colin
http://iviewit.tv/Simon%20and%20Shirley%20Estate/20130913%20TRANSCRIPT%20mirandas.pdf

i. knows that Ted Bernstein himself reported possible Murder of Simon Bernstein to police authorities and the state Medical Examiner for autopsy on the date of Simon's passing5;

j. knows of the "elephant in the room"6 being Iviewit and the Iviewit stock and patents valued in the billions involving Simon Bernstein and now a missing part of the Estates and Trusts and tied into a prior RICO and Antitrust Lawsuit and a car-bombing of Petitioner's minivan reported and investigated by authorities; and

k. knows that Petitioner's minor children have been intentionally and with scienter denied the trust and inheritance funds for their food, shelter, and well being for months that were all part of their inheritance and yet Judge Colin wants to talk instead that day for most of the hearing about Dunkin Donuts, Burger King and having Petitioner cut his Court lawn[7], instead of addressing any of the serious crimes and frauds in his own Court where he and his Court staff are now witnesses and centrally involved in the fraudulent activities.

26. Now perhaps Judge Colin missed lunch and was hungry that first hearing four months after an Emergency Motion was filed by Petitioner and was thinking about Dunkin Donuts and Burger King but there is no way to look at this proceeding and the transcript without not only finding clear bias and prejudice and lack of impartiality in adjudicating rights to such a gross degree as to constitute not only an abdication of Judicial function, duties and responsibility but done in such as way as to be a mockery of the judicial system and process and denying very important rights and claims raised in Petitioner's filings.

27. Consistent with what has emerged in not only this and other Florida Probate Courts but other Courts in New York and around the nation, a review of the Transcripts of proceedings before Judge Colin shows the standard "M.O.", modus operandi, used by

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[5] May 06, 2013 Petition – Already Exhibited Herein - Section III "POST MORTEM AUTOPSY DEMAND AND SHERIFF DEPARTMENT INVESTIGATION OF ALLEGATIONS OF MURDER"

[6] May 06, 2013 Petition – Already Exhibited Herein - Section XV "The Elephant in the Room" Pages 57-82

[7] September 13, 2013 Hearing Page 11
http://www.iviewit.tv/Simon%20and%20Shirley%20Estate/20130913%20TRANSCRIPT%20Emergency%20Hearing%20Colin%20Spallina%20Tescher%20Ted%20Manceri%20ELIOT%20COMMENTS.pdf

corrupted and conflicted Courts by neglecting and burying the real issues of fraud and integrity of proceedings and filings and actions of licensed attorneys and instead proceeding to threaten and harass those exposing the wrongdoings, as is the case with Petitioner as the exposer of fraud, who then is assaulted with multiple hearings for his alleged Contempt, attempts to have Guardians appointed over his family, threats of sanctions and acts of judicial mockery.

28. Judge Colin falsely claims on this September 13, 2013 date not only that no Emergency issues had been raised in Petitioner's Emergency Motion but also that no assets were left to freeze as requested in the relief of the Emergency Motion when in fact the St. Andrews's home that had been listed and valued at over $3 million dollars by Simon Bernstein in the months before his passing still had not been sold and of course there is and was the millions in personal property reported as missing and stolen and the illegal sale of Shirley's Trust Beach Condominium all of which can be subject to claw back processes and other injunctive relief while of course the very real emergency issues of actual fraud upon the Court had been shown involving Judge Colin, the Courts employees and his appointed Officers and Fiduciaries making them all Fact and Material Witnesses at minimum and thus emergency and related relief could and should have been granted, including the voluntary disqualification and more.

29. By the time of this hearing on September 13, 2013, not only did Judge Colin wholly fail to have attorneys Tescher and Spallina Show Cause after the Nov. 5, 2012 Ex Parte Memo and discovery of fraud filings by their office knowingly acting on behalf of their client a deceased Personal Representative/Executor Simon Bernstein to FRAUDULENTLY close Shirley's Estate, Judge Colin also wholly failed to have Attorney Tescher and Spallina and the alleged Fiduciary of Shirley's Trust Ted Bernstein answer in Court that day, especially after Tescher, Spallina and Ted Bernstein had never even submitted a written answer to Petitioner's very specific, detailed Emergency Motion filed May 06, 2013 and subsequently filed motions (Non-Emergency as Colin had forced Eliot to refile his Emergency Pleading several times as a Non-Emergency before allowing it to be heard) placing Tescher, Spallina and Ted Bernstein on further notice of fraud allegations and more.

30. The date of this Hearing was nearly an entire year after Tescher and Spallina had first submitted the fraudulent filings

before Judge Colin's Court in Oct. 2012 and yet they were not Ordered to answer the Emergency Petition while allowing Shirley's Estate and Trust to be squandered in fraud and unaccounted for, as Spallina, Tescher and Ted seized Dominion and Control of the Estates and Trusts of both Simon and Shirley Bernstein through a series of fraudulent dispositive documents and refused to give beneficiaries any documents in violation of Probate Statutes and Rules and Colin remained asleep at the wheel.

31. It is respectfully submitted that by this time on September 13, 2013, Judge Colin is engaging in the aiding and abetting of the fraud and attempting to cover up past fraud in, upon and by the Court, by what is known as "Steering" and orchestrating of the proceedings away from the crimes and criminals and begins a cleverly disguised retaliation against Petitioner that continues to bias and prejudice Petitioner to this date.

32. This can be more clearly seen in the subsequent Evidentiary Hearing of Oct 28, 2013 when again, Judge Colin at the helm, steers and directs the proceedings to avoid the issues of Fraud upon and before his own Court by limiting the proceeding to testimony about a $25,000 value to Shirley's Estate Inventory (which was never served to beneficiaries in Violation of Probate Rules and Statutes) and discusses not throwing Spallina's Legal Assistant and Notary Public, Kimberly Moran "under the bus" who has by this time admitted to the Governor's Office and West Palm Beach police that she not only falsely Notarized the Waivers, including for a deceased Simon but also forged the signatures for six separate parties, including for the decedent Simon Bernstein Post Mortem, that are ultimately filed before Judge Colin to illegally close the Shirley Estate. Note, while Moran admits to falsifying Notaries and forging signatures on Waivers, not only is there no full record of her acts before Colin's Court but more importantly none of her admissions addresses the other clear fraud such as the Petition for Discharge containing Spallina's signature on the document filed on behalf of Deceased Simon Bernstein on Oct. 24, 2012 by Tescher and Spallina, utilizing a Deceased person to close Shirley's Estate and Colin has direct knowledge that no examination of Spallina and Tescher regarding their involvement in the Petition and other document frauds used to close the Estate illegally and knowledge of Moran's admitted activities has occurred even to this date in his Court with his own office and Case Manager

implicated by the Ex Parte Memo yet Colin has continued to allow Ted Bernstein who has been represented by Spallina and Tescher continue to act with no accountability where almost all the crimes committed directly benefited Ted Bernstein who had been disinherited.

33. At no time does Judge Colin in the Evidentiary Hearing with Tescher, Spallina and Ted Bernstein present seek to ascertain the truth of the fraud, forgeries and fraud on his Court but more importantly wholly failed to force Spallina or Tescher to Show Cause or swear them in to answer questions to explain the acts of Tescher and Spallina's Legal Assistant and Notary Public Moran and explain their law firms acts of filing documents with a deceased client acting as a fiduciary while dead and more importantly no investigation into how Spallina's signature is on the Petition for Discharge also fraudulently filed before Judge Colin, which is Not the subject of any Admissions by his employee Kimberly Moran and where she was not involved in that crime.

34. Judge Colin simply later permits Spallina and Tescher to withdraw as attorneys, instead of removing them instantly and securing their files and the corpus of the Estate and Trusts while the material facts surrounding the fraud that directly involve Spallina by his own Signature on the Petition for Discharge, Judge Colin and his Case Manager Limouzin, by the Nov. 5th 2012 Ex Parte Memo communication remain undetermined and unheard.

35. These are additional grounds for removal in that Judge Colin's failure to Order attorneys Tescher, Spallina and the fiduciary Ted Bernstein at minimum to Show Cause before the Court on the frauds on the Court and for Discipline having actual knowledge of the substantial likelihood of misconduct by the fraud by presence of Spallina's own signature on the document purported to be April 9, 2012 Petition for Discharge but not filed with Judge Colin's Court until Oct. 2012 when Simon Bernstein is Deceased nearly a month is itself a failure to discharge Judicial obligations; and then being further Disqualified for being the necessary fact witness of his own Ex Parte Communication to Spallina as evidenced by the Nov. 5th, 2012 Memo and by prejudice and bias shown by the failure to Order Tescher, Spallina and Ted Bernstein for investigation and discipline and Show Cause before his own Court not only in Nov. 2012 but which has still not happened to this day in May of 2015 some 2.5 years later while permitting Ted

Bernstein to continue to act as Trustee and Personal Representative/Executor when Ted Bernstein is directly intertwined, interconnected and involved with his own counsel Spallina and Tescher (as they represented Ted in Shirley's Estate and Trusts while acting as Co-Personal Representatives and Co-Trustees of Simon's Estate and Trusts and further represented themselves in their fiducial capacities in Simon's Estate and Trusts) as attorneys involved in the fraud that ultimately benefit their client and business associate Ted and his lineal descendants who are all considered predeceased for all purposes of dispositions of the Shirley Trust and without their fraudulent documents and fraudulent scheme upon the Court would remain so.

36. That after reopening the illegally closed Estate of Shirley in the September 13, 2013 Hearing and immediately prior to the Evidentiary Hearing, Judge Colin, knowing of the Fraud on the Court and already stated to Ted and his counsel Spallina, Tescher and Manceri that he had enough evidence in the hearing to read them all their Miranda Warnings for two separate crimes identified in the hearing (the Moran fraudulent notarizations and forgeries and Spallina's using a dead Simon to posit documents with Court to close Shirley's Estate) then shockingly and appallingly appointed Ted as a Successor Personal Representative to the newly reopened Shirley Estate shortly thereafter although Ted was not then qualified to serve under Florida Probate Rules and Statutes..

37. It is noted that while an Attorney was present as Counsel for the Petitioner's Minor children in the hearing this Court held on or about Oct. 28 2013, the record should reflect that this counsel Brandan J. Pratt, Esq. not only failed to inform the Court he was retained to represent Petitioner's Minor children Josh, Jacob and Danny Bernstein and instead in the hearing misrepresented to the Court he was representing Eliot and Candice despite their opposition to this claim, but said counsel Pratt further wholly failed to properly and competently cross examine Spallina, Tescher, Moran and Ted Bernstein and call proper witnesses at this hearing to delve into the criminal and civil torts against the beneficiaries despite advance preparation and planning to the contrary with Eliot and Candice. Pratt claimed he was very close to Judge Colin after the hearing and knew what he wanted.

38. Counsel Pratt failed to examine any of the witnesses about the Tescher and Spallina Petition to Discharge fraud, the

fraudulent positing of fraudulent records with the court and failed to examine Ted Bernstein, Spallina and Tescher about known personal property items valued at over $1 million that they were in had custody over as fiduciaries that he knew were alleged stolen and Counsel Pratt was immediately after the hearing withdrawing as counsel but was requested by Petitioner in writing to notify his malpractice carrier of malpractice for his conduct and misrepresentations of this hearing. The Transcript in this regard clearly speaks for itself on what material issues were not only never addressed by Judge Colin but also never asked by Counsel Pratt. See Discharge letter to Counsel Pratt.

39. Improper representation by attorney Pratt, likely malpractice itself, does not eliminate Judge Colin's obligations to address fraud upon his own Court by licensed attorneys and fiduciaries he appointed and in fact the actions of attorney Pratt may likely be part of additional steering and orchestration of the proceedings to cover-up the real fraud and delay and denial to Petitioner, his wife Candice Bernstein, and their Minor children Josh, Jacob and Danny of lawful inheritance and monies due under the Trusts.

40. Pratt seemingly falls out of the sky days before the Hearing and is retained by Eliot and Candice for their children's representation, it was later learned that Pratt, on information and belief, was close personal friends and business associates with Andrew Shamp, Esq. and where Shamp it was later learned worked directly for Ted Bernstein in the past as an employee.

41. This pattern of aiding, abetting and obfuscation of the fraud and criminal enterprise and pattern of acts at play as seen further in Judge Colin's continued abdication of judicial functions in duties in relation to the sale of the St. Andrew's home.

42. This Court's recent Order on May 06, 2015 (which falls under the 10 day rule for disqualification herein) permitting the Sale of the St. Andrew's Home shows even further grounds for mandatory Disqualification of Judge Colin (on his own initiative without waiting for Pro Se Petitioner to file a disqualification pleading) although ample grounds have already been established dating back to Nov. 2012.

43. Judge Colin has absolute, unequivocal direct knowledge that no testimony of the alleged "buyer" occurred during the Hearing on the sale of the St. Andrew's Home and knows Florida

law requires no undue influence or pressure must be exerted or buyer or seller for there to be an "arms-length" transaction yet issues an Order May 6, 2015 as if the Buyer provided testimony when in fact the buyer's identity is not even known.

44. In fact, despite Florida's rigid Disclosure laws Judge Colin has withheld a lis pendens I attempted to file on the property and still has not let said lis pendens be filed or published to this Buyer or any prospective buyer and has threatened Petitioner that if he disclosed the Lis Penden or the fact that the home was tangled in these litigations he would hold him in contempt.

45. According to the Florida Real Property Appraisal Guidelines Adopted Nov. 26, 2002 by the Florida Department of Revenue Property Tax Administration Program Definitions Section 3.1.8 Arm's-Length Transaction: " This means a sale or lease transaction for real property where the parties involved are not affected by undue stimuli from family, business, financial, or personal factors." See, http://dor.myflorida.com/dor/property/rp/pdf/FLrpg.pdf.

46. Yet, not only does Judge Colin have actual knowledge he took no testimony from the Buyer since the Buyer was not only not present in Court but the identity not disclosed, but Judge Colin knows the case is ripe with nothing but pressure and undue influence such that Judge Colin has covered up fraud upon his own Court involving licensed attorneys, failed to discharge Judicial obligations and failed to abide by the Code of Judicial Conduct, knows the Trustee he is permitting to act Ted Bernstein reported a possible murder of Petitioner's father Simon Bernstein the property owner prior to passing, allowing Ted Bernstein to act despite knowing his attorneys and Ted are involved in fraud on the Court and yet failing to conduct a hearing into the construction and truth of the Trusts even though he says on the Record he knows he has to conduct a hearing and feigned at reading the attorneys Miranda Warnings, has reasons to investigate and suspect these are a continuation of RICO acts tied to a car-bombing, knows or has reason to know the sale is grossly undervalued at $1,100,000.00 as the property was listed for $3,200,000.00 weeks prior to the possible murder of Simon Bernstein, knows he and his own Court staff are at least involved as witnesses if not for the fraud itself and is willing to forego his own Judicial responsibilities which could lead to the end of his Judicial career but issues a false order

nonetheless saying an arm's length transaction to an unknown buyer, possible straw man buyer was made.

47. Judge Colin knows and should know due process is violated by withholding the identity of the alleged buyer and making such person or entity available for cross-examination.

48. This would seem more than reflective of substantial pressure and influence at play and reflective of a fire sale.

49. Last, fair market value has been defined as "the sum arrived at by fair negotiation between an owner willing to sell and a purchaser willing to buy, neither being under pressure to do so." Flagship Bank of Orlando v. Bryan, 384 So.2d 1323 (Fla. 5th DCA 1980). A witness for the appellee admitted at the deficiency hearing that the bank was under pressure to sell the lots and that its bid was lowered because the bank would not be able to sell the lots for what they were worth. The bid price was therefore more an indication of a "quick sale" value than of the property's true fair market value. BARNARD v. FIRST NAT. BK. OF OKALOOSA CTY.482 So.2d 534 (1986) District Court of Appeal of Florida, First District. February 4, 1986.

50. Judge Colin could have Judicially Subpoenaed the Realtor Petitioner had originally spoken to who initially had a far differing opinion of the sales price and value of the home but who then refused to get involved due to the presence of another of Ted Bernstein's attorneys Alan Rose who, according to his bio at his firm's website, "Handled securities arbitration for investor in a Madoff feeder fund against major brokerage firm which recommended the investment. confidential terms." The case was settled on confidential terms." See, http://mrachek-law.com/ourteam/alan-b-rose/.

51. Further, Judge Colin silenced Petitioner via an illegal Order that mandated that Petitioner could do nothing to directly or indirectly notify the buyer of the Lis Penden or that litigation involving the house was at play and had testimony from the Realtor, John Poletto that he had not notified the buyer of any potential litigation and this seems to force Petitioner to not disclose pertinent facts to a buyer in opposite Florida's disclosure laws.

52. Finally, in his own words in the first day of the hearing to sell the house on March 26, 2015, Colin stated that he first had to have hearings to remove Ted, hearings for trust construction to determine validity and investigation of wrongdoings beyond

Tescher and Spallina before being able to proceed further and yet with none of those things were achieved and at the next hearing he allows the sale of the house ignoring his prior statement:

13 MR. ROSE: We didn't share the appraisal
14 because, frankly, we were concerned it would be
15 public and that would defeat their chance of
16 selling it.
17 THE COURT: I'm not -- look, nothing is easy
18 here. It's not going to get easier until we can
19 get hearings where I can start to knock off some
20 of the issues, which is what I have been saying
21 now like a broken record.
22 At some point, either Eliot is going to be
23 sustained on his positions or he's going to be
24 overruled, but one way or the other, we can put
25 some of this stuff to rest. The problem is we're
1 doing all of this business with some of the metes [matters?]
2 of the case still up in the air where I haven't
3 been able to adjudicate; the claims that Ted
4 should be removed; the claims that there's
5 wrongdoing beyond Spallina and Tescher, the trust
6 is not valid. I mean, give me a chance to rule on
7 that, because once I rule on that, then the matter
8 is over with on those and you'll know one way or
9 the other what to do.

53. That since May 06, 2013 Judge Colin, knowing of the fraudulent documents in the Estates and Trusts of Simon and Shirley Bernstein, knowing that Simon Bernstein's 2012 Will and Amended Trust done only days before his death when Simon was

suffering severe mental and physical duress have been determined by Governor Rick Scott's Notary Public Division to be improperly notarized and further Petitioner has alleged they are wholly fraudulent, knowing that there are ongoing criminal investigations into the documents of both Estates and Trusts, knowing that the new Executor of Simon's Estate has claimed that Ted is not a legally valid Trustee of Simon's Trust by the very terms of the Trust that claim that a Successor cannot be related to the issuer, knowing that Ted is considered predeceased for all purposes of dispositions under the Shirley and Simon trust, knowing that Peter Feaman, Esq., has stated to Colin that Ted and his counsel Alan B. Rose are not qualified as Trustee and Counsel due to serious problems with Ted and Alan's misconduct, knowing that Ted and his counsel Alan B. Rose are counter defendants in two counter complaints filed by Petitioner in these matters with allegations of serious breaches of fiduciary duties (which Colin stayed) and more, knowing that Eliot has filed a Counter Complaint in the Shirley Trust case that has both he and Judge French listed as material and fact witnesses that may be Defendants in future amended pleadings, has ignored all of these facts and held hearing, after hearing, after hearing and has:

a. allowed Estate and Trust properties to be disposed of and distributed without knowing who the beneficiaries are at this time due to the fraudulent documents affects not being resolved at this time,
b. allowed Estate and Trust properties to be disposed of and distributed without knowing if the Wills and Trusts are valid,
c. allowed assets to be converted and changed, including allowing a JP Morgan IRA to be converted to a new account when the old account was missing beneficiaries and monies are alleged stolen from it,
d. allowed assets to be sold and converted without any accountings in violation of Probate Statutes and Rules,
e. allowed assets to be sold and distributions made to improper beneficiaries despite not having held trust construction or validity hearings to determine first who the true and proper beneficiaries are, thus delaying intentionally beneficiaries inheritances, while allowing assets to be distributed will now have to be clawed back,

f. allowed fiduciaries and counsel involved in the commission of the fraud to continue to operate in the courtroom with impunity,
g. allowed continuous hearings where the alleged Trustee Ted has brought in up to five lawyers to defend himself misusing Trust and Estate assets to do so, who have all now resigned other than Alan B. Rose,
h. deprived Minor possible beneficiaries from counsel despite their need arising from the criminal misconduct of his Court and its Officers, Fiduciaries and employees,
i. deprived Eliot's family from inheritances that has caused massive financial damages to them despite their financial damage arising from the delays in their inheritances from the criminal misconduct of his Court and its Officers, Fiduciaries and employees,
j. forced the Creditor William Stansbury for two years to accrue hundreds of thousands of dollars of legal fees, while blocking him from being able to have his counsel file to remove Ted, while the job of removing Ted was Colin's from the moment he became aware that Ted and his counsel had committed Fraud on the Court and stated he had enough to read them all their Miranda's twice,
k. allowed a settlement with Stansbury where Ted Bernstein acting as the Trustee of the Shirley Trust and simultaneously a Defendant in the Stansbury Lawsuit with his attorney at law Rose acting as counsel to Ted in his conflicting capacities, that settled Ted personally out of the lawsuit and shifted the burden of the settlement cost entirely to the Trusts of Shirley and Simon beneficiaries and where Ted has no beneficial interests, thereby stiffing the beneficiaries with the settlement cost for acts Stansbury alleges were done primarily by Ted,
l. allowed Ted and his counsel to block the Estate and Trust of Simon to intervene in an Illinois Federal Breach of Contract Lawsuit where the beneficiaries of the Estate and Trusts of Simon have potential interest in an insurance policy, where Ted is acting in conflict to achieve this as the Plaintiff in the Breach of Contract lawsuit who stands to get one fifth of the insurance benefit, whereas if the Estate and Trusts of Simon receive the proceeds Ted again would get nothing. Colin

only allowing the Estate to intervene after Stansbury, in efforts to protect the beneficiaries who were unrepresented in the Federal lawsuit and himself to pay the entire cost of the litigation expense for the Estate?

m. been rude to Petitioner repeatedly and continuously shut him down during hearings, whenever fraud on the court is brought to his attention, and,

n. interfered with Palm Beach County Sheriff investigations, having detectives told not to pursue Petitioner's criminal complaints and claiming his Court would handle the criminal matters and fraud upon his Court.

54. That from at least the September 13, 2013 hearing Judge Colin had a mandated duty to disqualify himself on his own initiative according to Judicial Cannons, Attorney Conduct Codes and Law, as he became fully cognizant that his Court had become a crime scene involving Fraud on the Court and Fraud in the Court, directly involving Judge Colin and Judge French and their court, the Officers of the Court, including Attorneys at Law practicing before them, Fiduciaries appointed by them (Personal Representatives and Trustees) and other Court employees.

55. That once it was determined that crimes had been committed in Judge Colin and Judge French's courts constituting Fraud on the Courts and Fraud in the Courts in which Judge Colin would now be a material and fact witnesses to events in the matter, to avoid the appearance of impropriety and conflicts caused due to his direct involvement as both a material and fact witness, Judge Colin should have voluntarily on his own initiative disqualified himself and distanced himself from the matters, allowing a conflict free adjudicator to replace him who could have investigated the involvement of, the Court, Judge Colin, Judge French, the Officers of the Court and the Fiduciaries of the Court and this would have eliminated the appearance of impropriety created due to Judge Colin's direct involvement in the frauds that had occurred and his subsequent handling of investigations or lack thereof of himself and his court.

56. That failing to disqualify himself on his own initiative for mandated causes by Judicial Canons, Attorney Conduct Codes and Law, Judge Colin lost jurisdiction in this case and his continued actions are all outside the color of law.

57. That Judge Colin's acts forward in these matters from the point that he had knowledge of criminal misconduct in the Court that would make him a material and fact witness constitute Fraud by the Court. It is alleged that Judge Colin began a Pattern and Practice of Fraud by the Court by continuing to rule in a matter where disqualification was mandated on his own initiative and so each judicial ruling and proceeding is therefore void.

58. That Petitioner fears that Judge Colin's acts after having cause to disqualify himself have prejudiced and biased the case and continue to prejudice and bias the case, as they are now viewed as part of a Cover Up of the crimes committed in his Court and on his Court by Colin's court appointed Officers and Fiduciaries and the effectuation of new crimes by his Court.

59. That Petitioner fears that Judge Colin's acts outside the color of law after knowing of the causes mandating him to instantly disqualify have been prejudicial to Petitioner and favor those Court officials and fiduciaries that he appointed who committed the criminal acts in and on his Court and these acts have protected himself, his Court appointed officials, fiduciaries and employees who were involved and aid and abet them in evading prosecution and investigation in efforts to cover up criminal acts and have provided legal cover for new criminal acts to be committed under the guise of legal proceedings.

60. 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 and Shirley Bernstein Estate and Trust cases and the case involving Petitioner's Minor children.

61. The Estate and Trust cases of Simon and Shirley Bernstein were improperly merged by Judge Colin and Judge French in violation of Probate Rules and Statutes as it was achieved without separate hearings by both Judges and thus improperly transferred to Colin's Court. This included a complex bait and switch, whereby once Colin had approved the transfer to himself of Judge French's case, Judge French's hearing was scheduled on the day before Christmas when the courthouse was closed entirely and Petitioner and his wife showed up to an empty building, ruining their holiday family planned trip to attend. That at the subsequent rescheduled hearing before Judge French, Judge Colin was instead presiding and when asked where Judge French was Colin stated it did not matter if he were there as he routinely handled French's

cases. When Petitioner cited the rule calling for separate hearings by each Judge, Colin proceeded ahead. That Petitioner fears that since the crimes were committed in both courts this improper merging of the cases was to cover up and protect Judge French and his court officials from investigation and possible prosecution and remove one of the crime scenes entirely since similar acts of fraud are alleged in Judge French's court and similarly all his case files should have been sealed for investigation and he and his court officials questioned as to the Fraud on the Court and Fraud in the Court.

