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. 4D17-1607
L.T. No.: 2012CP004391XXXXNB

ELIOT IVAN BERNSTEIN v. ESTATE OF SIMON L. BERNSTEIN, et al.

Appellant / Petitioner(s) Appellee / Respondent(s)

APPELLANT'S MOTION FOR A REASONABLE EXTENSION OF TIME TO ANSWER APPELLEE'S MOTION TO DISMISS APPEAL

1. I am the Appellant pro se.
2. I respectfully make this motion for a reasonable extension of time to answer and respond to Appellee's motion to Dismiss the Appeal filed on June 9, 2017.
3. I make this motion for an extension within 10 days of the filing of Appellee's motion to dismiss which I understand is timely as the general rule is 10 days to respond to motions in this Court.
4. Good cause is shown for this request as in addition to ongoing electrical problems in the home directly impacting the computers, internet, router and equipment as I have stated in a prior motion before this Court, there are also ongoing issues with the Web service that hosts my Website where I maintain a repository of documents filed in these related cases and also Emails missing and even the US mail being

missing or substantially delayed and of course ongoing frauds upon the Court specifically involving the Appellee and Appellee's counsel Alan B. Rose.

5. These issues are set out in greater detail in the attached Exhibit 1 which is a recently filed and served similar Motion to Accept a Late Filing in the United States 7th Circuit Court of Appeals where the related litigation of Life Insurance of Simon Bernstein is at issue. See, Exhibit 1.

6. As this Court will see, the Order on Appeal in this case directly relates to the "Illinois" Insurance litigation and the filing in the US 7th Circuit Court of Appeals as it relates to the propriety of Ted Bernstein's personal attorney, Alan B. Rose, and the Mrachek Law Firm where Alan B. Rose is a partner, seeking to represent the Estate of Simon Bernstein purportedly "on paper" anyway only for an "independent" action in the 15th Judicial here in Florida between Creditor William Stansbury and the Estate of Simon Bernstein where Alan B. Rose also simultaneously represents Ted Bernstein who is adverse and in conflict with the Estate of Simon Bernstein in the "Illinois Insurance Litigation".

7. As shown in the recent filing in the US 7th Circuit, attorney Alan B. Rose himself is central to now further proven Fraud in these Estate and Trust matters as it is under Alan Rose's signature as a Licensed attorney in Florida that affirmative statements in Pleadings were filed in Jan. of 2016 just after an alleged "one-day Validity" Trial where Alan Rose affirmatively and falsely and fraudulently claims

that Judge Phillips had made findings and taken action in the "Validity Trial" that not only were never embodied in any Order or Judgment but in fact never occurred. (See, Related Forgery Conviction of Tescher & Spallina Paralegal Kimberly Moran in the Estate of Shirley Bernstein).

8. Part of that affirmative fraud by Ted Bernstein's attorney Alan B. Rose was to falsely claim that Appellant is not a Beneficiary of the Estate of Simon Bernstein and has no Standing where now Lower Tribunal Judge Scher in the very Order on Appeal affirmatively found Appellant is a Beneficiary of the Estate of Simon Bernstein and has standing. See, Paragraph 17 in the Order on Appeal and Transcripts to be filed as part of the Appeal where the Lower Tribunal clearly announces Appellant has Standing in the Estate of Simon Bernstein. (See Transcript quote in filing with US 7th Circuit).
9. Lower Tribunal Judge Scher further **affirmatively found that Ted Bernstein was adverse to the Estate in the Illinois Lawsuit.** See Paragraph 32 in the Order on Appeal.
10. Paragraph 21 of the Order on Appeal shows the Lower Tribunal's finding that Appellant believes there is a continuing fraud being perpetrated by Ted (Bernstein).
11. Appellant does not contest these portions of the Order on Appeal set out in Paragraphs 8,9, 10 herein.

12. This Court should note that Ted Bernstein and attorney Alan B. Rose again mislead the Court by claiming the Order on Appeal is due to a finding of lack of probate jurisdiction by the Lower Tribunal. See, Par. 3 of Appellee's Motion to Dismiss.
13. **This is further fraud or at least misleading misconduct by Appellee Ted Bernstein and Alan B. Rose.** The Court did not find a lack of probate jurisdiction and only questioned whether the Probate Court was the proper forum for determination of the Disqualification of the Mracheck firm and Alan B. Rose from representing the Estate in the independent Stansbury civil litigation.
14. Appellee Ted Bernstein and attorney Alan B. Rose **further misleads this Court** by claiming the Mrachek Law firm is not the Estate's Counsel in the Probate administration. See Par. 3 of Motion to Dismiss.
15. While this may be "technically" true, this is not practically true where not only did the PR and Estate Counsel "abandon" the Estate to the benefit of Ted Bernstein and Alan B. Rose during the "Validity Trial" despite having filed that Ted Bernstein is not a proper Trustee, **but just on May 26, 2017 even before this Motion was filed Ted Bernstein and Alan Rose filed seeking to "control" and "determine" who the Estate hires and pays as Counsel in the Illinois Litigation, the very litigation where Judge Scher has found Ted Bernstein conflicted**.

16. This filing was in relation to a Motion by Claimant - Creditor Stansbury to be Discharged from having to pay for the Estate's counsel in the Illinois Litigation and at the Hearing thus far, it was Ted Bernstein's Counsel Alan B. Rose leading the charge to control this matter while the Estate PR again abandoned in favor of conflicted Ted Bernstein.
17. This action by Ted Bernstein is directly related to the "withdrawing" of a motion in the Civil case by Creditor Stansbury as Rose and Ted Bernstein and PR O'Connell had affirmatively represented that Rose and his law firm's "representation" would be limited to the Stansbury case yet this has not been true.
18. Thus, due to the continuing unraveling of the fraud, Appellant seeks a reasonable extension and due to ongoing hearings that are directly relevant to the validity of the Order herein, Appellant suggests this Court should consider a Stay of the Appeal for a reasonable time as well.
19. While the Court has not Ordered Appellant to submit a brief on the Court's Appellate Jurisdiction of the Order in this case, Appellant seeks to address these issues upon a reasonable extension granted.
20. Appellant seeks no less than 5 days for an extension of time.

WHEREFORE, it is respectfully prayed for an Order granting a reasonable Extension of time to answer and respond to the Appellee's motion to Dismiss the Appeal and further grant a Stay of this Appeal pending related ongoing hearings in

the Lower Tribunal for such other and further relief as to this Court may seem just and proper.

Respectfully submitted,

Dated: June 19, 2017

/s/ Eliot Ivan Bernstein
Eliot Ivan Bernstein
2753 NW 34th St.
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the within has been served upon all parties on the attached Service List by E-Mail Electronic Transmission, Court ECF on this 19th day of June, 2017.

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EXHIBIT 1

UNITED STATES COURT OF APPEALS

FOR THE SEVENTH CIRCUIT

APPEAL NO. 17-1461

SIMON BERNSTEIN IRREVOCABLE INSURANCE TRUST DTD. 6/21/95, et al. , Plaintiffs-Appellees,	) Appeal from the United States) District Court, Northern District of) Illinois, Eastern Division.)
V.	) LC No. 1:13-CV-O3643) John Robert Blakey, Judge
HERITAGE UNION LIFE INSURANCE CO., et al., Defendants-Appellees.	)) **APPELLANT'S MOTION**
APPEAL OF: ELIOT BERNSTEIN, Cross and Counter-Claimant- Appellant.	) **TO ACCEPT LATE**) **JURISDICTIONAL**) **MEMORANDUM AND**) **PERMISSION TO**) **ELECTRONICALLY FILE**) **AND OTHER RELIEF**

COMES NOW ELIOT I. BERNSTEIN, APPELLANT PRO SE, WHO RESPECTFULLY PLEADS AND SHOWS THIS COURT AS FOLLOWS:

1. I, Eliot Ivan Bernstein, am Appellant pro se.
2. I respectfully make this Motion to Accept my late filing of the Statement of Jurisdiction in response to this Court's Orders and further for permission to File Electronically through the ECF system in the future, to accept my Informa Pauperis statement, to exceed the Page limits on my Jurisdiction statement if needed, and for leave to cure any other defects or requirements by this Court.

3. It is respectfully submitted to this Court that good cause is shown in the filing of this motion which I believe has merit and is not frivolous and request that the motions be granted so this Appeal may be fully heard on the merits.
4. As shown herein, in addition to substantial recurring electrical and power problems at Appellant's home spanning over the last 2 months and ongoing causing computers and other work equipment to go out and other Hacking into Appellant's online "repository" of documents and website, Appellant has been continually engaged in unraveling and sorting out massive frauds which is something Appellant repeatedly notified the US District Court about and where Appellant has repeatedly had to seek extensions of time in the Florida State Courts due to repeated sharp practices and fraudulent filings.

CHANGE OF CIRCUMSTANCES, LAW SINCE ENTRY OF ORDER ON APPEAL

5. There has been a substantial change of circumstances since the entry of the District Court's Order on Summary Judgment which was directly predicated in part upon a clearly erroneous factual and legal determination that Appellant Eliot Bernstein was not a "beneficiary" with "standing" in either the Estates or Trusts of Simon and Shirley Bernstein which was then used by the District Court in its Summary Judgement Order on Appeal on "collateral estoppel" grounds which was clearly erroneous on multiple grounds including applying the clearly erroneous "legal

standard" for Collateral Estoppel by applying Illinois law instead of the law of Florida where the Orders occurred as this is a Diversity of Citizenship case for jurisdiction as cited in Appellant's response to the Summary Judgment ("Round 2").

6. Respectfully, this Court should see that Appellant was clearly a "beneficiary" "with standing" and remains such in the Simon Bernstein Estate case where there has Never been an Order of any Court to the contrary, but Appellant also is and always was a "beneficiary with Standing" in the Shirley Bernstein Estate case and by the express terms of the Shirley Trust was an expressly "named" Beneficiary of the Shirley Trust which became "irrevocable" upon her passing which was prior to Simon Bernstein's passing.
7. Appellant had moved for "Injunctive relief" in the State Court of Florida even prior to the "removal" of the "Insurance litigation" herein to Federal Court on or about May 16, 2013.
8. This "Injunctive" relief filed in the State Court was predicated upon the "then discovered" Frauds and forgeries of Dispositive documents filed in the Shirley Bernstein Estate case by attorneys working for and with Ted Bernstein, the alleged "Trustee" and Plaintiff in this action being attorneys at Tescher and Spallina who were the Estate Planners for Simon and Shirley Bernstein and made themselves Personal Representatives of the Estates and Co-Trustees of Trusts.

9. As shown by Appellant's Answer and Counterclaims in this case and by a Motion for Injunctive Relief filed in the US District Court in this action in Feb. of 2016, the "same parties" involved with the frauds in the State of Florida cases are the same as those frauds before the US District Court where no "original" documents have been produced and all key dispositive Documents like the Insurance Policy and alleged controlling Trust have all allegedly become "lost" and "missing".
10. To the contrary, Appellant has alleged this is all part of a fraudulent scheme to "control" the Assets and Disposition of Assets and take away Appellant's "standing" and right to be heard after Appellant has exposed frauds and crimes in both actions and reported same to Federal and State investigative authorities.
11. Attached is a recent Order of Florida 15th Judicial Circuit Judge Scher which confirms that I, **Appellant, Eliot I. Bernstein am in fact a Beneficiary of the Simon Bernstein Estate which thus changes the circumstances and facts upon which the District Court issued its Order.**
12. Further, Judge Scher has also found that Ted Bernstein, who is the Plaintiff in this case, is adverse to the Estate of Simon Bernstein and has a conflict of interest involving the Illinois Insurance action and yet as later shown herein, continues to act "in unity" with the Estate PR Brian O'Connell to "control" Discovery and documents and the frauds and litigation in both this "Insurance" action and the Florida cases.

13. As this Court will note, while I have attempted in good faith to cite to the Docket Entries in the Record of the US District Court of the Northern District of Illinois in both the Jurisdiction Statement and this motion herein, there are references to newly discovered facts and change of circumstances which have occurred after the issuance of the Order being Appealed and this Court's Orders which I believe are important and while I have attached some of these items in hard copy print, it would be burdensome to do so for the entire motion and would further delay the filing of these papers and I request permission to Electronically file in the future and if required by this Court, to supplement my filings Electronically.

UNDISPUTED CLEAR AND CONVINCING PROOF OF ONGOING FRAUD BY PLAINTIFF TED BERNSTEIN, HIS COUNSELS ALAN B. ROSE, ESQ. AND ADAM SIMON, ESQ. AND INTERVENOR PR BRIAN O'CONNELL, ESQ. FOR THE ESTATE OF SIMON BERNSTEIN ACTING IN CONCERT AND ACTIVE CONCEALMENT OF THE FRAUD DIRECTLY IMPACTING THE US DISTRICT COURT'S ORDER ON SUMMARY JUDGMENT "NEWLY DISCOVERED" AFTER ISSUANCE OF THE SUMMARY JUDGMENT ORDER ON APPEAL; FRAUD THAT HAS BEEN CONCEALED FROM BOTH THE US DISTRICT COURT AND NOW THIS 7TH CIRCUIT US COURT OF APPEALS DESPITE APPELLANT'S REQUEST OF FLORIDA 15TH JUDICIAL CIRCUIT JUDGE SCHER TO NOTIFY ALL PROPER AUTHORITIES

14. The U.S. District Court below, Northern District of Illinois, abused its discretion acting clearly erroneously by failing to determine any actual proof or evidence in the Record and submitted on Summary Judgment by the Plaintiffs to support the

False and Fraudulent claim by Ted Bernstein and Counsels Adam Simon and Alan Rose that Appellant Eliot Bernstein is not a beneficiary of the Estate of Simon Bernstein, lacks standing and is barred from that Probate action lacking standing asserted as collateral estoppel which was improperly relied upon by the District Court in granting Summary Judgment dismissing all of Appellant's claims.

15. On Jan. 30th, 2017, Appellant notified the US District Court prior to the actual issuance of the Order now on Appeal in part "about important circumstances in the Florida Courts which I believe are consistent with what I notified this Court about in my All Writs petition ***where there is Direct collusion between the parties in the Florida proceedings which are impacting the Integrity of this Court's proceedings and path to Judgment.*** Specifically, **that in Florida, the Estate of Simon Bernstein and PR Brian O'Connell are now directly acting in Unity with Ted Bernstein and Alan Rose and even permitting Ted Bernstein's attorney Alan Rose to act as the Counsel for the Estate which is a major conflict of interest.** This conflict has also been raised in Florida by the Creditor's attorney Peter Feaman, Esq. and **Hearings are scheduled in a few weeks in Florida to address this Conflict** and it is also important to note **that these hearings are before a new Judge, Judge Scher,** and **all the Orders that the Plaintiffs are relying upon for Collateral Estoppel before this Court** were

issued by a **Judge Phillips who has now left the Bench prematurely and retired."** See, US District Court Docket No. 271 filed Jan. 30, 2017.

16. This Court should note that the "Ted Bernstein" Plaintiffs and the Estate of Simon Bernstein as Intervenor are the only remaining parties left in the case and yet these parties are not only acting in "unity" but doing so in such a "controlled manner" as to further and protect the frauds at play as shown in the All Writs but now further proof has emerged showing this scheme even further where **there is no "real controversy"** left before the District Court but instead an **"inside, secret deal and negotiation" amongst parties acting in fraud and misconduct.**

17. The US District Court was repeatedly apprised of these Conflicts including in the All Writs Act Motion for Injunction of Feb. 2016, Par. 4, providing in part, "**until this Court sorts out conflicts of interest as set out herein and exercises its inherent powers to probe "side deals" compromising the integrity of this Court's Jurisdiction and that such injunction should specifically include** but not be limited to enjoining proceedings before Judge Phillips in Palm Beach County" (emphasis added). See, Case: 1:13-cv-03643 Document #: 214 Filed: 02/24/16 Page 3 of 132 PageID #:3637.

18. Further in the All Writs Motion for Injunction Appellant moved the District Court stating "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)" (emphasis added). See, Document #: 214 Filed: 02/24/16 Page 11 of 132 PageID #:3645.

19. Thus, the District Court had been moved for relief under **Winkler v. Eli Lilly & Co. 101 F.3d 1196, 1202 (7th Cir. 1996)** and the All Writs Motion itself set out sufficient grounds for relief. Appellant respectfully asserts that further grounds now exist for Injunctive relief and notifies this Court that it will be moving for Injunctive relief under the Rules.

20. The **U.S. District Court's Order on Appeal (Docket Entry No. 273) appears in all material respects in this part of the Order to be *no more than a simple "copy and paste" by the Court of False statements and arguments submitted* by Plaintiffs' attorney Adam Simon which have been regurgitated into an official federal Court Order with no evidence, proof or documents in support, a *"fraud within a fraud" in an ongoing series of frauds*.**

21. Plaintiffs and their attorney Adam Simon had wholly failed to submit ANY Order or Judgment from Florida showing Appellant was not a Beneficiary in the Estate of Simon Bernstein and lacked standing in the Estate of Simon Bernstein. Of course, legally, the Plaintiffs and Adam Simon could not submit such an Order ***as No Such***

Order exists as this never happened in the Florida state Courts but instead Plaintiffs and Counsel Adam Simon simply knowingly "stated False Facts" to the US District Court that this was the case and such an Order existed in efforts to wholly remove Plaintiffs Constitutionally protected Due Process and Procedure Rights .

22. The US District Court below appears to have **bought into this fraud *"hook, line and sinker" without requiring any Proof or evidence*** as the Order on Appeal not only makes reference to these False Facts stated by Adam Simon but instead of Citing to some actual Order or Judgment document from Florida provided in the Summary Judgment filings, the District Court simply cites to the Statement of Facts submitted by Counsel Adam Simon for Plaintiffs.

