

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

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

Plaintiff,)

v.)

**HERITAGE UNION LIFE INSURANCE)
COMPANY, Eliot I. Bernstein,)
Individually, and on behalf of the Minor)
Children JEZB, JNAB, and DEAOB,)
ET AL.)**

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

**MEMORANDUM OF LAW:
Third-Party Plaintiffs / Counter-
Plaintiffs-Petitioners Eliot I. Bernstein,
Individually and On behalf of Minor
Children Motion for Injunctive relief
under the All Writs Act, Anti-Injunction
Act and alternatively a Temporary
Restraining Order-Stay-Preliminary
Injunction and Other relief_**

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

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TABLE OF AUTHORITIES

1. FRCP 4, 65
2. 42 USC Sec. 1983 et seq.
3. 28 U.S.C. § 2283
4. 28 U.S.C. § 1651(a)
5. 28 U.S.C. § 1331
6. 28 U.S.C. § 1367(a)
7. 28 U.S.C. §§ 1332
8. 28 USC Sec. 2201 and 2202.
9. US Constitution, 5th and 14th Amendments
10. Michigan Tech Fund v. Century Nat'l Bank, 680 F.2d 736 (11th Cir. 1982)
11. Winkler v. Eli Lilly & Co., 101 F.3d 1196, 1202 (7th Cir. 1996)
12. Chambers v. Nasco, Inc., 501 U.S. 32, 43-44 (1991)
13. Dennis v. Sparks 449 U.S. 24 (1980)
14. Atlantic Coastline R.R. v. Brotherhood of Locomotive Engineers, 398 U.S. 281, 295(1970).
15. MARKHAM v. ALLEN 326 U.S., at 494, 66 S. Ct. 193,
16. United States v. New York Telephone, 434 U.S. 159, 173 (1977).
17. Gravel v. United States, 408 U. S. 606,
18. Power 914 F2d 1459 (11th Cir 1990),
19. Hulsey v. Ownes 63 F3d 354 (5th Cir 1995)
20. In Re: HALL v. BELLMON 935 F.2d 1106 (10th Cir. 1991)."
21. Puckett v. Cox 456 F2d 233 (1972 Sixth Circuit USCA
22. Conley v. Gibson, 355 U.S. 41 at 48 (1957)
23. Mullane v Central Hanover Trust Co. (339 U.S. 306)
24. Marshall v. Marshall, 126 S. Ct. 1735, 1748 (2006)
25. Pulliam v. Allen, 466 U.S. 522 (1984)
26. Cohens v. Virginia 19 U.S. 264 (1821)

PRELIMINARY STATEMENT

Eliot I. Bernstein brings this Petition, application and motion under the All Writs Act and Anti-Injunction Act necessary in aid of its own jurisdiction and further under the Inherent Powers doctrine and to enjoin parties over which this U.S. District Court already has jurisdiction from

taking further action in the Florida Probate State Courts to further thwart and interfere with this Court's own path to judgment and to restrain and preserve evidence, documentation and discovery to achieve that judgment and further relief as appropriate. As shown herein and in the attached petition-affidavit, a series of orchestrated actions by the parties in the Florida Courts including but not limited to newly discovered fraudulent Florida companies to hide assets and value has created an imminent danger and emergency endangering this Court's jurisdiction by having the Florida Probate cases "wrapped up" improperly cutting off all of Eliot's rights to Discovery in the Florida Courts and standing and forever losing the necessary evidence, documents and Discovery which this District Court needs to properly adjudicate the claims presently before it including both the Life Insurance claim and Eliot's counter/crossclaims and thus this Court must now act to enjoin these parties and preserve evidence, records, documents and Discovery.

Further, previously undisclosed conflicts of interest involving LaSalle Bank and the original Florida Probate Judge Martin Colin and attorney Brian O'Connell, a party permitted to Intervene in this District Court as the Personal Representative of the Simon Bernstein Estate, have recently come to light showing previously undisclosed conflicts of interest of Brian O'Connell simultaneously being involved in cases involving Judge Colin's wife Elizabeth Savitt acting as a Private "Guardian" where massive conflicts in the Palm Beach County Court system are being exposed almost daily by a series of Investigative Reports by the Palm Beach Post to such an extent that several "former" Justices of the Florida Supreme Court have called for action in Palm Beach County¹.