62. 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 to report the misconduct to the proper criminal and civil authorities for investigation and failed to do so.

63. Once Colin had evidence of Fraud on the Court, he had obligations to immediately disqualify and allow for the resetting of the proceeding by removing all elements of the fraud, removing all officers of the court involved, all fiduciaries involved and have all court and other records of those involved seized for investigation, have all assets seized and frozen and turn the case over to a new adjudicator and Judge Colin did not do any of these things, in fact, he has intentionally and with scienter done the opposite.

64. That instead of doing what was mandated when Fraud on the Court is discovered, Colin has allowed a pattern and practice of retaliation against Eliot to take place 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 held against Eliot, all bleeding the estates and trusts of thousands upon thousands of illegal legal billings for conflicted counsel.

65. Petitioner has blown the whistle on corruption that took place in both Judge Colin and French's courts and has also been involved in an over a decade old whistleblowing lawsuit and other actions against members of this courthouse the 15th Judicial, The Florida Bar and many Judges of the Supreme Court of Florida and Petitioner fears this also creates prejudice and bias against Petitioner

with virtually the entire State of Florida legal machine conflicted with him.

66. Petitioner's prior Federal RICO sued the following parties of the Florida Bar Association:

> STATE OF FLORIDA,
> OFFICE OF THE STATE COURTS
> ADMINISTRATOR, FLORIDA,
> HON. JORGE LABARGA in his official and individual capacities,
> [this lawsuit prior to his unbelievable rise to Chief Justice of the Florida Supreme Court after the Bush v. Gore election where he aided in the failure to recount the People's vote when he was a civil circuit judge and for his effort to derail Eliot's legal rights in the first lawsuit involving Eliot and others stolen Intellectual Properties that has led to this mess filed before his court. Proskauer v. Iviewit, Case #CASE NO. CA 01-04671 AB.]
> THE FLORIDA BAR,
> JOHN ANTHONY BOGGS, ESQ. in his official and individual capacities,
> KELLY OVERSTREET JOHNSON, ESQ. in her official and individual capacities,
> LORRAINE CHRISTINE HOFFMAN, ESQ. in her official and individual capacities,
> ERIC TURNER, ESQ. in his official and individual capacities,
> KENNETH MARVIN, ESQ. in his official and individual capacities,
> JOY A. BARTMON, ESQ. in her official and individual capacities,
> JERALD BEER, ESQ. in his official and individual capacities,
> BROAD & CASSEL, and, all of its Partners, Associates and Of Counsel, in their professional and individual capacities,
> JAMES J. WHEELER, ESQ. in his professional and individual capacities,
> **FLORIDA SUPREME COURT,**

Hon. Charles T. Wells, in his official and individual capacities,

Hon. Harry Lee Anstead, in his official and individual capacities,

Hon. R. Fred Lewis, in his official and individual capacities,

Hon. Peggy A. Quince, in his official and individual capacities,

Hon. Kenneth B. Bell, in his official and individual capacities,

THOMAS HALL, ESQ. in his official and individual capacities,

DEBORAH YARBOROUGH in her official and individual capacities,

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION – FLORIDA,

CITY OF BOCA RATON, FLA., [Police Department]

DETECTIVE ROBERT FLECHAUS in his official and individual capacities,

CHIEF ANDREW SCOTT in his official and individual capacities,

CHRISTOPHER C. WHEELER, ESQ. in his professional and individual capacities, [now involved in the Estate and Trust matters]

MATTHEW M. TRIGGS, ESQ. in his official and individual capacity for The Florida Bar and his professional and individual capacities as a partner of Proskauer,

ALBERT T. GORTZ, ESQ. in his professional and individual capacities. [now involved in the Estate and Trust matters]

67. Petitioner feels that Judge Colin's acts outside the color of law have been intentional to prevent Petitioner from gaining his inheritance and having funds that could be used in this legal action against his court and Petitioner's other legal actions against members of the Florida Bar, including protecting what Judge Colin claims in a Florida Bar Publication to be his mentor, Chief Judge Jorge Labarga, who is a central figure in Petitioners ongoing civil and criminal complaints regarding theft of Intellectual Properties of Petitioner's and his father.

68. Judge Colin is acting outside his jurisdiction once he was mandated to disqualify on his own initiative and acting outside the color of law and therefore he should disqualify on his own initiative instantly and his orders must then be voided. Judge Colin is a disqualified judge who has not relinquished his unlawful jurisdiction.

69. Judge Colin now is also adverse to Petitioner because Petitioner has filed with the Federal Court in the Northern District of Illinois under The Honorable John Robert Blakey exposing the corruption in his Colin's court and throughout the Probate courts in Florida. Petitioner is seeking to have these Probate cases transferred to the Federal Court involving estate related subject matter (the insurance breach of contract proceeds) under Blakey for investigation, review and further adjudication of the matters free of conflicts and illegal activities, once Judge Colin complies with the mandated disqualification or is forced off the case if he continues to refuse.

70. 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 action and filed criminal complaints against the Florida State Bar and thus all members are technically and legally conflicted and adverse to Petitioner as members of the organization Petitioner is pursuing.

71. Petitioner has been viciously retaliated by Judge Colin by denying him due process in one manner or another, acting above the law and removing rights of Petitioner and his Minor children, while protecting his Court and those involved in criminal misconduct from exposure of the crimes committed in his and Judge French's court by Officers and Fiduciaries of the Court.

72. Where it may be learned by investigation that both Judge Colin and Judge French may be involved directly in the original Frauds Upon the Court and were willing participants in such crimes against Petitioner and his family, including but not limited to, Fraud on the Court, Fraud in the Court, Fraud by the Court, Forged documents posited with the Court by officers and fiduciaries of the Court, Fraudulent Notarizations (including Post Mortem for decedents in the actions) filed and posited with the Court, Illegal Closing of an Estate using a deceased person's identity and ultimately the possible Murder of Simon Bernstein as alleged by Ted Bernstein and others (not Petitioner) on the day Simon died.

73. Judge Colin's actions once he failed to disqualify as mandated, outside the color law and without jurisdiction, make him an accomplice to current and ongoing fraud against Eliot and Eliot's Minor children who are beneficiaries of the Estates and Trusts of Simon and Shirley Bernstein and it is clear that Eliot has valid fear that he has been denied due process and procedure once his mandatory disqualification was not entered on his own initiative.

Rule 2.330 (d) Grounds.

(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.

74. Judge Colin will be a material and fact witness regarding his direct involvement in the documents used fraudulently in his Court, regarding the interaction with the Officers of his Court involved, regarding the interaction with the Fiduciaries of his Court he appointed and his interaction with the Court employees involved in this case as described above, regarding the criminal misconduct that has occurred in and on his Court and that of Judge French's court. Judge Colin's position now as a material and fact witness MANDATE under Judicial Canon his INSTANT DISQUALIFICATION.

75. Judge Colin due to his direct involvement in the matters and failure to disqualify upon mandated grounds requiring his disqualification on his own initiative will now also make him a party of interest in ongoing and future criminal and civil actions to determine if he has committed felony acts and more in so acting outside the color of law. Now there is not only an appearance of impropriety but the alleged possible criminal misconduct of Judge Colin which may constitute criminal impropriety and again cause for MANDATORY DISQUALIFICATION.

76. Judge Colin cannot investigate his own court, himself and the officers and fiduciaries of his Court, especially where he is directly involved, due to the appearance of impropriety this creates and this appearance of impropriety prejudices Petitioner from due process rights." See, Motion to Disqualify.

22. PETITIONER'S MOTION TO DISQUALIFY filed on May 14, 2015 was "legally sufficient" because:

a. COLIN had a mandatory duty to disqualify independent of whether PETITIONER'S MOTION TO DISQUALIFY was "legally sufficient" (an undefined legal term) under the due process clause of the United States Constitution due to the crimes committed in and upon his Court by his Court Appointed Officers and Fiduciaries, his direct involvement in the Fraud on his Court, the Conflicts created by his handling matters he is a material and fact witness in and therefore he was mandated to Disqualify from the matters on his own initiative;

b. PETITIONER had listed COLIN in a Counter Complaint (EXHIBIT 1) filed in these matters as a Material and Fact Witness whom may become a defendant in any amended complaint filed. Whereby COLIN again instead of disqualifying then "stayed" the Counter Complaint that named him and Judge French as witnesses, further derailing PETITIONER'S right to fair and impartial due process and further causing COLIN to be conflicted with

PETITIONER. Yet, COLIN continued to act and adjudicate in violation of Judicial Canons and Law;

c. PETITIONER has filed criminal complaints against the Fiduciaries, the Attorneys at Law and others involved in the criminal matters and where COLIN then attempted to influence law enforcement to cease investigating PETITIONER'S filed criminal complaints with the Palm Beach County Sheriff Office, stating he would handle the criminal investigations into the matters in his court and this led to investigators attempting to shut down the criminal investigations PETITIONER instigated, this too is cause for disqualification;

d. Upon learning of this attempt to shut down the criminal investigations by the Palm Beach County Sheriff investigators, PETITIONER notified law enforcement that COLIN had no jurisdiction to interfere and could in fact become a suspect in the investigations into the Fraud on his court and thus his actions constituted intentional Obstruction of Justice;

e. PETITIONER was then forced to start an Internal Affairs complaint against the Sheriff officers involved and elevate the matters to the Captain of the Sheriff department to get the complaints re-opened, which then led to attorney at law, Co-Personal Representative and Co-Trustee of Simon Bernstein's Estate and Trusts SPALLINA being questioned and admitting to

fraudulently altering a Shirley Bernstein Trust document on behalf of his client Theodore Stuart Bernstein ("TED") who TESCHER and SPALLINA represented as alleged Trustee of Shirley's Trust, yet no arrest of SPALLINA or his partner TESCHER who SPALLINA stated conspired with him to commit the fraud has yet been made and possibly due to interference by COLIN; and

f. TESCHER and SPALLINA acted as fiduciaries to the Estate and Trusts of Simon and simultaneously as TED'S counsel in Shirley's Estate and Trusts, acted against the interests of the beneficiaries of Shirley's Trust (of which her son TED is excluded) to benefit their client TED and themselves by trying to insert TED into her Trust fraudulently and COLIN did not sanction them and report these matters to the proper authorities as required by Judicial Canons and Law thereby further cause for COLIN'S disqualification.

23. However, COLIN after learning of the frauds committed in his Court instead of taking actions to protect the beneficiaries, creditors and interested parties has instead created an Attorney at Law and Fiduciary protection system for those involved in the criminal misconduct in and on his court by:

a. failing to report the misconduct of the attorneys at law and fiduciaries to the proper authorities;

b. interfering in ongoing investigations of the suspect parties;

c. allowing the Attorneys at Law who committed felony criminal acts in and upon his court to withdraw from the matters after admitting criminal acts instead of removing them as demanded by PETITIONER who filed motions to remove them and where removal would have had a more severe impact on those involved and given greater protection to the beneficiaries;

d. staying Counter Complaints that named COLIN and Judge David E. French ("FRENCH") as material and fact witnesses;

e. forcing PETITIONER to file new complaints but ordering (EXHIBIT 2) that Attorneys at Law involved in the criminal acts or any Attorney at Law could not be sued by PETITIONER, despite their being fiduciaries and thereby preventing PETITIONER from including Attorneys at Law in a court ordered complaint (the Simon Trust case);

f. staying the Counter Complaint other than demanding to have PETITIONER remove COLIN and FRENCH from the complaint as possible defendants in any amended complaint;

g. repeatedly delaying and stymying actions to remove TED and others involved from the cases, instead of removing all elements of those involved in the initial Fraud on the court immediately on his own motion, even after in an initial hearing on September 13, 2013 stating twice (for two separate crimes discovered by COLIN) that he had enough evidence at that time to

read TED, TESCHER, SPALLINA and attorney at law Mark Manceri, Esq. ("MANCERI") their Miranda Rights, yet he then failed to ever take any action to have them prosecuted for the crimes he affirmed had taken place on his court (EXHIBIT 10) for two years;

h. suggesting to PETITIONER to file a new Simon Trust lawsuit to remove the legally impermissible fiduciary Ted Bernstein as Trustee and Ordering that Eliot could not sue attorneys at law in the complaint, despite the fact that the two prior Co-Trustees were attorneys at law who resigned amidst the fraud and corruption they were directly involved in and admitted to and whom as a last act before resigning transferred trusteeship to their legal client TED who they committed the crimes to benefit in addition to themselves and COLIN allowed this;

i. knowing that TED upon allegedly accepting successorship has done nothing to pursue the wrongdoings of his former counsel, the former Personal Representatives, Trustees and Counsel, TESCHER and SPALLINA or to correct the frauds on the court on behalf of the beneficiaries, as TED was involved in the crimes as well and COLIN was aware of these failures and violations of Statutes and did nothing to protect the beneficiaries, creditors and interested parties;

j. knowing TED was disinherited by both Simon and Shirley Bernstein in their estate plans and considered predeceased for all purposes of the trusts and has fraudulently seized his fiduciary roles and Obstructed beneficiaries from documents and accountings to protect TED, his counsel TESCHER, SPALLINA, COLIN and others from prosecution for the crimes committed and being committed and where COLIN aided and abetted this fraud by allowing TED to remain a fiduciary;

k. allowing a fraudulent transfer of trusteeship to TED was OBSCENE, as well as illegal, as TED could not be a Successor Trustee for the Simon Bernstein Trust (EXHIBIT 3) as the very language of the Trust states the Successor cannot be related to the issuer and that TED, the son of the issuer Simon, is additionally considered PREDECEASED for ALL PURPOSES OF THE TRUST! The 2012 Simon Trust has been challenged as fraudulent and is under ongoing investigation and yet, COLIN continued to use these documents without affirming validity or construction first despite evidence of Fraud with the documents;

l. continuing to have hearings using Dispositive documents that are challenged for validity and construction for over two years and being investigated as fraudulent and which remain under ongoing investigations;

m. failing to seize records and preserve and protect assets once COLIN became aware of the frauds committed by the court appointed Officers and Fiduciaries of his court;

n. making privileged an email (EXHIBIT 4) sent only to PETITIONER from TED that described the use of FORCE and AGGRESSION (EXHIBIT 5) against PETITIONER by the fiduciary TED and his lawyers Alan B. Rose, Esq. ("ROSE") and John J. Pankauski, Esq. ("PANKAUSKI") (the letter also details misuse of trust funds and attacks on minor children beneficiaries and friends of Simon's) and again in efforts to cover up the corruption occurring in his court, COLIN ruled (EXHIBIT 6) the email from TED to PETITIONER (two non attorneys) was inadvertent disclosure of privileged material;

The Court should note that PETITIONER has had a bomb in his car and has reported that his brother TED was the last person in possession of the vehicle and that TED has acquired friends that PETITIONER is pursuing for his stolen Intellectual Properties, including direct defendants in PETITIONER'S RICO and ANTITRUST suit filed, Proskauer Rose, Gerald R. Lewin, former executives from the Madoff and Sir Allen Stanford Ponzi schemes and others who are directly involved in the Estate and Trust matters before the court for direct involvement in the estate and trust matters and yet COLIN ignored

these facts in his ruling to make privileged the email and instead guestimated about TED'S intent and meaning to the his use of the words about using "force and aggression" against PETITIONER without even asking him under oath what he meant.

The Court should note that COLIN was aware that PETITIONER had stated to the court that SIMON may have been talking with investigators regarding the Sir Allen Stanford Ponzi, which PETITIONER has joined the Texas Federal Lawsuit and Receiver action alleging that Stanford was a money laundering scheme for PROSKAUER for royalties converted illegally from PETITIONER'S stolen Intellectual Properties;

The Court should note COLIN was aware that PETITIONER'S stolen Intellectual Properties involved allegations that the 15th Judicial Circuit Judge of the case that was sued by PETITIONER for his acts outside the color of law in the case is Chief Judge of this Court, Jorge Labarga, who COLIN cites as his mentor and this too was cause for the cases to be moved for the Appearance of Impropriety, especially where PETITIONER continues to pursue his invention royalties and intellectual properties against these very same officials;

The Court should note that COLIN was aware that TED contacted on the morning his father died the Palm Beach County Sheriff who came to Simon's

home and opened an investigation (EXHIBIT 7) at TED'S bequest and TED also contacted the Palm Beach Coroner (EXHIBIT 8) to report that his father may have been murdered on that day, and yet, under deposition (EXHIBIT 9) TED could not recall having done those things on that day and so denied doing them; and

o. attempting to steer the cases after his Sua Sponte recusal by poisoning the next jurisdiction and venue and setting up the transfer of the cases to a court he influenced the move to post recusal and where it just so happens lands in the lap of Judge Howard K. Coates, Jr. a former Proskauer partner during the years Proskauer represented PETITIONERS intellectual properties and who worked across the hall from PETITIONER during the years Proskauer represented PETITIONER'S Intellectual Properties.

24. Due to the frauds on, in and by the Court that began the instant COLIN failed to Disqualify himself on his own initiative, all orders issued by COLIN must be voided and vacated, Village of Willowbrook, 37 Ill. App. 3D 393 (1962).

25. Due to COLIN'S steering the case post recusal the cases should all be stayed while PETITIONER seeks a new jurisdiction and venue, conflict free to ensure due process and procedure.

26. Judge Coates who the cases were steered to by COLIN recused himself Sua Sponte at the first hearing, after having had access to the court records of COLIN

and this may have been the intent of COLIN in steering the case to Coates, knowing he would then have to recuse after having access to the files. PETITIONER fears that the whole steering of the case was designed to achieve this end and benefit PROSKAUER, a Counter Defendant in PETITIONER'S Counter Complaint in the Trust cases and that the transfer from Judge Coates to the next judge is also part of this scheme to further deny due process and procedure to PETITIONER.

27. A MOTION TO DISQUALIFY (EXHIBIT A) was Denied (EXHIBIT B) by Judge Martin Colin ("COLIN") as "Legally Insufficient" in violation of Florida Rule of Judicial Administration 2.330, Florida Statute 38, and Florida Code of Judicial Conduct, Canon 3(B)7, 3(B)5, 3E(1), 3(E)1a, 3(E)1b and 3(E)1b(iv), all of which require that a judge disqualify himself on his own initiative and where once the Petitioner has established a reasonable fear that he will not obtain a fair hearing by a Petition for Disqualification the Judge must Disqualify as well.

28. Thus, since the motion for Disqualification showed a clear right for Petitioner to obtain Disqualification, Mandamus is now appropriate.

V. PROHIBITION

29. The writ of prohibition is issued when a judge improperly denies a motion for recusal or disqualification and appropriately directs the Judge to refrain from exceeding its jurisdiction. Carroll v. Fla. State Hosp., 885 So. 2d 485 (Fla. 1st

D.C.A. 2004) (noting that prohibition is the appropriate way to review a trial judge's order denying a motion to disqualify).

30. That the day after denying PETITIONER'S Petition to Disqualify as "Legally Insufficient" that would have voided his orders due to the fact that they were issued as part of a Fraud on the Court, COLIN suddenly decided to Sua Sponte Recuse (EXHIBIT C) himself instead from the six cases involving the Estates and Trusts of Simon and Shirley Bernstein and in so doing again denied PETITIONER due process and procedure. Then to further compound the problems COLIN influenced the transfer of the cases post recusal and thus tainted the next court from the start.

31. COLIN began abusing his discretion in failing to disqualify himself on or before an initial hearing in the matters on September 13, 2013 (EXHIBIT 10) in legal actions involving Shirley Bernstein's ("Shirley") Estate and Trusts and Simon Bernstein's ("Simon") Estate and Trusts, when it was discovered by COLIN that there was Fraud upon his court committed by Fiduciaries and Counsel he appointed in the matters and these frauds materially affected PETITIONER'S rights to a fair and impartial hearing adjudicated by COLIN as he was now a material and fact witness to certain of the fraudulent events. This abuse of process denied PETITIONER due process and procedure, obstructed justice and interfered with expectancies and property rights from that point forward.

32. COLIN was mandatorily required at the time of discovering the frauds on his court, when he found he would be a material and fact witness to certain of the events and possible suspect to voluntarily and on his own motion disqualify himself, as the crimes were committed in his court and directly conflicted him with the matters, especially since the crimes were committed by his court appointed officers, fiduciaries and staff. COLIN had direct involvement in the matters that would have to be questioned as well.

33. Once the Fraud in and on his court was discovered, it became impossible for COLIN to continue to handle the matters due to the overwhelming appearance of impropriety created by COLIN handling the investigations involving his court, the Officers of his court he appointed, his staff and himself, without PETITIONER fearing that his direct involvement in the matters biased his decisions and under Judicial Canons Colin was obligated to Disqualify.

34. PETITIONER filed Petitions for Disqualifications (EXHIBITS – 11, 12 & 13) and Motions for Disqualification on COLIN'S own initiative but COLIN refused to disqualify despite his duty under Judicial Canons and Law to mandatorily disqualify himself when he became a material and fact witness in the case, when it became necessary to investigate his court, himself and his court appointed Officers and Fiduciaries as the crimes had taken place in and on his court by his court appointed Officers and Fiduciaries. Also the fact that COLIN may be a

potential suspect in the crimes conflicted him and forced disqualification. Yet, COLIN continued to proceed and rule in the matters as if Above the Law and Judicial Canons and thus every act forward by COLIN was without legal Jurisdiction.

35. PETITIONER'S APPLICATION FOR WRIT OF PROHIBITION and WRIT OF MANDAMUS should be granted because:

a. All acts of COLIN after his mandatory disqualification was required defied law and denied due process and caused PETITIONER to fear continued prejudice and the inability to obtain a fair trial for himself and his three minor children going forward;

b. COLIN recused himself improperly from the proceedings after two and a half years, only one day after denying a disqualification petition filed by PETITIONER. This sharp practice of recusing himself versus ruling in favor of PETITIONER'S disqualification petition not only appears an attempt to leave his legally void orders issued without jurisdiction standing but to then prejudice PETITIONER further with having a hand in the new court he had the cases assigned to;

c. The only way these improper judicial acts of COLIN can now be removed from prejudicing the cases further is if this Court rules that COLIN'S Sua Sponte Recusal (coming the day after he denied PETITIONER'S Petition for

Disqualification) is voided and he is mandated to instead Disqualify himself and ALL acts and orders of COLIN be voided and stricken from the record as fraud on the court mandates in this situation and that this court then preclude COLIN from making any post disqualification actions that influence the transfer of the cases as he has done already;

d. COLIN is a material and fact witness and thus has an interest in the cases involving PETITIONER'S family that is adverse and prejudicial to PETITIONER and his family who have exposed the court of COLIN and the Fraud on his court, Fraud in his court, Fraud by his court and other crimes both proven and alleged, several being investigated at this time both state and federally. Almost all of the crimes committed were committed by Officers of the court and court appointed Fiduciaries, who were misusing the court as the vehicle to commit the crimes and under COLIN the perpetrators were shielded and protected by COLIN from prosecution;

e. The proven crimes that occurred in the court, include but are not limited to:

   i. Forgeries of dispositive documents; Fraudulent Notarizations of dispositive documents; Fraudulent closing of a deceased's estate using a deceased Personal Representative to close the estate as part of a larger fraud to seize Dominion and Control of the Estates and Trusts of both

Simon and Shirley Bernstein by the court appointed fiduciaries and attorneys at law;

ii. Fraudulent Alteration of Dispositive documents admitted to by Attorney at Law Robert Spallina, Esq. to Palm Beach County Sheriff Investigators, which were altered by SPALLINA and his partner Donald R. Tescher, Esq. ("TESCHER") on behalf of their client Theodore Stuart Bernstein ("TED"); and

iii. Fraud on the court, Fraud in the court and Fraud by the court committed by TESCHER, SPALLINA, TED and others;

f. Where there continue to be ongoing, state and federal, civil and criminal investigations and proceedings into multiple fraudulent acts that are in combination to the frauds that took place using the court of COLIN to achieve; and,

g. COLIN cannot investigate himself, his court appointed Officers, Fiduciaries and his court staff regarding the Fraud on the court, Fraud in the court and Fraud by the court, without the overwhelming appearance of impropriety that he steered the cases improperly to avoid investigation and prosecution, covering up the crimes to avoid bad press, covering up the crimes to allow continued crimes against PETITIONER and his family and shift the focus away from his direct involvement in the matters. Once knowledgeable about

these conflicts of interest and adverse interests created by the criminal activity that took place in his court COLIN was mandated by Judicial Canons and law to disqualify from the matters on his own initiative but again did not.

36. WRIT OF PROHIBITION is proper to prevent an inferior court or tribunal from improperly exercising jurisdiction over a controversy and if a petition for a writ of prohibition demonstrates a preliminary basis for entitlement to relief, the court can issue an order to show cause why relief should not be granted. Once a show cause order issues in prohibition, it automatically stays the lower court proceeding. Fla. R. App. P. 9.100(h).