23. For example, the US District Court states in the Order on Appeal, "First, Eliot cannot sustain cognizable damages related to the disposition of the Estate or the testamentary trust in light of the Probate Court's rulings. The Probate Court found, inter alia, that Simon Bernstein's "children – including Eliot – are not beneficiaries" of the Will of Simon Bernstein or the related testamentary trust. **[240] at 11."** See, US District Court Order Docket No. 273 pages 7-8. The US District Court had made it clear in FOOTNOTE 1 that, " ***The facts are taken from the parties' Local Rule 56.1 statements and the Court's previous rulings [106, 220]. [240] refers to Plaintiffs' statement of material facts."*** Thus, the US

District Court simply ruled based upon a section of False Statement of Facts from Plaintiffs citing to Plaintiffs Statement of Facts **[240] at 11** that had NO Orders attached or submitted used to provide the Findings and language that the District later gives "preclusive effect to" and thus, a fraud within a fraud, a lie within a lie.

SORTING OUT THE FRAUD AND THE FRAUDS WITHIN THE FRAUD, UNPEELING THE ONION:

24. Part of the basis for Appellant to respectfully move this Court to accept the separate Jurisdictional Statement is for this Court to consider, as shown and stated to the US District Court, the painstaking amount of time it takes and has taken to continually unravel the "lie within a lie of a lie" or "fraud within a fraud of a fraud" that this case has been from the outset as pleaded by the Appellant in the original Answer (Docket No. 35 Filed: 09/22/13) and multiple other filings including a Motion for Injunctive Relief under the All Writs Act filed Feb. 24, 2016 (Case: 1:13-cv-03643 Document #: 214 Filed: 02/24/16) and of course Docket No. 271 above and other filings.
25. I respectfully request this Court to **carefully examine Appellant's Motion for Injunction under the All Writs Act filed by Appellant Feb. 24, 2016** as it is not only **relevant to this Court's Jurisdiction to hear this Appeal** having moved for Injunctive relief at the District Court, but further provides a roadmap to the **Documented "Missing Millions" Unaccounted for in these cases, "Missing**

Originals" and documents and Discovery in general, "Missing Witnesses", pervasive frauds herein and "sharp practices" by the parties against Appellant including the pervasive "conflicts of interest" which have been "controlling the withholding of Discovery" and "Discovery used as a Weapon" throughout these related proceedings.

26. This Court is respectfully referred to Exhibit 10 of Plaintiffs' Summary Judgment motion (1 of 2 "Probate Orders submitted by Plaintiffs) which is a "Final Judgment" on "validity" of Testamentary instruments from Judge Phillips in Florida issued Dec. 16, 2015 while the parties were awaiting the first Summary Judgment determination from the US District Court (Summary Judgment filings "No 1 from summer of 2015).

27. Paragraph 2 of that Final Judgment provides: "Based upon the evidence presented during the trial, the Court finds that the Testamentary Documents, as offered in evidence by Plaintiff, are genuine and authentic, ***and are valid and enforceable according to their terms."*** See, Adam Simon and Plaintiffs "Round 2" Summary Judgment filing Exhibit 10, Case: 1:13-cv-03643 Document #: 240-11 Filed: 05/21/16 Page 3 of 6 PageID #:4193.

28. **Instead of the Plaintiffs actually attaching the Will of Simon Bernstein *so the US District Court could see the "terms" of the Will of Simon Bernstein,*** Plaintiffs attorney Adam Simon simply made False Statements of Fact in the Statement of

Facts submitted on Summary Judgment "Round 2" and in the Memorandum supporting the motion quoting from Attorney at Law Adam Simon presently licensed as follows:

"**The Probate Orders entered after trial include findings that (i) Eliot is not beneficiary of the Estate of Simon Bernstein; (ii) appoint a guardian ad litem for Eliot's children; and (iii) Eliot has no standing in the Probate Actions on behalf of himself, the Estate or his children.**" See, Case: 1:13-cv-03643 Document #: 241 Filed: 05/21/16 Page 11 of 17 PageID #:4263

29. Further from Adam Simon, "**The Probate Orders bar Eliot from the Probate Actions to represent his own interests,**" See, Case: 1:13-cv-03643 Document #: 241 Filed: 05/21/16 Page 11 of 17 PageID #:4263

ATTORNEY ADAM SIMON ACTING FOR TED BERNSTEIN CONTINUING FALSE AND FRAUDULENT STATEMENTS NOW USED BY THE US DISTRICT COURT IN THE ORDER ON APPEAL WHICH BEGAN WITH TED BERNSTEIN'S COUNSEL ALAN B. ROSE MAKING FALSE AFFIRMATIVE STATEMENTS OF FACT AND FRAUD UPON THE COURT IN FLORIDA:

30. This "fraud" that Appellant was not a "beneficiary" in the Simon Bernstein Estate case that Ted Bernstein's attorney Adam Simon has used before the US District Court below began with Ted Bernstein's attorney Alan Rose falsely claiming this to then "new" Judge Phillips in Florida in an after hours filing on the eve of a

Status Conference in the Simon Bernstein Estate case. See Ted Bernstein and Attorney Alan Rose Status Conference filing in Florida as follows:

Ted and Rose in Filing # 32030300 E-Filed 09/14/2015 05:18:25 PM

"TRUSTEE'S OMNIBUS STATUS REPORT AND REQUEST FOR CASE MANAGEMENT CONFERENCE"

"**Introduction - The overarching issue in these cases is Eliot Bernstein. He is not named as a beneficiary of anything**; yet he alone has derailed these proceedings for more than two years and has harassed and attacked the prior judges, fiduciaries and their counsel." (See, full document to be uploaded upon Permission to file Electronically or supplement this filing)

31. As shown in my All Writs filing, this lead to Appellant being denied fundamental rights to be heard and due process even in the "Scheduling" of the alleged "one day" "Validity Trial" that has then been used before this Court to wrongly dismiss all my claims and remove me from the action which had been scheduled in the Shirley Bernstein Trust case which was not even "Noticed for Status Conference" and thus in direct violation of Florida Procedural Laws. See, All Writs Motion Feb. 2016.
32. On or about Jan. 4, 2016 just a few weeks after this "Validity Trial", Ted Bernstein's attorney made the following False and clearly Fraudulent Affirmative

Statement of Fact in a Motion to the Florida Court to remove my "standing" in the cases as follows:

"**As a result of upholding these documents, the Court has determined that Eliot Bernstein, individually, is not a beneficiary of either Simon's or Shirley's Trusts or Estates.** Instead, his three sons are among the beneficiaries of both Simon's and Shirley's Trusts, in amounts to be determined by further proceedings. **Eliot lacks standing to continue his individual involvement in this case.**" See, Jan. 4, 2016 Motion by Ted Bernstein-Alan Rose to be submitted Electronically upon permission or to be supplemented.

33. This statement, however, by this attorney at law Alan Rose, was clearly False and Fraudulent as Judge Phillips had Never done the Acts being claimed as already occurring and none of these alleged acts or findings are in existence in the "Final Judgment" (See, Adam Simon and Plaintiffs "Round 2" Summary Judgment filing Exhibit 10 Probate Order, Case: 1:13-cv-03643 Document #: 240-11 Filed: 05/21/16 Page 3 of 6 PageID #:4193.) and the Transcript of the Validity Trial. Instead, this is simply a FALSE and Fraud Upon the Court scheme and narrative that continued for over a year in the Florida Courts and as alleged in the Appellant's All Writs Motion for Injunctive relief is part of the wrongful scheme to gain "collateral estoppel" advantage in these proceedings.

ACTUAL WILL LANGUAGE OF SIMON BERNSTEIN

34. While Appellant maintains various legal arguments and objections to any determination of "validity" of Testamentary Wills and Trusts from the Florida proceedings, ARTICLE I of the Simon Bernstein Will upheld and used by Plaintiffs for "collateral estoppel" actually provides by its express terms:

> ARTICLE I. TANGIBLE PERSONAL PROPERTY
>
> I give such items of my tangible personal property to such persons as I may designate in a separate written memorandum prepared for this purpose. I give to SHIRLEY, if SHIRLEY survives me, my personal effects, jewelry, collections, household furnishings and equipment, automobiles and all other non-business tangible personal property other than cash, not effectively disposed of by such memorandum, **and if SHIRLEY does not survive me, I give this property to my children who survive me**, **[emphasis added]** divided among them as they agree, or if they fail to agree, divided among them by my Personal Representatives in as nearly equal shares as practical, and if neither SHIRLEY nor any child of mine survives me, this property shall pass with the residue of my estate."

35. Thus, being a natural born child and son to Simon Bernstein who has survived him, the express language of the Will itself which Judge Phillips held to be enforceable "by its terms" establishes Appellant as a "beneficiary" in the Estate of Simon Bernstein with Standing. See, Will of Simon Bernstein 2012 to be submitted upon permission to file Electronically.

ACTUAL WILL LANGUAGE OF SHIRLEY BERNSTEIN HAS SAME LANGUAGE MAKING APPELLANT A "BENEFICIARY" WITH STANDING IN THE SHIRLEY BERNSTEIN ESTATE WHERE

APPELLANT WAS EXPRESSLY NAMED AS A BENEFICIARY IN THE NOTICE OF ADMINISTRATION:

36. The actual Will language of the Shirley Bernstein "Will" which was "validated" by the Probate Order (Exhibit 10) advanced by Plaintiffs and Adam Simon expressly makes Appellant a beneficiary with Standing.

WILL OF
SHIRLEY BERNSTEIN
Dated May 20, 2008

I, SHIRLEY BERNSTEIN, of Palm Beach County, Florida, hereby revoke all my prior Wills and Codicils and make this Will. My spouse is SIMON L. BERNSTEIN ("SIMON"). My children are TED S. BERNSTEIN ("TED"), PAMELA B. SIMON, **ELIOT BERNSTEIN [EMPHASIS ADDED]**, JILL IANTONI and LISA S. FRIEDSTEIN.

ARTICLE I. TANGIBLE PERSONAL PROPERTY

I give such items of my tangible personal property to such persons as I may designate in a separate written memorandum prepared for this purpose. I give to SIMON, if SIMON survives me, my personal effects, jewelry, collections, household furnishings and equipment, automobiles and all other non-business tangible personal property other than cash, not effectively disposed of by such memorandum, **and if SIMON does not survive me, I give this property to my children who survive me,** divided among them as they agree, or if they fail to agree, divided among them by my Personal Representatives in as nearly equal shares as practical, and if neither SIMON nor any child of mine survives me, this property shall pass with the residue of my estate.

37. Thus, while there was an "Order" issued in Florida claiming I am not a Beneficiary of the Shirley Bernstein Estate (but No Order in the Simon Bernstein Estate), this Order was clearly erroneous and the product of fraud and Appellant is pursuing motions to vacate in the Florida Courts and will further seek a narrowly tailored Injunction in these federal proceedings.

38. In both the Simon Bernstein Estate and Shirley Bernstein Estate, Appellant was formally Noticed as a Beneficiary in both Notices of Administration. See, documents to be filed Electronically or supplemented.

39. Likewise, in a "resignation letter" by Estate Planner and Ted Bernstein attorney Donald Tescher from Jan. of 2014 after forgeries in the Shirley Estate case were discovered, Donald Tescher stated affirmatively that Appellant was in fact a Beneficiary of the Shirley Bernstein Trust yet Donald Tescher was never produced or called as a Witness in the "validity" Trial despite this letter and despite signing the Notice of Administration in the Simon Bernstein Estate naming Appellant a Beneficiary.

NEWLY DISCOVERED EVIDENCE OF FEB. 9, 2017 AFTER ISSUANCE OF DISTRICT COURT ORDER ON APPEAL WITH ESTATE OF SIMON BERNSTEIN PR BRIAN O'CONNELL ADMITTING THE LANGUAGE MAKING APPELLANT A BENEFICIARY IN THE SIMON BERNSTEIN ESTATE IN STATEMENT CONCEALED AND WITHHELD BY TED BERNSTEIN AND ALAN ROSE SINCE AT LEAST DEC. 22, 2016

40. While Appellant submits to this Court and the Florida Courts the involved attorneys "had to know" the express language of the Wills made Appellant a Beneficiary with Standing, "newly discovered evidence" emerged on Feb. 9, 2017 after issuance of the Summary Judgment Order on Appeal in a filing by Ted Bernstein Attorney Alan Rose in relation to Hearings in the Florida Court for Ted Bernstein and Alan Rose to "act for the Estate" working hand in hand with PR O'Connell despite being "adverse" in this Insurance case.

41. This evidence consisted of a Statement by the PR which is "undated" but which by the submission from Alan Rose shows this Statement was "emailed" to Creditor Attorney Peter Feaman as of Dec. 22, 2016 (See Exhibit 1) **yet** withheld **from Appellant until Feb. 09, 2017 and concealed from this Court and the US District Court to this very day.**

42. The language of PR O'Connell in this undated "Statement" in part is as follows: "Based upon the Will upheld during a probate trial conducted last December, resulting in a Final Judgment dated December 16, 2015, ***Simon Bernstein's children are the named devisees of certain personal property***," (emphasis added) . Appellant, as a natural child of Simon Bernstein, is a beneficiary with standing under at least this express language in the Will.

APPELLANT MOVED TO VACATE CERTAIN SCHEDULING ORDERS BASED UPON THE FRAUD AND A NEW ORDER OF FLORIDA JUDGE SCHER UPHOLDS APPELLANT'S STATUS AS A BENEFICIARY IN THE

ESTATE OF SIMON BERNSTEIN WITH STANDING WHERE FLORIDA JUDGE SCHER HAS "WITNESSED" THE MULTIPLE FILINGS AND ACTS OF TED BERNSTEIN'S ATTORNEY ALAN ROSE FALSELY CLAIMING APPELLANT IS NOT A BENEFICIARY OF ANYTHING:

43. In several of the new Hearings in Florida that Appellant notified the District Court below were about to occur in Appellant's Jan. 30, 2017 filing (Docket No. 271) the following exchanges have occurred in the Transcript of Proceedings. As will be shown to the Court, ***Attorney Alan Rose has only "changed his story" in Florida after being exposed for repeated fraud***:

PROCEEDINGS BEFORE THE HONORABLE ROSEMARIE SCHER THURSDAY, FEBRUARY 16, 2017

http://iviewit.tv/Simon%20and%20Shirley%20Estate/20170216%20HEARING%20TRANSCRIPT%20JUDGE%20SCHER%20CLEAN%20COPY.pdf 2:38 p.m. - 4:46 p.m.- Simon Bernstein Estate

P. 33 – Rose Addressing the Court

"14 MR. ROSE: I would just state for the
15 record that he has been determined to have no
16 standing in the estate proceeding as a
17 beneficiary.
18 THE COURT: I thought that was in the
19 Estate of Shirley Bernstein.
20 MR. ROSE: It's the same ruling --
21 (Overspeaking.)
22 THE COURT: Please, I will not entertain

23 more than one person.

24 MR. ROSE: By virtue of Judge Phillips'

25 final judgment upholding the documents, he is

P. 34

1 not a beneficiary of the residuary estate. He

2 has a small interest as a one-fifth beneficiary

3 of tangible personal property, which is –

4 THE COURT: I understand."

ESTATE OF SIMON L. BERNSTEIN PROCEEDINGS BEFORE THE HONORABLE ROSEMARIE SCHER VOLUME II THURSDAY, MARCH 2, 2017 1:35 - 3:39 P.M. TRANSCRIPT EXCERPTS

http://iviewit.tv/Simon%20and%20Shirley%20Estate/20170216%20and%2020170302%20Hearing%20Transcripts%20Combined%20WITH%20EXHIBITS%20JUDGE%20SCHER%20CLEAN%20COPY.pdf

Page 127 – Eliot addressing the Court

"9 forthcoming. **And I think we'll be able to show**

13:42:51 10 that there's been fraud on this Court. The

11 other date in that hearing **if you look at the**

12 transcript Mr. Rose claimed that I had no

13 standing, and you overruled that, or whatever

14 you call it, you did.

13:43:03 15 **THE COURT: I did."**

Page 138 – Court Addressing Eliot

"13:51:55 10 **THE COURT: You don't have to. You have**

11 standing. You are sitting there. I have
12 allowed it. I have allowed it. You are a
13 tangible beneficiary whatever assets remain
14 outside of the Simon trust. I think everyone
13:52:08 15 is on the same page. If it's a dollar or if
16 it's ten dollars, that's where you have -- now,
17 I have no idea the dollar figures in any of
18 this.
19 MR. ELIOT BERNSTEIN: None of us do."

44. As will be further shown when Appellant moves for a Stay and Injunctive relief in these federal proceedings, there has Never been any "Construction Hearings" in Florida on the meaning of any of the documents including the alleged "power of appointment" exercised by Simon Bernstein nor any hearing on the Shirley Bernstein Trust where multiple documents to this day have never been produced. While parts of this new Order from Judge Scher are on Appeal by Appellant, the new Order does Find as follows:

April 27, 2017 Scher Order stating APPELLANT ELIOT BERNSTEIN IS A BENEFICIARY:

"Elliot Bernstein joins Stansbury's opposition to the appointment of Mrachek Firm. **Elliot is a residuary beneficiary of any tangible property of the Estate.** All other beneficiaries (Trust Beneficiaries) approve the retention of the Mrachek Firm." (See Attached Order Exhibit 2).