¹ Guardianship Series - Guardianship a Broken Trust by Reporter John Pacenti
<http://www.mypalmbeachpost.com/guardianships-colin-savitt/>
and
Guardianship Probate Series Palm Beach Post Compiled PDF

Eliot Bernstein specifically seeks to enjoin at least temporarily a scheduled “Guardianship” and “Contempt proceedings” before Probate Judge John Phillips in the North Branch of Palm Beach County on this Thursday, Feb. 25, 2016 at 3:15pm brought by attorneys who should now become Defendants in this action and be conflicted out of representation in the Florida State Courts.

This action has been pending in the US District Court for several years and your Honor has now been on the case in excess of a year expending substantial judicial resources on Court conferences and extensive Summary Judgment proceedings on Plaintiffs’ motion for summary judgment.

While the parties are awaiting determination from this Court on the Summary Judgment motions, at least 2 scheduled Court Conferences with this Court have been re-scheduled, still remaining before this Court are Petitioner Eliot Bernstein’s Answer and Counterclaims filed September 22, 2013 asserting causes of action in Fraud, fraud upon the beneficiaries and Court, abuse of legal process, civil conspiracy and breach of fiduciary duties amongst others.

On Jan. 13, 2014 in Docket Entry 71, prior Judge St. Eve issued a Minute Entry Order which provided in part as follows, “Discovery is hereby stayed until the proper Trustee is determined” , thus acknowledging that determination of a “proper Trustee” is an issue in the case, which remains disputed. The Trustee/Trust/Beneficiaries/Policy issues remains undetermined presently and the Court’s jurisdiction is imminently threatened by the permanent loss of evidence, documents and discovery by the parties orchestrating proceedings in Florida where this evidence and the parties in possession of such evidence should be enjoined herein.

This Court itself, Hon. John G. Blakey, presiding, issued a Minute Entry Order on May 22, 2015 under Docket Entry 185 that further provided in part as follows, “Bernstein's representations to

the contrary notwithstanding, at this time the Court is unable to say that anyone has a clear right to the proceeds deposited by Heritage Union Life Insurance Company, let alone what each interested party's share should be.“

As will be shown, just on Discovery abuses alone by the Plaintiffs and other parties in the related proceedings in the State Probate Court of Florida, there is a real and imminent danger that the Integrity of this Court's judgment and path to judgment will be fundamentally impaired by the permanent loss of evidence and discovery materials justifying the exercise of the extra-ordinary relief under the All Writs Act and Anti-Injunction Act. This evidence and documents and Discovery which “should answer” the outstanding questions before this Court of where the Original Trusts are, where the Original Policies are, where the Original records and where business records are that go along with Simon Bernstein's life who made millions per year in the Insurance industry for decades and are relevant to the Life Insurance claim and counter-crossclaims. Instead, Simon Bernstein is falsely being portrayed as nearly a “pauper” with no assets left and “Missing” and “losing” all Business documents and dispositive documents meticulously kept for Decades, at least according to Plaintiffs and the counsels working with Plaintiffs. Yet proper Discovery and Depositions would and should prove the contrary which is why this Court must act to preserve this evidence in the hands of multiple parties and some unknown .

Further, that sufficient evidence will be shown to justify this Court exercising its inherent powers to make inquiry of the parties and respective counsels about “side agreements” and other “agreements” outside the record of any proceedings impairing the integrity of proceedings in this Court similar to the inquiry discussed in *Winkler v. Eli Lilly & Co.*, 101 F.3d 1196, 1202 (7th Cir. 1996).

Further, that this Court should permit Amendment of Eliot Bernstein's counter-complaint to seek Declaratory judgment in this Court on issues involving the related Trusts and the validity of certain Wills and instruments and other Amendment of claims and adding of parties for tortious interference of rights and claims under 42 USC Sec. 1983 and that it is in the interest of judicial economy since the parties to be added are from diverse and different states that this Court resolve these proposed Amended Counterclaims to provide an orderly and final path to judgment.