37. The writ of prohibition is issued when a judge improperly denies a motion for recusal or disqualification and appropriately directs the Judge to refrain from exceeding its jurisdiction. *Carroll v. Fla. State Hosp.*, 885 So. 2d 485 (Fla. 1st D.C.A. 2004) (noting that prohibition is the appropriate way to review a trial judge's order denying a motion to disqualify).

38. The next Jurisdiction and Venue have already been poisoned by the egregiousness of COLIN'S post recusal misconduct.

VI. ALL PRIOR ORDERS OF JUDGE COLIN SHOULD BE VACATED AS VOID AND A LEGAL NULLITY

39. "Procedural due process promotes fairness in government decisions by requiring the government to follow appropriate procedures when its agents decide to deprive any person of life, liberty or property." John Corp. v. City of Houston,

214 F.3d 573, 577 (5th Cir. 2000) (internal citations and quotations omitted). "Substantive due process, by barring certain government actions regardless of the fairness of the procedures used to implement them, serves to prevent governmental power from being used for purposes of oppression." Id. In order to establish either a substantive or procedural due process violation, a plaintiff must first establish the denial of a constitutionally protected property interest. See Bryan v. City of Madison, 213 F.3d 267, 276 (5th Cir. 2000).

40. COLIN'S actions spanning the last two and half years, may be directly tied to PETITIONER'S pursuing legal remedies against members of this Court, including Chief Judge Jorge Labarga, other Justices of this Court, the FLORIDA BAR and its officers and several large South Florida Law Firms, regarding stolen intellectual properties, alleged to have been stolen from PETITIONER and his father by their Intellectual Property Lawyers, primarily at the law firm Proskauer Rose LLP and Foley & Lardner, in conjunction with various state actors installed to block due process and procedure and obstruct justice. PETITIONER filed a RICO and ANTITRUST Lawsuit (EXHIBIT 14) and an Amended Complaint (EXHIBIT 15) before the Honorable Judge Shira A. Scheindlin and will be petitioning to reopen that RICO based on the new RICO predicate acts committed in COLIN and FRENCH'S courts (Fraud on the Court, Alleged Murder by TED Bernstein, Extortion, Intentional Interference with an Expectancy, Conspiracy and

more), crimes committed again primarily by ATTORNEYS AT LAW and COURT OFFICERS many related to the prior RICO.

41. WRIT OF MANDAMUS is required to direct JUDGE COLIN to vacate his prior illegal ORDERS. The writ of mandamus is appropriately used to require a government actor to perform a nondiscretionary duty or obligation that he or she has a clear legal duty to perform. *See Austin v. Crosby*, 866 So. 2d 742, 743 (Fla. 5th D.C.A. 2004) (holding that mandamus may only be granted if there is a clear legal obligation to perform a duty in a prescribed manner). It applies to enforce a right already established. Austin, 866 So. 2d at 744. The writ of mandamus will issue to require a trial court to comply with the mandate of an appellate court. *Superior Garlic Int'l, Inc. v. E&A Produce Corp.*, 29 Fla. L. Weekly D2341 (Fla. 3d D.C.A. Oct. 20, 2004).

42. PETITIONER and his minor children are in imminent continued and ongoing danger of irreparable injury due to COLIN'S use of illegal ORDERS to exact revenge from the bench for over two years acting improperly "under Color of State Law" via a series of illegal ORDERS that have destroyed PETITIONER'S rights to his property and endangered his family, in retaliation for PETITIONER filing civil and criminal complaints against those involved in the crimes that took place in COLIN'S court. These retaliatory actions have caused serious financial

harms on certain of the beneficiaries of the estate including three minor children and as COLIN acted outside of the Color of Law, NO IMMUNITY HAS HE.

43. Denial of PETITIONER'S plea will place the ELIOT BERNSTEIN FAMILY in further substantial risk of danger for their reporting criminal activity in the court of COLIN and FRENCH. Recently PETITIONER has received a warning from his attorney at law, Candice Schwager, Esq. that he and his family were in grave danger due to their whistleblowing efforts.(EXHIBIT 16)

44. PETITIONER met the burden of demonstrating that a reasonable person would fear bias and the inability to decide matters in this case with impartiality and that COLIN should have disqualified based on PETITIONER'S Petition for Disqualification.

VII. LACK OF JURISDICTION – FRAUD ON THE COURT, FRAUD IN THE COURT AND FRAUD BY THE COURT

45. COLIN did not have jurisdiction to proceed with hearings and proceedings after knowing he would be a material and fact witness to the proceedings at no later than the first hearing on September 13, 2013 exactly one year after Simon died when he discovered he would be a witness and more and that his court was a crime scene involving his court appointed Officers and Fiduciaries, which required mandatory disqualification.

46. Upon discovering the criminal felony acts committed in and upon his court COLIN needed to hand off the matters instantly and disqualify himself on his

own initiative according to Judicial Canons and Law and have a new judge adjudicate the matters forward and have conducted an independent investigation of the crimes in COLIN'S court, investigate and question COLIN and his court appointed Officers and Fiduciaries involved directly in the crimes, yet disregarding his judicial duties COLIN instead proceeded to act outside of the Color of Law from that point forward and continued to adjudicate without legal Jurisdiction and without immunity.

47. COLIN held hearing after hearing using Dispositive Documents that he knew were challenged, fraudulent in some instances, confirmed improperly notarized and forged in certain instances by Governor Rick Scott's Notary Public Division, under ongoing criminal investigations and yet issued void order after order while suppressing any investigations of the criminal misconduct and attempting to sweep it under the rug to protect himself and his court appointed Officers and Fiduciaries involved. COLIN was even reported partying with several of TED'S counsel involved in the crimes, several who have since resigned in these matters, at a Florida Bar party the night before a hearing with PETITIONER.

48. The Supreme Court **must intervene** immediately to protect PETITIONER, his wife and minor children from further acts of aggression of COLIN et al., who have been exacting revenge from the bench and through abuse of process in conspire with Officers and Fiduciaries of the court, all actions disguised "under

color of State law" to continue to harm PETITIONER and deprive due process and procedure to deny PETITIONER property rights and more.

49. That even in his final act of "recusal" instead of mandatory "disqualification" COLIN acted **after his recusal** to further influence and poison the next court and further controlled the process again void of legal Jurisdiction. COLIN pre and post Recusal steered the case to a county where a former PROSKAUER partner was sitting as a judge and where the case was transferred to such judge, where PROSKAUER is a counter defendant in Petitioners stayed Counter Complaints and thus COLIN transferred highly confidential case and court records to a conflicted party.

50. PROSKAUER is also at the center of Petitioner's claims in the RICO and ANTITRUST and other state and federal actions filed in relation to Intellectual Property thefts and whereby PETITIONER'S car was already bombed, which remains under ongoing state and federal investigations to the best of PETITIONER'S knowledge (See Graphic Images of the Car Bombing, which blew up three cars next to it @ www.iviewit.tv).

51. PROSKAUER is also directly involved in the Estates and Trusts of Simon and Shirley in direct relation to estate planning work done in 1999-2001 to protect the Intellectual Properties which Proskauer was also representing, which have been

valued in the billions to trillions of dollars and work they did is now directly involved in the Estate and Trust cases before COATES' court.

52. That COLIN influencing the matters after recusal appears further obstruction and may have given Proskauer inside information and records with intent and scienter in further efforts to derail PETITIONER'S rights.

> The Court further stated:
> In Metropolitan Dade County v. Martinsen, 736 So. 2d 794, 795 (Fla. 3d DCA 1999), this Court restated the well-settled principle "that a party who has been guilty of fraud or misconduct in the prosecution or defense of a civil proceeding should not be permitted to continue to employ the very institution it has subverted to achieve her ends." Hanono v. Murphy, 723 So. 2d 892, 895 (Fla. 3d DCA 1998) (citing Carter v. Carter, 88 So. 2d 153, 157 (Fla. 1956).

53. This is the exact same divisive and devious conduct exhibited herein – these state actors are employing the very institution they have subverted to achieve their ends.

VIII. VIOLATION OF DUE PROCESS

54. COLIN has intentionally sought to deprive PETITIONER and his three minor children of privileges, properties and immunities guaranteed citizens of the United States by the Constitution in violation of 18 U.S.C. 241 ("conspiracy against rights"), 242 ("deprivation of rights under color of State law), and 42 U.S.C. 1983 (civil deprivation of rights under color of State law) –constituting official oppression.

55. COLIN intentionally and with scienter and in conspire with others deprived PETITIONER and his three minor children of First, Fifth, Sixth, Seventh, and Fourteenth Amendment rights to freedom of speech, freedom of association, due process, equal protection of the law, and the right to effective assistance of counsel.

56. 18 U.SC. 242 provides as follows:

> Whoever, under color of any law, ordinance, statute, ordinance, regulation, or custom, willfully subjects any person in any State…to the deprivation of rights, privileges, or immunities secured or protected by the Constitution of the laws of the United States, or to different punishments, pains or penalties…than are prescribed for the punishment of citizens, shall be fined under this title or imprisoned not more than one year; or both… and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap…shall be fined under this title, or imprisoned for any term of years or for life, or both, or may be sentenced to death. [Note 18 U.S.C. 241 contains similar language but applies to two or more people conspiring to deprive a citizen of rights and privileges under the Constitution.]

57. COLIN violated PETITIONER and his three minor children's due process rights in his fervor to retaliate and cover up for crimes exposed, committed and run through the misuse of his court as a vehicle to commit said crimes and other ancillary crimes, all the while covering up for the crimes of his court appointed officers and fiduciaries in efforts to exculpate the criminals from prosecution by aiding and abetting the felonious acts through a complex legal process abuse scheme that not only covered up but in fact continued to commit new crimes

against PETITIONER and his minor children through the legal process abuse scheme and artifice to defraud.

58. COLIN violated the OPEN COURTS provision of the U.S. and Florida Constitution, due process and equal protection clause via the following scheme: (a) Issuance of illegal void ORDERS issued outside the color of law, allowing Officers and Fiduciaries to continue in proceedings after learning of their involvement in Felony Misconduct and after stating he had enough evidence of their fraud and fraud on the court to read them all their Miranda Warnings twice at the very first hearing where he learned of obscene frauds on the court, including crimes committed POST MORTEM of decedents SIMON and SHIRLEY to directly contradict and defeat their last wishes, (EXHIBIT 10) and then failing to do ANYTHING required of him by Law and Judicial Canons over the next two and one half years about any of the felony crimes.

IX. COLIN ORDERS WITHOUT LEGAL JURISDICTION UNDER THE COLOR OF LAW AFTER MANDATORY DISQUALIFICATION DUE TO FRAUD ON THE COURT AND HIS STANDING AS A MATERIAL AND FACT WITNESS AND MORE ARE VOID

59. All of COLIN'S Orders from the moment he knew he was mandated under Judicial Canons and law to disqualify himself and then does not are all obtained outside the color of law and continue a Fraud on the court, Fraud in the court and Fraud by the court.

60. COLIN was aware that Motions and Petitions are unheard involving Trust Validity, Trust Construction and Removal of the PR for serious breaches and allegations of felony misconduct and yet without hearing these issues first he moves forward using the documents to make orders, have hearings with the disputed and alleged fraudulent documents, sell assets, etc. From a March 26, 2015 hearing[8] COLIN states in response to a home sale question by ROSE,

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17 THE COURT: I'm not -- look, nothing is easy
18 here. It's not going to get easier until we can
19 get hearings where I can start to knock off some
20 of the issues, which is what I have been saying
21 now like a broken record.
22 At some point, either Eliot is going to be
23 sustained on his positions or he's going to be
24 overruled, but one way or the other, we can put
25 some of this stuff to rest. The problem is we're

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1 doing all of this business with some of the metes [matters]
2 of the case still up in the air where I haven't
3 been able to adjudicate; the claims that Ted
4 should be removed; the claims that there's
5 wrongdoing beyond Spallina and Tescher, the trust
6 is not valid. I mean, give me a chance to rule on
7 that, because once I rule on that, then the matter
8 is over with on those and you'll know one way or
9 the other what to do.

[8] March 26, 2015 Hearing
http://iviewit.tv/Simon%20and%20Shirley%20Estate/20150326%20HEARING%20TRANSCRIPT%20HOME%20SALE.pdf

10 Do you understand what I'm saying? I think
11 we have hearing time coming up. Let's use that,
12 you know, prioritize hearings on this case. So as
13 soon as we can, I'll give it to you.
14 MR. ROSE: I appreciate that.

61. COLIN is the next hearing only days later then ruled to sell the house without having any of the hearings he stated he needed to have first before moving forward (after two years of moving forward without them), including validity hearings, removal of PR hearings and further fraud hearings and this typifies COLIN'S continued acts outside the color of law in furtherance of fraudulent activities.

62. COLIN denied the initial Emergency Motion[9] PETITIONER filed, denying it as an Emergency when there was evidence in the filing submitted that Fraud Upon the Court had occurred by Officers and Fiduciaries of his court, documents were submitted fraudulently to court and there were allegations that Simon Bernstein had been murdered made by his son TED making it a valid Emergency and this denial as an Emergency delayed hearing the matters for four more months while PRO SE PETITIONER refiled and rescheduled.

63. COLIN in a hearing on September 13, 2013 then ordered that Shirley Bernstein's Estate be reopened due to the fraud he discovered took place in the hearing but

[9] EMERGENCY PETITION
http://iviewit.tv/Simon%20and%20Shirley%20Estate/20130506%20FINAL%20SIGNED%20Petition%20Freeze%20Estates%20Orginal%20LOW.pdf

then failed to have the fraud investigated and after threatening to read TESCHER, SPALLINA, TED and MANCERI their Miranda's upon discovering and affirming two separate and distinct frauds upon his court they were all involved in, leaves those involved in the frauds as fiduciaries and moves forward as if nothing took place stating he will get to it and after almost two years has failed to do so.

64. COLIN then, after threatening to read TED and his counsel their Miranda's and learning of the frauds he was involved in, COLIN appoints TED as PR to Shirley's Estate when he reopens the Estate due to the fraud. COLIN then states that TED is named in the Shirley Will as a Successor Trustee and this despite having weeks earlier stated he was going to read TED and his attorneys at law, TESCHER, SPALLINA and MANCERI their Miranda Rights upon learning of multiple frauds on the court they committed, including fraudulent Dispositive documents and using a deceased Personal Representative to close the Estate of Shirley.

65. COLIN further allowed TESCHER, SPALLINA and MANCERI to continue to act as the attorneys in the case despite having learned they were involved in felony misconduct.

66. COLIN allowed TESCHER and SPALLINA to continue for months until they were forced to resign after admission of fraud to PBSO investigators and instead

of removing them COLIN allows them to withdraw and without ordering investigations or reporting their misconduct as required by Judicial Canons and Law.

67. COLIN rules on trusts and wills and uses language from trusts and wills despite knowing they have been challenged and found improperly notarized by Governor Rick Scott's Notary Public division for over two years.

68. COLIN evades hearings to remove TED as a fiduciary and continues to allow TED and his minion of attorneys to file pleading despite evidence showing COLIN TED is not legally a valid trustee. That many of the pleading filed were retaliatory at PETITIONER attempting to have him held in contempt or have guardians placed over him and his children, in efforts to intimidate PETITIONER to give up his pursuit of the criminal matters.

69. COLIN denies Disqualification motions filed by PETITIONER as "legally insufficient" and evades motions filed by PETITIONER to have COLIN disqualify himself on his own initiative as provided for by statute.

70. COLIN orders that an IRA account for Simon and Shirley Bernstein can be modified to change investments despite PETITIONER'S protest that the account has been reported to authorities as having been illegally accessed and COLIN assures PETITIONER that no change of the account will occur but then allows a complete change of the account to occur, erasing the old account. The problem is

that COLIN was aware that the beneficiary of the IRA is missing and documents regarding the account were also missing at the time and the change appears to be an attempt to cover up the problems.

71. COLIN ruled that a trust without signature pages is a legally valid trust unless Pro Se PETITIONER could cite law stating it was not valid without signature pages.

72. COLIN allegedly orders a transfer of trusteeship from Stanford Trust Company (the infamous Ponzi schemer Sir Robert Allen Stanford company) to Oppenheimer in 2010 but orders the transfer without having the trusts to review and determine if the transfer is legal under the terms of the trust. The trusts when discovered are all full of errors, are unexecuted in part, have missing signature pages and have conflicting trustees and would have precluded such transfer by COLIN.

73. COLIN holds accounting hearings for the minor children's trusts in the Oppenheimer case and precludes Eliot from making a record and when Eliot (who is approved as indigent) asks the court to get a reporter and COLIN states the court is broke and cannot afford any luxuries. Eliot asks to create a taped record and is refused.

74. COLIN Orders a letter between TED and PETITIONER, two non-attorneys to be privileged when no attorney was sent the letter. The letter also exposes fiduciary

misconduct alleged by TED'S counsel and misuse of Trust funds and contains threats to use "force and aggression" on PETITIONER.

75. COLIN Orders Simon's house be sold after stating at hearing he cannot order the sale until trust construction hearings, hearings to remove Ted and trust validity hearings are heard first. Then in next hearing he sells the house without doing any of the other things he stated must be done first at the prior hearing.

76. COLIN Orders against PETITIONER'S motions to remove conflicted counsel repeatedly, allowing counsel involved in the frauds to continue protected.

77. COLIN Orders cases of he and FRENCH be consolidated but violates statutes requiring each judge to hold a separate hearing to merge the cases and Colin hears FRENCH'S motion for him and violates the statute in so doing.

78. COLIN Orders school for three minor children to be paid, when it was not paid and PETITIONER filed an EMERGENCY HEARING regarding when he finds out order was violated and children thrown out of school states he will deal with it and never does.

79. COLIN orders that Eliot cannot contact buyer of Simon home to inform the buyer of a Lis Penden pending that COLIN has held and precluded PETITIONER from filing for several months and orders PETITIONER to not contact the buyer to inform them of ongoing litigation or face severe court ordered sanctions, where PETITIONERS head would spin if he did or words to that effect.

80. COLIN stated in the home sale order that he conducted hearings and the transaction was arm's length but never had any statements or testimony from the buyer or even allows PETITIONER to know who the secret buyer is and precludes the buyer from knowledge of litigation by Order.

X. LEGAL AUTHORITIES

MANDATORY DISQUALIFICATION

81. COLIN had a statutory duty and was mandated by judicial canons to disqualify himself on his own initiative years before his Sua Sponte Recusal on May 20, 2015 and after PETITIONER filed a Petition to Disqualify on May 14, 2015 that was legally sufficient within Fla. Stat. 38.10 and Fla. Rules Jud. Admin 2.330 and Judicial Canons.

82. That Petitioner, being Pro Se, also motioned COLIN several times to disqualify on his own initiative as required under statutes and Judicial Canons and COLIN failed to rule on the motion and disqualify himself.

83. The Florida Code of Judicial Conduct Canon 3 provides states:

> A Judge SHALL disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to instances where: (a) the judge has a personal bias or prejudice concerning the party or a party's lawyers.

84. Disqualification is mandatory under Florida Rule of Judicial Administration Rule 2.330 and Florida Statute 38.10. In 1994, the U.S. Supreme Court held that

"Disqualification is required if an objective observer would entertain reasonable questions about the judge's impartiality. If a judge's attitude or state of mind leads a detached observer to conclude that a fair and impartial hearing is unlikely, the judge must be disqualified." *Liteky v. U.S.*, 114 S.Ct. 1147, 1162 (1994). Positive proof of the partiality of a judge is not a requirement, only the appearance of partiality. *Liljeberg v. Health Services Acquisition Corp.*, 486 U.S. 847 (1988); *Levine v. United States*, 362 U.S. 610 (1960);

85. Should a judge not disqualify himself, the judge is violation of the Due Process Clause of the U.S. Constitution. *United States v. Sciuto*, 521 F.2d 842, 845 (7th Cir. 1996) ("The right to a tribunal free from bias or prejudice is based, not on section 144, but on the Due Process Clause.")"[A] fundamental requirement of due process is the opportunity to be heard . . . at a meaningful time and in a meaningful manner." *Armstrong v. Manzo*, 380 U.S. 545, 552 (1965) (internal quotation marks and citation omitted). *Garraghty v. Va. Dep't of Corr.*, 52 F.3d 1274, 1282 (4th Cir. 1995); *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976);

86. Judges do not have discretion not to disqualify themselves. By law, they are bound to follow the law. Should a judge not disqualify himself as required by law, then the judge has given another example of his "appearance of partiality" which further disqualifies the judge. Should a judge not disqualify himself, then

the judge is violation of the Due Process Clause of the U.S. Constitution. United States v. Sciuto, 521 F.2d 842, 845 (7th Cir. 1996).

87. Disqualification is Mandatory under the Code of Judicial Conduct, Canon 3

> "A Judge Shall Perform the Duties of Judicial Office Impartially and Diligently" Section E. Disqualification. (1) A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to instances where: (d) the judge or the judge's spouse, or a person within the third degree of relationship to either of them, or the spouse of such a person: (iv) is to the judge's knowledge likely to be a material witness in the proceeding."

88. The issues before this Court are the failure of COLIN to mandatorily Disqualify and the "**legal sufficiency**" of the motion to Disqualify filed by PETITIONER and more importantly the failure of COLIN to manditorily disqualify on his own initiative versus waiting for PRO SE PETITIONER to file sufficient pleadings. In order to demonstrate legal sufficiency, PETITIONER needed to show:

> ...a well-grounded fear that he will not receive a fair [hearing] at the hands of the judge. **It is not a question of how the judge feels; it is a question of what feeling resides in the affiant's mind and the basis for such feeling.**'
> *State ex rel. Brown v. Dewell*, 131 Fla. 566, 573, 179 So. 695, 697- 98 (1938). *See also Hayslip v. Douglas*, 400 So. 2d 553 (Fla. 4th DCA 1981). **The question of disqualification focuses on those matters from which a litigant may reasonably question a judge's impartiality rather than the judge's perception of his ability to act fairly and impartially**. *State v. Livingston*, 441 So. 2d 1083, 1086 (Fla. 1983)

> (emphasis added). In a case where the PETITIONER'S liberty is at stake, the court "should be especially sensitive to the basis for the fear." *Chastine v. Broome*, 629 So. 2d 293, 294 (Fla. 4th DCA 1993). The circumstances of this case are of such a nature that they are "sufficient to warrant fear on PETITIONER'S part] that he would not receive a fair hearing by the assigned judge." *Suarez v. Dugger*, 527 So. 2d 191, 192 (Fla. 1988).

89. PETITIONER and his minor children are entitled to a full and fair proceeding, including a fair determination of the issues by a neutral, detached judge. *Holland v. State*, 503 So. 2d 1354 (Fla. 1987); *Easter v. Endell*, 37 F.3d 1343 (8th Cir. 1994). Due process guarantees the right to a neutral, detached judiciary in order "to convey to the individual a feeling that the government has dealt with him fairly, as well as to minimize the risk of mistaken deprivations of protected interests." *Carey v. Piphus*, 435 U.S. 247, 262 (1978). Principles of due process demand that this case be heard by another judge selected without COLIN'S prejudice and for COLIN to disqualify himself and remove his Orders issued outside his jurisdiction and outside the color of law:

> The Due Process Clause entitles a person to an impartial and disinterested tribunal in both civil and criminal cases. This requirement of neutrality in adjudicative proceedings safeguards the two central concerns of procedural due process, the prevention of unjustified or mistaken deprivations and the promotion of participation and dialogue by affected individuals in the decision making process. *See Carey v. Piphus*, 435 U.S. 247, 259-262, 266-267 (1978). The neutrality requirement helps to guarantee that life, liberty, or property will not be taken on the basis of

> an erroneous or distorted conception of the facts or the law. *See Matthews v. Eldridge*, 424 U.S. 319, 344 (1976). At the same time, it preserves both the appearance and reality of fairness, 'generating the feeling, so important to a popular government, that justice has been done,' *Joint Anti-Fascist Committee v. McGrath*, 341 U.S. 123, 172, (1951) (Frankfurter, J., concurring), by ensuring that no person will be deprived of his interests in the absence of a proceeding in which he may present his case with assurance that the arbiter is not predisposed to find against him. *Marshall v. Jerrico, Inc.*, 446 U.S. 238, 242 (1980).

90. The disqualification rules require judges to avoid even the appearance of impropriety and COLIN'S self-dealing actions after knowing he would be a material and fact witness to crimes that occurred in his court by officers and fiduciaries he appointed, in which his own actions became questionable, establishes a prima facie case of appearance of impropriety:

> It is the established law of this State that every litigant...is entitled to nothing less than the cold neutrality of an impartial judge. It is the duty of the court to scrupulously guard this right of the litigant and to refrain from attempting to exercise jurisdiction in any manner where his qualification to do so is seriously brought into question. The exercise of any other policy tends to discredit and place the judiciary in a compromising attitude which is bad for the administration of justice. *Crosby v. State*, 97 So.2d 181 (Fla. 1957); *State ex rel. Davis v. Parks*, 141 Fla. 516, 194 So. 613 (1939); *Dickenson v. Parks*, 104 Fla. 577, 140 So. 459 (1932); *State ex rel. Mickle v. Rowe*, 100 Fla. 1382, 131 So. 3331 (1930).
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> * *
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> The prejudice of a judge is a delicate question for a litigant to raise but when raised as a bar to the trial of a cause, if predicated on grounds with a modicum of reason, the judge in question should be prompt to recuse himself. No judge

> under any circumstances is warranted in sitting in the trial of a cause whose neutrality is shadowed or even questioned. *Dickenson v. Parks*, 104 Fla. 577, 140 So. 459 (1932); *State ex rel. Aguiar v. Chappell*, 344 So.2d 925 (Fla. 3d DCA 1977).