APPELLANT REQUESTS LEAVE TO SUPPLEMENT FILINGS AS NEW FILINGS BY TED BERNSTEIN'S ATTORNEY ALAN ROSE SHOW TED BERNSTEIN DIRECTLY ACTING TO "CONTROL" THE HIRING AND PAYMENT OF THE ESTATE'S COUNSEL TO "CHALLENGE" TED BERNSTEIN IN THIS VERY FEDERAL CASE OVER "INSURANCE"

45. Appellant seeks leave to supplement these filings and file Electronically to show the "Inherent Conflicts of Interest" which continue despite Appellant's Motion for Injunctive Relief in Feb. of 2016 showing the District Court the inherent conflicts of interest and need for use of the "inherent powers" an Eli "probe" of side deals and agreements. See, All Writs Injunction Motion Feb. 2016.

46. In what is inherently conflicting and bizarre, it has been the Creditor William Stansbury who has been forced to pay for the Estate of Simon Bernstein's counsel in this Federal case over the Insurance even though the Creditor and Estate are adverse in a separate action in Florida where the Creditor seeks nearly $3 million in damages.

47. The All Writs Injunction motion filed by Appellant had already shown the US District Court that there is a "secret" undisclosed "settlement" between Creditor Stansbury and Ted Bernstein who settled for himself "individually" with Stansbury while also acting in conflict as the Trustee of the Shirley Bernstein Trust and on behalf of certain Simon Bernstein entities who were also sued by Stansbury.

48. In documenting many "Missing Millions" in the All Writs filed with the US District Court in Feb. 2016 which was "Denied" by "Minute Order" but not

"stricken" from the Record as a pleading, this Writ showed there has never been Any Accounting in the Shirley Bernstein Estate or Trust and Appellant asserts this is part of the reason for the scheme to deny Appellant's "standing" in order to "silence" Appellant from exposing the frauds, crimes and missing assets.

49. These conflicts have continued by the same parties who have "controlled' Discovery and access to documents throughout, Documents which should answer the very central issues in this action of "where is the Trust", what is the "right Trust" and "where is the Insurance Policy". See All Writs Motion Feb. 2016.

50. The Conflicts persist where again Ted Bernstein and Estate PR O'Connell while "adverse" in this action are working in "unity" in the Florida courts where now the PR of the Estate has sought to "hire" Ted Bernstein's Attorney Alan Rose and Mrachek law firm while being "adverse" here in Illinois yet where the Estate did not oppose Ted Bernstein and Alan Rose coming in to "control" the Illinois Insurance litigation attorney for the Estate in this case on a motion by the Creditor Stansbury to be "discharged" from further paying for the Illinois Insurance counsel of the Estate.

51. In its recent Order of April 2017, Judge Scher specifically made findings of this Conflict involving Ted Bernstein and the Estate in the Illinois insurance case as follows: "The Court finds Mr. O'Connell to be credible. Conserving the Estate's assets by not having to pay the Personal Representative to be involved in the

Stansbury litigation is a laudable goal; **nonetheless, the Court cannot ignore the fact that the Estate and Ted are adverse in the Illinois lawsuit.** Moreover, Mr. O'Connell is capable of representing the Estate. **While the Illinois action is still pending, the Court declines to appoint Ted as Administrator Ad Litem.**" (emphasis added). See attached Exhibit 2.

52. Appellant asks this Court to take notice that not only is Appellant in the process of filing other motions to vacate in the Florida Courts based on various frauds as the "onion is peeled back" layer by layer, Appellant will also be filing to Remove both Ted Bernstein in all capacities as Trustee in Florida and PR Brian O'Connell also to be removed as PR of the Estate of Simon Bernstein on multiple grounds of misconduct and fraud including but not limited to the fraud in Denying Appellant's status as Beneficiary and concealing this fraud from the Federal Courts and statutory grounds in Florida for failing to account and other grounds shown in the All Writs Motion of Feb. 2016.

53. Appellant points out to this Court as shown to new US District Court Judge Blakey in the All Writs Motion for Injunction of Feb. 2016 that prior Judge St. Eve had "stayed Discovery" due to no proof that Ted Bernstein was a proper Trustee and yet somehow while never determining this, Discovery then was opened and closed and Appellant has repeatedly moved for opening Discovery on specific topics.

54. Par. 20 of the Writ provided, “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 Case: 1:13-cv-03643 Document #: 214 Filed: 02/24/16 Page 9 of 132 PageID #:3643 Page 9 of 132 remains disputed. The Trustee/Trust/Beneficiaries/Policy issues remains undetermined presently and this 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.” See, Case: 1:13-cv-03643 Document #: 214 Filed: 02/24/16 Page 9 of 132 PageID #:3643.

55. Appellant will show this Court that the District Court’s Order was clearly erroneous, used improper standards switching the burden of proof on Summary Judgment, was an abuse of discretion and further clearly improperly as even taking the District Court’s claim that Plaintiffs in this case have said I am a ⅕ “beneficiary of the Insurance proceeds thus I can not show “damages” if the Plaintiffs win, this is erroneous as it fails to consider the “delay” damages by the wrongful coverup of operative documents and related damages to be fully briefed on Appeal.

56. Until the frauds and inherent conflicts are resolved and addressed by the Courts, no further action should continue and Appellant will be filing for a formal Stay and Injunctive relief in the federal actions according to the Rules including seeking an "inquiry" of the conflicted counsels.

APPELLANT HAS REQUESTED FLORIDA JUDGE SCHER TO NOTIFY THIS COURT AND ALL AUTHORITIES OF THE ONGOING FRAUDS UPON THE COURT IN RECENT LETTER MOTION OPPOSING ANOTHER "UMC" (UNIFORM MOTION CALENDAR - NON EVIDENTIARY) HEARING BY TED BERNSTEIN AND ALAN ROSE ON CLEARLY CONTESTED ITEMS IN THE SHIRLEY TRUST AND ESTATES, A LETTER COPIED TO US. DEPT OF JUSTICE CIVIL RIGHTS SECTION HEAD, US ATTORNEY IN SDNY, AND "DC NO. 1"

57. It is further noted for this Court that Appellant has specifically requested Florida Judge Scher who has been a "Witness" to the frauds upon the Court by Ted Bernstein and Alan Rose and inherent conflicts of interest to notify proper authorities including the US District Court and this US 7th Circuit Court of Appeals.

58. Upon information and belief, neither Attorney Adam Simon for Ted Bernstein, nor Alan Rose for Ted Bernstein, nor PR Brian O'Connell for the Estate of Simon Bernstein, nor Chicago counsel Stamos have Notified the US District Court nor this US 7th Circuit Court of Appeals of the fraud or sought to correct the fraud by correcting the erroneous statements and pleadings that Appellant Eliot I. Bernstein is in fact a Beneficiary with Standing thus far in at least the Simon Bernstein

Estate. A copy of this Letter request also transmitted to Federal Investigative authorities is attached as (See Exhibit 3).

ADDITIONAL REASONS TO ACCEPT LATE FILING; ONGOING ELECTRICAL OUTAGES, EMAIL AND WEBSITE DOCUMENT HACKING

59. I was granted permission to file Electronically in the District Court and respectfully request permission of this Court to do so for future filings in this Appeal.

60. I note for this Court that I did not receive the initial Orders sent US Mail from this very Court and only received any of the Orders by Mail for the first time on April 11, 2017 just entering the Jewish Passover time and other religious holidays.

61. I have no knowledge of why this Court's prior Orders were not received by the US mail and notified one of the Clerk's about this who also maintained another Order that I had also not received and appeared not to have been sent to me at that time.

62. I contacted the 7th Circuit Clerk's Office to notify the Court that I did not receive these original Orders by the US Mail and then had received Orders on or about April 11, 2017.

63. I further notified one of this Court's Clerks that to my knowledge I am now on the ECF filing system with the 7th Circuit and would be submitting this Motion to accept my Statement of Jurisdiction and also for further extensions of time to cure any other deficiencies in the Appeal filings in this case.

64. I was not aware until after business hours on the day of this Court's most recent deadline of May 26, 2017 that while I had "registered" with the ECF for this 7th Circuit Court of Appeals, I was not actually able to "submit" filings as I apparently needed to file a separate motion to get permission to file Electronically which I now request.

65. This Court's April Order had indicated a filing deadline of April 17, 2017 and I spoke with the Clerk's Office again on April 18, 2017 after also getting access to Pacer information from the District Court of the Northern District of Illinois under Case No. 1:13-CV-O3643 to first discover that there were several entries relating to this Appeal on file with the District Court that was requiring action on my part and yet I never received any of the filings Electronically through the District Court either despite having been granted permission and was able to File electronically and receive documents and notices Electronically in the underlying case for well over three years.

66. That on April 09, 2017 Appellant's home power began massive surges resulting in ongoing power outages that resulted in our oven almost catching on fire and blown out and other electrical items being destroyed including computer and network equipment.

67. Thus, in addition to not receiving Court documents via the US Mails and not receiving Electronic Notice and Documents via the US District Court of the

Northern District of Illinois, that my Home has been experiencing serious and significant power and electrical "abnormalities" for over 2 months frequently knocking out the Internet and home computers and causing substantial delays in the processing of documents and responses to matters both in this Illinois insurance case and the related Florida State Court Trust and Estate cases.

68. I have had to file multiple motions for Extensions of time in both the 4th District Court of Appeals in Florida and the 15th Judicial Circuit where these Florida state Court cases are pending and have received extensions for multiple filings thus far.

69. That Florida Power & Light was contacted about the problems that almost set the home oven on fire and sent workers to the home who immediately removed our home from the power box and plugged our power into the neighbor's power box through a "temporary line" above ground and opened a ticket for service to take out what appeared to be faulty wiring in our yard.

70. Despite reconnecting the power to the neighbor the surges continued and continued to disrupt power, often for hours of the day and during such time all power, internet, phones, etc. used for working on filings was down. FPL then connected the home directly to the transformer and again the power surges continued and it was discovered that the transformer wires were melted and in contact with each other causing part of the problem.

71. The Internet Comcast Box was blown out and had to be replaced leaving us with 3 days of no Internet services.
72. The transformer was fixed and our home was re-connected directly to the power source and yet the problem still continues and FPL now is investigating the wiring to our home as also faulty.
73. These problems have caused us massive loss of time to work as Appellant works from home. Appellant can produce Witnesses who have been to our home that has seen these electrical problems first hand and Appellant has submitted proof of multiple Electrical work "Tickets" with FPL to the State Courts of Florida.
74. In addition to all of the electrical and power issues, Appellant has further been receiving Notices from a company called Canaca located in Canada that hosts my website and mail where I maintain an online storage and "Docket system" for the filings and pleadings in multiple cases including this Illinois insurance action.
75. Canaca has been notifying me of multiple "spamming" events through my website that I have no knowledge of and also discovered that somehow my Password and email system was hacked where I have had substantial delays in receiving Electronic notices of Court filings via email at iviewit@iviewit.tv .
76. This has also caused further delays as I use this online website docketing system to organize and review and refer to Court filings in order to respond to new motions for file motions of my own and have discovered certain document entries which

appear to be tampered with by either having the wrong Dates associated with the filing or being in the wrong time period which has resulted in significant time to check, double check and cross check filings for accuracy.

77. This constant and continuous checking and cross-referencing of documents and filings is further exaggerated by the pervasive Frauds Upon the Court and actual proven frauds in Documents filed by parties and attorneys connected with Plaintiff Ted Bernstein and perhaps others all of which has been extremely difficult and time consuming with repeated electrical and internet outages many of which have specifically targeted and impacted my home computer systems.

78. In fact just 10 days or so before this Illinois Insurance action was first "removed" to Federal Court in the US District Court of the Northern District of Illinois on or about May 16, 2013 , I had just filed for Emergency Injunctive "Freeze" Assets and Documents relief on May 6, 2013 in the Florida Estate case of my deceased mother Shirley Bernstein and separately in the Florida Trust case after I discovered that Plaintiff Ted Bernstein's counsels Tescher & Spallina had begun filing "forged" and fraud documents in the Shirley Estate case in October of 2012 falsely using my then recently Deceased father Simon Bernstein to file documents in that case to try and "close" the Estate when in fact Simon had passed away in September of 2012.

79. This lead not only to Florida State Court Judge Colin stating on the record in Sept. of 2013 that he had enough information to read certain attorneys, Robert Spallina, Esq., Mark Manceri, Esq. and Donald Tescher (who failed to appear) and fiduciaries (Spallina, Ted Bernstein and Tescher) their "Miranda Warnings" but also lead to a Criminal prosecution and guilty plea by Tescher & Spallina Paralegal and Notary Public Kimberly Moran after the Governor Rick Scott's Office of Florida began an investigation upon my complaint of Notary fraud in the case and then referred it to the Palm Beach County Sheriff for investigation where it was learned she had forged six parties names on documents submitted to the FL court by the law firm of Tescher & Spallina, PA in my mother's estate case, including forging my deceased father's signature and my own.

80. This time period of October of 2012 when the Shirley Estate frauds were occurring shortly after the passing of my father Simon Bernstein in Sept. of 2012 is also the same time period that Plaintiff Ted Bernstein's counsel and Estate and Trust co-drafter and planner Robert Spallina was falsely and fraudulently filing to Collect the Insurance proceeds in this case as the alleged "Trustee" of the alleged "lost" missing Trust without informing the Carrier that Murder allegations had been made by Plaintiff Ted Bernstein on the night of Simon Bernstein's passing at the Hospital and that an open Palm Beach Sheriff Investigation (PBSO) was pending.

81. Somehow, both Tescher and Spallina who not only were the "Drafters" and Estate and Trust Planners for Simon and Shirley Bernstein, Co-Trustees and Co-PR's in my father's estate and trust and counsel to their close friend and business associate Ted Bernstein who was alleged Successor Trustee and Successor PR of my mother's estate and trust but both Tescher and Spallina were also involved in the frauds and the most obvious parties to have Maintained Records relevant to this case were allowed to be Dismissed from this Insurance action which I opposed without ever being allowed to be Deposed or required to provide Discovery which I have sought in the District Court on multiple occasions but denied thus far.
82. As noted in my Jurisdictional Statement, I did move for Injunctive Relief in the District Court under the All Writs Act specifically seeking Injunctive relief to preserve and protect Documentary evidence and records from all of the involved parties but was denied.
83. As noted in my pleadings before the District Court and the Jurisdiction Statement herein, I also have extensive Insurance Industry experience and now state to this Court that to my knowledge and research thus far, this is a case of first impression and occurrence in that it allegedly involves Insurance Carriers who have allegedly "Lost" the Actual Policy at issue despite being a highly regulated industry with rigorous Record Retention requirements.

84. **This is <u>"unheard of"</u> in the Industry** and I can produce other witnesses from the Insurance Industry that would support this and yet, "somehow", all of the Carriers were also let out of the District Court case with no Depositions or additional Discovery which was objected to by Appellant who repeatedly moved the District Court to reopen Discovery.

85. It is just as unlikely that there are "**No Original Documents**" produced from any of my Father's affairs and cases having had multiple businesses, earned millions of dollars and having multiple "professional" Attorneys and Fiduciaries involved and just as unlikely that there are so many "**missing"** and "**lost**" Documents from my Father's businesses and life and I submitted a further Declaration to the District Court about the extensive Record Keeping practices of my father Simon Bernstein and his businesses which is why my claims and version is the most "reasonable" and that "**reasonable jurors**" would likely agree that this action is really about Fraud and intentional record hiding, spoilation or destruction as set out in my Summary Judgment responses and the related claims advanced in my pleadings which I sought to Amend more than once but was also Denied by the District Court.

86. During all of this time up to the present and as raised originally in my Motion for Injunctive Relief under the All Writs Act filed in Feb. 2016, Appellant, who is Pro Se and not a law firm has been assailed with a mass of court pleadings due, court

appeals due and hearings, in the 14 cases relating to these matters in the Florida Courts and has been late or needed extensions in virtually all of them as a result of these issues.

87. I received No Notice from the District Court whatsoever that "somehow" I was "removed" from receiving Filings by the District Court electronically and thus have no idea why I did not receive this Court's Orders electronically from the District Court which are on the Docket below.

88. Thus, in addition to moving this Court to accept as late my Jurisdictional Statement, I further move for a reasonable extension of time to cure any other deficiencies in my filings and to further brief the Jurisdictional issues if necessary.

89. This Court should be aware that there is massive "fraud" in the underlying proceedings and also in the related Florida Court Estate and Trust cases that impact not only the merits of each case but even my ability to timely respond to matters as there is a constant "unraveling" of existing frauds, including PROVEN forgery of dispositive documents, discovery and admission of new frauds by fiduciaries and counsel, including but not limited to additional frauds on the court, and related items that take significant amounts of time on a regular basis to address in each of approximately 14 individuals legal actions involving the Estates and Trusts of my family and all while not being a law firm but rather a Pro Se litigant.

90. In fact, as I have alleged, the mere "filing" of the underlying action which is the subject of this Appeal which was a State Court filing in Cook County in April of 2013 until "removed" to Federal Court in May of 2013 by one of the involved "Insurance Carriers" is itself an act in "fraud" and "fraud upon the court" that has never been fully addressed or properly addressed by the District Court of the Northern District of Illinois.

WHEREFORE, for all of the foregoing reasons, Appellant prays for an Order accepting my Jurisdictional Statement as late, accepting my informa pauperis statement, granting permission to file Electronically in the ECF system for future filings, granting permission to exceed the page lengths where necessary herein and for such other and further relief as may be just and proper.