FACTUAL BACKGROUND

A short period of time after Ted Bernstein's father Simon Bernstein passed away in the hospital on Sept. 12, 2012, one of Ted Bernstein's business partners named Robert Spallina of Boca Raton, Fl began fraudulently attempting to obtain Life Insurance proceeds from one of Simon Bernstein's Life Insurance policies. Robert Spallina along with his partner, Donald Tescher, another business partner of Ted Bernstein, had previously become the Estate Planners and attorneys for Simon and Shirley Bernstein prior to their passing. Ted Bernstein had claimed his father Simon had possibly been "murdered" and "poisoned" at the Hospital on the night of his passing and Eliot Bernstein, one of Simon's other adult children, had been prevented and delayed by Hospital staff from getting in to see Simon Bernstein because of a claim that he may have been poisoned and "Security" was involved. Ted Bernstein got the Palm Beach County Sheriff's office involved in this alleged "murder" and sought a Coroner's investigation. Somehow the body of Simon Bernstein went "missing" for nearly a week and traditional Jewish religious observances after passing were delayed. An elevated "heavy metals" report came back on Simon Bernstein although the Report claimed to be of a male that was 113 years old, not Simon Bernstein's age. Robert Spallina failed to Notify the Insurance Carrier where he was seeking recovery on Simon Bernstein's Life Insurance about the possible claims of murder. During the same timeframe, Ted Bernstein and the Tescher & Spallina law office began denying Eliot

Bernstein access to basic documents regarding several Trusts, Wills and other items where he and/or his children were Beneficiaries. As shown in the attached Petition-affidavit, At Simon Bernstein's home in Boca Raton, Fl, Eliot Bernstein discovered on the night of his father's passing that Simon's entire hard drive of his home office computer had been "wiped clean" of years of valuable files and information as Simon Bernstein had been a successful business person for 50 years bringing in millions of dollars of income each year. Candice Bernstein also observed one Rachel Walker taking "important" documents out of the Simon Bernstein home minutes after his passing and Eliot Bernstein witnessed her deliver them to Ted Bernstein at the hospital. Simon and Shirley Bernstein had five children, Ted Bernstein, Pamela Bernstein Simon, Lisa Bernstein Friedstein, Jill Bernstein Iantoni, and Eliot Bernstein. Shirley Bernstein had predeceased Simon in Dec. 2010. During their marriage and lifetime, Simon and Shirley Bernstein had 2 main properties in the Boca Raton, Fl area, one at St. Andrews listed at \$3.4 million and a beachfront Condo listed at \$2.2 million (both listed at these prices by Simon weeks prior to his death), Shirley had a fully paid for Bentley worth several hundred thousand dollars, a wedding ring valued at \$250,000.00 and other Insured Jewelry exceeding \$600,000.00 in value prior to her passing and her inventory never sent to the beneficiaries was found to claim her worth at twenty five thousand dollars. Simon and Shirley Bernstein enjoyed trips with their grandchildren flying on Private jets and much travel and vacation during their lifetimes having lead successful lives and being successful in business, Simon was a leader in the life insurance sales business and his products sold in the billions of dollars of premium. Ted, Pam, Lisa, Jill, David Simon, Esq., Adam Simon, Esq. and attorneys working with them including Tescher and Spallina filed the original District Court action on an alleged "breach of contract" against the Carrier for the Carrier rejecting to pay an alleged fraudulent claim filed by Spallina as the

“Trustee” of the lost trust he claims to have never seen or possessed and the trustee to this day is still unknown according to this court’s order) but have never produced the Life Insurance Policy at issue or Trust agreement that may govern the proceeds claiming the Trust and Policy are “lost” although this is the Policy for Simon Bernstein who had made millions in the insurance industry for decades and owned and operated multiple insurance business and trust companies and was a meticulous record keeper. The same parties have also been taking action in the Florida Probate Courts relating to other parts of the Estates and Trusts while Eliot Bernstein has exposed a series of fraudulent actions on the Court in Florida, where dispositive documents have been found fraudulently notarized and admittedly forged and more. While this federal Court in Illinois has had Summary Judgement motions filed by Plaintiffs’ pending, the same parties have orchestrated proceedings in the Florida Probate Court to further deny Eliot Bernstein previously state Court Ordered Discovery from nearly 2 years ago and further orchestrated proceedings in Florida so no Attorney would be available to cross-examine Robert Spallina and Ted Bernstein as the only 2 witnesses at a contrived “one-day” Validity hearing that was missing necessary witnesses, discovery, experts and forensic evaluation in a case where sophisticated and organized document fraud has already been exposed.