91. The United States Supreme Court has stated:

> ...the inquiry must be not only whether there was actual bias on respondent's part, but also whether there was 'such a likelihood of bias or **an appearance of bias that the judge was unable to hold the balance between vindicating the interests of the court and the interests of the accused.**' *Ungar v. Sarafite*, 376 U.S. 575, 588 (1964). 'Such a stringent rule may sometimes bar trial by judges who have no actual bias and who would do their very best to weigh the scales of justice equally between contending parties,' but due process of law requires no less. *In re Murchison*, 349 U.S. 133, 136, 75 S.Ct. 623, 625, 99 L.Ed. 942 (1955). *Taylor v. Hayes*, 418 U.S 488, 501 (1974) (**emphasis added**).

92. The appearance of impropriety violates state and federal constitutional rights to due process. A fair hearing before an impartial tribunal is a basic requirement of due process. *See In re Murchison*, 349 U.S. 133 (1955). "Every litigant is entitled to nothing less than the cold neutrality of an impartial judge." *State ex rel. Mickle v. Rowe*, 131 So. 331, 332 (Fla. 1930). Absent a fair tribunal, there can be no full and fair hearing.

93. The issues before this Court are the dismissal of the Recusal order of Colin in favor of a mandated mandatory disqualification of COLIN and voiding of his prior orders and the question of "legal sufficiency" of the motion filed by

PETITIONER; there is no deference owed to the lower court. *Smith v. Santa Rosa Island Authority*, 729 So. 2d 944, 946 (Fla. 1st DCA 1998). The test for determining the legal sufficiency of a motion for disqualification is an objective one which asks whether the facts alleged in the motion would place a reasonably prudent person in fear of not receiving a fair and impartial hearing. *See Livingston v. State*, at 1087. The fact that the crimes were committed in COLIN'S court by Officers and Fiduciaries under COLIN'S tutelage requires mandatory disqualification on COLIN'S own initiative and casts "a shadow…upon judicial neutrality so that disqualification [of the circuit] is required." *Chastine v. Broome*, at 295.

94. In *Partin v* Solange *et al*, 2015 WL 2089081 (Fla.App. 4 Dist., 2015), the court granted the petition to disqualify stating the lower court judge cut-off petitioners' counsel and expressed his prejudgment of the matter and in another hearing, the lower court judge made acerbic comments about petitioners and exhibited overall hostility toward both petitioners and their counsel. Not only did COLIN engage in this similar egregious conduct towards PETITIONER from the start but his disqualification is also mandated because of his direct involvement and handling of the fraudulently notarized and forged documents posited in his court and other direct involvement in the matters that eroded PETITIONER'S rights to fair and

impartial due process under law by retaliating for two years against PETITIONER instead.

95. The Due Process Clause serves to protect use of fair procedures to prevent the wrongful deprivation of interests and is a guarantee of basic fairness. *Johnson v. Mississippi*, 403 U.S. 212, 216 (1971); *Peters v. Kiff*, 407, U.S. 493, 502 (1972). "[A] fundamental requirement of due process is the opportunity to be heard . . . at a meaningful time and in a meaningful manner." *Armstrong v. Manzo,* 380 U.S. 545, 552 (1965) *Garraghty v. Va. Dep't of Corr.*, 52 F.3d 1274, 1282 (4th Cir. 1995); Denying access to important records, evidence, and witnesses and mistreating PETITIONER and his minor children as a *pro se* party are violations of Equal Protection and due process of law. *Pro se* parties are a distinct minority class in judicial proceedings. COLIN should have demanded that the minor children and PETITIONER were represented by counsel, forced bonding of the fiduciaries and officers he appointed involved in the criminal acts, posted bonds for the court, reported the misconduct, removed all parties involved in the fraud instead of allowing them to continue to participate for months and even to this day, disqualified himself and instead COLIN took opposite actions to harm PETITIONER and his minor children and delay their inheritances by continuing the Fraud on the court, Fraud in the court and Fraud by the court, to intentionally

cause catastrophic financial ruin upon PETITIONER and his minor children by continuing to hold fraudulent proceedings and illegally issue orders.

96. None of the orders issued by a judge who has been disqualified or should have disqualified by law are valid. They are void as a matter of law, and are of no legal force or effect. The orders issued by COLIN are null and void and of no force and effect as they are procured by fraud, without jurisdiction, the result of unlawful rulings, are unconstitutional and violate due process causing criminal Obstruction of Justice.

ALL ORDERS OF JUDGE COLIN ARE A NULLITY AND ARE VOID

97. Where a judge fails to disqualify, there is no jurisdiction to act and any order issued is illegal and void. *Kilbourn v. Thompson*, 103 U.S. 168 (1881). In *Kilbourn*, the Sergeant-at-Arms of the United States House of Representatives was held not to have immunity for ordering that the PLAINTIFF be arrested under a warrant issued by the House for refusing to testify because they lacked jurisdiction to issue such an order. Id, The court held that the House *did not have jurisdiction* to conduct the particular investigation. The Sergeant at Arms was liable for false arrest and could not assert the issuance of the warrant as a defense. Id. An order that exceeds the jurisdiction of the court is void, and can be attacked in any proceeding in any court where the validity of the judgment comes into issue. See *Pennoyer v. Neff* (1877) 95 US 714; *Windsor v. McVeigh* (1876) 93 US

274; A void judgment is no judgment at all and "a court must vacate any judgment entered in excess of its jurisdiction." *Lubben v. Selective Service System Local Bd. No.* 27, 453 F.2d 645 (1st Cir. 1972). *Kalb v. Feuerstein* (1940) 308 US 433.

98. "A void judgment does not create any binding obligation. *Kalb v. Feuerstein* (1940) 308 US 433. If a court grants relief, which, under the circumstances, it hasn't any authority to grant, its judgment is to that extent void." An illegal order is forever void. A void order is *void ab initio* and does not have to be declared void by a judge. The law is established by the *U.S. Supreme Court in Valley v. Northern Fire & Marine Ins.* Co., 254 U.S. 348, (1920) as well as other state courts, in *People v. Miller*. "Courts are constituted by authority and they cannot go beyond that power delegated to them. If they act beyond that authority, and certainly in contravention of it, their judgments and orders are regarded as nullities..." *Valley v. Northern Fire* and Marine Ins. Co., 254 U.S. 348.

FRAUD UPON THE COURT VOIDS ORDERS

An order is void if it was procured by fraud upon the court," In re Village of Willowbrook, 37 Ill. App. 3D 393(1962)

A void judgment is one that has been procured by extrinsic or collateral fraud, or entered by court that did not have jurisdiction over subject matter or the parties, Rook v. Rook, 353 S.E. 2d 756 (Va. 1987).

A void judgment which includes judgment entered by a court which lacks jurisdiction over the parties or the subject matter, or lacks inherent power to enter the particular judgment, or an order procured by fraud, can be attacked at any

time, in any court, either directly or collaterally, provided that the party is properly before the court. See *Long v. Shorebank Development Corp.*, 182 F.3d 548 (C.A. 7 Ill. 1999)

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

"Fraud upon the court" makes void the orders and judgments of that court.
It is also clear and well-settled law that any attempt to commit "fraud upon the court" vitiates the entire proceeding. The People of the State of Illinois v. Fred E. Sterling, 357 Ill. 354; 192 N.E. 229 (1934) ("The maxim that fraud vitiates every transaction into which it enters applies to judgments as well as to contracts and other transactions."); Allen F. Moore v. Stanley F. Sievers, 336 Ill. 316; 168 N.E. 259 (1929) ("The maxim that fraud vitiates every transaction into which it enters ..."); In re Village of Willowbrook, 37 Ill.App.2d 393 (1962) ("It is axiomatic that fraud vitiates everything."); Dunham v. Dunham, 57 Ill.App. 475 (1894), affirmed 162 Ill. 589 (1896); Skelly Oil Co. v. Universal Oil Products Co., 338 Ill.App. 79, 86 N.E.2d 875, 883-4 (1949); Thomas Stasel v. The American Home Security Corporation, 362 Ill. 350; 199 N.E. 798 (1935).

Under Federal law, when any officer of the court has committed "fraud upon the court", the orders and judgment of that court are void, of no legal force or effect."

As reiterated in Baker v. Myers Tractor Services, Inc., 765 So. 2d 149, (Fla. 1st DCA 2000): When the central issues of a case are based in fraud, the courts cannot move forward as a matter of law.

The integrity of the civil litigation process depends on truthful disclosure of facts. A system that depends on an adversary's ability to uncover falsehoods is doomed to failure, which is why this kind of conduct must be discouraged in the strongest possible way.

As set forth in Rosenthal v. Rodriguez, 750 So. 2d 703, 704 (Fla. 3d DCA 2000): Courts throughout this state have repeatedly held "that a party who has been guilty of fraud or misconduct in the prosecution or defense of a civil proceeding

should not be permitted to continue to employ the very institution it has subverted to achieve their ends." Metropolitan Dade County v. Martinsen, 736 So. 2d 794, 795 (Fla. 3d DCA 1999) (quoting Hanono v. Murphy, 723 So. 2d 892, 895 (Fla. 3d DCA 1998)); see also Cox v. Burke, 706 So. 2d 43, 47 (Fla. 5th DCA 1998); O'Vahey v. Miller, 644 So. 2d 550, 551 (Fla. 3d DCA 1994); Kornblum v. Schneider, 609 So. 2d 138, 139 (Fla. 4th DCA 1992).

VOID ORDERS IN VIOLATION OF DUE PROCESS

"Due Process is a requirement of the U.S. Constitution. Violation of the United States Constitution by a judge deprives that person from acting as a judge under the law. He/she is acting as a private person, and not in the capacity of being a judge,": Piper v. Pearson, 2 Gray 120, cited in Bradley v. Fisher, 13 Wall. 335, 20 L.Ed. 646 (1872) "any judge who acts without jurisdiction is engaged in an act of treason," U.S. v. Will, 449 U.S. 200, 216, 101 S.Ct. 471, 66 L.Ed.2d 392, 406 (1980); Cohens v. Virginia, 19 U.S. (6) Wheat) 264, 404, 5 L.Ed 257 (1821). "Engaging in an act of treason against the United States Constitution by any citizen of the United States is an act of war against the United States," Cooper v. Aaron, 358 U.S. 1, 78 S.Ct. 1401 (1958).

The United States Supreme Court, in Twining v. New Jersery, 211 U.S. 78, 29 S.Ct. 14, 24, (1908), stated that "Due Process requires that the court which assumes to determine the rights of parties shall have jurisdiction."; citing Old Wayne Mut. Life Assoc. V. McDonough, 204 U. S. 8, 27 S. Ct. 236 (1907); Scott v McNeal, 154 U.S. 34, 14, S. Ct. 1108 (1894); Pennoyer v. Neff, 95 U.S. 714, 733 (1877).

"Void judgment is one where court lacked personal or subject matter jurisdiction or entry of order violated due process," U.S.C.A. Const. Amend. 5-Triad Energy Corp. v. McNell, 110 F.R.D. 382 (S.D.N.Y. 1986).

Judgment is a void judgment if the court that rendered the judgment lacked jurisdiction of the subject matter, or of the parties, or acted in a manner inconsistent with due process, Fed. Rules of Civil Procedure, Rule 60(B) (4), 28 U.S.C.A., U.S.C.A. Const. Amend. 5 – Klug v. U.S., 620 F. Supp. 892 (D.S.C. 1985).

"A judgment is void if it violated due process," Johnson v. Zerbst, 304 U.S. 458 S Ct.1019; Pure Oil Co. v. City of Northlake, 10 Ill. 2D 241, 245, 140 N.E. 2D 289 (1956) Hallberg v. Goldblatt Bros., 363 Ill. 25 (1936)

VOID ORDERS IN VIOLATION OF RIGHT TO BE HEARD

It is a fundamental doctrine of law that a party to be affected by a personal judgment must have his day in court, and an opportunity to be heard. Renaud v. Abbott, 116 US 277, 29 L Ed 629, 6 S Ct 1194. Every person is entitled to an opportunity to be heard in a court of law upon every question involving his rights or interests, before he is affected by any judicial decision on the question. Earle v McVeigh, 91 US 503, 23 L Ed 398.

A judgment of a court without hearing the party or giving him an opportunity to be heard is not a judicial determination of his rights. Sabariego v Maverick, 124 US 261, 31 L Ed 430, 8 S Ct 461, and is not entitled to respect in any other tribunal.

"A void judgment does not create any binding obligation. Federal decisions addressing void state court judgments include Kalb v. Feuerstein (1940) 308 US 433, 60 S Ct 343, 84 L ed 370; Ex parte Rowland (1882) 104 U.S. 604, 26 L.Ed. 861: "A judgment which is void upon its face, and which requires only an inspection of the judgment roll to demonstrate its wants of vitality is a dead limb upon the judicial tree, which should be lopped off, if the power to do so exists."

VOID ORDERS WITHOUT JURISDICTION OR EXCEED JURISDICTION

"If a court grants relief, which under the circumstances it hasn't any authority to grant, its judgment is to that extent void." (1 Freeman on Judgments, 120-c.)

"When judges act when they do not have jurisdiction to act, or they enforce a void order (an order issued by a judge without jurisdiction), they become trespassers of the law, and are engaged in treason," The Court in Yates v. Village of Hoffman Estates, Illinois, 209 F.Supp. 757 (N.D. Ill. 1962) held that "not every action by a judge is in exercise of his judicial function. ... it is not a judicial function for a judge to commit an intentional tort even though the tort occurs in the courthouse."

void order is an order issued without jurisdiction by a judge and is void ab initio and does not have to be declared void by a judge to be void. Only an inspection of the record of the case showing that the judge was without jurisdiction or violated a person's due process rights, or where fraud was involved in the attempted procurement of jurisdiction, is sufficient for an order to be void. Potenz Corp. v. Petrozzini, 170 Ill. App. 3d 617, 525 N.E. 2d 173, 175 (1988). In instances herein, the law has stated that the orders are void ab initio and not voidable because they are already void.

The United States Supreme Court has clearly, and repeatedly, held that any judge who acts without jurisdiction is engaged in an act of treason. U.S. v. Will, 449 U.S. 200, 216, 101, S. Ct. 471, 66 L.Ed. 2d 392, 406 (1980): Cohens v. Virginia, 19 U.S. (6 Wheat) 264, 404, 5 L.Ed 257 (1821).

Title 5, US Code Sec. 556(d), Sec. 557, Sec.706: Courts lose jurisdiction if they do not follow Due Process.

An order that exceeds the jurisdiction of the court is void, and can be attacked in any proceeding in any court where the validity of the judgment comes into issue. (See Rose v. Himely (1808) 4 Cranch 241, 2 L ed 608; Pennoyer v. Neff (1877) 95 US 714, 24 L ed 565; Thompson v. Whitman (1873) 18 Wall 457, 21 l ED 897; Windsor v. McVeigh (1876) 93 US 274, 23 L ed 914; McDonald v. Mabee (1917) 243 US 90, 37 Sct 343, 61 L ed 608.

"If a court grants relief, which under the circumstances it hasn't any authority to grant, its judgment is to that extent void." (1 Freeman on Judgments, 120-c.) "A void judgment is no judgment at all and is without legal effect." (Jordon v. Gilligan, 500 F.2d 701, 710 (6th Cir. 1974)) "a court must vacate any judgment entered in excess of its jurisdiction." (Lubben v. Selective Service System Local Bd. No. 27, 453 F.2d 645 (1st Cir. 1972).).

A void judgment does not create any binding obligation. Federal decisions addressing void state court judgments include Kalb v. Feuerstein (1940) 308 US 433, 60 S Ct 343, 84 L ed 370. Federal judges issued orders permanently barring Stich from filing any papers in federal courts. After Judges Robert Jones and Edward Jellen corruptly seized and started to liquidate Stich's assets, Judge Jones issued an unconstitutional order barring Stich from filing any objection to the seizure and liquidation.

Void judgment is one entered by court without jurisdiction of parties or subject matter or that lacks inherent power to make or enter particular order involved and such a judgment may be attacked at any time, either directly or collaterally, People v. Wade, 506 N.W.2d 954 (Ill. 1987).

Void judgment may be defined as one in which rendering court lacked subject matter jurisdiction, lacked personal jurisdiction, or acted in manner inconsistent with due process of law Eckel v. MacNeal, 628 N.E.2d 741 (Ill. App.Dist. 1993).

Void judgment is one where court lacked personal or subject matter jurisdiction or entry of order violated due process, U.S.C.A. Const. Amend. 5-Triad Energy Corp. v. McNell, 110 F.R.D. 382 (S.D.N.Y. 1986).

Void judgment is one entered by court without jurisdiction of parties or subject matter or that lacks inherent power to make or enter particular order involved; such judgment may be attacked at any time, either directly or collaterally People v. Sales, 551 N.E.2d 1359 (Ill.App. 2 Dist. 1990).

Subject matter jurisdictional failings:

Fraud committed in the procurement of jurisdiction, Fredman Brothers Furniture v. Dept. of Revenue, 109 Ill.2d 202, 486 N.E.2d 893 (1985).

Fraud upon the court, In re Village of Willowbrook, 37 Ill. App.3d 393 (1962)

A judge does not follow statutory procedure, Armstrong v. Obucino, 300 Ill. 140, 143 (1921).

Unlawful activity of a judge, Code of Judicial Conduct.
If the court exceeded its statutory authority, Rosenstiel v. Rosenstiel, 278 F.Supp. 794 (S.D.N.Y. 1967).

Any acts in violation of 11 U.S.C. §362(a), In re Garcia, 109 B.R. 335 (N.D. Illinois, 1989).

Where no justiciable issue is presented to the court through proper pleadings, Ligon v. Williams, 264 Ill. App.3d 701, 637 N.E.2d 633 (1st Dist. 1994).

Where a complaint states no cognizable cause of action against that party, Charles v. Gore, 248 Ill.App.3d 441, 618 N.E.2d 554 (1st Dist. 1993).

When the judge is involved in a scheme of bribery (the Alemann cases, Bracey v. Warden, U.S. Supreme Court No. 96-6133; June 9, 1997)

VOID IN VIOLATION OF THE CONSTITUTION

A Judge has no lawful authority to issue any order which violates the Supreme Law of the Land.

The First Amendment to the U.S. Constitution states that all entities have the mandatory right of an adequate, complete, effective, fair, full meaningful and timely access to the court.

The First and the Fourteenth Amendment to the U.S. Constitution guarantees the right of association.

The Fifth and Fourteenth Amendment guarantees Due Process and Equal Protection to all. "No state shall deprive any person of life, liberty or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." United States Constitutional Amendment XIV and adopted by State of Indiana Constitution.

"Choices about marriage, family life, and upbringing of children are among associational rights ranked as of basic importance in our society, rights sheltered by the Fourteenth Amendment against State's unwarranted usurpation, disregard, or disrespect. U.S.C.A. Constitutional Amendment 14.

"Officers of the court have no immunity, when violating a Constitutional right, from liability. For they are deemed to know the law." -- Owen v. Independence, 100 S.C.T. 1398, 445 US 622; Scheuer v. Rhodes, 416 U.S. 232.

A judgment may not be rendered in violation of constitutional protections. The validity of a judgment may be affected by a failure to give the constitutionally required due process notice and an opportunity to be heard. Earle v. McVeigh, 91 US 503, 23 L Ed 398. See also Restatements, Judgments ' 4(b). Prather v Loyd, 86 Idaho 45, 382 P2d 910. The limitations inherent in the requirements of due process and equal protection of the law extend to judicial as well as political branches of government, so that a judgment may not be rendered in violation of those constitutional limitations and guarantees. Hanson v Denckla, 357 US 235, 2 L Ed 2d 1283, 78 S Ct 1228.

VOID ORDERS CAN BE ATTACKED AT ANY TIME

An order that exceeds the jurisdiction of the court, is void, or voidable, and can be attacked in any proceeding in any court where the validity of the judgment comes into issue. (See Rose v. Himely (1808) 4 Cranch 241, 2 L ed 608; Pennoyer v. Neff (1877) 95 US 714, 24 L ed 565; Thompson v. Whitman (1873) 18 Wall 457, 21 l ED 897; Windsor v. McVeigh (1876) 93 US 274, 23 L ed 914; McDonald v. Mabee (1917) 243 US 90, 37 Sct 343, 61 L ed 608. U.S. v. Holtzman, 762 F.2d 720 (9th Cir. 1985) ("Portion of judgment directing defendant not to import

vehicles without first obtaining approval ... was not appropriately limited in duration and, thus, district court abused its discretion by not vacating it as being prospectively inequitable." Id at 722.)

VOID JUDGMENTS DO NOT HAVE TO BE DECLARED VOID BY A JUDGE

A void order is an order issued without jurisdiction by a judge and is void ab initio and does not have to be declared void by a judge to be void. Only an inspection of the record of the case showing that the judge was without jurisdiction or violated a person's due process rights, or where fraud was involved in the attempted procurement of jurisdiction, is sufficient for an order to be void. Potenz Corp. v. Petrozzini, 170 Ill. App. 3d 617, 525 N.E. 2d 173, 175 (1988). In instances herein, the law has stated that the orders are void ab initio and not voidable because they are already void.

A void order is void ab initio and does not have to be declared void by a judge. The law is established by the U.S. Supreme Court in Valley v. Northern Fire & Marine Ins. Co., 254 U.S. 348, 41 S. Ct. 116 (1920) as well as other state courts, e.g. by the Illinois Supreme Court in People v. Miller. A party may have a court vacate a void order, but the void order is still void ab initio, whether vacated or not; a piece of paper does not determine whether an order is void, it just memorializes it, makes it legally binding and voids out all previous orders returning the case to the date prior to action leading to void ab initio.

This principle of law was stated by the U.S. Supreme Court as "Courts are constituted by authority and they cannot go beyond that power delegated to them. If they act beyond that authority, and certainly in contravention of it, their judgments and orders are regarded as nullities. They are not voidable, but simply VOID, AND THIS IS EVEN PRIOR TO REVERSAL ." [Emphasis added]. Vallely v. Northern Fire and Marine Ins. Co., 254 U.S. 348, 41 S. Ct. 116 (1920). See also Old Wayne Mut. I. Assoc. v. McDonough, 204 U.S. 8, 27 S.Ct. 236 (1907); Williamson v. Berry, 8 How. 495, 540, 12 L. Ed, 1170, 1189, (1850); Rose v. Himely, 4 Cranch 241, 269, 2 L.Ed. 608, 617 (1808).

Pursuant to the Vallely court decision, a void order does not have to be reversed by any court to be a void order. Courts have also held that, since a void order is not a final order, but is in effect no order at all, it cannot even be appealed. Courts have held that a void decision is not in essence a decision at all, and never

becomes final. Consistent with this holding, in 1991, the U.S. Supreme Court stated that, "Since such jurisdictional defect deprives not only the initial court but also the appellate court of its power over the case or controversy, to permit the appellate court to ignore it. ...[Would be an] unlawful action by the appellate court itself." Freytag v. Commissioner, 501 U.S. 868 (1991); Miller, supra. Following the same principle, it would be an unlawful action for a court to rely on an order issued by a judge who did not have subject-matter jurisdiction and therefore the order he issued was Void ab initio.

A void order has no legal force or effect. As one court stated, a void order is equivalent to a blank piece of paper.

A void judgment is not entitled to the respect accorded a valid adjudication, but may be entirely disregarded, or declared inoperative by any tribunal in which effect is sought to be given to it. It is attended by none of the consequences of a valid adjudication. It has no legal or binding force or efficacy for any purpose or at any place. ... It is not entitled to enforcement ... All proceedings founded on the void judgment are themselves regarded as invalid. 30A Am Jur Judgments " 44, 45.

VOID JUDGMENTS ARE A NULLITY

"A void judgment does not create any binding obligation. Kalb v. Feuerstein (1940) 308 US 433. If a court grants relief, which, under the circumstances, it hasn't any authority to grant, its judgment is to that extent void." An illegal order is forever void. A void order is void ab initio and does not have to be declared void by a judge. The law is established by the U.S. Supreme Court in Valley v. Northern Fire & Marine Ins. Co., 254 U.S. 348, (1920) as well as other state courts, in People v. Miller. "Courts are constituted by authority and they cannot go beyond that power delegated to them. If they act beyond that authority, and certainly in contravention of it, their judgments and orders are regarded as nullities..." Valley v. Northern Fire and Marine Ins. Co., 254 U.S. 348.

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A void judgment is one which, from its inception, was a complete nullity and without legal effect. See Lubben v. Selective Service System Local Bd. No. 27, 453 F.2d 645, 14 A.L.R. Fed. 298 (C.A. 1 Mass. 1972)

A void judgment is one which from the beginning was complete nullity and without any legal effect. See Hobbs v. U.S. Office of Personnel Management, 485 F.Supp. 456 (M.D. Fla. 1980).

Void judgment is one that, from its inception, is complete nullity and without legal effect. Holstein v. City of Chicago, 803 F.Supp. 205, reconsideration denied 149 F.R.D. 147, affirmed 29 F.3d 1145 (N.D. Ill. 1992).

A void judgment is one which, from its inception, was a complete nullity and without legal effect, Rubin v. Johns, 109 F.R.D. 174 (D. Virgin Islands 1985).

