

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
FOURTH DISTRICT, 1525 PALM BEACH LAKES BLVD., WEST PALM BEACH, FL 33401

CASE NO.: 4D15-3849  
L.T. No.: 502011CP00653XXXXSB  
502014CA014637XXXXMB  
502014CP002815XXXXSB  
502014CP003698XXXXSB  
502015CP001162XXXXNB  
502015CP002717XXXXNB

ELIOT BERNSTEIN

v. ESTATE OF SIMON BERNSTEIN

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Appellant / Petitioner(s)

Appellee / Respondent(s)

**Motion for Rehearing En Banc**

Eliot I. Bernstein, Petitioner-Appellant herein, respectfully shows this Court as follows:

1. I am the Petitioner Pro Se and file this Motion for a Rehearing En Banc of this Court's determination and dismissal of a prior petition for All Writs further seeking a Stay and Injunctive relief originally filed at the Florida Supreme Court on June 10, 2015, and re-filed on June 30, 2015 to conform with page requirements.
2. While acting pro se, I nonetheless express a belief that this case and issues are of exceptional importance under Florida Rules of Appellate Procedure 9.331.
3. The motion is further timely within Florida Rules of Appellate Procedure 9.330.
4. This Court originally issued a Decision on Nov. 30, 2015 Dismissing the All Writs Petition as "Moot" but in the caption of the Decision it only referenced the Writ of Prohibition making it unclear if the other portions of Petitioner's All Writs were Dismissed as well as

“moot” as Petitioner was seeking Mandamus relief against Florida Judge Martin Colin and other relief such as a Stay and Injunctive relief.

5. Petitioner initiated a procedural phone call to the 4th DCA on or about Nov. 30, 2015 the same day of the Decision to determine the procedure for such a Clarification and originally was told by the Clerk Staff from the 4th DCA the Dismissal applied to the entire petition.
6. Very shortly thereafter, in order to be clear on this Court’s ruling, Petitioner made a subsequent call on that same day of Nov. 30, 2015 speaking to the same 4th DCA Clerk Staff to again seek procedural guidance on how to clarify this ruling and the 4th DCA Clerk stated “they told me” the Dismissal applied to all parts of the Petition referring to the original Decision of Nov. 30, 2015 which Denied the Writ of Prohibition as “Moot” and referenced Oct. 15, 2015 as the filing date of the Petition which was filed June 30, 2015 at the Florida Supreme Court.
7. The 4th DCA Clerk clarified that this filing date was the date the All Writs Petition was Transferred by the Florida Supreme Court.
8. Within 15 minutes to a half hour or less on Nov. 30, 2015, I received an Amended copy of this Decision which now referenced the filing date of July 1, 2015 and Denying the entire Petition as “moot”.

**This is a Case of Exceptional Importance**

9. The Petition for All Writs brought up for the Florida Supreme Court the appropriateness of even ruling on the Petition for All Writs based upon a warned Conflict of Interest stemming from the following Petitioned in the All Writs:

“Eliot Ivan Bernstein has pursued in investigations since early 2000 to present, including a Petition to the White House<sup>1</sup>, the White House Counsel’s Office, the US Attorney General’s Office, investigations to the SEC<sup>2</sup>, FBI, and various State Attorney Generals, and actions with the USPTO, and other legal actions, including RICO and ANTITRUST civil litigation and criminal complaints several Florida Supreme Court Justices, The Florida Bar, several New York Supreme Court Justices, the New York Supreme Court Disciplinary Agencies 1<sup>st</sup> & 2<sup>nd</sup>, several large law firms and lawyers, political figures at the highest levels in both Florida and New York and others and this may cause any review of the following matters by any member of The Florida Bar, a subsidiary of the Florida Supreme Court, with any title in the organization, to prejudice the rights of Eliot Bernstein and his family and will be construed as a denial of due process that obstructs justice.”