Declaration

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

DATED: June 15, 2017

/s/ Eliot Ivan Bernstein
Cross and Counter-Plaintiff, Appellant PRO SE
Eliot Ivan Bernstein
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90. In fact, as I have alleged, the mere "filing" of the underlying action which is the subject of this Appeal which was a State Court filing in Cook County in April of 2013 until "removed" to Federal Court in May of 2013 by one of the involved "Insurance Carriers" is itself an act in "fraud" and "fraud upon the court" that has never been fully addressed or properly addressed by the District Court of the Northern District of Illinois.

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DATED: June 15, 2017

/s/ Eliot Ivan Bernstein
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CERTIFICATE OF SERVICE

The undersigned, Eliot Ivan Bernstein, Pro Se certifies that he filed an APPELLANT'S JURISDICTIONAL MEMORANDUM, INDIGENT FORMS AND APPELLANTS MOTION TO ACCEPT LATE FILING AND OTHER RELIEF via Postal Mail with the Clerk of the 7th Circuit Court of Appeals, and served copies of same upon those listed below by Postal Mail on this 15th day of June, 2017.

SERVICE LIST

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/s/ Eliot Ivan Bernstein

CERTIFICATE OF SERVICE

The undersigned, Eliot Ivan Bernstein, Pro Se certifies that he filed an APPELLANT'S JURISDICTIONAL MEMORANDUM, INDIGENT FORMS AND APPELLANTS MOTION TO ACCEPT LATE FILING AND OTHER RELIEF via Postal Mail with the Clerk of the 7th Circuit Court of Appeals, and served copies of same upon those listed below by Postal Mail on this 15th day of June, 2017.

SERVICE LIST

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/s/ Eliot Ivan Bernstein

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EXHIBIT 1

Ashley Bourget

From: Peter M. Feaman <pfeaman@feamanlaw.com>
Sent: Thursday, December 22, 2016 3:53 PM
To: Alan Rose
Cc: boconnell@ciklinlubitz.com; Foglietta, Joy A; tbernstein@lifeinsuranceconcepts.com; dzlewis@aol.com
Subject: RE: 57.105 Motion -- follow up

We believe or Motion is very well grounded in fact and law.

Peter M. Feaman
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From: Alan Rose [mailto:ARose@mrachek-law.com]
Sent: Thursday, December 22, 2016 3:49 PM
To: Peter M. Feaman
Cc: 'boconnell@ciklinlubitz.com'; 'Foglietta, Joy A'; 'Ted Bernstein (tbernstein@lifeinsuranceconcepts.com)'; 'dzlewis@aol.com'
Subject: 57.105 Motion -- follow up

Peter:

In light of the attached Notice of No Conflict or Waiver by the PR of the Estate and, paragraph 4 from the attached filing from long ago by the Curator, who clearly states that our work saved the Estate from incurring fees, we implore you to drop the nonsense and withdraw the Motion to Vacate and the Motion to Disqualify my law firm.

These are frivolous motions, and we will be seeking severe sanctions against your client and your law firm for these actions.

Stansbury's case will tried next year, by me or someone else, and then he will have his answer. In meantime, for the sake of the grandchildren, withdraw these motions and lets get to the merits.

Happy holidays.

Alan

Alan B. Rose, Esq.
arose@Mrachek-Law.com
561.355.6991

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT IN AND FOR PALM BEACH COUNTY, FLORIDA

IN RE: CASE NO. 502012CP004391XXXXNBIH

ESTATE OF SIMON L. BERNSTEIN,
_____/

PR'S STATEMENT OF ITS POSITION THAT THERE IS NO CONFLICT AND HIS WAIVER OF ANY POTENTIAL CONFLICT

I, Brian O'Connell, am the court-appointed Personal Representative ("PR") of The Estate of Simon L. Bernstein ("Estate"). Based upon the Will upheld during a probate trial conducted last December, resulting in a Final Judgment dated December 16, 2015, Simon Bernstein's children are the named devisees of certain personal property, but the sole residuary beneficiary of the Estate is the current trustee of the Simon L. Bernstein Amended and Restated Trust dated July 25, 2012 ("Trust"). That role is currently being fulfilled by Ted S. Bernstein, as Successor Trustee ("Trustee").

There are certain persons who have asserted potential claims against the Estate. The largest such claim is an independent action styled *William E. Stansbury, Plaintiff, v. Estate of Simon L. Bernstein and Bernstein Family Realty, LLC, Defendants*, in the Circuit Court of the 15th Judicial Circuit in and for Palm Beach County, Florida, Case No.: 50 2012 CA 013933 MB AN (the "Stansbury Lawsuit"). In that action, Stansbury is suing the Estate for more than $2.5 million, asserting claims for breach of oral contract; fraud in the inducement; civil conspiracy; unjust enrichment; equitable lien; and constructive trust. Each of these claims arises from Stansbury's employment with and involvement in an insurance business in which the principal shareholders were Ted Bernstein and Simon Bernstein.

The Stansbury Lawsuit was filed in July 2012, while Simon was alive. After Simon died, the Estate was substituted as the party defendant, and the former personal representatives hired counsel to defend the Estate. The primary defendant in that action was LIC Holdings, Inc. ("LIC"), along with its wholly-owned company, Arbitrage International Management, LLC, f/k/a Arbitrage International Holdings, LLC ("AIM"). Stansbury also maintained claims against the Shirley Bernstein Trust Agreement Dated May 20, 2008 ("Shirley Trust"), and Ted S. Bernstein, Individually ("Ted").

The law firm of Mrachek, Fitzgerald, Rose, Konopka, Thomas & Weiss, P.A. ("Mrachek") served as counsel for LIC, AIM, Shirley Trust and Ted Mrachek beginning in April 2013, formally appearing on April 15, 2013. As I was not appointed PR until sometime in July of 2014, I had no involvement or knowledge of this matter at that time.

I have been advised that Mrachek represented those defendants and the position taken is not in conflict or adverse to the Estate's position. After mediation in June 2014, LIC, AIM, Shirley Trust and Ted settled with Stansbury. The Estate, then under the control of a Curator, did not settle with Stansbury. After my appointment, to avoid unnecessary expense, settlement efforts were made. Those efforts, including through a mediation held on July 25, 2016, were unsuccessful.

Some of the direct and indirect beneficiaries of the Estate I am administering advised me, in light of the Mrachek firm's prior and extensive involvement in the Stansbury Lawsuit, the beneficiaries wanted Mrachek to represent the Estate in the Stansbury Lawsuit. I agreed to that request, and agreed that Mrachek was retained to represent the Estate.

Additionally, I agreed to Trustee, Ted, being appointed to serve as administrator ad litem with regard to overseeing the defense of the Estate in the Stansbury Lawsuit for at least three two reasons: (i) Ted agreed to serve in that role for no additional compensation, whereas any time I spend will cost the Estate a reasonable fee for my services; (ii) Ted has direct knowledge of the facts and circumstances surrounding the Stansbury lawsuit, because he was part of LIC and AIM at the relevant time, he was Simon's son, and he was extensively involved in the Stansbury Lawsuit already as a defendant and as a corporate representative of LIC and AIM; (iii) I have no personal knowledge or involvement in this matter; and (iv) there is no reason to believe Mrachek and Ted will not adequately and vigorously defend the Estate's interests.

It is also in the best interest of the Estate (not only the beneficiaries but any creditors and claimants with the possible exception of Stansbury) to have the Stansbury Lawsuit resolved as quickly and efficiently as possible, because this Estate administration must remain open and ongoing until the Stansbury Lawsuit is resolved, and the expenses of defending the claim will cost the Estate money and time until the case is finally determined.

To the extent there is a waivable conflict of interest, as PR of the Estate I would waive any such conflict.

BRIAN O'CONNELL, Personal Representative

EXHIBIT 2

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT,
IN AND FOR PALM BEACH COUNTY, FLORIDA
PROBATE DIVISION "IH"

Case No. 50 2012-CP-4391 XXXX NB

IN RE: THE ESTATE OF:
SIMON BERNSTEIN,
Deceased.
_____/

ORDER DENYING MOTION TO VACATE
AND
DENYING MOTION TO DISQUALIFY FOR INAPPROPRIATE JURISDICTION, ALTERNATIVELY, DENYING ON ITS MERITS, AND
ORDER DENYING APPOINTMENT OF TED BERNSTEIN AS ADMINISTRATOR AD LITEM

THIS MATTER came before the Court February 16, 2017, March 2, 2017, and March 16, 207 on the following matters:

1. October 7, 2016, D.E. 496, Stansbury's Motion to Vacate in Part the Court's Ruling on September 7, 2016, and/or Any Subsequent Order, Permitting the Estate of Simon Bernstein to Retain Alan Rose and Page, Mrachek, Fitzgeral, Rose, Konopka, Thomas & Weiss, P.A. as Legal Counsel and Motion for Evidentiary Hearing to Determine Whether Rose and Page, Mrachek are Disqualified from Representing the Estate Due to an Inherent Conflict of Interest.

2. November 28, 2016, D.E. 507, Stansbury's Motion to Disqualify Alan Rose and Page, Mrachek, Fitzgerald, Rose, Konopka, Thomas & Weiss, P.A.[1] as Legal Counsel for the Estate of Simon Bernstein Due to an Inherent Conflict of Interest.

3. Evidentiary Hearing on Trustee's Motion to Approve Retention of Counsel and to Appoint Ted S. Bernstein as Administrator Ad Litem to Defend Claim Against the Estate by William Stansbury, D.E. 471, Objection to Trustee's Motion to Appoint Ted S. Bernstein as Administrator Ad Litem to Defend Claim Against Estate by William Stansbury, D.E. 475, and Order Granting Retention of Counsel and Deferring on Administrator Ad Litem, D.E. 495

[1] Hereafter, "Mrachek Firm" unless quoted separately from an Order or document.

Present before the Court were Peter Feaman, Esquire on behalf of William Stansbury (hereafter "Stansbury"); Alan Rose, Esquire on behalf of Ted Bernstein, Trustee, Brian O'Connell as Personal Representative of the Estate of Simon Bernstein, Eliot Bernstein as interested party. The parties presented their testimony and evidence. Thereafter, pursuant to the Court's March 3, 2017 Order, the parties were to submit written closing arguments and proposed orders no later than March 9, 2017[2].

The Court carefully evaluated and weighed the testimony presented, considering the intelligence, frankness, credibility, plausibility, character, and competence of each witness, all the while being cognizant of the interests of the parties in the outcome of the case. Based on the forgoing, giving the evidence and testimony the weight it deserves, the Court has resolved any conflicts in the evidence. After evaluating the witnesses' testimony, exhibits, and the applicable law, and being otherwise informed in the premises, the Court makes the following findings of fact:

1. On July 24, 2014, "the parties having agreed to the appointment," this Court entered an Order Appointing Successor Personal Representative, Brian M. O'Connell, Esquire, D.E. 219. The letters issued on July 24, 2014 give Brian O'Connell, as the Personal Representative of the Estate of Simon Bernstein, the "full power to administer the estate according to law; to ask, demand, sue for, recover . . . ."
2. Pursuant to Fl. Stat. 733.612(19), ***without court order***, a personal representative acting reasonably for the benefit of the interested persons may properly employ persons, including, but not limited to, attorneys. Moreover, pursuant to 733.612(20) the Personal Representative, ***without court order,*** has the power to prosecute or defend claims or

[2] On March 10, 2017 Eliot Bernstein filed a motion to accept a late filing in excess of the given page limit. While the Court acknowledges the late filing and will give it the weight appropriate, this Court will not condone or excuse violations of its Order.

proceedings in any jurisdiction for the protection of the estate and of the personal representative.

3. On September 1, 2016 the parties presented to the Court on Successor Trustee's [Brian O'Connell's] Motion to Approve Retention of Counsel AND, to Appoint Ted S. Bernstein as Administrator Ad Litem to Defend Claim Against Estate by William Stansbury.

4. On September 29, 2016, D.E. 495, this Court entered its Order Approving Retention of Counsel and Deferring Ruling on Appointment of Ted S. Bernstein as Administrator Ad Litem to Defend Claim Against Estate by William Stansbury. This Order states, "The Court, having reviewed the Motion and the record, ***having been advised in the Motion that the PR and the beneficiaries of the Estate believe this relief will result in a benefit to the Estate, having been advised that William Stansbury has filed a written objection to Ted S. Bernstein serving as Administrator. . . .***" (emphasis added).

5. Notwithstanding the Personal Representative's statutory right to retain counsel without court approval, the September 29, 2016 Order then grants in part and defers in part, stating as follows:

> 2. The Court approves the retention of the law firm Mrachek, Fitzgerald, Rose, Konopka, Thomas & Weiss, P.A. ("Mrachek-Law") to serve as counsel for Brian O'Connell, as Personal Representative of the Estate of Simon L. Bernstein, for the purpose of defending the Estate in an independent action brought by William Stansbury. The reasonable costs and attorneys' fees incurred by Mrachek-Law in defending the claim shall be paid by the Estate.
>
> 3. Unless Stansbury withdraws his objection, the Court will need to conduct an evidentiary hearing on that portion of the motion which seeks the appointment of an administrator

ad litem. The Court will determine at the evidentiary hearing whether to appoint Ted S. Bernstein as administrator ad litem under Rule 5.120, which provides that when necessity arises, "the court may appoint an administrator ad litem . . . without bond or notice for that particular proceeding." Until the evidentiary hearing, the Court defers ruling on the administrator ad litem issues.

6. Noteworthy is the fact that in the Court's Order appointing the Mrachek Firm, no objection from Stansbury was noted; the only objection noted is to appointment of Ted as administrator ad litem to which an evidentiary hearing would be required.
7. The 2012 independent action brought by William Stansbury referenced in the Court's Order cited above is a 2012 case pending in the Civil Division, 50-2012-CA-013933, Division AN, wherein Stansbury seeks to recover in excess of $2.5 million from the Estate of Simon Bernstein based upon alleged misconduct of Simon Bernstein. (After Simon's death the Personal Representative of the Estate was substituted as the real party in interest.)
8. Stansbury's claims arise from Stansbury's part ownership and employment with LIC Holdings, Inc. ("LIC") and Arbitrage International Management, LLC ("AIM"), two companies founded by Simon and Ted Bernstein. Stansbury has asserted claims against the Estate of Simon Bernstein for breach of contract, fraudulent inducement, conspiracy, equitable lien, and constructive trust. Stansbury is a claimant, not a creditor, against the Estate. On June 23, 2014 in the independent civil case, 50-2012-CA-013933, the Court entered an Order of Dismissal with Prejudice of Certain Parties and Claims; specifically, the Court dismissed Defendants, Ted S. Bernstein, individually, LIC Holdings, Inc., Arbitrage International Management, LLC, f/k/a Arbitrage International Holdings, LLC and the Shirley Bernstein Trust Agreement dated May 20, 2008, D.E. 214.
9. Pending ending in Illinois is the case of *Simon Bernstein Irrevocable Insurance Trust Dtd. 6/21/95, Ted Bernstein, et al. v. Heritage Union Life Insurance Company, et al.*, Case No. 13

CV 3643, United States District Court for the Northern District of Illinois (the "Insurance Litigation"). This case commenced after Simon's death and seeks to have the Court determine the rightful owners of Simon's 1.7 million dollar life insurance death benefit proceeds. Ted Bernstein, individually, and as an alleged Trustee of a purported lost trust document, and his siblings, Pamela Simon, Jill Iantoni, and Lisa Friedstein, as Plaintiffs, seek to recover the $1.7 million dollar life insurance proceeds for the ultimate benefit of Simon Bernstein's adult children.

10. The Simon Trust is the primary beneficiary of the Estate via a pour over will. The beneficiaries of the Trust are Simon's ten grandchildren. Initially, the Estate was not a party to the Insurance Litigation. The Illinois Court denied Stansbury the right to intervene in the Insurance Litigation. Subsequently, the Estate, at the request of Stansbury in the instant probate litigation, intervened. Stansbury is funding the Estate's costs and fees in the Illinois litigation based on this Court's dated May 23, 2014. Clearly, Stansbury, as a claimant of the Estate, seeks to benefit from the Estate's collection of the insurance proceeds *if* Stansbury prevails in his civil independent action against the Estate.

11. Stansbury argues that Mrachek Firm represented Ted in his deposition in the Insurance Litigation in Illinois. Illinois counsel for Ted as the Plaintiff attended the deposition. Apparently, O'Connell agreed not to attend the trial to save money. Mrachek Firm never filed a notice of appearance in the Illinois Court. It is undisputed that Elliot and Stansbury were present during that deposition. Ted was examined extensively by counsel for the Estate. Mrachek Firm objected approximately four times. The deposition was taken prior to the trial in Palm Beach County to determine the validity of the will and trusts. There is no indication that Mrachek Firm was acting in any capacity other than on behalf of Ted as Trustee in an effort to protect any interests in the validity dispute.

12. On October 7, 2016, D.E. 496, in the instant probate action Stansbury filed his Motion to Vacate in Part the Court's Ruling on September 7, 2016, and/or Any Subsequent Order, Permitting the Estate of Simon Bernstein to Retain Alan Rose and Page, Mrachek, Fitzgerald, Rose, Konopka, Thomas & Weiss, P.A. as Legal Counsel and Motion for Evidentiary Hearing to Determine Whether Rose and Page, Mrachek are Disqualified from Representing the Estate Due to an Inherent Conflict of Interest.

13. In D.E. 496, Stansbury's Motion to Vacate, Stansbury states as follows:

> 1. Stansbury filed a lawsuit styled *William E. Stansbury v. Ted Bernstein, et al,* Case No. 50 2012 CA 013933 MB AA, Palm Beach County, Florida against Simon Bernstein ("Simon"), Ted Bernstein ("Ted") and several corporate defendants in August of 2012 to collect compensation, and other damages due Stansbury arising out of an insurance business in which Stansbury, SIMON and TED were principals. Stansbury asserted claims against Simon and Ted both as agents of the corporate defendants and in their individual capacities (the claims against TED and the companies have settled). The Shirley Bernstein Trust was dropped as a Party.