A void judgment is one which, from its inception, is and forever continues to be absolutely null, without legal efficacy, ineffectual to bind the parties or to support a right, of no legal force and effect whatever, and incapable of enforcement in any manner or to any degree. Loyd v. Director, Dept. of Public Safety, 480 So.2d 577 (Ala.Civ.App. 1985). A judgment shown by evidence to be invalid for want of jurisdiction is a void judgment or at all events has all attributes of a void judgment, City of Los Angeles v. Morgan, 234 P.2d 319 (Cal.App. 2 Dist. 1951).

Void judgment which is subject to collateral attack, is simulated judgment devoid of any potency because of jurisdictional defects, Ward. v. Terriere, 386 P.2d 352 (Colo. 1963). A void judgment is a simulated judgment devoid of any potency because of jurisdictional defects only, in the court rendering it and defect of jurisdiction may relate to a party or parties, the subject matter, the cause of action, the question to be determined, or relief to be granted, Davidson Chevrolet, Inc. v. City and County of Denver, 330 P.2d 1116, certiorari denied 79 S.Ct. 609, 359 U.S. 926, 3 L.Ed. 2d 629 (Colo. 1958).

Void judgment is one which, from its inception is complete nullity and without legal effect In re Marriage of Parks, 630 N.E.2d 509 (Ill.App. 5 Dist. 1994).

Void judgment is one entered by court that lacks the inherent power to make or enter the particular order involved, and it may be attacked at any time, either directly or collaterally; such a judgment would be a nullity. People v. Rolland, 581 N.E.2d 907 (Ill.APp. 4 Dist. 1991).

XI. PETITION TO STAY CASES AND TEMPORARILY RESTRAIN ANY SALE, TRANSFER, DISPOSITION OF ANY ASSET OR PROPERTY AND PRESERVATION OF EVIDENCE

99. Petitioners must establish the following four elements:

(1) a substantial likelihood that the plaintiffs will prevail on the merits; (2) a substantial threat that plaintiffs will suffer irreparable injury if the injunction is not granted; (3) the threatened injury to plaintiffs outweighs the threatened harm the injunction may do to the defendant; and (4) granting the preliminary injunction will not disserve the public interest. Church v. City of Huntsville, 30 F.3d 1332, 1342 (11th Cir.1994).

100. The mandamus petition herein and filed motion for mandatory Disqualification clearly shows said motion was legally sufficient and Judge Colin should have mandatorily disqualified. Thus Petitioners have a substantial likelihood to prevail on this application. In addition to an illegal sale of real property being the home of deceased Simon Bernstein imminently scheduled for sale by tomorrow, June 10, 2015, Petitiioners have shown loss of property, loss of records, loss of documents and evidence, loss of trusts and inheritances and other issues of irreparable harm. Granting a temporary stay and injunction against further threatened injury to Petitioners outweighs and harm to Respondent –defendants. Granting a temporary stay is in the public interest until a neutral court can sort out the frauds and conflicts and proper parties and proper trustees and proper trusts and instruments.

101. PETITIONER has suffered at the hands of the Florida court system for thirteen years and has been denied INTELLECTUAL PROPERTIES and due process to seek redress as the alleged criminals are almost all attorneys at law in their various capacities as private lawyers, judges, prosecutors and politicians.

102. PETITIONER has suffered at the hands of the Florida court system for almost three years since the passing of PETITIONER'S father and has been denied PROPERTIES rightfully his through inheritance and again the criminals are almost all attorneys at law and many are connected to the prior INTELLECTUAL PROPERTIES thefts.

103. PETITIONER again cannot get redress or due process in the Florida court system and seeks to have the cases moved from the Florida court system as due to his pursuit of Supreme Court Justices, the Florida Bar and many Florida Lawyers and Law Firms and therefore PETITIONER fears he cannot get a fair and impartial hearing and adequate remedy of law by any party that is a member of the Florida Bar.

104. PETITIONER has battled two years to remove JUDGE COLIN for a situation of Fraud on the Court that was irrefutable and cause for disqualification on several grounds but who refused to follow Judicial Canons and Law and thus has caused severe harms to PETITIONER and his three minor children as the record reflects.

105. Even when "recusing" JUDGE COLIN influenced inappropriately the case knowingly to a former PROSKAUER partner and where PETITIONER was again harmed as the new judges COATES then had access to all the courts records to gain further advantage over PETITIONER. That COLIN and COATES knew of

the conflict of interest and that PROSKAUER was a Counter Defendant in the certain of PETITIONER'S Counter Complaints and a party to the matters.

106. That COATES had reviewed the case file and stated on the record that he was NOT CONFLICTED with PETITIONER and the matters until PETITIONER reminded JUDGE COATES that despite his desire to stay on the case that he had JUDICIAL CANONS that could make his retaining the case violate them, whereby JUDGE COATES after several attempts to claim NO CONFLICT suddenly SUA SPONTE recused himself.

107. That due to this nefarious setup of PETITIONER'S cases to further stymie and delay and interfere with PETITIONER'S due process and procedure rights PETITIONER fears that no matter how or who the cases are transferred to in Florida that PETITIONER cannot receive due process.

XII. CONCLUSION AND PRAYER

WHEREFORE, PETITIONER seeks a WRIT OF PROHIBITION to prohibit COLIN from:

a. Acting in excess of his lawful jurisdiction;

b. Attempting to enforce the May 20th 2015 SUA SPONTE RECUSAL or ANY OTHER ORDER;

c. Taking any action in this matter other than vacating and voiding all Orders and immediately disqualifying himself;

d. Prohibition is invoked for the protection of PETITIONER and his minor children, whose safety and well being are in danger if this WRIT is denied for lack of a legal remedy.

WHEREFORE, PETITIONER seeks a WRIT OF MANDAMUS, compelling the COLIN to:

a. abide by the laws of the State of Florida, Federal law and the United States Constitution and cease acting beyond his jurisdiction immediately;

b. set aside the May 20th 2015 Order to Recuse as void ab initio immediately and instead disqualify himself and make NO FURTHER ACTION;

c. set aside the ALL ORDERS as void ab initio immediately;

d. set aside all other Orders in his Court as *void ab initio* immediately as they are the product of fraud on, in and by the court; and,

e. immediately disqualify himself from this case and take no further action.

WHEREFORE, PETITIONER seeks a 30 day STAY ORDER for all cases in order to move the cases to a prescreened conflict free venue, either state or federal.

a. IMMEDIATELY SEIZE ALL ASSETS AND PROPERTIES OF THE ESTATES AND TRUSTS of Simon and Shirley Bernstein and have all assets that have been converted through the fraudulent orders immediately be returned and put in protective custody by this Court, until all matters of document fraud, trust constructions, trust validity, fraud and breaches of fiduciary duties can be adjudicated by a fair and impartial court of law; and,

b. Reverse COLIN'S acts to interfere with the next venue in these matters by having the case assigned to a proper jurisdiction and venue without COLIN'S steering the case to a court and judge that he influenced the outcome in choosing.

And for such other and further relief as to this Court may seem just and proper.

DATED: Wednesday, June 10, 2015

Respectfully submitted,

/s/ Eliot Ivan Bernstein
Eliot Ivan Bernstein
Pro Se
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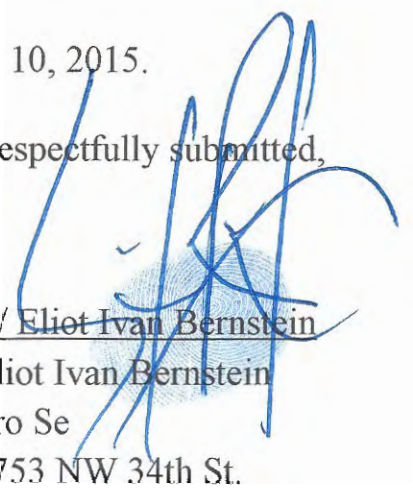
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was furnished by e-filing and email on this Wednesday, June 10, 2015.

Respectfully submitted,



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CERTIFICATE OF COMPLIANCE

I hereby certify that this brief complies with the font standards, i.e. Times New Roman 14 point font as set forth in Florida Rule of Appellate Procedure 9.210.

DATED: Wednesday, June 10, 2015

Respectfully submitted,

/s/ Eliot Ivan Bernstein
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EXHIBITS

URL' S ARE FULLY INCORPORATED HEREIN BY REFERENCE.

Exhibits	Document - URL
A	See Attachment – Disqualification Petition
B	See attachment – Order Denying Disqualification Petition
C	See attachment – Order Sua Sponte Recusal
1	September 02, 2014 Counter Complaint http://iviewit.tv/Simon%20and%20Shirley%20Estate/20140902%20Final%20Signed%20Printed%20Counter%20Complaint%20Trustee%20Construction%20Lawsuit%20ECF%20Filing%20Copy.pdf
2	October 06, 2014 Colin Order Prohibiting Attorney/Fiduciaries from being sued http://iviewit.tv/Simon%20and%20Shirley%20Estate/20141006%20Order%20on%20Ted%20Bernstein%20Removal%20as%20Trustee%20and%20Attorney%20Protection%20Order.pdf
3	July 25, 2012 ALLEGED Simon Bernstein Trust (See Pages 5,6 and 16, 17) http://iviewit.tv/Simon%20and%20Shirley%20Estate/20120725SimonBernsteinAmendedRestatedTrust.pdf
4	Crystal Cox Blog http://tedbernsteinreport.blogspot.com/2014/07/alan-rose-john-pankauski-and-ted.html
5	TED Testimony Admitting Force and Aggression to be used against PETITIONER with his counsel. http://www.iviewit.tv/Simon%20and%20Shirley%20Estate/20140711%20Hearing%20TED%20ADMITS%20FORCE%20AND%20AGRESSION%20AGAINST%20ELIOT.pdf
6	July 18, 2014 COLIN Privilege Order

	http://iviewit.tv/Simon%20and%20Shirley%20Estate/20140718%20Order%20Regarding%20Privilege.pdf
7	Palm Beach County Sheriff Report (Pages 25-28) http://iviewit.tv/Simon%20and%20Shirley%20Estate/20140912%20Sheriff%20and%20Coroner%20Reports.pdf
8	Palm Beach County Coroner Report (Pages 31-51) http://iviewit.tv/Simon%20and%20Shirley%20Estate/20140912%20Sheriff%20and%20Coroner%20Reports.pdf
9	May 06, 2015 TED Deposition (Pages 115-134) http://iviewit.tv/Simon%20and%20Shirley%20Estate/20140912%20Sheriff%20and%20Coroner%20Reports.pdf
10	September 13, 2013 Emergency Hearing http://www.iviewit.tv/Simon%20and%20Shirley%20Estate/20130913%20TRANSCRIPT%20Emergency%20Hearing%20Colin%20Spallina%20Tescher%20Ted%20Manceri%20ELIOT%20COMMENTS.pdf
11	May 14 2015 Motion for Disqualification http://iviewit.tv/Simon%20and%20Shirley%20Estate/20150514%20FINAL%20Motion%20for%20Disqualification%20Colin%20Large.pdf
12	June 16, 2104 Petition to Remove Judge Colin http://iviewit.tv/Simon%20and%20Shirley%20Estate/20140616%20FINAL%20SIGNED%20PRINTED%20OBJECTION%20TO%20PROPOSED%20AND%20EXISTING%20ORDERS%20and%20DISQUALIFY%20OF%20HON%20JUDGE%20MARTIN%20COLIN.pdf
13	January 01, 2014 Motion to Disqualify Colin http://iviewit.tv/Simon%20and%20Shirley%20Estate/20140101%

	20Final%20PRINTED%20SIGNED%20Motion%20to%20Disqualify%20Colin%20and%20more%20131279ns.pdf
14	Iviewit RICO and Antitrust http://www.iviewit.tv/20071215usdcsnycomplaint.pdf
15	Iviewit RICO and Antitrust Amended Complaint http://iviewit.tv/CompanyDocs/United%20States%20District%20Court%20Southern%20District%20NY/20080509%20FINAL%20AMENDED%20COMPLAINT%20AND%20RICO%20SIGNED%20COPY%20MED.pdf
16	Candice Schwager, Esq. Warning - PETITIONER correspondences with Sheriff Andrew Panzer & DOJ OIG Michael Horowitz http://iviewit.tv/Simon%20and%20Shirley%20Estate/20150411CandiceSchwagerEsqWarningDOJOIGHorowitzAndSherifPanzerLetters.pdf

EXHIBIT A

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

TED BERNSTEIN, AS TRUSTEE
OF THE SHIRLEY BERNSTEIN TRUST AGREEMENT
DATED MAY 20, 2008, AS AMENDED,

PROBATE DIVISION
CASE NO.: 502014CP003698XXXXSB

PLAINTIFF,

V.

ALEXANDRA BERNSTEIN; ET AL.

DEFENDANTS.

_____/

Other Applicable Related Cases this Disqualification of Judge Martin Colin Should Apply to:

Case # 502012CP004391XXXXSB – Simon Bernstein Estate

Case # 502011CP000653XXXXSB – Shirley Bernstein Estate

Case # 502014CP002815XXXXSB – Oppenheimer v. Bernstein Minor Children

Case # 502014CP003698XXXXSB – Shirley Trust Construction

Case# 502015CP001162XXXXSB – Eliot Bernstein v. Trustee Simon Trust Case OLD CASE # 502014CA014637XXXXMB

_____/

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:

Rule 2.330 (a) Application. This rule applies only to county and circuit judges in all matters in all divisions of court.

1. Judge Martin Colin is a circuit judge in the 15th Judicial Circuit Probate Division.

Rule 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.

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

   a. Judge Colin has violated the following Judicial Canons, including but not limited to,

      i. Canon 1 - A Judge Shall Uphold the Integrity And Independence of the Judiciary

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

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

      B. Adjudicative Responsibilities.

      (1) A judge shall hear and decide matters assigned to the judge except those in which disqualification is required.

      (2) A judge shall be faithful to the law and maintain professional competence in it. A judge shall not be swayed by partisan interests, public clamor, or fear of criticism.

      D. Disciplinary Responsibilities.

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

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

      E. Disqualification.

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

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

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

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

F. **Remittal of Disqualification.**

A judge disqualified by the terms of Section 3E may disclose on the record the basis of the judge's disqualification and may ask the parties and their lawyers to consider, out of the presence of the judge, whether to waive disqualification. If following disclosure of any basis for disqualification other than personal bias or prejudice concerning a party, the parties and lawyers, without participation by the judge, all agree the judge should not be disqualified, and the judge is then willing to participate, the judge may participate in the proceeding. The agreement shall be incorporated in the record of the proceeding.

b. Judge Colin has violated Statutes related to, including but not limited to,

i. Fraud on the Court and by the Court – This Disqualification shall Reset the case, render void all relevant Orders and Decisions which shall be vacated, all OFFICERS and FIDUCIARIES presently appointed by such Judge shall be replaced and more.

ii. Fraud in the Court

iii. Fraud by the Court

iv. Obstruction of Justice through Denial of Due Process

v. Aiding and Abetting and more.

c. Judge Colin has violated Probate Statutes and Rules

Rule 2.330 (c) Motion.
A motion to disqualify shall:
(1) be in writing.

3. This Motion is in writing.

Rule 2.330 (c) Motion
(2) allege specifically the facts and reasons upon which the movant relies as the grounds for disqualification.

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

Rule 2.330 (c) Motion
(3) be sworn to by the party by signing the motion under oath or by a separate affidavit.

5. 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)

Rule 2.330 (c) Motion
(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.

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

Rule 2.330 (c) Motion
(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 Florida Rule of Civil Procedure 1.080.

7. Petitioner movant is acting Pro Se and thus has no attorney at law representing him and Pro Se Petitioner has certified that the motion and the statements made herein are made in good faith. That Service is proper to Judge Colin under Rule 1.080.

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.

8. That Petitioner asserts that he will not and has not received a fair trial or hearing because of the following specifically described prejudices and biases of Judge Colin under Rule 2.330 (d), and shall be mandatory disqualified for the reasons that follow:

Canon 3 - A Judge Shall Perform the Duties of Judicial Office Impartially and Diligently.
B. Adjudicative Responsibilities.
(1) A judge shall hear and decide matters assigned to the judge except those in which disqualification is required.
E. Disqualification.
(1) A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to instances where:
(a) the judge has a personal bias or prejudice concerning a party or a party's lawyer, or personal knowledge of disputed evidentiary facts concerning the proceeding
(d) the judge or the judge's spouse, or a person within the third degree of relationship to either of them, or the spouse of such a person:
(iv) is to the judge's knowledge likely to be a material witness in the proceeding;

9. Judge Colin had reasons to voluntarily disqualify himself from these proceedings prior to and regardless of this Motion to Disqualify him by Petitioner and has failed to do so prompting Pro Se Petitioner to file this disqualification on multiple grounds.

10. Judge Colin's Court Docket in this case reflects an Entry on Nov. 6, 2012 which is the Filed and Time-Stamped Date by the Court Clerk's Office of a Memorandum[1] allegedly made by

[1] November 05, 2012 Memorandum

http://www.iviewit.tv/Simon%20and%20Shirley%20Estate/20121105%20Court%20Memorandum%20Need%20Notarization%20Reciepts%20for%20assets%20from%20all%20of%20specific%20beneficiaries%20were%20not%20notarized.pdf

Astride Limouzin, Case Manager which by the express notations on said document was done on behalf of Judge Martin Colin, the Judge in this case at that time.

11. Notwithstanding the fact that this is listed as an Ex Parte communication in the Court's own Docket which will be addressed later, the Ex Parte communication is addressed to Attorney Robert L. Spallina. The Memorandum document purports to be notifying Attorney Spallina on behalf of Judge Colin that "Receipts for assets from all of the specific beneficiaries were not notarized." It is important to note that Attorney Spallina is fully aware at this time that his client Simon Bernstein the Personal Representative has passed away on September 13, 2012 and yet he continues to file with the Court documents on his deceased clients behalf to close the Estate months after his passing and presumably without notifying the Court.

12. However, by the time of this Ex Parte communication which purports to be by Astride Limouzin of Judge Colin's Court on behalf of Judge Colin to Attorney Spallina dated Nov. 5, 2012 by the express language of the document and is rejecting for filing Waivers not notarized by decedent Shirley's deceased at the time husband, Simon Bernstein[2], and, Eliot Ivan Bernstein, Jill Bernstein-Iantoni, Pam Bernstein-Simon, Theodore Stuart Bernstein and Lisa Bernstein-Friedstein, as the adult surviving children of Shirley Bernstein in the Shirley Bernstein Estate case, Judge Colin's Court had already received for filing:

    a. A Petition for Discharge (Full Waiver)[3] (also needing notarization but not notarized) to close Shirley's Estate allegedly dated April 9th, 2012 and allegedly signed by Simon

[2] Simon Bernstein un-notarized Waiver @ URL

http://iviewit.tv/Simon%20and%20Shirley%20Estate/20120409%20WAIVER%20SIMON%20UNNOTARIZED%20SIGNED%2020120409%20NOT%20FILED%20UNTIL%2020121024%20EIB%20COMMENTS.pdf

[3] Simon Bernstein un-notarized Petition for Discharge (Full Waiver) @ URL

Bernstein on said date and Subscribed before Attorney Robert Spallina on same date of April 9, 2012, yet which is not Filed and Docketed with the Court until Oct. 24, 2012 with Judge Colin's Court and time-stamped by the Clerk's Office on said date, thus meaning Simon Bernstein was acting as Personal Representative/Executor to close Shirley's Estate a month ***after he was Deceased on Sept. 13 2012; being filed and time-stamped as received by the Court Clerk of Judge Colin's Court nearly 2 weeks before the Nov. 5, 2012 Ex Parte Memo above;***

b. A Tax Statement[4] allegedly dated April 9, 2012 and allegedly signed by Simon Bernstein on said date indicating no Florida Estate Tax due yet again this Document was Filed and Time-stamped with Judge Colin's Court Oct. 24, 2012 nearly 2 weeks before the Ex Parte Memo from Judge Colin to Robert Spallina allegedly made by Judge Colin's Case Manager Astride Limouzin on Nov. 5, 2012 and again posited with the Court by Simon acting as the Personal Representative/Executor after he is deceased; and

c. A Probate Checklist[5] dated Feb. 15, 2012 which again references Attorney Robert Spallina as the involved attorney, Simon Bernstein as the Personal

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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

[4] Affidavit of No Florida Estate Tax Due @ URL

http://www.iviewit.tv/Simon%20and%20Shirley%20Estate/20120409%20Affidavit%20of%20No%20Florida%20Estate%20Tax%20Due%20SIGNED%2020110409%20NOT%20FILED%20until%2020121024%20Shirley.pdf

[5] Probate Checklist

Representative/Executor of the Estate but which is not only substantially defective in the items it references but again is not filed until Oct. 24, 2012 and time-stamped as received by Judge Colin's Court Clerks on said date again being filed by Simon acting as Personal Representative/Executor ***nearly a month after Simon Bernstein passed away and was deceased but nearly 2 weeks before the Ex Parte Memo to Attorney Spallina by Judge Colin via Case Manager Astride Limouniz dated Nov. 5, 2012.***

13. Judge Colin is chargeable with knowledge of the documents filed and entered into his Court upon which he is adjudicating and presiding over.

14. Thus, prior to transmitting the Nov. 5th 2012 Ex Parte Memorandum from Judge Colin via his Case Manager Astride Limouzin to Attorney Robert Spallina, Judge Colin's Court had received multiple filings as referenced above which are not only dated many months prior to the actual filing date but are clearly filed nearly an entire month after Simon Bernstein was deceased and at least one of these documents is Subscribed and witnessed by Attorney Robert Spallina being the Petition to Discharge to close Shirley's Estate and Judge Colin is now communicating with Attorney Spallina Ex Parte according to the Court's own Docket.

15. As of this date itself, Nov. 5, 2012, Judge Colin should have been Disqualified under the Florida Rules and Statutes and now should be Disqualified under at least 3 separate grounds of the Rules and Codes as an instance in which a Judge's impartiality may be reasonably questioned, as one with knowledge of disputed evidentiary facts concerning the proceeding and both as a material witness or likely material witness and - or fact witness of disputed and material evidentiary facts in the proceeding.

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http://www.iviewit.tv/Simon%20and%20Shirley%20Estate/20120215%20Prbate%20Checklist%20Shirley%20NOT%20FILED%20UNTIL%20OCTOBER%2024%202010.pdf

16. Now, back to the Ex Parte nature of the Nov. 5, 2015 Memo from Judge Colin through Judge Colin's Caseworker Astride Limouzin to Attorney Robert Spallina who is now shown and presumably already known to Judge Colin and his Court Clerks to have filed with the Court multiple documents on behalf of a Deceased person Simon Bernstein and being filed months and months after allegedly performed and completed, yet secrets this information from the Court presumably.

17. A careful review of the Nov. 5, 2012 Ex Parte Memo shows that while the Memo is dated Nov. 5, 2012 on the face of the document, the document is not time-stamped with the Court Clerk's for 24 hours or so or at least until sometime the next day Nov. 6, 2012 as shown by the time stamp on the face of the document.

18. Judge Colin's impartiality can reasonably be questioned by the act of he and his Court Clerk Case Manager Astride Limouzin discovering filings in the Court by Attorney Robert Spallina on Oct. 24, 2012 purporting to act on behalf of a Deceased person Simon Bernstein without any authority demonstrated to act for now Deceased Simon Bernstein and by filing documents purportedly completed nearly 6 months earlier in April 2012, yet instead of Ordering Attorney Spallina for Disciplinary Investigation and to also immediately appear before his Court to Show Cause why said actions should not be immediately referred to Investigative and Prosecutorial authorities, Judge Colin and his Case Manager send an Ex Parte Memo to correct un-notarized Waivers with no mention of the Petition for Discharge now filed on behalf of Deceased Simon Bernstein clearly not able to act on said date.

19. This lack of impartiality by Judge Colin and his Court is further compounded by the facts shown by the face of the Court's own Docket and files that it took at least overnight to even Docket the Nov. 5, 2012 Ex Parte Memo on Nov. 6th, 2012 which leads right in and goes hand

in hand with the other mandatory grounds for Disqualification on his own initiative for now having knowledge of disputed evidentiary facts involving the proceeding and being likely to be called as a material and-or fact witness, as it is unknown:

a. Were the Oct. 24, 2012 Filings filed in person and if so by whom?;

b. If filed in person is Case Manager Astride Limouzin the person who "received' the filings for the Court or is she just the go between with Spallina office and Judge Colin on the Ex Parte Memo?

c. Who communicated on the file with Judge Colin? Just Limouzin or any other Clerks and Case Managers?

d. If filed by Mail then by whom and where is the correspondence and envelopes that the filings arrived in to show who signed the correspondence and mailed them if so? ;

e. If filed by mail then where are the envelopes and correspondence or has this evidence been destroyed?

f. Why such a long delay between when the Nov. 5th 2012 Ex Parte Memo was created and then Docketed on Nov. 6, 2012?

g. How was the Memo transmitted to Spallina office? By fax, by mail? Were any phone calls made by the Court or Court Clerks and Case Managers? Any other Ex Parte communications?

h. Why was the Nov. 5th, 2012 Memo done Ex Parte and not Communicated to all parties with standing in Shirley's case not only for purposes of avoiding impartiality but also to timely apprise the parties of said filings and defects?

i. Did Judge Colin review the documents?

j. Did Judge Colin know if Simon was deceased and when did he know? Who told him?