10. This Conflicts of Interest section went on to further expressly name the following:

Defendants in the RICO and other actions include:

- “STATE OF FLORIDA,
- OFFICE OF THE STATE COURTS ADMINISTRATOR, FLORIDA,
- **FLORIDA SUPREME COURT,**

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

2

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

- o 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.]
- o Charles T. Wells, in his official and individual capacities,
- o Harry Lee Anstead, in his official and individual capacities,
  - R. Fred Lewis, in his official and individual capacities,
  - Peggy A. Quince, in his official and individual capacities,
  - Kenneth B. Bell, in his official and individual capacities,
  - THOMAS HALL, ESQ. in his official and individual capacities,
- o **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,
- DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION – FLORIDA,”

11. A simple review of the cited resource locator in the All Writs Petition at

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

would show any reviewing body or jurist that the underlying frauds at issue having been reported to the White House, White House Counsel’s Office, US Attorney General’s Office and various Federal Agencies such as the FBI implicate an ongoing Fraud upon the United States itself being fraud at the USPTO.

12. Even without reviewing the information at this resource locator, the plain text at the All Writs Petition further showed that the frauds had now elevated into Estate and Trust frauds within the State of Florida and the possible murder of Simon Bernstein and further implicating members of the Florida Supreme Court and Florida Bar as follows:

“That the Florida judicial system has not only failed Bernstein twice in protecting his properties, life and liberty but it has played a significant role in the alleged criminal acts committed against Petitioner, his family and now perhaps has led to the death of his father, as alleged by Petitioner’s brother Ted as a possible “murder.” The recent criminal acts committed by Florida Bar attorneys and fiduciaries of the estates and trusts of Simon and Shirley Bernstein. These estate and trust crimes part of a fraudulent scheme and an attempt to rob and preclude Petitioner from inheritance, through Post Mortem crimes committed

after the passing of his mother and father Shirley and Simon Bernstein through sophisticated complex legal frauds, including multiple Frauds on the Court and Fraud by the Court itself, with irrefutable evidence of criminal acts by lawyers and law firms and now new allegations that Judges are involved on the attempt to fix and silence the crimes of other members of the Florida Bar and others.

That in the original instance of fraud that occurred against Petitioner and his family in the Courts, many of the Florida Supreme Court Justices named herein may recall that Bernstein in early 2000 began pursuing members of the Florida Bar from a case that began with Jorge Labarga and the international law firm Proskauer Rose intimately involved in thefts of technologies valued as “The Holy Grail” and “Priceless” by leading engineers and when Judge LaBarga was a circuit court judge in Palm Beach County and the complaints against the lawyers and judges involved made their way all the way up to the Supreme Court and why many of the Florida Supreme Court Justices are named in all ongoing actions, including the instant matters involving the fraud on the court of Judge Martin Colin and Judge David French, where yet again we find members of the Florida Bar, two Florida judges and several more Florida attorneys at law involved in the criminal acts described herein and again using the Florida Courts to directly deprive Petitioner and his family of their rights and further retaliate against Petitioner to directly attempt to stop his pursuit of his Intellectual Property rights, his inheritancy and more.

These matters are brought expressly to the forefront of this case so matters of conflicts of interest may be properly adjudicated even in the hearing of the instant petitions for writs and other relief and for consideration as to whether the entirety of these matters should be transferred to a jurisdiction outside the State of Florida and other proper relief. “ See, Petition for All Writs.

13. The case is thus of not only exceptional importance but statewide importance as not only implicating related ongoing frauds upon the United States but the fundamental Due Process issue of whether the Florida Courts themselves can be an appropriate forum for the Petitioner given the current Florida Supreme Court Judge Jorge Labarga’s involvement in the underlying frauds along with substantial members of the Florida Bar including Jerald Beer of the Ciklin, O’Connell law firm now in a case where possible murder has been alleged.
14. Thus the case should be heard En Banc as exceptional importance is shown.
15. Clearly neither the Florida Supreme Court nor this Court of the 4th DCA addressed the exceptional important issue of whether the fundamental due process can be served with the

Conflicts of Interest referenced in the petition and thus this part of the Petition was clearly overlooked and / or misapprehended.