In addition to US Constitutional due process violations in the scheduling of this rushed to Judgment “one-day” “Validity” hearing involving certain Wills, Trusts and Instruments, the entirety of this “validity” Hearing was a sham and fraud itself as it was held without the Court of new judge John Phillips, the alleged Trustee Ted Bernstein or his attorney Alan Rose, attorneys Brian O’Connell and Joy Foglietta as PRs for the Simon Bernstein Estate, or even Interested party Creditor William Stansbury’s attorney Peter Feaman ever ensuring that a January 2014

Order by Judge Colin to Tescher & Spallina to turn over All Original Records and Documents *had ever been complied with prior to the hearing.* See Order of Feb. 18, 2014 in Petition.

Still further, both former PR Robert Spallina and current alleged Trustee Ted Bernstein both admitted during the Hearing about not knowing where the Original documents are and Ted Bernstein only having reviewed “copies” of the Trusts and admitting he did nothing to validate the documents despite his counsel having committed fraud on various documents and thus the whereabouts of the Original records which had been Ordered to be Disclosed over 2 years ago are presently unknown thus creating an Imminent risk and danger of forever impairing this Court’s path to judgement and integrity of the proceedings.

The parties further orchestrated proceedings to remove Eliot Bernstein’s “standing” in the Trust and Estate cases although no “Construction” hearing was ever held, have further threatened to Baker Act Eliot Bernstein at a “Mediation Conference” simply for reporting crime and seeking truth, and are presently threatening incarceration and imposing an illegal Guardianship on Eliot Bernstein and his minor children at a proceeding scheduled for this Thursday, Feb. 25, 2016 solely because he has sought the Truth and Discovery and disclosure in these related actions and blew the whistle on a series of criminal frauds on the court and by the court which should be viewed as First Amendment Constitutional violations and retaliation and enjoined at this time. Further, new fraudulent companies discovered just last week are directly involved with a transfer of a substantial asset of the Estate of Simon Bernstein where assets and value are being hidden. See, Petition-Affidavit.

These orchestrated actions in the Florida Probate Courts which have violated not only procedural and substantive Florida law but also Constitutional due process are imminently jeopardizing the integrity of the federal District Court action by forever losing the evidence, documents, records

that would prove the truth of the various Trusts, policies and items in issue before the Court where the parties will simply say the Estates are closed up and the assets all gone despite no Accounting thus no need for Discovery in Florida. This has all occurred in Florida despite years with No accountings (five years in the Shirley Trust, five years in the Shirley Estate, missing years in the Simon Trust and missing years in the Simon Estate) by the fiduciaries where millions of dollars will be shown to this Court that have apparently “vanished” in the Florida Courts and are unaccounted for while the proceedings are further orchestrated involving a “creditor” of the Estate who is also at interest in the federal litigation in Illinois. Despite proven fraud on the court and beneficiaries the court has done nothing to seize the documents and freeze assets held by those involved in the frauds further compounding the problems versus any effort to rectify and cease the fraudulent activities are the courts are alleged to be aiding and abetting the racket.

ARGUMENT I.

This Court has power under the All Writs Act and Anti-Injunction Acts to issue proper Injunctive Relief against the parties and at least temporarily Enjoin the Florida Probate Court of John Phillips

The 7th Circuit Court of Appeals has stated in Winkler v Eli Lilly, “The express language of the Anti-Injunction Act, however, excepts from its interdict injunctions "necessary in aid of [a federal court's] jurisdiction." 28 U.S.C. § 2283. This exception, the Supreme Court teaches, means that an injunction may be issued where "necessary to prevent a state court from so interfering with a federal court's consideration or disposition of a case as to seriously impair the federal court's flexibility and authority to decide that case." Atlantic Coastline R.R. v. Brotherhood of Locomotive Engineers, 398 U.S. 281, 295(1970). The exception thus parallels the federal courts' power under the All Writs Act "to issue such

commands . . . as may be necessary or appropriate to effectuate and prevent the frustration of orders it has previously issued in its exercise of jurisdiction otherwise obtained." *United States v. New York Telephone*, 434 U.S. 159, 173

We agree that the "necessary in aid of jurisdiction" exception should be construed "to empower the federal court to enjoin a concurrent state proceeding that might render the exercise of the federal court's jurisdiction nugatory." Martin H. Redish, *The Anti-Injunction Statute Reconsidered*, 44 U. Chi. L. Rev. 717, 754 (1977).