20. For purposes of avoiding even the appearance of impropriety, Judge Colin should have Disqualified on Nov. 5, 2012 or at the moment his Court and - or Court Clerk or Case Manager had any involvement in the receipt, handling and processing of any of the filings of Oct. 24, 2012 made by a deceased Personal Representative/Executor, Simon Bernstein.

21. Judge Colin should have disqualified then and must be disqualified now.

22. Even assuming arguendo that Judge Colin had no actual knowledge of the Oct. 24, 2012 filings attempting to use Deceased Simon Bernstein to close the Estate of Shirley Bernstein and had no actual knowledge of the Nov. 5th 2012 Ex Parte communication on his behalf to Attorney Spallina directly involved in the fraudulent illegal acts of using Deceased Simon Bernstein to close Shirley's Estate, at that time, clearly by the time Judge Colin issued the Order to Close the Estate in Jan. 2013[6] Judge Colin must be presumed to have read and reviewed the documents and filings upon which he issues and rationally bases his Order closing the Estate in Jan. 2013 upon and thus should have not only not issued such an Order but should have halted, frozen and stayed the case and case files of all those involved for investigation by this time and then Disqualified himself as clearly at minimum his own Court officers and Case Manager Astride Limouzin had direct involvement and knowledge of material facts and he could not be in charge of investigating himself and his officers.

23. Now if it is assumed arguendo that Judge Colin will somehow claim he had no knowledge of the Court Docket and filings upon which he issued in Jan. 2013 closing Shirley's Estate upon documents filed by Attorney Spallina which purport to have Simon Bernstein take action as the Personal Representative/Executor while deceased because somehow Judge Colin will claim

[6] Order of Discharge

http://www.iviewit.tv/Simon%20and%20Shirley%20Estate/20130103%20Order%20of%20Discharge%20Shirley%20Signed%20Judge%20Colin%20Scratched%20Date%20no%20initials.pdf

that he had not read the documents upon which he based this Order, then this raises a separate basis of Disqualification under the rule requiring the Judge to diligently (and competently) hear cases that are assigned and thus Judge Colin should have been disqualified then and must now be disqualified.

24. Yet even if it is assumed arguendo that Judge Colin had no knowledge of these matters as of the date he issues the Jan. 2013 Order to close Shirley's estate, which of course again raises Disqualification under the rule of "diligently" hearing cases assigned, clearly by the time of May 06, 2013 upon the first filing of Petitioner's "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 SHIRLEY BERNSTEIN AND MORE"[7] this Court and Attorney Spallina are both put on Notice by Petitioner's motion of :

    a. The fraud and alleged fraud in the filings directly involving Spallina including but not limited to documents filed to close Shirley's Estate by Simon Bernstein acting as the Personal Representative of Shirley when Simon Bernstein was already Deceased (Pages 40-43 - Section "IX.FORGED AND FRAUDULENT DOCUMENTS FILED IN THE ESTATE OF SHIRLEY IN THIS COURT BY TESCHER AND SPALLINA CONSTITUTING A FRAUD ON THIS COURT AND THE BENEFICIARIES AND MORE);

[7] May 06, 2013 Petition @ URL

http://www.iviewit.tv/Simon%20and%20Shirley%20Estate/20130506%20FINAL%20SIGNED%20Petition%20Freeze%20Estates%20Orginal%20Large.pdf

b. That there were improper notarizations in Dispositive Documents including a Will and Trust (Pages 43-45 Section "X. INCOMPLETE NOTARIZATION IN THE ALLEGED 2012 AMENDED TRUST OF SIMON AND MORE" and "XI. INCOMPLETE NOTARIZATION IN THE 2012 WILL OF SIMON AND MORE")

c. That Spallina and Tescher had withheld from beneficiaries in violation of Probate Rules and Statutes any documents on Shirley's Estate and Trusts for approximately 18 months which should have created further bases for this Court to Order investigation and a prompt hearing to determine truth and authenticity in the Trusts and Estate dispositive documents (Pages 37-40 Section "VIII. PETITIONER FORCED TO RETAIN COUNSEL DUE TO PERSONAL REPRESENTATIVES LACK OF DUTY AND CARE, BREACHES OF FIDUCIARY DUTIES AND CONFLICTS OF INTEREST REGARDING MISSING ESTATE ASSETS AND DOCUMENTS AND MORE");

d. Of utmost importance should have been information that Ted Bernstein himself and with the aid of his counsel reported the possible Murder of he and Petitioner's Father, which was reported by Ted Bernstein on the date Simon passes away to the Palm Beach County Sheriff and the Coroner and starting two official inquiries into allegations of Murder[8] (Pages 85-86 Section "XVII. ALLEGED MURDER OF SIMON BERNSTEIN");

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[8]Palm Beach County Sheriff and Coroner's Reports (Pages 25-28 Sheriff Report and Pages 32-41 Coroner Report)

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

The Court should note that the initial autopsy failed to run a poison heavy metal test but Petitioner upon finding out that this had not been done ordered the Coroner to test for poison and on March 10, 2014, over a year and half after Simon died, it was completed (Pages 42-44) and several poisons showed elevated levels and the deceased had morphed to a **113 year old male.**

e. That the Court and Spallina are notified of substantial personal property missing (stolen) including jewelry and artwork worth millions of dollars and that Shirley's condominium had already been sold by Ted Bernstein and yet no Determination had been made by this Court regarding the validity of the Trusts and Ted Bernstein's right to act and dispose of assets (Pages 51-57 "XIV. VANISHING ESTATE ITEMS AND ASSETS");

f. That the Court and Spallina are notified of the "Elephant in the Room"relating to the Iviewit stock and Intellectual Property Interests that Simon Bernstein had, worth an estimated billions of dollars, which is tied into a prior RICO action and a prior car-bombing of Petitioner's Minivan (see www.iviewit.tv for graphic images of the Car Bombing that looks like a scene from a war) that was now relating to the case before this Court (Pages 57-82 Section "XV. THE ELEPHANT IN THE ROOM THE IVIEWIT COMPANIES STOCK AND PATENT INTEREST HOLDINGS OWNED BY SIMON AND SHIRLEY, AS WELL AS, INTERESTS IN A FEDERAL RICO ACTION REGARDING THE THEFT OF INTELLECTUAL PROPERTIES AND ONGOING STATE, FEDERAL AND INTERNATIONAL INVESTIGATIONS."

g. That the Court is notified of an alleged Life Insurance fraud scheme (Pages 27-37 Sections "VI. MISSING LIFE INSURANCE TRUST AND LIFE INSURANCE POLICY OF SIMON" and "VII. INSURANCE PROCEED DISTRIBUTION SCHEME");

h. That other assets were remaining that should have been been frozen such as the St. Andrew's home recently listed by Petitioner's father weeks before his passing for over $3 million.

25. Simply reviewing the September 13, 2013 Hearing Transcript[9] of a proceeding before Judge Colin regarding the Emergency Petition filed on May 06, 2013 and heard on September 13, 2013 (held on the anniversary of Simon's death four months after filing) shows further clear basis for Disqualification of Judge Colin on numerous grounds including knowledge of disputed evidentiary facts and likelihood of being called as a fact witness premised upon his involvement and knowledge of the Ex Parte Communications with Attorney Spallina on Nov. 5th 2012 after the fraudulent filings of Spallina on Oct. 24, 2012 but also based upon clear bias and prejudice and lack of impartiality as by this date September 13, 2013 Judge Colin:

a. knows about Tescher and Spallina using alleged documents of Deceased Simon Bernstein to close Shirley's Estate filed on Oc. 24, 2012;

b. knows of the fraudulent Notaries made upon the Waivers that had first been rejected by his Court via the Ex Parte Memo of Nov. 5, 2012 for having no Notaries and then later submitted with the fraudulent Notaries to help close the Estate;

c. knows that Tescher and Spallina have never been Ordered to Show Cause before his Court about the fraud;

d. knows he had not referred Tescher and Spallina's law firm's conduct for Attorney Discipline investigation;

e. knows of the claims of substantial personal properties stolen and missing from Shirley's Estate;

[9] September 13, 2013 Hearing Judge Colin

http://iviewit.tv/Simon%20and%20Shirley%20Estate/20130913%20TRANSCRIPT%20mirandas.pdf

f. knows of Spallina's firm withholding any documents on Shirley's Trusts from beneficiaries for over two years, which should have raised clear red flags particularly in light of the frauds on his own Court by Tescher and Spallina's firm;

g. knows of the failure to have any Accounting of Shirley's Estate with the failure ongoing for years by this time in violation of Probate Rules and Statutes;

h. knows he has conducted no Hearing to determine the proper construction and meaning of Shirley's Trusts and Estate, which remains incomplete to this date and determine who the proper Beneficiaries, Trustee and Representatives should be, all which remains unknown to this date;

i. knows that Ted Bernstein himself reported possible Murder of Simon Bernstein to police authorities and the state Medical Examiner for autopsy on the date of Simon's passing[10];

j. knows of the "elephant in the room"[11] being Iviewit and the Iviewit stock and patents valued in the billions involving Simon Bernstein and now a missing part of the Estates and Trusts and tied into a prior RICO and Antitrust Lawsuit and a car-bombing of Petitioner's minivan reported and investigated by authorities; and

k. knows that Petitioner's minor children have been intentionally and with scienter denied the trust and inheritance funds for their food, shelter, and well being for months that were all part of their inheritance and yet Judge Colin wants to talk instead that day for most of the hearing about Dunkin Donuts, Burger King and having Petitioner cut his

[10] May 06, 2013 Petition - Section III "POST MORTEM AUTOPSY DEMAND AND SHERIFF DEPARTMENT INVESTIGATION OF ALLEGATIONS OF MURDER"

[11] May 06, 2013 Petition - Section XV "The Elephant in the Room" Pages 57-82

Court lawn[12], instead of addressing any of the serious crimes and frauds in his own Court where he and his Court staff are now witnesses and centrally involved in the fraudulent activities.

26. Now perhaps Judge Colin missed lunch and was hungry that first hearing four months after an Emergency Motion was filed by Petitioner and was thinking about Dunkin Donuts and Burger King but there is no way to look at this proceedings and the transcript without not only finding clear bias and prejudice and lack of impartiality in adjudicating rights to such a gross degree as to constitute not only an abdication of Judicial function, duties and responsibility but done in such as way as to be a mockery of the judicial system and process and denying very important rights and claims raised in Petitioner's filings.

27. Consistent with what has emerged in not only this and other Florida Probate Courts but other Courts in New York and around the nation, a review of the Transcripts of proceedings before Judge Colin shows the standard "M.O.", modus operandi, used by corrupted and conflicted Courts by neglecting and burying the real issues of fraud and integrity of proceedings and filings and actions of licensed attorneys and instead proceeding to threaten and harass those exposing the wrongdoings, as is the case with Petitioner as the exposer of fraud, who then is assaulted with multiple hearings for his alleged Contempt, attempts to have Guardians appointed over his family, threats of sanctions and acts of judicial mockery.

28. Judge Colin falsely claims on this September 13, 2013 date not only that no Emergency issues had been raised in Petitioner's Emergency Motion but also that no assets were left to freeze as

[12] September 13, 2013 Hearing Page 11

http://www.iviewit.tv/Simon%20and%20Shirley%20Estate/20130913%20TRANSCRIPT%20Emergency%20Hearing%20Colin%20Spallina%20Tescher%20Ted%20Manceri%20ELIOT%20COMMENTS.pdf

requested in the relief of the Emergency Motion when in fact the St. Andrews's home that had been listed and valued at over $3 million dollars by Simon Bernstein in the months before his passing still had not been sold and of course there is and was the millions in personal property reported as missing and stolen and the illegal sale of Shirley's Trust Beach Condominium all of which can be subject to claw back processes and other injunctive relief while of course the very real emergency issues of actual fraud upon the Court had been shown involving Judge Colin, the Courts employees and his appointed Officers and Fiduciaries making them all Fact and Material Witnesses at minimum and thus emergency and related relief could and should have been granted, including the voluntary disqualification and more.

29. By the time of this hearing on September 13, 2013, not only did Judge Colin wholly fail to have attorneys Tescher and Spallina Show Cause after the Nov. 5, 2012 Ex Parte Memo and discovery of fraud filings by their office knowingly acting on behalf of their client a deceased Personal Representative/Executor Simon Bernstein to FRAUDULENTLY close Shirley's Estate, Judge Colin also wholly failed to have Attorney Tescher and Spallina and the alleged Fiduciary of Shirley's Trust Ted Bernstein answer in Court that day, especially after Tescher, Spallina and Ted Bernstein had never even submitted a written answer to Petitioner's very specific, detailed Emergency Motion filed May 06, 2013 and subsequently filed motions (Non-Emergency as Colin had forced Eliot to refile his Emergency Pleading several times as a Non-Emergency before allowing it to be heard) placing Tescher, Spallina and Ted Bernstein on further notice of fraud allegations and more.

30. The date of this Hearing was nearly an entire year after Tescher and Spallina had first submitted the fraudulent filings before Judge Colin's Court in Oct. 2012 and yet they were not Ordered to answer the Emergency Petition while allowing Shirley's Estate and Trust to be

squandered in fraud and unaccounted for, as Spallina, Tescher and Ted seized Dominion and Control of the Estates and Trusts of both Simon and Shirley Bernstein through a series of fraudulent dispositive documents and refused to give beneficiaries any documents in violation of Probate Statutes and Rules and Colin remained asleep at the wheel.

31. It is respectfully submitted that by this time on September 13, 2013, Judge Colin is engaging in the aiding and abetting of the fraud and attempting to cover up past fraud in, upon and by the Court, by what is known as "Steering" and orchestrating of the proceedings away from the crimes and criminals and begins a cleverly disguised retaliation against Petitioner that continues to bias and prejudice Petitioner to this date.

32. This can be more clearly seen in the subsequent Evidentiary Hearing of Oct 28, 2013[13] when again, Judge Colin at the helm, steers and directs the proceedings to avoid the issues of Fraud upon and before his own Court by limiting the proceeding to testimony about a $25,000 value to Shirley's Estate Inventory (which was never served to beneficiaries in Violation of Probate Rules and Statutes) and discusses not throwing Spallina's Legal Assistant and Notary Public, Kimberly Moran "under the bus" who has by this time admitted to the Governor's Office and West Palm Beach police that she not only falsely Notarized the Waivers, including for a deceased Simon but also forged the signatures for six separate parties, including for the decedent Simon Bernstein Post Mortem, that are ultimately filed before Judge Colin to illegally close the Shirley Estate. Note, while Moran admits to falsifying Notaries and forging signatures on Waivers, not only is there no full record of her acts before Colin's Court but more importantly none of her admissions addresses the other clear fraud such as the Petition for

[13] October 28, 2013 Evidentiary Hearing

http://iviewit.tv/Simon%20and%20Shirley%20Estate/20131028%20Evidentiary%20Hearing%20TRANSCRIPT%20Shirley%20Estate.pdf

Discharge containing Spallina's signature on the document filed on behalf of Deceased Simon Bernstein on Oct. 24, 2012 by Tescher and Spallina, utilizing a Deceased person to close Shirley's Estate and Colin has direct knowledge that no examination of Spallina and Tescher regarding their involvement in the Petition and other document frauds used to close the Estate illegally and knowledge of Moran's admitted activities has occurred even to this date in his Court with his own office and Case Manager implicated by the Ex Parte Memo yet Colin has continued to allow Ted Bernstein who has been represented by Spallina and Tescher continue to act with no accountability where almost all the crimes committed directly benefited Ted Bernstein who had been disinherited.

33. At no time does Judge Colin in the Evidentiary Hearing with Tescher, Spallina and Ted Bernstein present seek to ascertain the truth of the fraud, forgeries and fraud on his Court but more importantly wholly failed to force Spallina or Tescher to Show Cause or swear them in to answer questions to explain the acts of Tescher and Spallina's Legal Assistant and Notary Public Moran and explain their law firms acts of filing documents with a deceased client acting as a fiduciary while dead and more importantly no investigation into how Spallina's signature is on the Petition for Discharge also fraudulently filed before Judge Colin, which is Not the subject of any Admissions by his employee Kimberly Moran and where she was not involved in that crime.

34. Judge Colin simply later permits Spallina and Tescher to withdraw as attorneys, instead of removing them instantly and securing their files and the corpus of the Estate and Trusts while the material facts surrounding the fraud that directly involve Spallina by his own Signature on the Petition for Discharge, Judge Colin and his Case Manager Limouzin, by the Nov. 5th 2012 Ex Parte Memo communication remain undetermined and unheard.

35. These are additional grounds for removal in that Judge Colin's failure to Order attorneys Tescher, Spallina and the fiduciary Ted Bernstein at minimum to Show Cause before the Court on the frauds on the Court and for Discipline having actual knowledge of the substantial likelihood of misconduct by the fraud by presence of Spallina's own signature on the document purported to be April 9, 2012 Petition for Discharge but not filed with Judge Colin's Court until Oct. 2012 when Simon Bernstein is Deceased nearly a month is itself a failure to discharge Judicial obligations; and then being further Disqualified for being the necessary fact witness of his own Ex Parte Communication to Spallina as evidenced by the Nov. 5th, 2012 Memo and by prejudice and bias shown by the failure to Order Tescher, Spallina and Ted Bernstein for investigation and discipline and Show Cause before his own Court not only in Nov. 2012 but which has still not happened to this day in May of 2015 some 2.5 years later while permitting Ted Bernstein to continue to act as Trustee and Personal Representative/Executor when Ted Bernstein is directly intertwined, interconnected and involved with his own counsel Spallina and Tescher (as they represented Ted in Shirley's Estate and Trusts while acting as Co-Personal Representatives and Co-Trustees of Simon's Estate and Trusts and further represented themselves in their fiducial capacities in Simon's Estate and Trusts) as attorneys involved in the fraud that ultimately benefit their client and business associate Ted and his lineal descendants who are all considered predeceased for all purposes of dispositions of the Shirley Trust and without their fraudulent documents and fraudulent scheme upon the Court would remain so.

36. That after reopening the illegally closed Estate of Shirley in the September 13, 2013 Hearing and immediately prior to the Evidentiary Hearing, Judge Colin, knowing of the Fraud on the Court and already stated to Ted and his counsel Spallina, Tescher and Manceri that he had enough evidence in the hearing to read them all their Miranda Warnings for two separate

crimes identified in the hearing (the Moran fraudulent notarizations and forgeries and Spallina's using a dead Simon to posit documents with Court to close Shirley's Estate) then shockingly and appallingly appointed Ted as a Successor Personal Representative to the newly reopened Shirley Estate shortly thereafter although Ted was not then qualified to serve under Florida Probate Rules and Statutes..

37. It is noted that while an Attorney was present as Counsel for the Petitioner's Minor children in the hearing this Court held on or about Oct. 28 2013, the record should reflect that this counsel Brandan J. Pratt, Esq. not only failed to inform the Court he was retained to represent Petitioner's Minor children Josh, Jacob and Danny Bernstein and instead in the hearing misrepresented to the Court he was representing Eliot and Candice despite their opposition to this claim, but said counsel Pratt further wholly failed to properly and competently cross examine Spallina, Tescher, Moran and Ted Bernstein and call proper witnesses at this hearing to delve into the criminal and civil torts against the beneficiaries despite advance preparation and planning to the contrary with Eliot and Candice. Pratt claimed he was very close to Judge Colin after the hearing and knew what he wanted.

38. Counsel Pratt failed to examine any of the witnesses about the Tescher and Spallina Petition to Discharge fraud, the fraudulent positing of fraudulent records with the court and failed to examine Ted Bernstein, Spallina and Tescher about known personal property items valued at over $1 million that they were in had custody over as fiduciaries that he knew were alleged stolen and Counsel Pratt was immediately after the hearing withdrawing as counsel but was requested by Petitioner in writing to notify his malpractice carrier of malpractice for his conduct and misrepresentations of this hearing. The Transcript in this regard clearly speaks for

itself on what material issues were not only never addressed by Judge Colin but also never asked by Counsel Pratt. See Discharge letter to Counsel Pratt[14].

39. Improper representation by attorney Pratt, likely malpractice itself, does not eliminate Judge Colin's obligations to address fraud upon his own Court by licensed attorneys and fiduciaries he appointed and in fact the actions of attorney Pratt may likely be part of additional steering and orchestration of the proceedings to cover-up the real fraud and delay and denial to Petitioner, his wife Candice Bernstein, and their Minor children Josh, Jacob and Danny of lawful inheritance and monies due under the Trusts.

40. Pratt seemingly falls out of the sky days before the Hearing and is retained by Eliot and Candice for their children's representation, it was later learned that Pratt, on information and belief, was close personal friends and business associates with Andrew Shamp, Esq. and where Shamp it was later learned worked directly for Ted Bernstein in the past as an employee.

41. This pattern of aiding, abetting and obfuscation of the fraud and criminal enterprise and pattern of acts at play as seen further in Judge Colin's continued abdication of judicial functions in duties in relation to the sale of the St. Andrew's home.

42. This Court's recent Order on May 06, 2015 (which falls under the 10 day rule for disqualification herein) permitting the Sale of the St. Andrew's Home shows even further grounds for mandatory Disqualification of Judge Colin (on his own initiative without waiting for Pro Se Petitioner to file a disqualification pleading) although ample grounds have already been established dating back to Nov. 2012.

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[14] Brand Pratt Letter and Conflict of Interest Disclosure Form

http://www.jviewit.tv/Simon%20and%20Shirley%20Estate/20131109HuthPrattWithdrawalLetterandConflictDisclosure.pdf

43. Judge Colin has absolute, unequivocal direct knowledge that no testimony of the alleged "buyer" occurred during the Hearing on the sale of the St. Andrew's Home and knows Florida law requires no undue influence or pressure must be exerted or buyer or seller for there to be an "arms-length" transaction yet issues an Order May 6, 2015 as if the Buyer provided testimony when in fact the buyer's identity is not even known.

44. In fact, despite Florida's rigid Disclosure laws Judge Colin has withheld a lis pendens I attempted to file on the property and still has not let said lis pendens be filed or published to this Buyer or any prospective buyer and has threatened Petitioner that if he disclosed the Lis Penden or the fact that the home was tangled in these litigations he would hold him in contempt.

45. According to the Florida Real Property Appraisal Guidelines Adopted Nov. 26, 2002 by the Florida Department of Revenue Property Tax Administration Program Definitions Section 3.1.8 Arm's-Length Transaction: " This means a sale or lease transaction for real property where the parties involved are not affected by undue stimuli from family, business, financial, or personal factors." See, http://dor.myflorida.com/dor/property/rp/pdf/FLrpg.pdf.

46. Yet, not only does Judge Colin have actual knowledge he took no testimony from the Buyer since the Buyer was not only not present in Court but the identity not disclosed, but Judge Colin knows the case is ripe with nothing but pressure and undue influence such that Judge Colin has covered up fraud upon his own Court involving licensed attorneys, failed to discharge Judicial obligations and failed to abide by the Code of Judicial Conduct, knows the Trustee he is permitting to act Ted Bernstein reported a possible murder of Petitioner's father Simon Bernstein the property owner prior to passing, allowing Ted Bernstein to act despite knowing his attorneys and Ted are involved in fraud on the Court and yet failing to conduct a

hearing into the construction and truth of the Trusts even though he says on the Record he knows he has to conduct a hearing and feigned at reading the attorneys Miranda Warnings, has reasons to investigate and suspect these are a continuation of RICO acts tied to a car-bombing, knows or has reason to know the sale is grossly undervalued at $1,100,000.00 as the property was listed for $3,200,000.00 weeks prior to the possible murder of Simon Bernstein, knows he and his own Court staff are at least involved as witnesses if not for the fraud itself and is willing to forego his own Judicial responsibilities which could lead to the end of his Judicial career but issues a false order nonetheless saying an arm's length transaction to an unknown buyer, possible straw man buyer was made.

47. Judge Colin knows and should know due process is violated by withholding the identity of the alleged buyer and making such person or entity available for cross-examination.

48. This would seem more than reflective of substantial pressure and influence at play and reflective of a fire sale.

49. Last, fair market value has been defined as "the sum arrived at by fair negotiation between an owner willing to sell and a purchaser willing to buy, neither being under pressure to do so." Flagship Bank of Orlando v. Bryan, 384 So.2d 1323 (Fla. 5th DCA 1980). A witness for the appellee admitted at the deficiency hearing that the bank was under pressure to sell the lots and that its bid was lowered because the bank would not be able to sell the lots for what they were worth. The bid price was therefore more an indication of a "quick sale" value than of the property's true fair market value. BARNARD v. FIRST NAT. BK. OF OKALOOSA CTY.482 So.2d 534 (1986) District Court of Appeal of Florida, First District. February 4, 1986.

50. Judge Colin could have Judicially Subpoenaed the Realtor Petitioner had originally spoken to who initially had a far differing opinion of the sales price and value of the home but who then

refused to get involved due to the presence of another of Ted Bernstein's attorneys Alan Rose who, according to his bio at his firm's website, "Handled securities arbitration for investor in a Madoff feeder fund against major brokerage firm which recommended the investment. confidential terms." The case was settled on confidential terms." See, http://mrachek-law.com/ourteam/alan-b-rose/.

51. Further, Judge Colin silenced Petitioner via an illegal Order that mandated that Petitioner could do nothing to directly or indirectly notify the buyer of the Lis Penden or that litigation involving the house was at play and had testimony from the Realtor, John Poletto that he had not notified the buyer of any potential litigation and this seems to force Petitioner to not disclose pertinent facts to a buyer in opposite Florida's disclosure laws.