14. After Simon died, the Estate was substituted into the lawsuit; Ted Bernstein serves as Trustee of the July 25, 2012 "Simon Trust". It is undisputed that Stansbury has settled the claims against Ted, individually, and as to the corporate defendants. It is undisputed that Mrachek Firm represented some of the dismissed corporate defendants in the civil independent lawsuit set forth above.

15. Mrachek Firm represents Ted Bernstein, as Trustee of the Simon Trust, the sole residuary beneficiary of the Estate with the exception of certain personal property, in the current probate litigation involving the Estate of Simon, 50-2012-CP-4391. The Simon Trust is a pour over trust and Simon's ten grandchildren are the beneficiaries of the Simon Trust.

16. On November 28, 2016, D.E. 507, Stansbury filed his Motion to Disqualify Alan Rose and Page, Mrachek, Fitzgerald, Rose, Konopka, Thomas & Weiss, P.A. as Legal Counsel for the Estate of Simon Bernstein Due to an Inherent Conflict of Interest.

17. Elliot Bernstein joins Stansbury's opposition to the appointment of Mrachek Firm. Elliot is a residuary beneficiary of any tangible property of the Estate. All other beneficiaries (Trust Beneficiaries) approve the retention of the Mrachek Firm.

18. Stansbury's Motion to Vacate, D.E. 496, and Stansbury's Motion to Disqualify, D.E. 507, are ***not*** based on perceived conflict arising out of the Mrachek Firm and alleged association or representation of William Stansbury, Plaintiff in the civil suit. ***It is undisputed that the Mrachek Firm never represented Stansbury, obtained any confidential information from Stansbury, or attempted to use, obtained, or are in possession of privileged information regarding Stansbury and now must be disqualified.*** In fact, there was no evidence that Mrachek has obtained or used any information that would prejudice a current or former client.

19. Stansbury is objecting to the Personal Representative's choice of counsel for the Estate based on a perceived conflict from Mrachek's Firm's representation of Ted as Trustee of the Simon Trust.

20. With regard to the Motion to Vacate Judge Phillip's Order, the Court finds, without court order, the Personal Representative has the right to retain counsel to defend lawsuits. Independent of the same, after a hearing wherein no objection was raised, Judge Phillips granted the retention of the Personal Representative's choice of counsel. This Court denies the motion to vacate.

21. With regard to the Motion to Disqualify, the parties have all stipulated and agreed that the undersigned judge should decide this matter versus the civil judge in the probate proceeding.

The parties' rationale is that since the prior judge approved the retention of counsel by the Personal Representative, this Court should make the decision on whether to disqualify Mrachek Firm from another judge's case. Stansbury is objecting ***as the Plaintiff*** in the civil lawsuit to the Defendant's choice of counsel. Specifically, Stansbury, Plaintiff, objects to the Defendant, Estate's choice of counsel via the Personal Representative of the Estate. Elliot believes there has been a continuing fraud being perpetrated by the Court and Ted; Elliot joins Stansbury's objection.

22. Despite the parties' stipulation allowing this Court to decide whether Mrachek Firm should be disqualified from representing the Estate in the civil case, this Court is hard pressed to see how this Court can rule on a matter in a separate case without the other judge's approval / acquiesce of the same. This Court hereby finds this Court is not the proper forum and the matter should be heard in the civil litigation. However, if in fact the other Court chooses to accept this Court's findings in order to conserve judicial resources and the efficiency of justice, since this Court heard in excess of six hours of evidence and testimony, this Court would deny the motion to vacate and to disqualify on the merits.

23. Stansbury has alleged disqualification of Mrachek Firm is appropriate under Florida Rule Regulating the Florida Bar, 4-1.7(a):

Rule 4-1.7. Conflict of Interest; Current Clients

(a) Representing Adverse Interests. Except as provided in subdivision (b), a lawyer must not represent a client if:
(1) the representation of 1 client will be directly adverse to another client; or
(2) there is a substantial risk that the representation of 1 or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by a personal interest of the lawyer.
(b) Informed Consent. Notwithstanding the existence of a conflict of interest under subdivision (a), a lawyer may represent a client if:

(1) the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client;
(2) the representation is not prohibited by law;
(3) the representation does not involve the assertion of a position adverse to another client when the lawyer represents both clients in the same proceeding before a tribunal; and
(4) each affected client gives informed consent, confirmed in writing or clearly stated on the record at a hearing.
(c) Explanation to Clients. When representation of multiple clients in a single matter is undertaken, the consultation must include an explanation of the implications of the common representation and the advantages and risks involved.

24. Again, Stansbury is not asserting Mrachek Firm ever represented Stansbury. The Personal Representative of the Estate, Brian O'Connell, executed the PR's Statement of Its Position That There is No Conflict and His Waiver of Any Potential Conflict. Mr. O'Connell also testified that it is his opinion that the Estate would be best served by the Mrachek Firm being retained.

25. The comment Rule 4-1.7 states as follows:

Conflict charged by an opposing party

Resolving questions of conflict of interest is primarily the responsibility of the lawyer undertaking the representation. In litigation, a court may raise the question when there is reason to infer that the lawyer has neglected the responsibility. In a criminal case, inquiry by the court is generally required when a lawyer represents multiple defendants. Where the conflict is such as clearly to call in question the fair or efficient administration of justice, opposing counsel may properly raise the question. Such an objection should be viewed with caution, however, for it can be misused as a technique of harassment. See scope.

26. The Court has reviewed all the testimony, case law, positions of the parties, and considered the position of the Estate as expressed by the Personal Representative, an experienced Estate and Probate Attorney.

27. The Estate's goal in the Stansbury litigation is to defend against Stansbury's claim and minimize Stansbury's recovery. The Mrachek Firm has extensive knowledge of this lawsuit. Given Stansbury is the Plaintiff in that lawsuit, the Court embraces the Comment to Rule 4-1.7 and heeds its warning. The Court finds no conflict in affirming the Personal Representative's choice of counsel, the Mrachek Firm, to defend the Estate in the Stansbury litigation. Additionally, this Court finds that if in fact there is a conflict, it has been waived by the Personal Representative.

28. The Court now turns to the question of whether Ted Bernstein should be appointed by the Court as an Administrator Ad Litem on behalf of the Estate in the Stansbury litigation.

29. Florida Statute 733.308 Administrator ad litem states as follows:

> When an estate must be represented and the personal representative is ***unable to do so***, the court shall appoint an administrator ad litem without bond to represent the estate in that proceeding. The fact that the personal representative is seeking reimbursement for claims against the decedent does not require appointment of an administrator ad litem.

(emphasis added).

30. Brian O'Connell testified in Court that it is his position that the appointment of Ted would be in the best interest of the Estate for the following reasons: Ted has the most knowledge of the claims; Ted will not charge the estate and Mr. O'Connell would charge for his time; the appointment is limited to the civil litigation and has no overlap with the Insurance Litigation in Illinois; Mr. O'Connell's busy schedule would delay the litigation's progress; and, he would still be intricately involved with any negotiations on behalf of the Estate. There is no indication that Mr. O'Connell is unable to represent the Estate.

31. The parties stipulated to the March 13, 2017 deposition of Brian O'Connell coming into evidence. Stansbury's counsel, Mrachek Firm, and Elliot all had the opportunity to question Mr. O'Connell regarding his positions regarding the Estate being represented by Ted as administrator ad litem. Additionally, all parties questioned Mr. O'Connell regarding his

position on whether the Estate should continue in the Insurance Litigation. It is Mr. O'Connell's position that the Estate should continue its positions in the Insurance Litigation.

32. The Court finds Mr. O'Connell to be credible. Conserving the Estate's assets by not having to pay the Personal Representative to be involved in the Stansbury litigation is a laudable goal; nonetheless, the Court cannot ignore the fact that the Estate and Ted are adverse in the Illinois lawsuit. Moreover, Mr. O'Connell is capable of representing the Estate. While the Illinois action is still pending, the Court declines to appoint Ted as Administrator Ad Litem.

IT IS ORDERED AS FOLLOWS:

The Court **DENIES** Stansbury's motions seeking to vacate the retention order of September 7, 2016, and to disqualify the Mrachek Firm. The Court **DENIES** appointment of Ted Bernstein as Administrator Ad Litem.

DONE AND ORDERED in Chambers, North County Courthouse on April 27, 2017.

HONORABLE ROSEMARIE SCHER

cc: All parties on the attached service list

IN RE: Estate of SIMON L. BERNSTEIN
File No.: 502012CP004391XXXXNB IH
Notice of Hearing for 3/21/17
_____/

SERVICE LIST

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Peter Feaman, Esq. Peter M. Feaman, P.A. 3695 Boynton Beach Blvd.,Suite 9 Boynton Beach, FL 33436 pfeaman@feamanlaw.com	Shendell & Pollock, P.L. 2700 N. Military Trail, suite 150 Boca Raton, FL 33431 241-2323 Fax: 241-2330 Gary R. Shendell, Esq. gary@shendellpollock.com estella@shendellpollock.com grs@shendellpollock.com Kenneth S. Pollock, Esq. ken@shendellpollock.com britt@shendellpollock.com grs@shendellpollock.com Matthew A. Tornincasa, Esq. matt@shendellpollock.com robyne@shendellpollock.com grs@shendellpollock.com	Max Friedstein 2142 Churchill Lane Highland Park, IL 60035
Eliot Bernstein 2753 N.W. 34th St. Boca Raton, FL 33434 iviewit@iviewit.tv	Pamela Beth Simon 950 N. Michigan Ave., Apt. 2603 Chicago, IL 60611 psimon@stpcorp.com	Lisa Friedstein and Carley Friedstein, Minor c/o Jeffrey and Lisa Friedstein Parent and Natural Guardian 2142 Churchill Lane Highland Park, IL 60035 Lisa@friedsteins.com Lisa.friedstein@gmail.com
Jill Iantoni and Julia Iantoni, a Minor c/o Guy and Jill Iantoni, her Parents & Natural Guardians 2101 Magnolia Lane Highland Park, IL 60035 jilliantoni@gmail.com	Brian M. O'Connell, Esq. Ashley Crispin Ackal, Esq. Ciklin Lubitz & O'Connell 515 N. Flagler Dr., 20th FL West Palm Beach, FL 33401 service@ciklinlubitz.com probateservice@ciklinlubitz.com	Robert Spallina, Esq. rspallina@comcast.net

EXHIBIT 3

Eliot Ivan Bernstein

From: Eliot Ivan Bernstein <iviewit@gmail.com>
Sent: Thursday, May 18, 2017 6:05 AM
To: Rosemarie Scher (CAD-divisionfh@pbcgov.org); Cindy Hoekstra (philadelphia.complaints@ic.fbi.gov); 'tom.wheeler@usdoj.gov'; joon.kim@usdoj.gov; Frank Brady aka Kevin McKeown @ Expose Corrupt Courts (CorruptCourts@gmail.com); Serena H. Olsen (serenaholsen@gmail.com); nicolemerritt611@gmail.com; John Pacenti ~ Reporter @ Palm Beach Post (jpacenti@pbpost.com); 'Alan B. Rose Esq. (arose@pm-law.com)'; 'Anderson, Charlene'; 'arose@mrachek-law.com'; 'Brian M. O'Connell PA ~ Partner @ Ciklin Lubitz Martens & O'Connell (boconnell@ciklinlubitz.com)'; 'Charles D. Rubin ~ Managing Partner @ Gutter Chaves Josepher Rubin Forman Fleisher Miller PA (crubin@floridatax.com)'; 'ddustin@tescherspallina.com'; 'Diana Lewis @ ADR & MEDIATIONS SERVICES, LLC - Fla. Bar No. 351350 (dzlewis@aol.com)'; 'Don Tescher'; 'JILL BERNSTEIN IANTONI (jilliantoni@gmail.com)'; 'John J. Pankauski (courtfilings@pankauskilawfirm.com)'; 'john@pankauskilawfirm.com'; 'Kimberly Moran ~ Legal Assistant / Notary Public @ Tescher & Spallina, P.A. (kmoran@tescherspallina.com)'; 'L. Louis Mrachek Esq. @ PAGE, MRACHEK, FITZGERALD, ROSE, KONOPKA, THOMAS & WEISS, P.A. (lmrachek@mrachek-law.com)'; 'Lindsay Baxley aka Lindsay Giles @ Life Insurance Concepts (lindsay@lifeinsuranceconcepts.com)'; 'Lisa Friedstein'; 'Mark R. Manceri, Esquere @ Mark R. Manceri, P.A. (mrmlaw@comcast.net)'; 'mrmlaw1@gmail.com'; 'Pamela Beth Simon (psimon@stpcorp.com)'; 'Peter Feaman (mkoskey@feamanlaw.com)'; 'Peter Feaman, Esq. ~ Attorney at Law @ Peter M. Feaman, P.A. (pfeaman@feamanlaw.com)'; 'Robert Spallina'
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Subject: Improperly Scheduled UMC Hearing brought by Attorney Alan Rose for Ted Bernstein; Judicial Obligations to Report Fraud and Misconduct of Attorneys, etc.
Attachments: 20170511 Feaman Stansbury Reply_Response to Trustees Motion for Approval of Settlement.pdf; 20170427 ORDER SCHER BERNSTEIN Simon Order Denying M.Vacate Denying Motion Disqualify etc 2012-CP-4391.pdf; 20160224 FINAL ESIGNED MOTION FOR INJUNCTION ECF STAMPED COPY.pdf; 20161109 Simon Estate Case 4391 - Trustee Motion (i) APPROVE COMPROMISE AND SETTLEMENT, Appoint Trustee for Trusts Created for Josh Jake Danny & Comp for Guardian.pdf

Tracking:

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Hon. Judge Rosemarie Scher,
North County Courthouse
3188 LPGA Boulevard
Palm Beach Gardens, Fl 33410

Re: Improperly Scheduled UMC Hearing brought by Attorney Alan Rose for Ted Bernstein; Judicial Obligations to Report Fraud and Misconduct of Attorneys, etc.

Honorable Judge Rosemarie Scher:

As this Court is aware, licensed attorney Peter Feaman already notified this Court that the Uniform Motion Calendar ("UMC") Hearing scheduled by attorney Alan Rose on behalf of Ted Bernstein for today's date, May 17, 2017 is improper and should have already been Removed from the Calendar by your Honor. See, attached filing of attorney Peter Feaman on behalf of Creditor William Stansbury. (May 11 2017 - 20170511 Feaman Stansbury Reply Response to Trustees Motion for Approval of Settlement.pdf)

Respectfully, I remind your Honor of the filings to date and the fraud already proven in the Court and remind your Honor of your mandatory Judicial Obligation under "Canon 3, A JUDGE SHALL PERFORM THE DUTIES OF JUDICIAL OFFICE IMPARTIALLY AND DILIGENTLY, D. Disciplinary Responsibilities. (2) A judge who receives information or has actual knowledge that substantial likelihood exists that a lawyer has committed a violation of the Rules Regulating The Florida Bar shall take appropriate action."

I further respectfully remind this Court that under Title 18 of the Federal Code, it is a Crime when "18 U.S. Code § 4 - Misprision of felony Whoever, having knowledge of the actual commission of a felony cognizable by a court of the United States, conceals and does not as soon as possible make known the same to some judge or other person in civil or military authority under the United States, shall be fined under this title or imprisoned not more than three years, or both."

Yet, upon information and belief, despite knowing that Ted Bernstein and his lawyers have perpetrated a similar fraud on the US District Court of the Northern District of Illinois which has issued a Summary Judgment against my rights based in part upon the false Orders in this 15th Judicial that I was not a Beneficiary and had no standing in these cases, Your Honor has yet to Report the fraud now proven in your Court to any authority to take action against Attorney Alan Rose and has not Reported these matters to the US District Court of the Northern District of Illinois or the 7th Circuit Federal Appeals Court where my Appeal is pending and yet instead of being able to timely prosecute that appeal I am back here at improper UMC Hearings where further

fraud is occurring and your Honor has failed to take action to stop the continuing and ongoing fraud and instead allows Alan Rose to continue the frauds against beneficiaries, interested persons and the Creditor William Stansbury.

This Court is and must be aware that it has now found that I, Eliot Bernstein, am in fact (and always have been) a Beneficiary With Standing in the Estate of Simon Bernstein as your Honor made this finding and it is embodied in this Court's Order of April 27, 2017 which is attached (See Order of April 27, 2017 - 20170427 ORDER SCHER BERNSTEIN Simon Order Denying M.Vacate Denying Motion Disqualify etc 2012-CP-4391.pdf .) This factual determination is precisely "part" of the Fraud perpetrated by Attorney Alan Rose, Ted Bernstein and acquiesced by PR and Attorney Brian O'Connell of the Ciklin law firm in the proceedings before prior Judge Phillips on this case with such Fraud lasting over a year while I was Falsely denied rights of Standing and Due Process Opportunity to be Heard based upon the knowingly False pleadings signed by Alan Rose claiming I was not a Beneficiary and that Judge Phillips had already determined this as of Jan. 2016 when in fact there is no such Finding or Order or Record of this by Judge Phillips since attorney Alan Rose knows and knew at all times this was False yet set in motion this course before the Court.

As a matter of law, this Court is obligated to now issue Discovery and Schedule Evidentiary Hearings having made the Determination that I am in fact a Beneficiary of Simon's Estate and thus proving that part of my Motion to Vacate the Scheduling Order so hearings on Fraud could be heard first, but instead thus far this Court is permitting Alan Rose to move unadulterated in repeated false, dishonest and fraudulent actions which must now be stopped by use of Injunctive powers as previously petitioned.