Further, the *Winkler v Eli Lilly* court went on to note,

"In the case at bar, the district court quite reasonably believed that the plaintiffs were resorting to the state courts for the specific purpose of evading its ruling denying discovery of the Fentress agreement. The principles of federalism and comity which the Anti-Injunction Act is meant to protect include a strong and long-established policy against forum-shopping. See *Kapco Mfg. Co., Inc. v. C O Enterprises, Inc.*, 886 F.2d 1485, 1492 (7th Cir. 1989); *Freeman v. Kohn Vick Machine Works, Inc.*, 673 F.2d 196, 198 n. 2 (7th Cir. 1982).

An important aspect of that control is to prevent predatory discovery, especially of sensitive documents, ensuring that litigants use discovery properly as an evidence-gathering tool, and not as a weapon. *Id.* at 1161-62.

Where a litigant's success in a parallel state court action would make a nullity of the district court's ruling, and render ineffective its efforts effectively to manage the complex litigation at hand, injunctive relief is proper.

The All Writs Act, the Supreme Court teaches, permits a federal court to support its jurisdiction, by "issu[ing] such commands . . . as may be necessary or appropriate to effectuate and prevent

the frustration of orders it has previously issued in its exercise of jurisdiction otherwise obtained." United States v. New York Telephone, 434 U.S. at 173 *12031203 (emphasis added). Litigants who engage in forum-shopping, or otherwise take advantage of our dual court system for the specific purpose of evading the authority of a federal court, have the potential "to seriously impair the federal court's flexibility and authority to decide that case." Atlantic Coastline R.R., 398 U.S. at 295. “, See Winkler v Eli Lilly,

Forum Shopping:

The manner in which this original District Court action was filed by the parties shows the “forum shopping” engaged in by the parties and this is set out in the Summary Judgment opposition briefing as well. This Court is reminded that despite being one of 5 surviving children of Simon Bernstein, neither I nor my children were named parties in the original Illinois litigation showing these parties to be shopping for a forum to pull off a quick fraudulent payment of the Life Insurance proceeds this Court becoming the host of this insurance crime and tortiously interfere and deprive Eliot’s rights of expectancy and inheritance.

Predatory Discovery - Abusive Discovery

In the Florida Courts, the parties have orchestrated and steered proceedings so that proper outstanding Discovery was never complied with and other Discovery and Depositions obtained. This includes an Order of Judge Martin Colin of Feb. 18, 2014 to Tescher & Spallina to turn over by March 4, 2014 all records and property of the Estate to the new fiduciary as they resigned after admitting fraudulently creating a Shirley Trust document, mail fraud and more. This has never been complied with and there has been no Compliance hearing in the State Court on the important topic of Discovery, especially where the court is aware that multiple fraudulent documents were submitted to the court by the Fiduciaries (Ted, Tescher and Spallina) and

Counsel and other fraud on the court that involved using a deceased Personal Representative (Simon) to close the Estate of Shirley, months after he was deceased.

This Court need only look at the Testimony of Robert Spallina and Ted Bernstein at a contrived “one-day” Validity hearing to determine that the “fiduciaries” and former fiduciaries have no concern over having or providing or determining Original documents, complete documents and neither does the Florida Probate Court disregarding that in the hearing Spallina being the only witness attesting to the documents admits that he fraudulently created a Shirley Trust and distributed via mail to Eliot’s minor children’s counsel and then testifies to the validity of some other copy of the alleged trust. Spallina also under an SEC consent order with his partner Tescher for insider trading. See Dec. 15th Hearing Testimony Exhibit in Petition-Affidavit.

This Court should now issue an appropriate injunction under the All Writs Act and Anti-Injunction act against the parties it has jurisdiction over, including the Florida Courts, to preserve all such evidence, documents, records of any kind whatsoever and enjoin such parties at least temporarily in the Florida Probate Court of Judge Phillips at least until Discovery compliance is completed and this Court conducts proper inquiry and conference herein.