52. Finally, in his own words in the first day of the hearing to sell the house on March 26, 2015, Colin stated that he first had to have hearings to remove Ted, hearings for trust construction to determine validity and investigation of wrongdoings beyond Tescher and Spallina before being able to proceed further and yet with none of those things were achieved and at the next hearing he allows the sale of the house ignoring his prior statement:

> 13 MR. ROSE: We didn't share the appraisal
> 14 because, frankly, we were concerned it would be
> 15 public and that would defeat their chance of
> 16 selling it.
> 17 THE COURT: I'm not -- look, nothing is easy
> 18 here. It's not going to get easier until we can
> 19 get hearings where I can start to knock off some
> 20 of the issues, which is what I have been saying
> 21 now like a broken record.
> 22 At some point, either Eliot is going to be
> 23 sustained on his positions or he's going to be
> 24 overruled, but one way or the other, we can put
> 25 some of this stuff to rest. The problem is we're
> 1 doing all of this business with some of the metes [matters?]

2 of the case still up in the air where I haven't
3 been able to adjudicate; the claims that Ted
4 should be removed; the claims that there's
5 wrongdoing beyond Spallina and Tescher, the trust
6 is not valid. I mean, give me a chance to rule on
7 that, because once I rule on that, then the matter
8 is over with on those and you'll know one way or
9 the other what to do.

53. That since May 06, 2013 Judge Colin, knowing of the fraudulent documents in the Estates and Trusts of Simon and Shirley Bernstein, knowing that Simon Bernstein's 2012 Will and Amended Trust done only days before his death when Simon was suffering severe mental and physical duress have been determined by Governor Rick Scott's Notary Public Division to be improperly notarized and further Petitioner has alleged they are wholly fraudulent, knowing that there are ongoing criminal investigations into the documents of both Estates and Trusts, knowing that the new Executor of Simon's Estate has claimed that Ted is not a legally valid Trustee of Simon's Trust[15] by the very terms of the Trust that claim that a Successor cannot be related to the issuer, knowing that Ted is considered predeceased for all purposes of dispositions under the Shirley and Simon trust, knowing that Peter Feaman, Esq., has stated to Colin that Ted and his counsel Alan B. Rose are not qualified as Trustee and Counsel due to serious problems with Ted and Alan's misconduct[16], knowing that Ted and his counsel Alan B. Rose are counter defendants in two counter complaints filed by Petitioner in these matters with allegations of serious breaches of fiduciary duties (which Colin stayed) and more, knowing that Eliot has filed a

[15] O'Connell Affirmative Defense, Ted is not a 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 (Page 7)

[16] Peter Feaman, Esq. Letter to Brian O'Connell Regarding Ted Bernstein and Alan Rose, Esq. misconduct

http://www.iviewit.tv/Simon%20and%20Shirley%20Estate/20141216%20Attorney%20Peter%20Feaman%20Letter%20to%20Attorney%20Personal%20Representative%20Brian%20O%27Counell%20re%20Ted%20and%20Alan%20Conflicts.pdf

Counter Complaint in the Shirley Trust case that has both he and Judge French listed as material and fact witnesses that may be Defendants in future amended pleadings[17], has ignored all of these facts and held hearing, after hearing, after hearing and has:

a. allowed Estate and Trust properties to be disposed of and distributed without knowing who the beneficiaries are at this time due to the fraudulent documents affects not being resolved at this time,

b. allowed Estate and Trust properties to be disposed of and distributed without knowing if the Wills and Trusts are valid,

c. allowed assets to be converted and changed, including allowing a JP Morgan IRA to be converted to a new account when the old account was missing beneficiaries and monies are alleged stolen from it,

d. allowed assets to be sold and converted without any accountings in violation of Probate Statutes and Rules,

e. allowed assets to be sold and distributions made to improper beneficiaries despite not having held trust construction or validity hearings to determine first who the true and proper beneficiaries are, thus delaying intentionally beneficiaries inheritances, while allowing assets to be distributed will now have to be clawed back,

f. allowed fiduciaries and counsel involved in the commission of the fraud to continue to operate in the courtroom with impunity,

g. allowed continuous hearings where the alleged Trustee Ted has brought in up to five lawyers to defend himself misusing Trust and Estate assets to do so, who have all now resigned other than Alan B. Rose,

[17] Answer and Counter Complaint Oppenheimer Lawsuit Page 2 - Colin and French listed as Witnesses and Possible Defendants

http://www.iviewit.tv/Simon%20and%20Shirley%20Estate/20140902%20Final%20Signed%20Printed%20Counter%20Complaint%20Trustee%20Construction%20Lawsuit%20ECF%20Filing%20Copy.pdf

h. deprived Minor possible beneficiaries from counsel despite their need arising from the criminal misconduct of his Court and its Officers, Fiduciaries and employees,

i. deprived Eliot's family from inheritances that has caused massive financial damages to them despite their financial damage arising from the delays in their inheritances from the criminal misconduct of his Court and its Officers, Fiduciaries and employees,

j. forced the Creditor William Stansbury for two years to accrue hundreds of thousands of dollars of legal fees, while blocking him from being able to have his counsel file to remove Ted, while the job of removing Ted was Colin's from the moment he became aware that Ted and his counsel had committed Fraud on the Court and stated he had enough to read them all their Miranda's twice,

k. allowed a settlement with Stansbury where Ted Bernstein acting as the Trustee of the Shirley Trust and simultaneously a Defendant in the Stansbury Lawsuit with his attorney at law Rose acting as counsel to Ted in his conflicting capacities, that settled Ted personally out of the lawsuit and shifted the burden of the settlement cost entirely to the Trusts of Shirley and Simon beneficiaries and where Ted has no beneficial interests, thereby stiffing the beneficiaries with the settlement cost for acts Stansbury alleges were done primarily by Ted,

l. allowed Ted and his counsel to block the Estate and Trust of Simon to intervene in an Illinois Federal Breach of Contract Lawsuit where the beneficiaries of the Estate and Trusts of Simon have potential interest in an insurance policy, where Ted is acting in conflict to achieve this as the Plaintiff in the Breach of Contract lawsuit who stands to get one fifth of the insurance benefit, whereas if the Estate and Trusts of Simon receive the proceeds Ted again would get nothing. Colin only allowing the Estate to intervene after Stansbury, in efforts to protect the beneficiaries who were unrepresented in the Federal lawsuit and himself to pay the entire cost of the litigation expense for the Estate?

m. been rude to Petitioner repeatedly and continuously shut him down during hearings, whenever fraud on the court is brought to his attention, and,

n. interfered with Palm Beach County Sheriff investigations, having detectives told not to pursue Petitioner's criminal complaints and claiming his Court would handle the criminal matters and fraud upon his Court.

54. That from at least the September 13, 2013 hearing Judge Colin had a mandated duty to disqualify himself on his own initiative according to Judicial Cannons, Attorney Conduct Codes and Law, as he became fully cognizant that his Court had become a crime scene involving Fraud on the Court and Fraud in the Court, directly involving Judge Colin and Judge French and their court, the Officers of the Court, including Attorneys at Law practicing before them, Fiduciaries appointed by them (Personal Representatives and Trustees) and other Court employees.

55. That once it was determined that crimes had been committed in Judge Colin and Judge French's courts constituting Fraud on the Courts and Fraud in the Courts in which Judge Colin would now be a material and fact witnesses to events in the matter, to avoid the appearance of impropriety and conflicts caused due to his direct involvement as both a material and fact witness, Judge Colin should have voluntarily on his own initiative disqualified himself and distanced himself from the matters, allowing a conflict free adjudicator to replace him who could have investigated the involvement of, the Court, Judge Colin, Judge French, the Officers of the Court and the Fiduciaries of the Court and this would have eliminated the appearance of impropriety created due to Judge Colin's direct involvement in the frauds that had occurred and his subsequent handling of investigations or lack thereof of himself and his court.

56. That failing to disqualify himself on his own initiative for mandated causes by Judicial Canons, Attorney Conduct Codes and Law, Judge Colin lost jurisdiction in this case and his continued actions are all outside the color of law.

57. That Judge Colin's acts forward in these matters from the point that he had knowledge of criminal misconduct in the Court that would make him a material and fact witness constitute Fraud by the Court.

It is alleged that Judge Colin began a Pattern and Practice of Fraud by the Court by continuing to rule in a matter where disqualification was mandated on his own initiative and so each judicial ruling and proceeding is therefore void.

58. That Petitioner fears that Judge Colin's acts after having cause to disqualify himself have prejudiced and biased the case and continue to prejudice and bias the case, as they are now viewed as part of a Cover Up of the crimes committed in his Court and on his Court by Colin's court appointed Officers and Fiduciaries and the effectuation of new crimes by his Court.

59. That Petitioner fears that Judge Colin's acts outside the color of law after knowing of the causes mandating him to instantly disqualify have been prejudicial to Petitioner and favor those Court officials and fiduciaries that he appointed who committed the criminal acts in and on his Court and these acts have protected himself, his Court appointed officials, fiduciaries and employees who were involved and aid and abet them in evading prosecution and investigation in efforts to cover up criminal acts and have provided legal cover for new criminal acts to be committed under the guise of legal proceedings.

60. 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 and Shirley Bernstein Estate and Trust cases and the case involving Petitioner's Minor children.

61. The Estate and Trust cases of Simon and Shirley Bernstein were improperly merged by Judge Colin and Judge French in violation of Probate Rules and Statutes as it was achieved without separate hearings by both Judges and thus improperly transferred to Colin's Court. This included a complex bait and switch, whereby once Colin had approved the transfer to himself of Judge French's case. Judge French's hearing was scheduled on the day before Christmas when the courthouse was closed entirely and Petitioner and his wife showed up to an empty building, ruining their holiday family planned trip to attend. That at the subsequent rescheduled hearing before Judge French, Judge Colin was instead presiding and when asked where Judge French was Colin stated it did not matter if he were there as he routinely handled French's cases. When Petitioner cited the rule calling for separate hearings by each

Judge, Colin proceeded ahead. That Petitioner fears that since the crimes were committed in both courts this improper merging of the cases was to cover up and protect Judge French and his court officials from investigation and possible prosecution and remove one of the crime scenes entirely since similar acts of fraud are alleged in Judge French's court and similarly all his case files should have been sealed for investigation and he and his court officials questioned as to the Fraud on the Court and Fraud in the Court.

62. 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 to report the misconduct to the proper criminal and civil authorities for investigation and failed to do so.
63. Once Colin had evidence of Fraud on the Court, he had obligations to immediately disqualify and allow for the resetting of the proceeding by removing all elements of the fraud, removing all officers of the court involved, all fiduciaries involved and have all court and other records of those involved seized for investigation, have all assets seized and frozen and turn the case over to a new adjudicator and Judge Colin did not do any of these things, in fact, he has intentionally and with scienter done the opposite.
64. That instead of doing what was mandated when Fraud on the Court is discovered, Colin has allowed a pattern and practice of retaliation against Eliot to take place 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 held against Eliot, all bleeding the estates and trusts of thousands upon thousands of illegal legal billings for conflicted counsel.
65. Petitioner has blown the whistle on corruption that took place in both Judge Colin and French's courts and has also been involved in an over a decade old whistleblowing lawsuit and other actions against members of this courthouse the 15th Judicial, The Florida Bar and many Judges of the Supreme Court of

Florida and Petitioner fears this also creates prejudice and bias against Petitioner with virtually the entire State of Florida legal machine conflicted with him.

66. Petitioner's prior Federal RICO sued the following parties of the Florida Bar Association:

STATE OF FLORIDA,
OFFICE OF THE STATE COURTS
ADMINISTRATOR, FLORIDA,
HON. JORGE LABARGA in his official and individual capacities,
[this lawsuit prior to his unbelievable rise to Chief Justice of the Florida Supreme Court after the Bush v. Gore election where he aided in the failure to recount the People's vote when he was a civil circuit judge and for his effort to derail Eliot's legal rights in the first lawsuit involving Eliot and others stolen Intellectual Properties that has led to this mess filed before his court. Proskauer v. Iviewit, Case #CASE NO. CA 01-04671 AB.]
THE FLORIDA BAR.
JOHN ANTHONY BOGGS, ESQ. in his official and individual capacities,
KELLY OVERSTREET JOHNSON, ESQ. in her official and individual capacities,
LORRAINE CHRISTINE HOFFMAN, ESQ. in her official and individual capacities,
ERIC TURNER, ESQ. in his official and individual capacities,
KENNETH MARVIN, ESQ. in his official and individual capacities,
JOY A. BARTMON, ESQ. in her official and individual capacities,
JERALD BEER, ESQ. in his official and individual capacities,
BROAD & CASSEL, and, all of its Partners, Associates and Of Counsel, in their professional and individual capacities.
JAMES J. WHEELER, ESQ. in his professional and individual capacities,
FLORIDA SUPREME COURT,
Hon. Charles T. Wells, in his official and individual capacities,
Hon. Harry Lee Anstead, in his official and individual capacities,
Hon. R. Fred Lewis, in his official and individual capacities,
Hon. Peggy A. Quince, in his official and individual capacities,
Hon. Kenneth B. Bell, in his official and individual capacities,
THOMAS HALL, ESQ. in his official and individual capacities,
DEBORAH YARBOROUGH in her official and individual capacities,
DEPARTMENT OF BUSINESS AND
PROFESSIONAL REGULATION – FLORIDA,
CITY OF BOCA RATON, FLA., [Police Department]
DETECTIVE ROBERT FLECHAUS in his official and individual capacities,
CHIEF ANDREW SCOTT in his official and individual capacities,
CHRISTOPHER C. WHEELER, ESQ. in his professional and individual capacities. [now involved in the Estate and Trust matters]
MATTHEW M. TRIGGS, ESQ. in his official and individual capacity for The Florida Bar and his professional and individual capacities as a partner of Proskauer,

ALBERT T. GORTZ, ESQ. in his professional and individual capacities. [now involved in the Estate and Trust matters][18]

67. Petitioner feels that Judge Colin's acts outside the color of law have been intentional to prevent Petitioner from gaining his inheritance and having funds that could be used in this legal action against his court and Petitioner's other legal actions against members of the Florida Bar, including protecting what Judge Colin claims in a Florida Bar Publication to be his mentor[19], Chief Judge Jorge Labarga, who is a central figure in Petitioners ongoing civil and criminal complaints regarding theft of Intellectual Properties of Petitioner's and his father.

68. Judge Colin is acting outside his jurisdiction once he was mandated to disqualify on his own initiative and acting outside the color of law and therefore he should disqualify on his own initiative instantly and his orders must then be voided. Judge Colin is a disqualified judge who has not relinquished his unlawful jurisdiction.

69. Judge Colin now is also adverse to Petitioner because Petitioner has filed with the Federal Court in the Northern District of Illinois under The Honorable John Robert Blakey exposing the corruption in his Colin's court and throughout the Probate courts in Florida[20]. Petitioner is seeking to have these Probate cases transferred to the Federal Court involving estate related subject matter (the insurance breach of contract proceeds) under Blakey for investigation, review and further adjudication of the matters free

[18] Full List of Iviewit RICO Defendants @

http://iviewit.tv/CompanyDocs/Appendix%20A/index.htm

[19] Colin statement regarding Labarga as his mentor

http://www.iviewit.tv/Simon%20and%20Shirley%20Estate/20061224%20Palm%20Beach%20County%20Bar%20Association%20Judge%20Martin%20Colin%20Mentor%20Judge%20Labarga.pdf

[20] Omnibus Motion Federal Court

http://www.iviewit.tv/Simon%20and%20Shirley%20Estate/20150504%20FINAL%20ESIGNED%20NOTICE%20OF%20OMNIBUS%20MOTION%20ECF%20STAMPED%20COPY.pdf

of conflicts and illegal activities, once Judge Colin complies with the mandated disqualification or is forced off the case if he continues to refuse.

70. 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 action and filed criminal complaints against the Florida State Bar and thus all members are technically and legally conflicted and adverse to Petitioner as members of the organization Petitioner is pursuing.

71. Petitioner has been viciously retaliated by Judge Colin by denying him due process in one manner or another, acting above the law and removing rights of Petitioner and his Minor children, **while protecting his Court and those involved in criminal misconduct from exposure of the crimes committed in his and** Judge French`s court by Officers and Fiduciaries of the Court.

72. Where it may be learned by investigation that both Judge Colin and Judge French may be involved directly in the original Frauds Upon the Court and were willing participants in such crimes against Petitioner and his family, including but not limited to, Fraud on the Court, Fraud in the Court, Fraud by the Court, Forged documents posited with the Court by officers and fiduciaries of the Court, Fraudulent Notarizations (including Post Mortem for decedents in the actions) filed and posited with the Court, Illegal Closing of an Estate using a deceased person's identity and ultimately the possible Murder of Simon Bernstein as alleged by Ted Bernstein and others (not Petitioner) on the day Simon died.

73. Judge Colin`s actions once he failed to disqualify as mandated, outside the color law and without jurisdiction, make him an accomplice to current and ongoing fraud against Eliot and Eliot`s Minor children who are beneficiaries of the Estates and Trusts of Simon and Shirley Bernstein and it is clear that Eliot has valid fear that he has been denied due process and procedure once his mandatory disqualification was not entered on his own initiative.

Rule 2.330 (d) Grounds.
(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.

74. Judge Colin will be a material and fact witness regarding his direct involvement in the documents used fraudulently in his Court, regarding the interaction with the Officers of his Court involved, regarding the interaction with the Fiduciaries of his Court he appointed and his interaction with the Court employees involved in this case as described above, regarding the criminal misconduct that has occurred in and on his Court and that of Judge French's court. Judge Colin's position now as a material and fact witness MANDATE under Judicial Canon his INSTANT DISQUALIFICATION.

75. Judge Colin due to his direct involvement in the matters and failure to disqualify upon mandated grounds requiring his disqualification on his own initiative will now also make him a party of interest in ongoing and future criminal and civil actions to determine if he has committed felony acts and more in so acting outside the color of law. Now there is not only an appearance of impropriety but the alleged possible criminal misconduct of Judge Colin which may constitute criminal impropriety and again cause for MANDATORY DISQUALIFICATION.

76. Judge Colin cannot investigate his own court, himself and the officers and fiduciaries of his Court, especially where he is directly involved, due to the appearance of impropriety this creates and this appearance of impropriety prejudices Petitioner from due process rights.

Rule 2.330 Grounds.
(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.

77. This Motion is being made within 10 days from Petitioner's receipt of a "FINAL ORDER GRANTING SUCCESSOR TRUSTEE'S MOTION TO APPROVE SALE OF TRUST PROPERTY signed May 06, 2015. Where this Order, as with all Orders issued after Judge Colin's Mandatory Disqualification was failed, is an illegally obtained Order and therefore legally void, other grounds for this Order mandating disqualification have also been described herein.

78. This Motion for Disqualification 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 judicial acts both past, present and future are all grounds for immediate investigation, disqualification, voiding of all orders and sanctions.

Rule 2.330 Gronnds.
(f) Determination - Initial Motion.
The jndge against whom an initial motion to disqnalify nnder 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.

79. Petitioner states that the Motion is legally sufficient under Rule 2.330 as it fully complies with this code and whether Petitioner has filed a legally sufficient pleading would not negate the fact that Judge Colin has to voluntarily disqualify under Judicial Canons, Attorney Conduct Codes and Law and whereby whether legally sufficient or not 2.330 allows Colin to disqualify on his own.

Rule 2.330 Grounds.
(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.

80. Petitioner states there have been no Successive Motions.

Rule 2.330 Grounds.
(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.

81. Petitioner seeks that upon disqualification of Judge Colin, that all prior factual or legal rulings be vacated by the successor judge due to the alleged criminal acts and civil torts against Petitioner. That further, Petitioner seeks a replacement Judge who is not a member of the Florida Bar to preside over the cases of Judge Colin involving the Estates and Trusts of Simon and Shirley Bernstein and the case involving the Trusts of Petitioner's minor children. That due to the fact that Petitioner does not feel he can get a fair and impartial hearing in the State of Florida by members of the Florida Bar Petitioner is seeking this Court to move the matters to a Federal Court[21]. The following cases that Judge Colin presides over are all tainted for the same reasons as stated herein and judge Colin should immediately voluntarily disqualify himself from these cases as well and save Petitioner the expense and aggravation of having to file Disqualification pleadings in each case to force his mandated disqualification:

[21] May 14, 2015 Letter to Judge Blakey

http://www.iviewit.tv/Simon%20and%20Shirley%20Estate/20150514%20Letter%20Scheduling%20and%20Discovery%20to%20Hon%20Judge%20John%20Robert%20Blakey.pdf

a. Case# 502012CP004391XXXXSB – Simon Bernstein Estate

b. Case# 502011CP000653XXXXSB – Shirley Bernstein Estate

c. Case# 502014CP002815XXXXSB – Oppenheimer v. Bernstein Minor Children

d. Case# 502014CP003698XXXXSB – Shirley Trust Construction

e. Case# 502015CP001162XXXXSB – Eliot Bernstein v. Trustee Simon Trust Case OLD Case# 502014CA014637XXXXMB

Rule 2.330 Grounds.
(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.

82. 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) and Judicial Canon, Attorney Conduct Codes and Law.

Rule 2.330 Grounds.
(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.

83. 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 and Petitioner's expectancies that this Disqualification be made instantly as it is legally sufficient and MANDATED. 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.

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

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.

85. 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 then he must on his own motion and initiative disqualify himself 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 14th day of May, 2015

Respectfully Submitted,

Eliot Ivan Bernstein
2753 NW 34th ST
Boca Raton, FL 33434
Telephone. 561-245-8588
iviewit@iviewit.tv

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 14th day of May, 2015.

Eliot Ivan Bernstein
2753 NW 34th ST
Boca Raton, FL 33434
Telephone. 561-245-8588
iviewit@iviewit.tv

STATE OF FLORIDA

COUNTY OF PALM BEACH COUNTY

Sworn to or affirmed and subscribed before me this 14th day of May, 2015 by Eliot Ivan Bernstein who is known to me or produced the following identification. California DL #C1695608

NOTARY PUBLIC Sarah Barnett

Print name of Notary: Sarah Barnett

Stamp

SARAH BARNETT
MY COMMISSION # EE214537
EXPIRES July 05, 2016
(407) 398-0153 FloridaNotaryService.com

My commission expires: 07/05/2016

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
2753 NW 34th Street
Boca Raton, FL 33434
(561) 245-8588
iviewit@iviewit.tv

May 14th, 2015

STATE OF FLORIDA

COUNTY OF PALM BEACH

Sworn to or affirmed and subscribed before me this 14th day of May, 2015 by Eliot Ivan Bernstein who is known to me or produced the following identification California DL #C6956008

Notary Public Sarah Barnett

Print name: Sarah Barnett

Stamp

My commission expires: 07/05/2016

SARAH BARNETT
MY COMMISSION # EE214537
EXPIRES July 05, 2016
(407) 398-0153 FloridaNotaryService.com

EXHIBIT 1 - URL EXHIBITS FULLY INCORPORATED BY REFERENCE HEREIN IN THE MOTION

1. **November 05, 2012 Memorandum**

   http://www.iviewit.tv/Simon%20and%20Shirley%20Estate/20121105%20Court%20Memorandum%20Need%20Notarization%20Reciepts%20for%20assets%20from%20all%20of%20specific%20beneficiaries%20were%20not%20notarized.pdf

2. **Simon Bernstein un-notarized Waiver @ URL**

   http://iviewit.tv/Simon%20and%20Shirley%20Estate/20120409%20WAIVER%20SIMON%20UNNOTARIZED%20SIGNED%2020120409%20NOT%20FILED%20UNTIL%2020121024%20EIB%20COMMENTS.pdf

3. **Simon Bernstein un-notarized Petition for Discharge (Full Waiver) @ URL**

   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

4. **Affidavit of No Florida Estate Tax Due @ URL**

   http://www.iviewit.tv/Simon%20and%20Shirley%20Estate/20120409%20Affidavit%20of%20No%20Florida%20Estate%20Tax%20Due%20SIGNED%2020110409%20NOT%20FILED%20until%2020121024%20Shirley.pdf

5. **Probate Checklist**

   http://www.iviewit.tv/Simon%20and%20Shirley%20Estate/20120215%20Prbate%20Checklist%20Shirley%20NOT%20FILED%20UNTIL%20OCTOBER%2024%202010.pdf

6. **Order of Discharge**

   http://www.iviewit.tv/Simon%20and%20Shirley%20Estate/20130103%20Order%20of%20Discharge%20Shirley%20Signed%20Judge%20Colin%20Scratched%20Date%20no%20initials.pdf

7. **May 06, 2013 Petition @ URL**

http://www.iviewit.tv/Simon%20and%20Shirley%20Estate/20130506%20FINAL%20SIGNED%20Petition%20Freeze%20Estates%20Orginal%20Large.pdf

8. **Palm Beach County Sheriff and Coroner's Reports (Pages 25-28 Sheriff Report and Pages 32-41 Coroner Report)**
http://iviewit.tv/Simon%20and%20Shirley%20Estate/20140912%20Sheriff%20and%20Coroner%20Reports.pdf

   The Court should note that the initial autopsy failed to run a poison heavy metal test but Petitioner upon finding out that this had not been done ordered the Coroner to test for poison and on March 10, 2014, over a year and half after Simon died, it was completed (Pages 42-44) and several poisons showed elevated levels and the deceased had morphed to a **113 year old male**.

