

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

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

Plaintiff,)

v.)

HERITAGE UNION LIFE INSURANCE)
COMPANY,)

Defendant,)

HERITAGE UNION LIFE INSURANCE)
COMPANY)

Counter-Plaintiff)

v.)

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

Counter-Defendant)

and,)

FIRST ARLINGTON NATIONAL BANK)
as Trustee of S.B. Lexington, Inc. Employee)
Death Benefit Trust, UNITED BANK OF)
ILLINOIS, BANK OF AMERICA,)
Successor in interest to LaSalle National)
Trust, N.A., SIMON BERNSTEIN TRUST,)
N.A., TED BERNSTEIN, individually and)
as purported Trustee of the Simon Bernstein)
Irrevocable Insurance Trust Dtd 6/21/95,)
and ELIOT BERNSTEIN)

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

**Filers: Simon Bernstein Irrevocable
Insurance Trust Dated 6/21/95,
Ted Bernstein, as Trustee and
Individually,
Pamela B. Simon, Adam M. Simon,
David B. Simon, The Simon Law Firm,
STP Enterprises, Inc. (“Movants”).**

**MOVANTS’ MOTION FOR SUMMARY
JUDGMENT AS TO ELIOT
BERNSTEIN’S COUNTERCLAIMS,
CROSS-CLAIMS AND THIRD-PARTY
CLAIMS (“ELIOT’S CLAIMS”)**

Third-Party Defendants.)
 _____)
 ELIOT IVAN BERNSTEIN,)
 Cross-Plaintiff)
 v.)
 TED BERNSTEIN, individually and)
 as alleged Trustee of the Simon Bernstein)
 Irrevocable Insurance Trust Dtd, 6/21/95)
 Cross-Defendant)
 and,)
 PAMELA B. SIMON, DAVID B.SIMON,)
 both Professionally and Personally)
 ADAM SIMON, both Professionally and)
 Personally, THE SIMON LAW FIRM,)
 TESCHER & SPALLINA, P.A.,)
 DONALD TESCHER, both Professionally)
 and Personally, ROBERT SPALLINA,)
 both Professionally and Personally,)
 LISA FRIEDSTEIN, JILL IANTONI)
 S.B. LEXINGTON, INC. EMPLOYEE)
 DEATH BENEFIT TRUST, S.T.P.)
 ENTERPRISES, INC. S.B. LEXINGTON,)
 INC., NATIONAL SERVICE)
 ASSOCIATION (OF FLORIDA),)
 NATIONAL SERVICE ASSOCIATION)
 (OF ILLINOIS) AND JOHN AND JANE)
 DOES)
 Third-Party Defendants.)
 _____)

NOW COMES the above-named Counterdefendants, Cross-defendants and Third-party defendants (“Movants”), by and through their undersigned counsel, and pursuant to Fed. R. Civ. P. 56(a) and Local Rule 56.1, move the Court for summary judgment as to each and every one of Eliot’s counterclaims, cross-claims and third-party claims. In support thereof Movants state as follows:

1. The undisputed facts and evidence supporting this motion are set forth more fully in the accompanying Statement of Material Undisputed Facts Pursuant to Local Rule 56.1(a); the Appendix of Exhibits; and referenced in the Memorandum of Law in Support of Movant’s Motion for Summary Judgment.

2. This action was originally filed by the Simon Bernstein Irrevocable Insurance Trust dated 6/21/95 against Heritage Union Life Insurance Company (the “Insurer”) in the Circuit Court of Cook County. The Action related to Plaintiff’s claim to certain death benefit proceeds (“Policy Proceeds”) payable under a life insurance policy (the “Policy”) insuring the life of Simon Bernstein who passed away in September of 2012.

3. The Insurer removed this Action from Cook County to the Northern District, and filed an Interpleader Action.

4. The Insurer did not dispute its liability under the Policy. Instead, the Insurer sought to interplead conflicting claimants to the Policy Proceeds, and deposit the Policy Proceeds with the Registry of the Court. The Insurer accomplished this and after depositing the Policy Proceeds, the Insurer was dismissed from the litigation.

5. The remaining parties have had access to the Policy records and all documents produced in this litigation, and have had ample time to conduct discovery. The fact discovery deadline set by Judge St. Eve passed on January 9, 2015. **[Dkt. #123]**

6. Movants have established in their memorandum of law that there is no triable issue of fact and all Movants are entitled to summary judgment as to Eliot's Claims as a matter of law. This motion shall be dispositive as to all of Eliot's Claims and will significantly narrow the focus of these proceedings to where it belongs – determining the beneficiary of the Policy Proceeds that remain on deposit with the Registry of the Court.

WHEREFORE, for the foregoing reasons, Plaintiffs respectfully request that the Court and enter an Order as follows:

- a) granting Movants' motion for summary judgment in its entirety as to all of Eliot's Claims;
- b) entering summary judgment for each Movant as to Eliot's Claims, and terminating Movants on the docket, *but solely* in their capacities as counterdefendants, cross-defendants, or third party defendants to Eliot's Claims;
- c) terminating Eliot Bernstein as a party to these proceedings in all capacities in which he appears on the docket;
- d) granting Movants such further relief as this court may deem just and proper.

Respectfully Submitted,

/s/ Adam M. Simon
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