16. Clearly the exceptional importance of the statewide due process conflict of interest issues are not moot and these matters were overlooked or misapprehended.

**Other Issues Overlooked, Misapprehended and Not Moot**

17. The Petition for All Writs further brought up mandamus against Judge Martin Colin to issue a Disqualification as a necessary and material fact witness and void all of his orders therein where clear fraud upon the Court has occurred and Judge Colin himself may be part of the machinery of the Court involved in the fraud.
18. While not stated in this Court's Decision, it was argued by Alan M. Rose on behalf of Ted Bernstein to this Court that due to Judge Colin's "recusal" which came within 24 hours of denying the mandatory Disqualification as a necessary and material fact witness rendered the Writ "moot".
19. However, this again must have been overlooked and misapprehended.
20. Judge Colin's sudden "recusal" does not change and did not change his status as a material fact witness in underlying fraud in his court which, quite interestingly, expressly involves Ted Bernstein who Alan Rose is representing.
21. Judge Colin remains a material fact witness and thus, this part of the Petition for All Writs was clearly not moot and mandamus should issue immediately so proper Disqualification Orders can be issued.
22. Further, the Petition brought up for review Judge Colin's "steering" and "poisoning" of the "Transfer" of the Case to the North Branch acts which were and are alleged to have been

beyond and outside his jurisdiction as one who mandatorily had to be disqualified under Florida law.

23. Once it is properly determined that Judge Colin should be mandatorily disqualified and subject to mandamus, all of these wrongful acts of Transfer without jurisdiction are clearly presently relevant to the case and must have been overlooked and or misapprehended by this Court and clearly were not and are not moot.
24. Further, the Petition for All Writs brought up for review under mandamus that Judge Colin's Orders issued as having been what should have been a Disqualified material fact witness at least as of Jan. 3, 2013 or by latest May of 2013 based upon when clear indisputable fraud had to have been discovered in his Court, that such Orders must be Voided.
25. In fact, the property referenced by Alan Rose to be sold was part of an illegal Order of Judge Colin grounded in fraud as a material fact witness and prohibiting this sale clearly is not moot and must have been overlooked and misapprehended.
26. This Court must have overlooked or misapprehended this part of the Petition as all of these Orders since either Jan. 3, 2013 or at least May 6, 2013 forward must now be Voided and clearly these Orders are presently impacting the Case and thus are not moot.
27. Still further, the Petitions sought specified Stay and injunctive relief none of which was or is moot and thus this Court must have overlooked and or misapprehended this part of the Petition as well.
28. Clearly the Petition for All Writs has substantial case law authority which should have been relied upon if the Petition had not been overlooked and / or misapprehended and Petitioner simply refers this Court back to the All Writs Petition for said authorities to stay in conformity of the rules preventing re-argument.



**WHEREFORE**, Petitioner respectfully prays for an Order granting En Banc rehearing relief and further issuing mandamus against Judge Colin as a material and fact witness, voiding of all Orders of Judge Colin since at least Jan. 3, 2013 or May 2013 to the present and further determination as to the impropriety of the interference in the orderly Transfer of this case to the North Branch thus transferring the case to a randomly selected independent neutral Judge unless the conflict of interest issues raised by any hearing within the State of Florida determine transfer outside the State and further that this Court should provide affirmative review of said Conflicts of interest in any further Order or Decision herein or alternatively certify the conflicts of interest and due process issue to the Florida Supreme Court as an exceptional issue of statewide and novel importance.

Dated: December 15, 2015

**/s/Eliot Ivan Bernstein**

**CERTIFICATE OF SERVICE**

I CERTIFY that a copy of the foregoing has been furnished to parties listed on attached Service List by E-mail Electronic Transmission; Court ECF; this 15th day of December, 2015.

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By: /s/ Eliot Ivan Bernstein  
Eliot Ivan Bernstein

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