This Court is well aware that I have filed specific motions showing and proving just this "part" of the frauds in the cases, being a case where Ted Bernstein's "other" law firm and close personal friends at Tescher & Spallina acted as Estate Planners for my parents multi-million dollar assets only to have Admitted Forgery of multiple documents occur by Tescher & Spallina employee Kimberly Moran acting as a Paralegal and Notary Public falsifying Notarized signatures on documents in the Shirley Bernstein Estate case and then the firm deposited such records with the Court as part of a pattern and practice of Fraud on the Court. Similarly Robert Spallina admitted in a December 15, 2015 hearing that he had personally fraudulently forged and created a Shirley Trust document attempting to change beneficiaries to include Ted Bernstein's family as beneficiaries when he knew that Ted's family had been disinherited entirely in the Shirley Trust when she died and it became irrevocable. Spallina sent this document to Eliot Bernstein's minor children's counsel, Christine C. Yates, Esq. as part of an elaborate fraud to change beneficiaries, a fraud that continues today with Ted's new counsel Alan Rose, Esq. who was part of the Tescher, Spallina and Ted original team, thus the fraud continues when all of them should have been reported, sanctioned and arrested and forced to put up bonding, etc. for damages that have resulted for now over 5 years. As you are and should be aware, both attorneys Donald Tescher and Robert Spallina were then later charged in an SEC INSIDER TRADING Case where it was found Tescher and Spallina violated fiduciary oaths and duties to their clients as well and where Attorney Robert Spallina is still under Open active Investigation by the FBI to my knowledge and why certain federal offices are copied on this communication herein. Other federal offices are likewise copied for related acts of fraud and crime by the core parties herein now trying to stand before Your Honor at a 5 Minute "UMC" Hearing which is only for Non Contested matters trying to get you to Approve Settlements that were issued and made in Fraud with a Court, with claims that all beneficiaries have consented to these pleadings and falsely operating as if I, nor my adult children have No Standing and I am not a Beneficiary of my father and mothers estates and trusts, which is patently a false claim as I am a named beneficiary in every single instance in the documents alleged to be valid by this Court.

This Court has been shown "millions" in assets and accounts held by my parents Simon and Shirley Bernstein which have "gone missing" like volumes and volumes of Files, records and Evidence in this case and yet your Honor has yet to issue any proper Injunctive relief or restraining Order as requested. If my parents interests in Intellectual Properties of my family is considered the Estate may be worth some 300 Billion Dollars as they

have an estimated value of over a Trillion Dollars. See the Attached Motion to Vacate Scheduling Order and All Writs Petition in the US District Court, (See attached - 20160224 FINAL ESIGNED MOTION FOR INJUNCTION ECF STAMPED COPY.pdf .)

I respectfully notify this Court that if it permits Alan Rose and Ted Bernstein to continue on at this UMC Hearing and grant affirmative relief as requested I will be immediately notifying federal and state authorities and further filing direct Criminal complaints against your Honor as well for this continued Simulated Legal Process, Obstruction of Justice, Fraud on the Court and more.

At this UMC Hearing Alan Rose is furthering the Fraud that I am not a Beneficiary with Standing in Shirley's Estate case or Shirley's Trust, both of which is False and fraudulent before this Court and this Court will be Aiding and Abetting this Fraud by granting any affirmative relief to Alan Rose and his Client Ted Bernstein.

This Court should be well aware from the recent Testimony and from reviewing all the Case History and Records that another part of the Alan Rose "fraud" is claiming this Court by Judge Phillips somehow "determined" all these matters yet this Court now knows there was No Such Construction Hearing ever held nor any such actions by Judge Phillips and that this is further reason to Report Alan Rose for Misconduct and fraud.

Further, that Rose falsely and fraudulently claims I am likewise not a Beneficiary in Shirley's Estate or Trust yet in Shirley's Estate I am a Beneficiary by express terms just like this Court found in Simon's Will despite Rose's claims as a witness on the stand and in pleadings before the Court to the contrary, that I was Named as a Beneficiary in the Notice of Administration filed and in the Shirley Trust case as soon as Shirley passed away in Dec. of 2010 by operation of law her Trust became Irrevocable and I was instantly a direct Beneficiary under the express terms of the Trust. Of course, being a natural born child of my parents I have standing in any of these matters as at minimum an interested person and any ruling stating otherwise would be precedent setting where children of their parents would no longer have standing in Estate and Trust matters.

Alan Rose is now "furthering" and "ratcheting up" the Fraud by NOW claiming in the Motion improperly Noticed for this UMC Hearing that the Trusts for my children 1) now "exist" when he previously admitted these did not exist; and 2) the Trusts are the Trusts dated 7-25-2012 when the Trusts he "SERVED with NOTICE" allegedly were created 9-13-12 the day my father passed away and yet in BOTH instances Rose has Never Disclosed or Turned over copies of these Trusts that somehow "now" at the end of the case he is claiming these "exist" but not providing copies.

Just in Alan Rose's Motion for Approval which is attached hereto (see - 20161109 Simon Estate Case 4391 - Trustee Motion (i) APPROVE COMPROMISE AND SETTLEMENT Appoint Trustee for Trusts Created for Josh Jake Danny Comp for Guardian.pdf) this is shown when he "sues" and "Notices" Trusts allegedly dated and created 9-13-12 in the CAPTION of the case but then in the body of the Motion at Paragraph 7 these same Trusts allegedly were created 7-25-12 but again, does NOT provide a copy or have a copy of these Trusts.

To remind this Court of the seriousness of the matters at hand, I remind this Court that one of my Witnesses ready to come forward on appropriate Notice at an appropriate time is a Washington, DC contact currently referred to as "DC No. 1" who has direct relevant testimony to the underlying Iviewit Patent frauds which are and should and must be a part of Simon's Estate which have also been disregarded thus far by the alleged Fiduciaries Ted Bernstein and PR O'Connell.

On an equally, if not more, serious level, "DC No. 1" has also advised that I should send all materials on the death of Mitchell Huhem to Federal authorities. Mitchell Huhem, a Motivational Speaker and friend of Donald Trump, or President Trump, of course, allegedly was found deceased in Feb. of 2016 in my parents garage with gunshot wounds to the head the day before I filed the All Writs Injunction in Fed Court when Mitchell Huhem's attorney Laurence Pino of Orlando, Florida who was involved in the illegal sale of the Lions Head Home of my

parents in Boca Raton, Fl became aware on the Friday before Mitch Huhem's body was discovered that the creation of the LIONS HEAD LAND TRUST Inc. a fraudulent "SHELL COMPANY" that was used to "transfer" the home was done so Fraudulently and illegally and that Attorney Pino's office was directly involved in the fraud as it had not only been exposed at the Florida Secretary of State Division of Corporations but also was going into my federal papers in the All Writs act Petition. These crimes have since been reported to State and Federal authorities by myself, again the Court has failed to take any corrective actions despite having Prima Facie evidence already presented to the Court of continuing and ongoing frauds on and by the Court which have severely damaged my family and young children.

This Court should be aware that Attorney Alan Rose's conduct is directly a "key" part in a proper investigation of Mitchell Huhem's death as a Murder as attorney Alan Rose, in pattern and practice, submitted False Written information about Ted Bernstein's relationship with Mitchell Huhem in April of 2016 which has already been forwarded to the FBI.

Thus, this Court should monetarily Sanction Alan Rose for this improper UMC Hearing, strike and deny the motions of Alan Rose altogether and schedule proper Hearings on the Fraud after full Discovery as required by law.

Respectfully,

Eliot I. Bernstein

Eliot I. Bernstein
Inventor, really cool shit that changed your world!
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UNITED STATES COURT OF APPEALS

FOR THE SEVENTH CIRCUIT

APPEAL NO. 17-1461

SIMON BERNSTEIN IRREVOCABLE INSURANCE TRUST DTD. 6/21/95, et al. , Plaintiffs-Appellees,	) Appeal from the United States) District Court, Northern District of) Illinois, Eastern Division.)
V.	) LC No. 1:13-CV-O3643) John Robert Blakey, Judge
HERITAGE UNION LIFE INSURANCE CO., et al., Defendants-Appellees.	))) **APPELLANT'S**) **JURISDICTIONAL**
APPEAL OF: ELIOT BERNSTEIN, Cross and Counter-Claimant- Appellant.	) **MEMORANDUM:**))))

APPELLANT - CROSS AND COUNTERPLAINTIFF ELIOT I. BERNSTEIN, PRO SE, hereinafter referred to as Appellant, respectfully submits the following Jurisdictional Memorandum in response to this Court's Order of May 14, 2017 Order and shows this court as follows:

Appellant asserts that this Court has federal Appellate Jurisdiction under 28 USC Sec. 1291 and 28 USC Sec. 1292(a)(1) as set out further herein.

BACKGROUND AND PROCEDURAL SUMMARY

This Statement of Jurisdiction is submitted in response to this Court's Order upon an Appeal of a Memorandum Opinion and Order of the District Court of the Northern District of Illinois, Hon. Judge Robert Blakey, presiding, dated Jan. 30, 2017 which Decided various Summary Judgment motions including Dismissing all of Appellant's claims in the nature of fraud, negligence, breach of fiduciary duty, conversion, abuse of legal process, legal malpractice, and civil conspiracy and also denying Summary Judgment to an Intervenor brought on behalf of the Estate of Simon Bernstein in relation to certain proceeds Deposited into the District Court Registry by an Insurance Carrier totaling just under $2 Million US Dollars allegedly from a Life Insurance Policy for Appellant's Deceased father Simon Bernstein. See, Docket Entry #273.

As further discussed, this Order was in relation to "the Second Round" of Summary Judgment motions brought by Plaintiffs, this time moving for Summary Judgment dismissing Appellant's claims entirely after the US District Court had found substantial issues of material fact in denying Summary Judgment to the Plaintiffs initial filing.

All of the critical and undeniable material issues of fact raised by Appellant leading up to the Denial of Plaintiffs' Summary Judgment in their favor (on Summary Judgment "Round 1") remained material issues of fact in this "second round" of motions and remain open and existing material issues of fact to this day.

Plaintiffs had never overcome any of these issues of material fact in filing their motion against Appellant in Round 2, notably, that there is no “Trust” produced by Plaintiffs as the alleged Beneficiary of a Life Insurance Policy where Plaintiffs claim the Trust as “lost” or “missing” but Appellant alleges is intentionally “secreted”, “withheld” or “destroyed”. More importantly, there has been and remains no actual Life Insurance Policy (contract) produced by either the Plaintiffs or the involved Carriers where again Plaintiffs claimed this Policy is “lost” or “missing” despite having gone through a “Reinstatement” shortly prior to the passing of the Insured Simon Bernstein yet where again Appellant has claimed the Policy has been intentionally “secreted”, “destroyed” or “withheld” and where this is a “first of its kind” case to Appellant’s knowledge where a Carrier has “lost” a Life Insurance Policy being part of a highly regulated industry with rigid Record Keeping requirements. Despite having no actual “Policy” produced with full contractual provisions, riders, amendments and terms and conditions, all Carriers were “let out” of the case by the US District Court (prior Hon. Judge St. Eve) after depositing approximately $1.7 Million into the Court Registry on an Interpleader complaint. The current US District Court
(Hon. Judge Blakey) has repeatedly denied any Depositions and Discovery against the Carriers and denied Appellant’s motions to be brought back into the case as parties “necessary” for a full determination on the merits despite evidence

in the Record that the Plaintiffs and their lawyers had communications about seeking or having a “friendly carrier”.

APPELLANT SOUGHT INJUNCTIVE RELIEF AT THE US DISTRICT COURT ON A MOTION UNDER THE ALL WRITS ACT FILED IN FEB. 2016 AND INTENDS TO APPLY AGAIN FOR A STAY AND INJUNCTIVE RELIEF UNDER THE RULES AND RESPECTFULLY URGES THIS COURT TO CAREFULLY EXAMINE THIS MOTION AS A “ROADMAP” TO THE CASE HEREIN

On Feb. 24, 2016 under District Court Docket Entry 214, Appellant had filed a detailed motion for a properly narrowly tailored Injunction under the All Writs act detailing in part how the core parties (and fiduciaries) involved in the District Court action through “extortive, abusive, orchestrated actions of continued abuse of process in the Florida Probate Courts and by the Florida Probate Courts in conspiracy and or acting in concert with fiduciaries, counsel and others that are interfering and threaten to further interfere with this Court’s jurisdiction and the ability to orderly decide the claims before it as there is a real and serious imminent threat and danger that critical evidence, documents, records, Discovery and real and personal properties will be permanently lost imminently preventing this Court from properly adjudicating claims before it while these parties are simultaneously hiding millions of dollars of assets as shown later herein wholly

Unaccounted for and retaliating against and threatening Appellant." See, Par. 15, Case: 1:13-cv-03643 Document #: 214 Filed: 02/24/16 Page 7 of 132 PageID #:3641.

This motion went on to detail how both Ted Bernstein, the primary Plaintiff in this action claiming to be the "Trustee" of a "lost Trust" which is the "Beneficiary" of a "lost" Life Insurance Policy was also acting in concert with Fiduciary Personal Representative Brian O'Connell of the Estate of Simon Bernstein, to manipulate, control and orchestrate the Discovery and proceedings in the State Court of Florida to gain advantage through improper collateral estoppel by rushing to judgment. While these parties at least on paper appear to be "adversaries" in the District Court, Appellant showed multiple orchestrated actions where BOTH Fiduciaries had intentionally failed to obtain Florida Court Ordered Discovery from the outgoing PRs and Co-Trustees attorneys Tescher and Spallina who were also the Estate Planners and Drafters for Simon and Shirley Bernstein and who, presumably, **as part of due diligence and common professional practices**, **would at least have actual copies of the operative documents, Trusts and Life Insurance policies now "alleged" to be "lost" and "missing" in this action.** Tescher and Spallina had been allowed by the Florida Courts to "resign" from the Florida cases after Appellant filed several Emergency Motions for Injunction and Freezing of Assets after Tescher and Spallina's office had been caught "forging"

and "falsifying" Notaries and documents under Simon Bernstein's name and others in the Shirley Bernstein Estate case using Simon Bernstein to sign documents while then Deceased to such a degree that the Florida Judge had said twice on the record he had **sufficient information to read their "Miranda Warnings".**

The All "Writs Motion for Injunction further detailed "**Missing Millions" unaccounted for, "Missing Originals" from related Trusts and Business entities, "Missing Discovery", "Missing Witnesses", failure to provide Accountings for years required by Florida Statutes** and further showed how fiduciary Ted Bernstein and PR Brian O'Connell had not only failed to obtain Court Ordered Discovery from Tescher and Spallina in the Florida State Court cases but had failed to seek Depositions and Discovery from Tescher and Spallina on the central operative documents claimed "lost" in this Insurance Action and **further sought to Enjoin and Preserve Evidence in aid of the District Court's jurisdiction.** See, Docket Entry 214, Feb. 24, 2016.

While the District Court had Denied the Motion for Injunction under the All Writs finding in part improper Notice procedure used by Appellant, the District Court did not "strike" the pleading as requested by Plaintiffs and kept the All Writs Motion pleading in the Record. See Docket Entry 218, Feb. 25, 2016. The District Court then held several "status" conferences where direct inquiry was made by the District Court into the "status" of Florida proceedings leading Appellant to believe

there would be a basis to "renew" or "rehear" the All Writs Motion for Injunction at a later date.

PRIOR HON. JUDGE ST. EVE HAD "STAYED" DISCOVERY UNTIL A "PROPER TRUSTEE" WAS DETERMINED BUT LATER OPENED DISCOVERY FOR A BRIEF TIME DESPITE NEVER DETERMINING A PROPER "TRUSTEE"

Just part of the Appellant's application for Injunctive relief before the US District Court notified and reminded Hon. Judge Blakey in Paragraph 20 as follows: "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, Case: 1:13-cv-03643 Document #: 214 Filed: 02/24/16 Page 9 of 132 PageID #:3643 Page 9 of 132 which remains disputed. The Trustee/Trust/Beneficiaries/Policy issues remains undetermined presently **and this 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."** See, Case: 1:13-cv-03643 Document #: 214 Filed: 02/24/16 Page 9 of 132 PageID #:3643. (emphasis added).

ONLY EVER SO "MINIMAL" DEPOSITION OF TED BERNSTEIN ON THE "SEARCH" FOR THE ALLEGED LOST TRUST, POLICY WHILE NO OTHER

Hon. Judge St. Eve had issued this "stay" upon Plaintiffs Ted Bernstein not being able to produce a "Trust" which he sued under as alleged "Trustee" claiming lost or missing. Only a very brief Deposition of Ted Bernstein occurred in this case where Appellant was afforded "minimal" time at all to question Ted Bernstein on the alleged "Search" for the "Missing Trust" and documents while multiple other parties should have Depositions on this topic alone such as Tescher & Spallina, Heritage, Jackson, Reassured America, PR Brian O'Connell and others.

Appellant's claims in the nature of civil conspiracy, breach of fiduciary duties, negligence and abuse of process specifically referenced "delay" of inheritance and delay and denial of proper inheritance rights thus countering any finding that Appellant had not plead or shown "damages" as "delay damages" particularly in Life Insurance cases have been recognized by many Courts and thus Appellant will seek to fully brief the issues upon showing this Court that it has proper Subject Matter Jurisdiction to hear this Appeal.

