

**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, )

Third-Party Defendants. )

**Case No. 1:13-cv-3643  
Honorable John Robert Blakey  
Magistrate Mary M. Rowland**

**INTERVENOR’S MOTION FOR  
EXTENSION OF TIME TO FILE  
REPLY IN FURTHER SUPPORT OF  
MOTION FOR SUMMARY  
JUDGMENT**

**Filer:**  
Brian O’Connell, as Personal Representative  
of the Estate of  
Simon L. Bernstein, Intervenor.

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. )

BRIAN M. O'CONNELL, as Personal )  
Representative of the Estate of )  
Simon L. Bernstein, )

Intervenor. )

**INTERVENOR’S MOTION FOR EXTENSION OF TIME TO FILE REPLY  
IN FURTHER SUPPORT OF MOTION FOR SUMMARY JUDGMENT**

Intervenor Brian M. O’Connell, Personal Representative of the Estate of Simon L. Bernstein (the “Estate”), pursuant to Fed. R. Civ. P. 6(b)(1), respectfully moves the Court for an extension of time up to and including October 27, 2016 to file a reply in further support of its motion for summary. In support of this Motion, the Estate states as follows:

1. On May 25, 2016, the Estate filed a Motion for Summary Judgment on its Complaint for Declaratory Judgment and Counts II and III of Plaintiffs’ First Amended Complaint. *See* ECF Nos. 245-248.

2. The following day, the Court entered a briefing schedule applicable to the Estate’s Motion for Summary Judgment and Plaintiffs’ separate summary judgment motion regarding Eliot Bernstein’s counterclaims, cross-claims and third-party claims. *See* ECF No. 250.

3. On July 18, 2016, the Court granted Eliot Bernstein’s motion for an extension of time to respond to the summary judgment motions, entered a new briefing schedule pursuant to which replies are currently due by October 6, 2016, and rescheduled the previously-set status hearing to October 27, 2016. *See* ECF No. 254.

4. On September 7, 2016, one of the two attorney representing the Estate in this matter and who had primary responsibilities to prepare the reply unexpectedly fell ill and was out of the office until September 14. The other attorney representing the Estate has preexisting commitments which require him to be out of the country from September 20 until October 6. As a result, the six weeks this Court’s briefing schedule allotted for replies is effectively reduced to just three.

5. Therefore, the Estate respectfully requests an extension of twenty-one (21) days, up to and including October 27, 2016, within which to file a reply brief in further support of its Motion for Summary Judgment and all related materials (*e.g.* a reply to opposing party’s statement

of additional material facts). This request is not being made for purposes of delay and seeks an extension that is no longer than the three week period that was lost due to unforeseen illness and preexisting travel commitments.

6. The Estate respectfully submits that the foregoing constitutes “good cause” within the meaning of this Court’s Standing Order titled *Memoranda of Law*.

**WHEREFORE**, Intervenor Brian M. O’Connell, Personal Representative of the Estate of Simon L. Bernstein, respectfully requests that the Court enter an Order:

- A. Extending the time, up to and including October 27, 2016, for the Estate to file a reply and related materials in support of its Motion for Summary Judgment;
- B. Striking the status hearing currently scheduled for October 27, 2016; and
- C. Scheduling a status hearing for a date after October 27, 2016 that is convenient to the Court.

Dated: September 15, 2016

BRIAN M. O’CONNELL, PERSONAL REPRESENTATIVE  
OF THE ESTATE OF SIMON L. BERNSTEIN, Intervenor

By: /s/ James J. Stamos  
*One of Intervenor’s Attorneys*

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*Attorneys for Intervenor*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that he caused a copy of the foregoing ***Intervenor's Motion for Extension of Time to File Reply in Further Support of Motion for Summary Judgment*** to be served upon all registered E-Filers via electronic filing using the CM/ECF system, and to be served upon the following persons via U.S. mail, proper postage prepaid:

Lisa Sue Friedstein  
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*Pro Se Litigant*

on this 15<sup>th</sup> day of September, 2016.

          
/s/ James J. Stamos