Alan Rose, Steven Lessne, Brian O’Connell and Joielle Foglietta should be Disqualified as Material Fact Witnesses and Enjoined from acting at least temporarily in the Florida Probate Courts.

As shown in the attached Petition-affidavit, attorneys Alan Rose acting for Ted Bernstein, Brian O’Connell and Joy Foglietta as PRs of the Estate of Simon Bernstein already in this case, and Steven Lessne as attorney for Oppenheimer who should be added to this case as Defendants are all material fact witnesses at minimum to the Chain of Custody of specified “Original” Trusts and should be disqualified from representation and enjoined from proceeding in the Florida

Probate Courts on Guardianship, Contempt, Gag Orders, Property Transfers/Conversions and all similar relief.

Under the inherent powers doctrine, courts have the historic authority to grant such equitable relief as is necessary to protect the integrity of their judgments and the proceedings before them. This includes the power to set aside fraudulently begotten judgments, as well as the power to conduct independent investigations in order to determine whether the court has been the victim of fraud or deceit. *Chambers v. Nasco, Inc.*, 501 U.S. 32, 43-44 (1991), cited in the 7th Circuit *Winkler v Eli Lilly* case. As further supported in the Petition-Affidavit, this Court should further exercise these powers to make inquiries from the parties and counsel of "side agreements" and fraud steering the litigation in the State courts in such a manner as to impair the integrity of the federal court proceedings.

Argument II:

The Supreme Court in *Marshall v Marshall* makes it clear this federal district court has jurisdiction to hear Eliot Bernstein's Declaratory and Amended claims.

"It is true that a federal court has no jurisdiction to probate a will or administer an estate But it has been established by a long series of decisions of this Court that federal courts of equity have jurisdiction to entertain suits 'in favor of creditors, legatees and heirs' and other claimants against a decedent's estate 'to establish their claims' so long as the federal court does not interfere with the probate proceedings or assume general jurisdiction of the probate or control of the property in the custody of the state court." 326 U.S., at 494, 66 S. Ct. 193, 90 L. Ed. 165 (quoting *Waterman*, 215 U.S., at 43, 30 S. Ct. 10, 54 L. Ed. 80). See, *Marshall v Marshall*, 126 S. Ct. 1735, 1748 (2006)

A widely recognized tort that has been allowed to be heard in federal district courts's is ("One who by fraud, duress or other tortious means intentionally prevents another from receiving from a third person an inheritance or gift that [s]he would otherwise have received is subject to liability to the other for loss of the inheritance or gift."). See, *Marshall v Marshall*.

In *Michigan Tech Fund v. Century Nat'l Bank*, 680 F.2d 736 (11th Cir. 1982), the court permitted the district court to entertain an action *against* the decedent's estate that sought a declaration that the decedent's will conveyed certain of the decedent's assets to the plaintiffs.

*673673 The fact that resolution of the claims against the estate required the federal district court to interpret the will was insufficient to divest the court of diversity jurisdiction over the claim. *Id.* at 740. The court also allowed the plaintiffs to assert a claim against the estate for breach of a promise to make a will. *Id.* The *Michigan Tech* court allowed the defendants to maintain these claims against the estate in spite of the pending probate proceedings. *Id.* at 738.

Thus, it is clear this Court properly has jurisdiction to hear the claims that Eliot Bernstein seeks leave to file in a proposed Amended Counter-Complaint and orderly resolution of the current claims before this Court and judicial economy dictates that this Court should enjoin further proceedings in the Florida Courts until further Order of this Court.

WHEREFORE, it is respectfully prayed for an Order granting Injunctive relief as requested, preserving evidence and Discovery, addressing conflicts of interest and disqualifications and be granted leave according to an appropriate schedule to Amend the Counter-cross claims adding claims and parties and such other and further relief as may be just and proper.

Respectfully submitted,

DATED: February 24, 2016

/s/ *Eliot Ivan Bernstein*
Third Party Defendant/Cross Plaintiff PRO SE

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on February 24, 2016, I electronically filed the foregoing with the Clerk of the Court using CM/ECF. I also certify that the foregoing is being served this day on all counsel of record identified below via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner.

/s/ Eliot Ivan Bernstein

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