9. **September 13, 2013 Hearing Judge Colin**

   http://iviewit.tv/Simon%20and%20Shirley%20Estate/20130913%20TRANSCRIPT%20mirandas.pdf

10. **May 06, 2013 Petition - Section III "POST MORTEM AUTOPSY DEMAND AND SHERIFF DEPARTMENT INVESTIGATION OF ALLEGATIONS OF MURDER"**

11. **May 06, 2013 Petition - Section XV "The Elephant in the Room" Pages 57-82**

12. **September 13, 2013 Hearing Page 11**

    http://www.iviewit.tv/Simon%20and%20Shirley%20Estate/20130913%20TRANSCRIPT%20Emergency%20Hearing%20Colin%20Spallina%20Tescher%20Ted%20Manceri%20ELIOT%20COMMENTS.pdf

13. **October 28, 2013 Evidentiary Hearing**

    http://iviewit.tv/Simon%20and%20Shirley%20Estate/20131028%20Evidentiary%20Hearing%20TRANSCRIPT%20Shirley%20Estate.pdf

14. **Brand Pratt Letter and Conflict of Interest Disclosure Form**

    http://www.iviewit.tv/Simon%20and%20Shirley%20Estate/20131109HuthPrattWithdrawalLetterandConflictDisclosure.pdf

15. **O'Connell Affirmative Defense, Ted is not a 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 (Page 7)

16. **Peter Feaman, Esq. Letter to Brian O'Connell Regarding Ted Bernstein and Alan Rose, Esq. misconduct**

http://www.iviewit.tv/Simon%20and%20Shirley%20Estate/20141216%20Attorney%20Peter%20Feaman%20Letter%20to%20Attorney%20Personal%20Representative%20Brian%20O%27Connell%20re%20Ted%20and%20Alan%20Conflicts.pdf

17. **Answer and Counter Complaint Oppenheimer Lawsuit Page 2 - Colin and French listed as Witnesses and Possible Defendants**

http://www.iviewit.tv/Simon%20and%20Shirley%20Estate/20140902%20Final%20Signed%20Printed%20Counter%20Complaint%20Trustee%20Construction%20Lawsuit%20ECF%20Filing%20Copy.pdf

18. **Full List of Iviewit RICO Defendants @**

http://iviewit.tv/CompanyDocs/Appendix%20A/index.htm

19. **Colin statement regarding Labarga as his mentor**

http://www.iviewit.tv/Simon%20and%20Shirley%20Estate/20061224%20Palm%20Beach%20County%20Bar%20Association%20Judge%20Martin%20Colin%20Mentor%20Judge%20Labarga.pdf

20. **Omnibus Motion Federal Court**

http://www.iviewit.tv/Simon%20and%20Shirley%20Estate/20150504%20FINAL%20ESIGNED%20NOTICE%20OF%20OMNIBUS%20MOTION%20ECF%20STAMPED%20COPY.pdf

21. **May 14, 2015 Letter to Judge Blakey**

http://www.iviewit.tv/Simon%20and%20Shirley%20Estate/20150514%20Letter%20Scheduling%20and%20Discovery%20to%20Hon%20Judge%20John%20Robert%20Blakey.pdf

"Surf with Vision"

Eliot I. Bernstein
Founder & Inventor
Direct Dial: (561) 245-8588 (o)
(561) 886-7628 (c)

Thursday, May 14, 2015

The Honorable John Robert Blakey
United States District Court for the Northern District of Illinois Eastern Division
Everett McKinley Dirksen
United States Courthouse
219 South Dearborn Street
Chicago, IL 60604
Courtroom 1725 | Chambers 1046
Telephone Number: (312) 435-6058
Fax Number: (312) 554-8195

RE: CASE NO. 13 CV 3643 - SCHEDULING AND DISCOVERY

Dear Honorable Judge John Robert Blakey,

I write to acknowledge and express my understanding of my obligations to conform my filings to the formatting rules of the Court and matters within the Court's jurisdiction. I also write in regards to Scheduling issues after our status call this week with your Court indicating Discovery to be closed upon the taking of the Deposition of my brother, Plaintiff, Ted Bernstein.

I will respectfully be seeking leave by way of formal motion to open the Discovery not only for further examination of Ted Bernstein but also to Notice for

Deposition Judge Martin Colin of the Palm Beach Probate Court who I have just petitioned for Mandatory Disqualification on numerous grounds under the Florida Rules and Code including but not limited to being a necessary fact witness and material witness to actions of fraud upon his Court involving licensed attorneys Tescher and Spallina who have also been part of the litigation before this Court.

I have attached the Disqualification motion herein with respect to Florida Judge Colin for good faith reference and seek leave to move by way of formal motion within this Court's formatting rules to demonstrate the intertwined nature of the actions in this Court with the fraud and actions in Judge Colin's Court.

Please note that the car-bombing of my family mini-van in Boynton Beach, Florida was a very real thing and not a day goes by when I don't wonder what will happen any time my wife, children or I get in to a car. Full pictorial evidence and reports by involved authorities thus far can be found at my website at www.iviewit.tv .

This car-bombing was also reported as part of a Petition I filed with the White House to President Obama, the White House Counsel's Office, the US Attorney General, FBI, SEC and other related federal and state agencies and I have attached a link to this Petition which provides a good overview of the "elephant in the room" being the nature of my Technology which is used on the Hubble Space Telescope, for a mass of US Defense applications, across the globe for digital imaging across the internet and more and also outlines how I was directed by Harry I. Moatz of the Office of Enrollment and

Discipline of the USPTO to file a Petition claiming fraud upon the United States as well as myself and shareholders involving the Technology, which led to suspensions of the Intellectual Properties. The Technology was validated, used, tested and approved by leading engineers and computer experts on property owned by Lockheed Martin in Orlando, Florida at Real3d, Inc. which was at that time a consortium owned by the Intel Corporation, Lockheed Martin and Silicon Graphics and the technologies were valued in the hundreds of billions of dollars over the life of the IP claimed as the "holy grail" of the internet by these leading engineers. See,

http://www.iviewit.tv/CompanyDocs/United%20States%20District%20Court%20Southern%20District%20NY/20090213%20FINAL%20SIGNED%20LETTER%20OBAMA%20TO%20ENJOIN%20US%20ATTORNEY%20FINGERED%20ORIGINAL%20MAIL%20I.pdf .

Also please note that not only is the car-bombing a very real event that occurred in my life during this ongoing Technology fraud and theft, but as noted in the White House Petition and elsewhere even a Federal Agent such as FBI Special Agent Luchessi of the Palm Beach Office of the FBI has "gone missing" according to West Palm Beach Florida FBI Office (leading to my being directed to former Inspector General Glenn Fine of the Department of Justice for resolution, which still has not occurred) while investigating the Iviewit matters leaving myself in a position of not being able to trust even federal officers and agents and thus I typically err on the side of documenting all

important information in all known places and federal state and international offices. Now as you may be aware from my prior filings, there are new frauds and criminal acts by same, similar, and/or related actors with reports that my father may have been murdered.

Since the time of the February 2009 White House Petition filing when I was personally on the phone line confirming the fax number and receipt for the White House and White House Counsel's office, not a single US Secret Service Officer, Capitol Police, US Marshall or other federal agent has shown up to say I filed a frivolous and harassing Petition to the President or to challenge the veracity of my statements in the Petition. Again, I respectfully remind the Court that I was directed by a Federal official, Harry I. Moatz, Director of the Office of Enrollment and Discipline, to file a petition for suspension claiming Fraud Upon the United States by Patent Bar Attorneys and others

Judge St. Eve had already granted me Leave to Amend my Complaint and the motion to take Florida Judge Colin's Deposition in this Court will demonstrate the relevance to these proceedings and action by the intertwined orchestration of fraud cover up by Judge Colin in his Court also involving Ted Bernstein who is a party in this action and attorney Spallina and others common in both cases also exposing the depth and breadth of the powerful financial interests at play. See the 2009 SEC Petition for general background,

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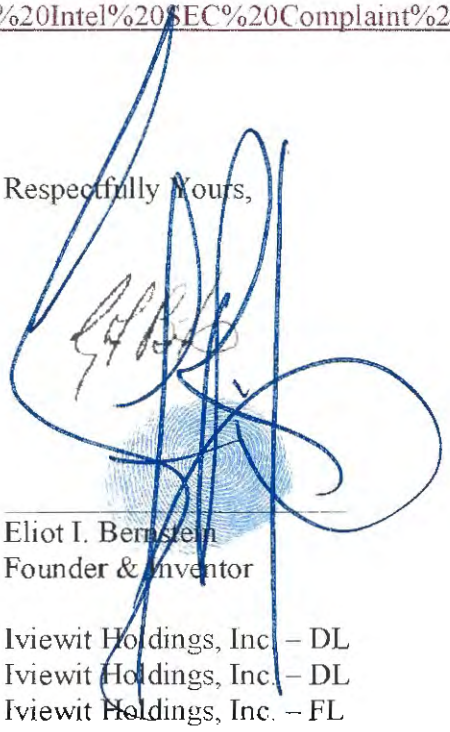
2753 N.W. 34th St. Boca Raton, Florida 33434-3459
(561) 245.8588 (o) / (561) 886.7628 (c) / (561) 245-8644 (f)
iviewit@iviewit.tv - www.iviewit.tv

http://www.iviewit.tv/CompanyDocs/United%20States%20District%20Court%20Southern%20District%20NY/20090325%20FINAL%20Intel%20SEC%20Complaint%20SIGNED2073.pdf

Respectfully Yours,



Eliot I. Bernstein
Founder & Inventor

Iviewit Holdings, Inc. – DL
Iviewit Holdings, Inc. – DL
Iviewit Holdings, Inc. – FL
Iviewit Technologies, 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

cc/ec:

Enclosure(s)/Attachment(s)/URL's

All Uniform Resource Locators (URL's) and the contents of those URL's are incorporated in entirety by reference herein and therefore must be included in your hard copy file WITH ALL EXHIBITS, as part of this correspondence and as further evidentiary material to be Investigated. Due

to allegations alleged by New York State Supreme Court Whistleblower Christine C. Andersou and similar claims iu the Iviewit RICO & ANTITRUST Lawsuit regardiug Documeut Destruction and Tampering with Official Complaints and Records, PRINT all referenced URL's and their corresponding exhibits and attach them to your hard copy file, as this is now necessary to ensure fair and impartial review.

In order to coufirm that NO DOCUMENT DESTRUCTION OR ALTERCATIONS have occurred, once complete forward a copy of this correspondence with all exhibits and materials included to, Eliot I. Bernstein at the address listed herein. This will iusure that all parties are reviewiug the same documentation and no additional illegal activity is taking place. If you, for any reason, are incapable of providing this confirmation copy, please put your reasons for failure to comply in writing and send that to Eliot I. Bernstein at the address listed hereiu. Note, that this is a request only for a copy of this Correspondeuce and the referenced materials and NOT a request for any Case Investigation information, which may be protected by law.

cmb/eib

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iviewit@iviewit.tv - www.iviewit.tv

EXHIBIT B

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT IN AND FOR PALM BEACH COUNTY, FLORIDA PROBATE /GUARDIANSHIP DIVISION "IY"

CASE NO. 502014CP003698XXXXSB

TED BERNSTEIN, AS TRUSTEE OF THE SHIRLEY BERNSTEIN TRUST AGREEMENT DATED MAY 20, 2008, AS AMENDED,
Plaintiff,

v.

ALEXANDER BERNSTEIN; ET AL.,
Defendants.
_____/

ORDER DENYING VERIFIED SWORN EMERGENCY PETITION AND AFFIDAVIT FOR IMMEDIATE DISQUALIFICATION OF JUDGE MARTIN COLIN

THIS CAUSE came before the Court on Eliot Bernstein's Verified Sworn Emergency Petition and Affidavit for Immediate Disqualification of Judge Martin Colin. It is hereby,

ORDERED AND ADJUDGED that the Eliot Bernstein Verified Sworn Emergency Petition and Affidavit for Immediate Disqualification is **Denied** as legally insufficient.

DONE AND ORDERED in chambers, at Delray Beach, Palm Beach County, Florida this 18th day of May, 2015.

SIGNED & DATED
MAY 18 2015
JUDGE MARTIN H. COLIN

MARTIN H. COLIN
Circuit Court Judge

Copies furnished:
Eliot Bernstein, individually
and Eliot and Candice Bernstein,
2753 NW 34th Street
Boca Raton, Fl. 33434

John P. Morrissey, Esquire
330 Clematis Street, Suite 213
West Palm Beach, Fl. 33401

Alan Rose, Esquire
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Pamela Beth Simon
303 East Wacker Drive, Suite 2725
Chicago, IL 60601

Brian M. O'Connell, Esquire
515 North Flagler Drive, 20th Floor
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EXHIBIT C

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

CASE NO: **502011CP000653XXXXSB**
PROBATE DIVISION: **IY**

IN RE: SHIRLEY BERNSTEIN
ESTATE
_____/

ORDER OF RECUSAL

SUA SPONTE, This Court hereby recuses itself in connection with the above styled case. In that this Court has discussed this case and related cases with the other two Judges in South County, it is requested that the Clerk not reassign this case to a South County Court Judge, but to randomly do so to another Probate Judge in North County.

DONE and ORDERED in chambers, at Delray Beach, Palm Beach County, Florida, this 19th day of May, 2015.

MARTIN H. COLIN
Circuit Judge

Copies furnished:
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West Palm Beach, Fl. 33401

Pamela Beth Simon
950 North Michigan Avenue, #2603
Chicago, IL 60611

Max Friedstein and Carley
Friedstein, Minors
c/o Jeffrey and Lisa Friedstein
2142 Churchill Lane
Highland Park, IL 60035

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

CASE NO: **502015CP001162XXXXSB**
PROBATE DIVISION: **IY**

ELIOT BERNSTEIN, individually; ELIOT BERNSTEIN as a beneficiary of the 2008 SIMON L. BERNSTEIN TRUST AGREEMENT, as amended and restated in the SIMON L. BERNSTEINAMENDED AND RESTATED TRUST AGREEMENT dated July 25, 2012 and as Legal Guardian of JOSHUA BERNSTEIN, JACOB BERNSTEIN, and DANEIL BERNSTEIN,
Plaintiffs,

v.

THEODORE STUART BERNSTEIN, individually; THEODORE STUART BERNSTEIN, as Successor Trustee of the 2008 SIMON L. BERNSTEIN TRUST AGREEMENT, as amended and restated in the SIMON L. BERNSTEIN AMENDED AND RESTATED TRUST AGREEMENT dated July 25, 2012; ALEXANDRA BERNSTEIN; ERIC BERNSTEIN; MICHAEL BERNSTEIN; MOLLY SIMON; JULIA IANTONI; MAX FRIEDSTEIN; CARLY FRIEDSTEIN; JOHN AND JANE DOE 1-5000,
Defendants.
_____/

ORDER OF RECUSAL

SUA SPONTE, This Court hereby recuses itself in connection with the above styled case. In that this Court has discussed this case and related cases with the other two Judges in South County, it is requested that the Clerk not reassign this case to a

South County Court Judge, but to randomly do so to another Probate Judge in North County.

DONE and ORDERED in chambers, at Delray Beach, Palm Beach County, Florida, this 19th day of May, 2015.

MARTIN H. COLIN
Circuit Judge

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West Palm Beach, Fl. 33401

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West Palm Beach, Fl. 33401

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

CASE NO: **502014CP002815XXXXSB**
PROBATE DIVISION: **IY**

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.
_____/

ORDER OF RECUSAL

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DONE and ORDERED in chambers, at Delray Beach, Palm Beach County, Florida, this 19th day of May, 2015.

MARTIN H. COLIN
Circuit Judge

Copies furnished:
Eliot and Candice Bernstein
2753 NW 34th Street
Boca Raton, Fl. 33434

Steven A. Lessne, Esquire
777 South Flagler Drive, Suite 500 East
West Palm Beach, Fl. 33401

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

CASE NO: **502012CP004391XXXXSB**
PROBATE DIVISION: **IY**

THE ESTATE OF
SIMON L. BERNSTEIN,
Deceased.
_____/

ORDER OF RECUSAL

SUA SPONTE, This Court hereby recuses itself in connection with the above styled case. In that this Court has discussed this case and related cases with the other two Judges in South County, it is requested that the Clerk not reassign this case to a South County Court Judge, but to randomly do so to another Probate Judge in North County.

DONE and ORDERED in chambers, at Delray Beach, Palm Beach County, Florida, this 19th day of May, 2015.

MARTIN H. COLIN
Circuit Judge

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Lisa Friedstein and Carley
Friedstein, Minors
c/o Jeffrey and Lisa Friedstein
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Joshua, Jacob and Daniel
Bernstein, Minors
c/o Eliot Bernstein
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Boca Raton, Fl. 33434

Irwin J. Block, Esquire
700 S. Federal Highway, Suite 200
Boca Raton, Fl. 33432

Gary Shendell, Esquire
2700 N. Military Trail, Suite 150
Boca Raton, Fl. 33431

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

CASE NO: **502012CP004391XXXXSB**
PROBATE DIVISION: **IY**

THE ESTATE OF
SIMON L. BERNSTEIN,
Deceased.
_____/

ORDER OF RECUSAL

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DONE and ORDERED in chambers, at Delray Beach, Palm Beach County, Florida, this 19th day of May, 2015.

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Circuit Judge

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

CASE NO: **502014CP003698XXXXSB**
PROBATE DIVISION: **IY**

TED BERNSTEIN, AS TRUSTEE OF THE SHIRLEY BERNSTEIN TRUST AGREEMENT DATED MAY 20, 2008, AS AMENDED,
Plaintiff,

v.

ALEXANDER BERNSTEIN; ET AL.,
Defendants.
_____/

ORDER OF RECUSAL

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DONE and ORDERED in chambers, at Delray Beach, Palm Beach County, Florida, this 19th day of May, 2015.

MARTIN H. COLIN
Circuit Judge

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and Eliot and Candice Bernstein,
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IN THE CIRCUIT COURT OF THE FIFTEENTH
JUDICIAL CIRCUIT, IN AND FOR PALM BEACH
COUNTY, FLORIDA

CASE NO: **502011CP000653XXXXSB**
PROBATE DIVISION: **IY**

IN RE: SHIRLEY BERNSTEIN
ESTATE
_____/

ORDER OF RECUSAL

SUA SPONTE, This Court hereby recuses itself in connection with the above styled case. In that this Court has discussed this case and related cases with the other two Judges in South County, it is requested that the Clerk not reassign this case to a South County Court Judge, but to randomly do so to another Probate Judge in North County.

DONE and ORDERED in chambers, at Delray Beach, Palm Beach County, Florida, this 19th day of May, 2015.

MARTIN H. COLIN
Circuit Judge

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Jill Iantoni
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West Palm Beach, Fl. 33401

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Fort Lauderdale, Fl. 33308

Robert Spallina, Esquire
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Boca Raton, Fl. 33431

Donald Tescher, Esquire
Boca Village Corporate Center I
4855 Technology Way, Suite 720
Boca Raton, Fl. 33431

Julia Iantoni, a Minor
c/o Guy and Jill Iantoni
2101 Magnolia Lane
Highland Park, IL 60035

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

PROBATE DIVISION
CASE NUMBER: **502012CP004391XXXXNB**
DIVISION: IJ

IN RE: ESTATE OF

SIMON L BERNSTEIN, Deceased

CLERK'S NOTICE OF REASSIGNMENT

Pursuant to Court order of the Honorable **JUDGE MARTIN H COLIN** dated ***05/19/15***, the above styled case is reassigned to Division ***IJ***, Judge(s) ***JUDGE HOWARD K COATES*** for all further proceedings.

WITNESS my hand and seal of this Court this 19 day of May, 2015.

Sharon R. Bock
Clerk & Comptroller

BY: _____
Deputy Clerk

SHARON R. BOCK, CLERK
PALM BEACH COUNTY, FL
SOUTH CTY BRANCH FILED
2015 MAY 19 PM 4:27

cc:
CC: ALL PARTIES

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

PROBATE DIVISION 2011
CASE NUMBER: 502012CP000653XXXXNB
DIVISION: IJ

IN RE: ESTATE OF

SHIRLEY BERNSTEIN, Deceased

CLERK'S NOTICE OF REASSIGNMENT

Pursuant to Court order of the Honorable **JUDGE MARTIN H COLIN** dated ***05/19/15***, the above styled case is reassigned to Division ***IJ***, Judge(s) ***JUDGE HOWARD K COATES*** for all further proceedings.

WITNESS my hand and seal of this Court this 19 day of May, 2015.

Sharon R. Bock
Clerk & Comptroller

(Seal)

BY: _____
Deputy Clerk

SHARON R. BOCK, CLERK
PALM BEACH COUNTY, FL
SOUTH CITY BRANCH FILED
2015 MAY 19 PM 4:27

cc:
CC: ALL PARTIES

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

PROBATE DIVISION
CASE NUMBER: **502014CP003698XXXXNB**
DIVISION: IJ

IN RE: SHIRLEY BERNSTEIN TRUST AGREEMENT

DTD MAY 20, 2008, AS AMENDED

CLERK'S NOTICE OF REASSIGNMENT

Pursuant to Court order of the Honorable **JUDGE MARTIN H COLIN** dated ***05/19/15***, the above styled case is reassigned to Division ***IJ***, Judge(s) ***JUDGE HOWARD K COATES*** for all further proceedings.

WITNESS my hand and seal of this Court this 19 day of May, 2015.

(Seal)

Sharon R. Bock
Clerk & Comptroller

BY: _____
Deputy Clerk

SHARON R. BOCK, CLERK
PALM BEACH COUNTY, FL
SOUTH CTY BRANCH-FILED
2015 MAY 19 PM 4:27

cc:
CC: ALL PARTIES

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

PROBATE DIVISION
CASE NUMBER: **502015CP001162XXXXNB**
DIVISION: IJ

IN RE: THE 2008 SIMON L. BERNSTEIN TRUST AGREEMENT

CLERK'S NOTICE OF REASSIGNMENT

Pursuant to Court order of the Honorable **JUDGE MARTIN H COLIN** dated ***05/19/15***, the above styled case is reassigned to Division ***IJ***, Judge(s) ***JUDGE HOWARD K COATES*** for all further proceedings.

WITNESS my hand and seal of this Court this 19 day of May, 2015.

2015 MAY 19 PM 4:26
SHARON R. BOCK, CLERK
PALM BEACH COUNTY, FL
SOUTH CITY BRANCH-FILED

(Seal)

Sharon R. Bock
Clerk & Comptroller

Deputy Clerk

cc:
CC: ALL PARTIES

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

PROBATE DIVISION
CASE NUMBER: **502014CP003698XXXXNB**
DIVISION: IJ

IN RE: SHIRLEY BERNSTEIN TRUST AGREEMENT

DTD MAY 20, 2008, AS AMENDED

CLERK'S NOTICE OF REASSIGNMENT

Pursuant to Court order of the Honorable **JUDGE MARTIN H COLIN** dated ***05/19/15***, the above styled case is reassigned to Division ***IJ***, Judge(s) ***JUDGE HOWARD K COATES*** for all further proceedings.

WITNESS my hand and seal of this Court this 19 day of May, 2015.

(Seal)

Sharon R. Bock
Clerk & Comptroller

BY: _____
Deputy Clerk

SHARON R. BOCK
PALM BEACH COUNTY, FLA.
SOUTH CITY BRANCH-FILED
2015 MAY 19 PM 4:27

cc:
CC: ALL PARTIES

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

PROBATE DIVISION
CASE NUMBER: **502014CP002815XXXXNB**
DIVISION: IJ

IN RE: SIMON BERNSTEIN IRREVOCABLE TRUSTS CREATED FOR THE BENEFIT OF JOSHUA, JAKE & DANIEL BERNSTEIN

CLERK'S NOTICE OF REASSIGNMENT

Pursuant to Court order of the Honorable **JUDGE MARTIN H COLIN** dated ***05/19/15***, the above styled case is reassigned to Division ***IJ***, Judge(s) ***JUDGE HOWARD K COATES*** for all further proceedings.

WITNESS my hand and seal of this Court this 19 day of May, 2015.

(Seal)

Sharon R. Bock
Clerk & Comptroller

BY: _____
Deputy Clerk

SHARON R. BOCK, CLERK
PALM BEACH COUNTY, FL
SOUTH CITY BRANCH FILED
2015 MAY 19 PM 4:27

cc:
CC: ALL PARTIES

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

PROBATE DIVISION
CASE NUMBER: **502012CP004391XXXXNB**
DIVISION: IJ

IN RE: ESTATE OF

SIMON L BERNSTEIN, Deceased

CLERK'S NOTICE OF REASSIGNMENT

Pursuant to Court order of the Honorable **JUDGE MARTIN H COLIN** dated ***05/19/15***, the above styled case is reassigned to Division ***IJ***, Judge(s) ***JUDGE HOWARD K COATES*** for all further proceedings.

WITNESS my hand and seal of this Court this 19 day of May, 2015.

15TH JUDICIAL CIRCUIT COURT · CLERK & COMPTROLLER · PALM BEACH COUNTY · STATE OF FLORIDA

Sharon R. Bock
Clerk & Comptroller

BY: _____
Deputy Clerk

SHARON R. BOCK, CLERK
PALM BEACH COUNTY, FL
SOUTH CTY BRANCH FILED

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