

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

Simon Bernstein Irrevocable
Insurance Trust Dtd 6/21/95, et al.,

Plaintiffs,

v.

Heritage Union Life
Insurance Co., et al.,

Defendants.

Case No. 13-cv-3643
Judge John Robert Blakey

Filers:
Eliot Ivan Bernstein, Pro Se

**Non-Movant Third Party Defendant Eliot I. Bernstein's Affidavit-Declaration In Opposition
to Intervenor's Motion for Summary Judgement**

1. I am the non-moving party in this matter opposing the Intervenor's motion for Summary Judgment and otherwise designated as a Third-Party Defendant pro se.
2. I am a natural son to Simon Bernstein and a natural beneficiary herein.
3. If called to testify, I would willingly and voluntarily be expected to testify in this matter as set out herein.
4. I had a close and personal relationship with my father Simon Bernstein throughout his lifetime and am familiar with the various insurance businesses he conducted over the course of the last 30 plus years.
5. In fact, during one period of time I had my own business in California that worked together with my father's businesses whereby I would sell his proprietary Life Insurance products my company would receive commissions from my father's businesses.
6. I was the leading producer for my father's companies for many years through my insurance agencies and my agents nationwide.
7. My father was a meticulous record keeper not only for himself but for all of his thousands of clients nationwide and he owned and operated multiple insurance agencies and

insurance related trust companies. My father created and marketed "Arbitrage Life Payment System: and managed approximately a billion dollars of insurance premium financing annually.

8. My father's Florida offices had storerooms of files for his clients and in fact maintained a mass of files regarding our technology companies and proprietary intellectual properties for my inventions, of which my father was a 30% owner of the companies and IP and I was 70% owner originally. My father was also Chairman of the Board in the beginning of the these technology companies.
9. My father was a leading producer of life insurance throughout his entire career in the insurance business and was the largest producer for several carriers nationwide.
10. My father was an expert in Estate and Trust planning and worked with extremely high net worth individuals (including several billion clients of mine) and businesses in placing insurance to protect their families and businesses. He designed proprietary insurance products that use complex trusts to achieve protection of the insurance from creditors and others and maximize the benefits. His plans he designed include VEBA's and Arbitrage Life Payment System both sold nationally through an extensive network of agents.
11. My father would never create a trust or have a client create a trust where any incident of ownership were maintained in the policy, which would invalidate the trust and leave the benefits open to risk.
12. On September 13, 2012, the day my father died, upon trying to log in to my father Simon's computer at his home to get his personal friends contact information to notify them of Simon's passing I noticed that the hard drives on all of Simon's computers in his home were missing or scrubbed and Petitioner found this highly irregular. Theodore stated he would look into where they had gone and question several people who

handled Simon's computers at his office and home if they knew anything. To this date those items appear to have been taken from the estate and never recovered.

13. That Simon's assistant Rachel Walker claimed only a few minutes after my father died upon returning to the hospital that she left the hospital while he was code blue and dying and went to Simon's home and stated to both me and my wife Candice (who went with her to the home) that she grabbed anything estate planning looking that she could find from his home files, including trusts, wills, etc., he had stored in his home office and claimed that Ted Bernstein had requested her to do at the hospital as Simon lay dying. When Ted was initially questioned by me about what was in the package Walker had given him Ted claimed they were estate documents, including trusts, wills, some medical records and some insurance documents. I requested copies and inventory of the documents removed and an inventory of the personal effects of my father he had taken from the hospital and Ted stated he would have copies and inventories of the items removed from the estate Post Mortem for everyone later that day. To this date I have never received the inventories or accounting for anything removed from the estate or Simon's personal effects taken from the hospital.
14. Initially after my father's death, both my sister and brother both claimed to have copies of his insurance policy involved in this litigation and when I demanded they turn them over they suddenly claimed that did not possess them and also then claimed not to have the trust that they were alleging was the beneficiary.
15. My father had made estate plans for my family and had promised me several million dollars was set aside for my interests in his insurance companies for compensation for a breach of contract by my sister Pam who failed to pay me contracted commissions and percentages of several hundred million dollars I raised with my agents for premium financing once she acquired the business from my father. This was my compensation

for the many years I worked for his companies and helped build them and did not get stock as my sister did.

16. Because of life threatening dangers my family was placed in when we discovered our patent attorneys from Proskauer Rose, Foley & Lardner and others were attempting to steal our IP and force us out of business and as federal and state complaints were filed a bomb went off in my family's vehicles. My father at that time set up a company, Bernstein Family Realty LLC and opened up trusts for my children who owned BFR to hold the entity and protect us from those trying to harm us financially and physically. In 2008 he and my mother created trusts and the Eliot Bernstein Family Trust was created as the vehicle to receive $\frac{1}{3}$ of the trust assets. The reason I would receive $\frac{1}{3}$ of the trust assets was because although there are five children, Ted and my sister Pam and their lineal descendants were wholly disinherited by my parents in the trusts, leaving only three children with interest. My father for many years prior to his death ran all of my family's expenses through BFR and put a home my children bought into their trusts, again all of this to protect my family and make sure that no matter what happened to me, my children and wife income would be taken care of while he was living and through my inheritancy long after he was dead.
17. My father and mother's relationship with my sister Pam and my brother Ted were strained for several years prior to their deaths.
18. That a scheme to defraud started at least by the time of my father's passing and likely dates back to at least 2010 with some of the parties at play such as Robert Spallina as shown by an All Writs Petition filed with this Court in Feb. of 2016 and that I have diligently filed with police and investigatory authorities to pursue the frauds herein and have filed multiple documents with the Florida Courts and this Court showing and claiming fraud and collusion and civil conspiracy and that my Answer and Counterclaims

herein, opposition to Plaintiffs' original Summary Judgment and Petition for All Writs filed in Feb. of 2016 with this Court support such claims.

19. Thus, what reasonable jurors could conclude in this case is that
- a) Being in the Insurance business himself for 50 years, Simon Bernstein in fact had at least one Policy of Life Insurance;
 - b) Being in the industry for 50 years and skilled in asset protection, Simon Bernstein in fact had a proper Trust to keep such policy proceeds out of his Estate;
 - c) Being successful in the business for 50 years and earning millions of dollars in the industry, Simon Bernstein was well aware of the need for accurate Record keeping and in fact had kept meticulous records;
 - d) That the absence of such records and actual policy and actual Trust from this Court is the product of conspiracy, collusion and intentional design by a variety of parties to keep proper proceeds from the rightful beneficiaries and that I and my children are some of those rightful beneficiaries;
 - e) That the Estate acting through PR O'Connell and Trial Counsel Stamos have deliberately failed to take proper action to find and produce the Records of Simon Bernstein in this case and that at least PR O'Connell has directly colluded with Ted Bernstein and his counsel.

WHEREFORE, Third-party Defendant pro se and non-movant Eliot I. Bernstein respectfully prays for an Order denying Summary Judgment to the Intervenor at this time and for the opening of Discovery as needed and for such other and further relief as to this Court may seem just and proper.

Declaration

I, Eliot I. Bernstein, declare, certify and state under penalties of perjury that the foregoing is true

and correct.

/s/ Eliot Ivan Bernstein

Executed on: August 26, 2016

/s/ Eliot Ivan Bernstein

Third Party Defendant/Cross

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