Appellant appeared by Telephone in the regular course for a "Status Hearing" on Jan. 25, 2017, having been granted permission throughout the case to do so as Appellant lives in Boca Raton, Florida, a considerable distance from Chicago,

Illinois. This “Status Hearing” was set by the District Court on the Court’s own Motion rescheduling a prior Status Hearing scheduled for Dec. 9, 2016. See, Docket Entry No. 270: “MINUTE entry before the Honorable John Robert Blakey: On the Court's own motion, the status hearing previously set for 12/9/2016 is reset for 1/25/2017 at 9:45 a.m. in Courtroom 1725. Mailed notice (gel,) (Entered: 12/06/2016)”

At the Jan. 25, 2017 Status Hearing, the Court “announced” that it had made a Decision on the Summary Judgment motions granting the Motion to Dismiss Appellant’s claims and Denying the Estate’s motion for Summary Judgment but the Decision was not ready yet, that there would be a long written analysis or words to that effect and the parties would receive the Decision soon. The Court then Scheduled ALL PARTIES to appear for a Feb. 21, 2017 Status Hearing to Schedule a Trial. **At no time on Jan. 25, 2017 on the Status Conference Call Appellant appeared on did the Court Announce or indicate that Appellant was “Removed” from the case, and in fact Appellant asked the Court to clarify what was ruled upon and again did not Notice Appellant that he was not to Appear on Feb. 21, 2017 Status to Schedule a Trial along with the other parties and instead the District Court again reminded All of the parties of the upcoming Status Conference to “Schedule a Trial”.**

Appellant made a Jan. 30th, 2017 filing with the District Court under Docket No. 271 notifying the Court of: difficulties Appellant experienced in the last Conference call, Appellant's request to "ensure" the integrity of documents by a recent filing by Plaintiff's attorney Adam Simon due to multiple instances of "false" and "fraudulent" documents in the related actions, notifying the Court of upcoming Hearings in Florida before a new Judge Scher as Judge Phillips who had issued the Orders relied upon by the District Court for "collateral estoppel" had now recently and suddenly "retired" prematurely, and further notifying the Court of "collusion" between the PR of the Simon Bernstein Estate and primary Plaintiff in this action Ted Bernstein and counsel Alan Rose who were continuing to act in "unity" and raising **Conflicts of Interest** as had been **raised by Appellant on multiple occasions in the District Court particularly in a Motion for Injunctive Relief under the All Writs Act filed with the District Court** in Feb. of 2016. See, Docket Entry No. 271; All Writs Act Injunctive Relief Petition in the District Court Docket Entry No. 214, 215, 216.

Appellant did receive a copy of the Memorandum Opinion and Order which came out later on the same day Jan. 30, 2017 being on the Electronic ECF System with the District Court as Appellant had been granted permission to File Electronically in the District Court and receive Electronic Notices which typically is much easier being Pro se and not having to go to the Mail to file each document. The **express**

terms of the Summary Judgment Memorandum **did not Notify Appellant that he was somehow being "fully removed" from the case** and simply ended with: "Conclusion For the foregoing reasons, Plaintiffs' motion for summary judgment on Eliot Bernstein's claims [239] is granted, and the Estate's motion for summary judgment [245] is denied." See Docket Entry No. 273.

THE SUMMARY JUDGMENT DID NOT ADDRESS APPELLANT'S STATUS AS A DEFENDANT SUED IN THE INTERPLEADER

It is noted that Appellant was "sued" into the District Court action as a Defendant in an Interpleader action filed by insurance Carrier Jackson upon Removal to Federal Court by Jackson as Appellant is a natural child to Simon Bernstein with a potential claim to the proceeds and the Summary Judgment motions did not address or discuss in any way Appellant's status as a Defendant in the Interpleader. Appellant had raised on multiple occasions in the District Court that **this status as a Defendant in the "Interpleader" action was Prejudicial as Appellant** became limited in pursuing Counterclaims, Cross claims and causes of action and should have been included as a proper Party in Plaintiffs' original actions. See, Docket Entry No. 17 of June 26, 2013 Jackson Answer and Counterclaim for Interpleader action and Docket No. 273, the Memorandum Opinion and Order.

INSURANCE CARRIERS CHANGING "OWNERSHIP" IN LESS THAN 45 DAYS OF BEING SUED, NO "SUCCESSOR" INFORMATION PROVIDED AND RELEASED FROM THE ACTION WITH NO ACTUAL "POLICY" PROVIDED OVER OBJECTIONS OF APPELLANT:

As this Court will see, the Insurance Carrier sued by the Plaintiffs in the Cook County State Court "breach of contract" action was Heritage Union Life Insurance Company allegedly of Jacksonville, Illinois, being allegedly a Minnesota Corporation. See, Case: 1:13-cv-03643 Document #: 1-1 Filed: 05/16/13 Page 1 of 5 PageID #:4, showing Heritage sued as of April 5, 2013.

Despite being a natural child and natural Heir of Simon Bernstein, Appellant was not Named as a Party Plaintiff in the original Cook County State Court action Complaint that was Removed to Federal Court. Appellant had no knowledge that this action had even been filed **and in fact, none of the 5 children of Simon Bernstein were named as Parties or referenced in the original Cook County action** as at least Ted Bernstein was involved in this original action together with attorney Adam Simon suing under an alleged Simon Bernstein Irrevocable Insurance Trust Dated 6/21/95 with Ted Bernstein ***claiming to be "Trustee" of a Trust which to this very day has never been Produced to the Court or parties, another allegedly "Missing" - "Lost" document in the Estates and Trusts of Simon and Shirley Bernstein.***

Yet, the Carrier who "removed" the action to Federal Court that Appellant was sued by in this Interpleader action is Jackson National Life Insurance Company, allegedly a Michigan corporation who claims to be "Successor in Interest" to "Reassure America Life Insurance Company", a Dallas, Texas company who

allegedly is the "Successor in Interest" to Heritage. This occurred just over a month later on May 16, 2013 yet none of the Jackson filings show any Documentary proof of acquiring Reassure America or Heritage or the Successor information. See, Docket Entries No. 1, 4. 7. 17.

While the District Court Docket in some instances refers to "Heritage" as the filing party, the actual filing party is "Jackson". See, example, Docket Entries No. 9, 10.

Further, "Jackson" filed a Notice of Appearance by Attorney Alexander David Marks (Docket Entry No. 3), while "Heritage" filed an Attorney Appearance Notice for Frederic A. Mendelsohn (Docket Entry No. 12).

Allegedly, an "AGREED ORDER" to Tender "Insurance Proceeds" into the Court was made on June 25, 2013, **BEFORE APPELLANT HAD EVEN BEEN "SUMMONED" TO APPEAR IN THE CASE**. SEE Docket Entry No. 16.

Appellant was first Summoned into the case the next day, June 26, 2013. See **6-26-13 Docket Entry With NO Docket Entry Number** after Docket Entry No. 18.

NOTE: <u>NO CARRIER OR PARTY</u> TO THE DISTRICT COURT ACTION **<u>HAS TENDERED OR PROVIDED AN ACTUAL LEGALLY BINDING LIFE INSURANCE POLICY,</u>** EITHER ORIGINAL, COPY OR OTHERWISE THAT IS ALLEGED TO BE THE SIMON BERNSTEIN LIFE INSURANCE POLICY NO. 100928,

Yet somehow the District Court below "accepted" the funds into the Registry as "Policy Proceeds" prior to Appellant's entry into the case. To Appellant's

knowledge, **this would be the first time in Industry History** that a Life Insurance carrier and Reinsurer "lost the policy" as the Industry is highly regulated with extensive Record Retention Rules.

Appellant asserts this is all part of the "insurance fraud" scheme which has been reported to Federal and State authorities. As shown by the Docket and Records of the case, there has been virtually **NO DISCOVERY allowed** on Record Retention practices and where the Policy is or has been although Appellant has repeatedly sought Discovery in the District Court.

Both Ted Bernstein suing as alleged "Trustee" of an alleged "lost" Trust and Attorney Adam Simon failed to notify the District Court or the Cook County Court that Ted Bernstein's "other" Attorney Robert Spallina had attempted to claim the Policy proceeds first as "Trustee" of the same "lost trust" without Notifying the Insurance Carrier of allegations of possible "Murder" of Simon Bernstein made by Ted Bernstein at the Hospital on the Night of Simon Bernstein's Passing and "Investigated" by the Palm Beach County Sheriff's Office on Ted Bernstein's Request and the Palm Beach Coroner's office and Spallina was denied his claim by the carrier as he could not produce a trust showing he was Trustee;

The underlying original "action" was filed as a "breach of contract" action that was "removed" to Federal Court which was first filed in Cook County by attorney Adam Simon on behalf of Ted Bernstein who was now acting as the alleged "Trustee" of the alleged "Simon Bernstein Irrevocable Insurance Trust dated 6-21-95" not Spallina.

Par. 12 of the Complaint in Cook County falsely claims that "the BERNSTEIN TRUST, by and through its counsel in Palm Beach County, Fl, submitted a death

claim to HERITAGE" yet fails to state that this "counsel", one Robert Spallina, actually filed to get the death benefits paid acting also as "TRUSTEE" of this "Bernstein Trust" **which is also allegedly "missing" and "lost".** See Case: 1:13-cv-03643 Document #: 1-1 Filed: 05/16/13 Page 2 of 5 PageID #:5

Par. 13 further goes on to state, "The Policy, ***by its terms,*** obligates HERITAGE to pay the death benefits to the beneficiary of the policy . . ." See,

Par. 14 continues that "HERITAGE has breached its obligations under the policy by refusing and failing to pay the Policy's death benefits to the BERNSTEIN TRUST as beneficiary under the policy . . ." See, Case: 1:13-cv-03643 Document #: 1-1 Filed: 05/16/13 Page 3 of 5 PageID #:6

Upon information and belief, **at no time did Attorney Spallina notify the Carrier that allegations of possible "Murder" had been made by his client Ted Bernstein on the night of Simon's Bernstein's passing** such that not only was Appellant "blocked" by Hospital Security from initially getting back in to see Simon at the Hospital as he lay dying in a Code Blue recessation state, but **further that the Palm Beach Sheriff's Office hours later showed up at the Simon Bernstein home to "Investigate" the allegations of Murder which had not been "closed" at the time the death benefits were sought and Ted summoned the coroner to conduct an autopsy.**

The original Complaint ***also does not allege that both the Policy and Trust were "lost" or "missing".*** See, Case: 1:13-cv-03643 Document #: 1-1 Filed: 05/16/13.

SIMON BERNSTEIN HOME COMPUTERS "WIPED CLEAN" ON THE NIGHT OF HIS PASSING ALLEGED AS A POSSIBLE "MURDER" WHILE OTHER DOCUMENTS GO OUT OF THE "HOME SAFE" ON THE NIGHT OF PASSING ALLEGEDLY TO TED BERNSTEIN VIA RACHEL WALKER; SIMON'S BODY THEREAFTER "GOES MISSING" AFTER BEING SENT FOR AUTOPSY AND REPORTS COME BACK WITH ELEVATED HEAVY METALS LEVEL BUT OF A 113 YEAR OLD MAN

See, All Writs Motion for Injunction (Docket Entry No. 214) and related filings for details on Simon Bernstein's Home Computers found "wiped clean" on the night of his passing and his Body then "going missing" for a week after Palm Beach Sheriff's Office (PBSO) investigating possible "Murder" which was not reported by Plaintiff Ted Bernstein or his stable of counsels to the Insurance Carriers.

This action has a complicated procedural history being first originally heard before US District Judge Hon. St. Eve starting on or around May of 2013 and then US District Judge Hon. Robert Blakey who was Assigned the case beginning on or around January 15, 2015. Throughout this time, related Estate Probate and Trust actions have been ongoing in the State of Florida in the Fifteenth Judicial Circuit in Palm Beach County where Appellant moved residency to several years ago from California at the specific request of his now deceased parents Shirley and Simon Bernstein who wanted to be close to Eliot, his wife and three children, Simon and

Shirley, who are originally from the Chicago, Illinois area for many years until moving to Boca Raton, Florida.

Simon Bernstein was a successful businessman in the Insurance industry since the 1970s, had earned tens of millions of dollars during his lifetime, set up multiple companies and eventually moved to Boca Raton, Florida with his wife Shirley who was also Appellant's natural mother.

Successes and Properties of Simon and Shirley Bernstein

Through these successes, Simon and Shirley Bernstein came to own several insurance businesses, trust companies, fully paid for real estate including an Oceanfront condo in Boca Raton, FL and Estate home in the prestigious St. Andrews Golf and Country Club where "Billionaires" are members, along with owning multiple luxury cars outright, millions of dollars in jewelry, art and furnishings, being "Private Banking" clients at leading US financial firms and having millions of dollars invested in blue chip stocks and other investments. Prior to his passing, Simon Bernstein had the fully paid for St. Andrew's Home appraised at approximately $3.8 Million and the Oceanfront "Shirley" Condo appraised at approximately $1.8 million dollars. The luxury cars included a fully paid Bentley and a fully paid leased Porsche. Simon and Shirley often travelled by Private Jet during their lifetime including with Appellant's children who were "minors" at the time and their lifestyle remained five star until the day they died.

Simon in the years before his death in 2012 in 2007-2008 declared income of $3,756,299 in 2008 and $2,374,392 in 2007 and this from only one of his many companies, LIC Holdings, Inc.

Direct Knowledge of Record Keeping Practices of Simon Bernstein

As stated in pleadings and in part by a sworn Declaration before the District Court, at one point in time, Appellant had been a "Top Seller" of Insurance through his independent agency as well working alongside his father Simon Bernstein's companies and became intimately familiar with the meticulous Record Keeping practices required to be successful in the Insurance industry that his father taught him and was directly familiar with Simon's multiple Record Keeping and Storage locations and practices in the Boca Raton, Florida area in the years prior to his passing. Simon was a leading Estate planner for Insurance products for his clientele primarily composed of millionaires and several billionaires and created sophisticated trusts and estate plans in conjunction with his products for his clients.

Other Business Agreements with Simon Bernstein and "Iviewit Technologies"; Simon Bernstein's "Missing Stock:

For further information, see All Writs Injunction Docket No. 214, Feb. 2016 as these interests and allegations help explain in part the purpose of the fraud schemes at play.

Appellant Eliot Bernstein later went on to become an “Inventor” of Backbone Technologies known as “Iviewit” involving the scaling of Digital and Video Imaging across the Internet and all other wired and wireless mediums, a business was formed with he and his father as partners and his father Chairman of the Board for several years.

Eliot Bernstein later entered into other Business agreements with his father in relation to the Intellectual Properties as Simon Bernstein became the seed Investor with a 30% IP interest and 30% Shareholder interest in the Iviewit companies and where the technologies had been valued in the hundreds of billions of dollars to “Priceless” over the lifetime of the Intellectual Property after being tested by Leading engineers and industry experts including at Lockheed Martin, the Intel Corporation, Real3D Inc, AOLTW, Warner Bros., Sony and others who all signed various licensing contracts with Appellant and his father’s companies dating back to the late 1990s through early 2000’s. The Intellectual Properties (Patents, Trademarks, Copyrights and Trade Secrets) were then discovered to be being stolen from the Iviewit Companies by some of the very lawyers retained to protect the Intellectual Properties and do the Corporate work to license them and these matters have since been the subject of open Federal investigations relating to the Thefts and Fraud at the US Patent Office where Appellant was specifically directed by Harry I. Moatz who headed the Office of Enrollment and Discipline (OED of

the USPTO) to file Fraud charges for Fraud against the United States and the true and proper inventors and owners of the IP, as the attorneys had filed fraudulent IP applications alleging themselves and others as the inventors on IP applications. Where the Intellectual Properties have both massive Military and Civilian use across the globe they are now responsible for creating and distributing over 90% of all digital video and imaging transmissions sent worldwide. Because of the massive thefts and fraud, Appellant's companies were intentionally forced out of business and Appellant, other Shareholders and patent interest holders have not yet been able to monetize the IP Royalties as the Intellectual Properties were fraudulently placed into the names of others and subsequently suspended by the USPTO based upon ongoing investigations into the frauds committed by the attorneys who were USPTO Patent Bar members. These rogue attorneys at law have converted the royalty streams to themselves and their law firms through multiple Antitrust Violations, including Patent Pooling Schemes that Bundle & Tie the technologies into "standards" such as MPEG, blocking Appellant from market. Due to this most dangerous situation Appellant was cast into, Simon and Eliot Bernstein entered into agreements to provide for Eliot's family's welfare and safety while there are ongoing Federal investigations to regain the IP. Simon and Shirley therefore set up a monthly income stream to cover all of Eliot's family living expenses which had been in effect for many years prior to their deaths, they

set up multiple trusts and companies for he and his children to protect the assets put in their names and their estate plans have provisions to have maintained this for many years after their deaths. [NOTE: A source known as **"DC No. 1"** and by multiple other names is available upon proper Notice as a **Witness** in regard to the **Patent Frauds, IP frauds** and other Federal and State Corruption issues relevant herein. This source is also known, upon information and belief and in part direct knowledge, to have **special Security Access** to **Federal Courthouses, Chambers of US Judges**, US Attorneys, **26 Federal Plaza of the FBI, NY, NY, Signal Intelligence information,** the "***bizarrely stalled FBI Investigation***" into the Iviewit Patent thefts, and is alleged to have worked with multiple Federal Agencies including the Treasury Department (IRS), US Postal Inspector's Office, DOJ, and to have worked Federal Cases in the Chicago area, Boston area, NYC area and to have been able to use the Address of 1600 Pennsylvania Avenue, Washington, DC in Federal Court papers with no known sanctions.]

Specific Estate Planning by Simon Bernstein for the Benefit of Eliot Bernstein and Family:

Pleadings already exist in the Record showing that Appellant's Family Mini-van was "Car Bombed" Iraqi style while pursuing rights to the Stolen Intellectual Properties while Shirley and Simon Bernstein were alive (see, www.iviewit.tv) and further that Plaintiff Ted Bernstein, Appellant's brother, who was living with

his children in his parents' home and virtually broke prior to this Car bombing and closely involved with the last "arrangements" on the Mini Van ultimately Car bombed in Boynton Beach, Florida and who later became and remains close friends and business associates with the very same International law firms and others implicated in the Patent frauds against his brother Appellant and then he suddenly acquired a $5 Million plus Intra-Coastal home in Palm Beach County after the bombing. Two of the law firms involved in the IP thefts are Proskauer Rose and Foley-Lardner who are now also directly implicated in the estate and trust proceedings in the Florida Courts and this District Court, as a Proskauer Will for Simon Bernstein and Trust from the year 2000 is involved and may be a beneficiary of the lost policy, as well as a Foley Lardner LLP trust that is missing yet is alleged to be the Plaintiff in this matter before this Court. No direct Discovery against these law firms was permitted or scheduled thus far in District Court proceedings or in any of the related Florida State Court proceedings. Simon's friend and Iviewit accountant, Gerald Lewin, CPA, is also implicated in the IP thefts and was the party to who brought his "friends" from Proskauer Rose in, Estate planner Albert Gortz and others, groundfloor to be a part of this revolutionary technology discovered by Appellant and all are small shareholders in the companies. As a result of dangers to Appellant's family from the Attempted Murder of his family, resulting Investigations and forced closing of the companies,

Appellant and Simon Bernstein entered into specific agreements and Planning designed to protect their families in the event Appellant or any of his family were murdered.

These business agreements between Appellant and Simon Bernstein included specific Estate Planning for Appellant's family and minor children and Simon and Shirley further wanted Appellant's family to live close to them in Boca Raton so a company was set up to Purchase Appellant's family home in Appellant's children's names and held in separate trusts created for the minor children at the time by Simon and Shirley in Boca Raton where Appellant and his wife and children enjoyed a close, loving and special relationship with Simon and Shirley until their passing. Thus, Appellant has a direct basis to be aware of the Record Keeping practices his father Simon Bernstein during his lifetime, but also reason to know and believe that Appellant is among the Beneficiaries of the various Estate Planning instruments by Simon and Shirley and someone whose family has claim to the Life Insurance proceeds.

Plaintiffs Ted Bernstein and Pamela Bernstein Simon with Direct Involvement in the Simon Bernstein Companies and Significant Insurance Contacts:

Plaintiffs Ted Bernstein and Pamela Bernstein Simon both worked significantly with Simon Bernstein for years and have decades of contacts in the Insurance industry.

JURISDICTIONAL STATEMENT

Jurisdiction of the District Court:

Federal Jurisdiction in the District Court was obtained under the Diversity statute 28 USC Sec. 1332(a) after the Insurance Carrier Heritage "removed" the State Court action in Cook County to federal Court filing an Interpleader action. Appellant was named as a Defendant in the Interpleader action as a surviving child of Simon Bernstein who may have claim to the alleged Life Insurance policies at issue. Appellant should have been a named Plaintiff in the action with his other siblings but was Surreptitiously left off the filing as part of the alleged fraud by his siblings who initiated the action, Ted Bernstein and Pamela Simon.

Appellate Jurisdiction of the 7th Circuit Court of Appeals:

Appellant asserts federal appellate Jurisdiction under 28 U.S.C. Sec. 1291 as of right to review the Summary Judgment Decision and Minute Entry Orders thereafter as a "final" decision and for effectively being "out of court". Appellant further asserts appellate Jurisdiction under 28 USC Sec. 1292(a)(1).

28 U.S.C. Sec. 1291

Under 28 U.S.C. § 1291, the court of appeals has jurisdiction over "all final decisions of the district courts . . . except where a direct review may be had in the Supreme Court."Firestone Tire & Rubber Co. v. Risjord, 449 U.S. 368, 373 (1981). Section 1291 has been interpreted to confer appellate jurisdiction over a

district court decision that “ends the litigation on the merits and leaves nothing for the court to do but execute the judgment.” Coopers & Lybrand v. Livesay, 437 U.S. 463, 467 (1978) (citations omitted).

Yet, as the US Supreme Court held in EISEN v. CARLISLE & JACQUELIN, “Restricting appellate review to "final decisions" prevents the debilitating effect on judicial administration caused by piecemeal appellate disposition of what is, in practical consequence, but a single controversy. While the application of 1291 in most cases is plain enough, determining the finality of a particular judicial order may pose a close question. No verbal formula yet devised can explain prior finality decisions with unerring accuracy or provide an utterly reliable guide for the future. 9 **We know, of course, that 1291 does not [417 U.S. 156, 171] limit appellate review to "those final judgments which terminate an action . . .**," Cohen v. Beneficial Loan Corp., 337 U.S., at 545 , but rather that the requirement of finality is to be given a **"practical rather than a technical construction.**" Id., at 546. The inquiry requires some evaluation of the competing considerations underlying all questions of finality - "the inconvenience and costs of piecemeal review on the one hand and the danger of denying justice by delay on the other." Dickinson v. Petroleum Conversion Corp., 338 U.S. 507, 511 (1950) (footnote omitted).”, See, EISEN v. CARLISLE & JACQUELIN, 417 U.S. 156 (1974).

A district court decision may also be considered final where its result is that **appellant is "effectively out of court."** Moses H. Cone Mem'l Hosp. v. Mercury Constr. Corp., 460 U.S. 1, 9 (1983) (citations omitted); see also Blue Cross and Blue Shield of Alabama v. Unity Outpatient Surgery Center, Inc., 490 F.3d 718, 723-24 (9th Cir. 2007) (stating that "Moses H. Cone applies whenever there is a possibility that proceedings in another court could moot a suit or an issue, even if there is no guarantee that they will do so" and holding that "lengthy and indefinite stays place a plaintiff effectively out of court.").

In this action, Appellant did not even know that he was "effectively out of court" by the written terms of the Summary Judgment Order on Appeal and in fact Appellant was on a Status Conference Call with the District Court and parties on or about Jan. 25, 2017 at which time the District Court effectively "announced" that a Decision had been reached on the second round of Summary Judgment motions, that a detailed written opinion would be forthcoming and that Trial dates would be established at the next Status Conference. At no time on this date was it announced to Appellant that he should not "appear" and be present to participate in the next Status Conference on picking a Trial date.

See, District Court Docket Entry: 272 Date: 01-25-2017

MINUTE entry before the Honorable John Robert Blakey: Enter Memorandum Opinion and Order. For the reasons stated in the accompanying Memorandum

Opinion and Order, Plaintiffs' Motion for Summary Judgment 239 is granted and Intervenor's Motion for Summary Judgment 245 is denied. The status hearing previously set for 2/21/2017 at 9:45 AM in Courtroom 1725 to stand, at which time the parties shall be prepared to set a trial date. Mailed notice (gel,) (Entered: 01/30/2017)

It was not until the subsequent Status Conference on 2-21-17 where Appellant appeared by phone in the usual course as Appellant resides in Boca Raton, Florida and only after Appellant attempted to be Heard consistent with Due process on the scheduling of Trial and case management that the District Court questioned why Appellant was even on the phone as Appellant was "no longer in the case" or words to that effect.

The District Court then abruptly "terminated" the Call with Appellant and Appellant would later find that he was "Terminated" on the Docket page as well. See, Docket Case: 1:13-cv-03643. **It became crystal clear on 2-21-17 that the District Court deemed Appellant "effectively out of the case**" as Appellant was abruptly terminated from the Call with the District Court **denying Appellant's Opportunity to be heard entirely** having only recently Discovered "new evidence" from the State Court proceeding in PR Brian O'Connell issuing a formal Statement acknowledging that the Children of Simon Bernstein are beneficiaries ("devisees" is the word of choice) and that this had been withheld and concealed

from the US District Court by Ted Bernstein's counsel Alan Rose and PR O'Connell and Peter Feaman, counsel for the Creditor since at least Dec. 22, 2016 when this Statement was allegedly emailed to the Creditor's attorney by Ted Bernstein's attorney. See, annexed Motion to Accept Late Filing and other relief. Appellant would then later find out after finally receiving some of this Court's Orders in the US Mails after substantial delay that Appellant had also been "blocked" or "terminated" from the ECF system by the US District Court (or otherwise being "hacked") as Appellant was not receiving ANY of this Court's Orders posted to the District Court Docket electronically in March of 2017.

As the annexed Motion to Accept late filing shows, this case is for all practical purposes "over" and "completed" as the only parties remaining, the Ted Bernstein Plaintiffs and the PR of the Estate of Simon Bernstein as Intervenor are acting in "unity" and "collusion" in the Florida Courts even to the extent of Ted Bernstein's attorney Alan Rose moving in the Florida Court to "control" who the Estate is paying for this Chicago federal litigation, all indicative of "hidden" and "secret" "side deals' amongst the Parties with no real controversy left before the US District Court.

For these reasons and the reasons set out in the annexed Motion to accept Late filing and related relief, the case should be deemed "final" for purposes of Federal Appellate Jurisdiction and to further judicial economy and further the sorting out

of the frauds upon both the US District Court and this 7th Circuit as no party with knowledge of the falsehoods propagated that Appellant Eliot Bernstein is not a Beneficiary with Standing in the Simon Bernstein Estate have come forward before this Court or the District Court to notify and correct.

28 USC Sec. 1292(a)(1)

28 U.S.C. S 1292(a)(1) confers jurisdiction not only over orders concerning injunctions, but also over matters inextricably bound up with the injunctive order from which appeal is taken. Transworld Airlines v. American Coupon Exch., 913 F.2d 676, 680 (9th Cir.'90).

In addition, other non-appealable orders may be reviewed along with the injunction order if they are closely related and considering them together is more economical than postponing consideration to a later appeal, or if the injunction turns on the validity of the other non-final orders. Resolution Trust Corp. v. Ruggiero, 994 F.2d 1221, 1225 (7th Cir. 1993); Artist M. v. Johnson, 917 F.2d 980, 986 (7th Cir. 1990), rev'd on other grounds sub nom., Suter v. Artist M., 503 U.S. 347 (1992); Elliott v. Hinds, 786 F.2d 298, 301 (7th Cir. 1986); Parks v. Pavkovic, 753 F.2d 1397, 1402 (7th Cir. 1985). The Supreme Court, however, has questioned the expansion of the scope of an interlocutory appeal to include other orders not independently appealable. See Swint v. Chambers County Commission, 314 U.S. 35, 49-50 (1995). Nevertheless, the court reiterated that it will continue to exercise

jurisdiction over other rulings so long as those rulings are "inextricably bound" to the injunction, and will be reviewed as well as the injunction but only "to the extent necessary". Tradesman International, Inc. v. Black, 724 F.3d 1004, 1010-14 (7th Cir. 2013); Jaime S. v. Milwaukee Public Schools, 668 F.3d 481, 492-93 (7th Cir. 2012).

As shown in **Anil GOYAL, Plaintiff–Appellee, v. GAS TECHNOLOGY INSTITUTE United States Court of Appeals,Seventh Circuit 2013**

“We have appellate jurisdiction to review the district court's grant of Goyal's motion to quash the lien because the order operated in substance as an interlocutory injunction under 28 U.S.C. § 1292(a)(1). See Union Oil Co. of California v. Leavell, 220 F.3d 562, 566 (7th Cir.2000) (even though district judge “did not use the magic word ‘injunction,’ ” the order was injunctive in nature and appeal was therefore within appellate court's jurisdiction); In re City of Springfield, 818 F.2d 565, 567 (7th Cir.1987) (orders are “injunctions” under section 1292(a)(1) “if they effectively grant or withhold the relief sought on the merits and affect one party's ability to obtain such relief in a way that cannot be rectified by a later appeal”). Although the district court did not label its order granting Goyal's motion to quash as an injunction, the order had the effect of an injunction because it both required Gomberg to return the transferred funds and quashed an assignment to him of an equitable legal right—the lien. See Home Fed. Sav. &

Loan Ass'n of Centralia v. Cook, 170 Ill.App.3d 720, 121 Ill.Dec. 345, 525 N.E.2d 151, 153–54 (Ill.App.1988) (attorney liens create an "equitable assignment of a portion of the recovery, as opposed to a mere promise to pay" and can assert priority over other creditors); see also Eastman v. Messner, 188 Ill.2d 404, 242 Ill.Dec. 623, 721 N.E.2d 1154, 1156 (Ill.1999) (defining liens in Illinois as involving an equitable assignment of debt with a right to priority over other creditors). We therefore have appellate jurisdiction under 28 U.S.C. § 1292(a)(1). Further, in Elliott v. Hinds, 786 F.2d 298, 301 (7th Cir. 1986) "Cases applying § 1292(a)(1) have held that other incidental orders or issues non-appealable in and of themselves but in fact interdependent with the order granting or denying an injunction may also be reviewed, but only to the extent that they bear upon and are central to the grant or denial of the injunction." Shaffer v. Globe Protection, Inc., 721 F.2d 1121, 1124 (7th Cir. 1983). See also Bittner v. Sadoff Rudoy Industries, 728 F.2d 820, 826 (7th Cir. 1984). Thus if we determine that injunctive relief is permissible on the Count I constitutional claims then we should reach the issue of whether the relief is otherwise precluded with respect to the defamation aspects of the count on the grounds that no cause of action exists under section 1983. On the facts of this case it would be inconsistent with Shaffer and Bittner to find as a matter of law that injunctive relief was available against the defendants while ignoring the additional impediment to such relief created by the trial court's

foreclosure of one of the substantive theories upon which the injunction could be based. This aspect of the appeal justifies the invocation of the doctrine that "a court of appeals may, in the interest of orderly judicial administration, review matters beyond that which supplies appellate jurisdiction." Scarlett v. Seaboard Coast Line Railroad Co., 676 F.2d 1043, 1052 (5th Cir. 1982) (citing Deckert v. Independence Shares Corp., 311 U.S. 282, 287, 61 S.Ct. 229, 232, 85 L.Ed. 189 (1940)). See Bittner, 728 F.2d at 826 (approving Scarlett).

It is unquestioned that the Motion for Injunctive Relief under the All Writs Act filed by Appellant in Feb. of 2016 is interdependent upon the Order on Summary Judgment and other interlocutory Orders herein and thus this Court has proper federal appellate jurisdiction. The All Writs Motion set out in further detail the fraudulent schemes at play and breaches of fiduciary duties and nature of the damages all relevant to Appellants' counterclaims and status as a Defendant in an interpleader action. This motion further provided the basis for Appellant to Amend his pleadings which Appellant sought and was improperly denied and further improperly denied Discovery which was relevant to the Summary Judgment determination removing Appellant from the case. Jurisdiction may also be found under the orderly judicial administration interest as set out above and will serve judicial economy and bring a central focus to the case.

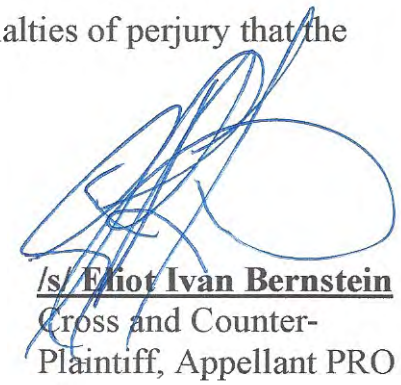
Appellant reserves the right to supplement this Statement as law and justice allows and fully seeks to brief the Appeal on the merits.

WHEREFORE, it is respectfully prayed for an Order upholding federal appellate jurisdiction herein and for such other and further relief as may be just and proper.

Declaration

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

DATED: June 15, 2017



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CERTIFICATE OF SERVICE

The undersigned, Eliot Ivan Bernstein, Pro Se certifies that he filed an APPELLANT'S JURISDICTIONAL MEMORANDUM, INDIGENT FORMS AND APPELLANTS MOTION TO ACCEPT LATE FILING AND OTHER RELIEF via Postal Mail with the Clerk of the 7th Circuit Court of Appeals, and served copies of same upon those listed below by Postal Mail on this 15th day of June, 2017.

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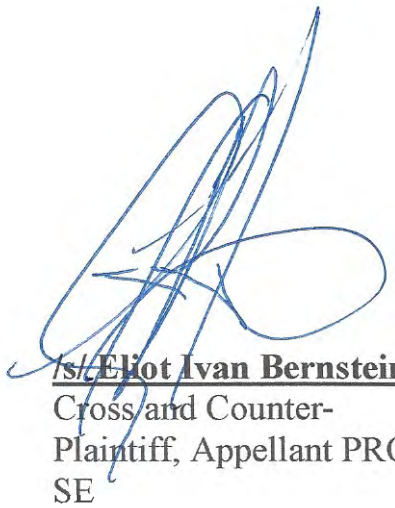

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Appellant reserves the right to supplement this Statement as law and justice allows and fully seeks to brief the Appeal on the merits.

WHEREFORE, it is respectfully prayed for an Order upholding federal appellate jurisdiction herein and for such other and further relief as may be just and proper.

Declaration

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

DATED: June 15, 2017

/s/ Eliot Ivan Bernstein
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CERTIFICATE OF SERVICE

The undersigned, Eliot Ivan Bernstein, Pro Se certifies that he filed an APPELLANT'S JURISDICTIONAL MEMORANDUM, INDIGENT FORMS AND APPELLANTS MOTION TO ACCEPT LATE FILING AND OTHER RELIEF via Postal Mail with the Clerk of the 7th Circuit Court of Appeals, and served copies of same upon those listed below by Postal Mail on this 15th day of June, 2017.

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