

APPEAL,ROWLAND,TERMED

United States District Court
Northern District of Illinois – CM/ECF LIVE, Ver 6.2.1 (Chicago)
CIVIL DOCKET FOR CASE #: 1:13-cv-03643
Internal Use Only

Simon Bernstein Irrevocable Insurance Trust Dtd 6/21/95 v.
Heritage Union Life Insurance Company
Assigned to: Honorable John Robert Blakey
Case in other court: 17-01461
17-03595
Circuit Court of Cook County, 2013 L
003498

Date Filed: 05/16/2013
Date Terminated: 11/21/2017
Jury Demand: None
Nature of Suit: 110 Contract: Insurance
Jurisdiction: Diversity

Cause: 28:1441 Petition for Removal

Date Filed	#	Page	Docket Text
11/09/2017	<u>299</u>	3	MOTION by Third Party Defendants Eliot Ivan Bernstein, Eliot Bernstein, ThirdParty Plaintiff Eliot Bernstein, Cross Claimant Eliot Bernstein, Plaintiffs Eliot Bernstein, Eliot Ivan Bernstein to amend/correct MOTION by Third Party Defendants Eliot Ivan Bernstein, Eliot Bernstein, ThirdParty Plaintiff Eliot Bernstein, Cross Claimant Eliot Bernstein, Plaintiffs Eliot Bernstein, Eliot Ivan Bernstein to vacate <u>297</u> EXHIBIT 33 (Bernstein, Eliot) (Entered: 11/09/2017)
11/13/2017	<u>300</u>	81	MINUTE entry before the Honorable John Robert Blakey: Eliot Bernstein's motion for relief pursuant to Rule 60(b)(3) <u>297</u> is denied. The motion recycles the same arguments made in prior pleadings, and none of the cited evidence alters the Court's prior conclusion that Plaintiffs are entitled to summary judgment on Eliot Bernstein's claims. Docket Entry <u>299</u> is stricken from the docket, as it appears to be a motion directed to the Florida Circuit Court, Probate Division. The 11/14/17 Notice of Motion date is stricken as to this motion, but remains as to docket entry <u>296</u> . Mailed notice (gel,) (Entered: 11/13/2017)
11/14/2017	<u>301</u>	82	MINUTE entry before the Honorable John Robert Blakey: Case called for a motion hearing. First Motion for Interpleader Disbursement <u>296</u> is entered and continued to 11/21/2017 at 9:45 a.m. in Courtroom 1203. Mailed notice (gel,) (Entered: 11/15/2017)
11/20/2017	<u>302</u>	83	Agreed Motion for Entry of Orders of Dismissal and Distribution of Interpleaded Funds Pursuant to Settlement by Brian M. O'Connell (Attachments: # <u>1</u> Exhibit Exhibit 1)(Stamos, James) (Entered: 11/20/2017)
11/21/2017	<u>304</u>	88	MINUTE entry before the Honorable John Robert Blakey: Motion hearing held. The parties' agreed motion for entry of orders of dismissal and distribution of interpleaded funds pursuant to settlement <u>302</u> is granted. Enter Disbursement Order. The parties' first motion for disbursement order <u>296</u> is denied as moot. The parties having reached settlement of this matter on all outstanding claims with this Court having entered an agreed order disbursing

			all interpleaded funds, this matter is dismissed with prejudice and without costs under Rule 41(a). All set dates and deadlines, including the 11/28/17 motion hearing date, are stricken. Civil case terminated. Mailed notice (gel,) (Entered: 11/21/2017)
11/21/2017	<u>305</u>	89	DISBURSEMENT ORDER Signed by the Honorable John Robert Blakey on 11/21/2017. Mailed notice(gel,) (Entered: 11/21/2017)
12/19/2017	<u>308</u>	91	APPLICATION by Third Party Defendants Eliot Ivan Bernstein, Eliot Bernstein, ThirdParty Plaintiff Eliot Bernstein, Cross Claimant Eliot Bernstein, Plaintiffs Eliot Bernstein, Eliot Ivan Bernstein for leave to proceed in forma pauperis <i>MOTION TO PROCEED IN FORMA PAUPERIS</i> (Bernstein, Eliot) (Entered: 12/19/2017)
12/19/2017	<u>310</u>	142	MOTION by Third Party Defendants Eliot Ivan Bernstein, Eliot Bernstein, ThirdParty Plaintiff Eliot Bernstein, Cross Claimant Eliot Bernstein, Plaintiffs Eliot Bernstein, Eliot Ivan Bernstein for attorney representation (Bernstein, Eliot) (Entered: 12/19/2017)
12/21/2017	<u>316</u>	194	MINUTE entry before the Honorable John Robert Blakey: Third Party Eliot Bernstein has filed a motion seeking leave to proceed on appeal in forma pauperis <u>308</u> and a motion seeking recruitment of counsel <u>310</u> . The affidavit submitted along with his motion discloses that his spouse earns \$2,700/month, and the couple has three dependent sons, ages 19, 18 and 14. Initially, the income alone places this party well above the poverty line, even for a household of five. Additionally, as the Court understands it, several members of Bernstein's household stand to receive substantial disbursements from the interpleaded funds released on 11/21/17. In short, the record before the Court does not demonstrate indigence. Accordingly, both motions are denied. The 12/26/17 Notice of Motion date is stricken, and the parties need not appear. Mailed notice (gel,) (Entered: 12/21/2017)

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

INRE: CASE NO. 502012CP004391XXXXNBIH

ESTATE OF SIMON L. BERNSTEIN,
_____ /

TED BERNSTEIN, as Trustee
of the Shirley Bernstein Trust Agreement
dated May 20, 2008, as amended,

Probate Division
Case No.: 502014CP003698XXXXNBIH

Plaintiff,

V.

ALEXANDRA BERNSTEIN; ERIC BERNSTEIN; MICHAEL BERNSTEIN; MOLLY SIMON; PAMELA B. SIMON, Individually and as Trustee f/b/o Molly Simon under the Simon L. Bernstein Trust Dtd 9113 /12; ELIOT BERNSTEIN, individually, as Trustee f/b/o D.B., Ja. B. and Jo. B. under the Simon L. Bernstein Trust Dtd 9113112, and on behalf of his minor children D.B., Ja. B. and Jo. B.; JILLIANTONI, Individually, as Trustee f/b/o J.I. under the Simon L. Bernstein Trust Dtd 911 3112, and on behalf of her Minor child J. I.; MAX FRIEDSTEIN; LISA FRIEDSTEIN, Individually, as Trustee f/b/o Max Friedstein and C.F ., under the Simon L. Bernstein Trust Dtd 9/ 13/ 12, and on behalf of her minor child, C.F.,

Defendants.
_____ /

**URGENT EMERGENCY MOTION TO POSTPONE AND RESCHEDULE NOVEMBER
15, 2017 HEARING PER NOVEMBER 06, 2017 AMENDED ORDER SPECIALLY
SETTING HEARINGS**

1. Eliot Bernstein has been medically unfit to proceed with hearings for several months continuously as previously noted to the Court due to chronic Vasovagal Syncope that has led to repeated daily passing out unconscious, which has led to several traumatic falls and injuries, which are further exacerbated by having to prepare for hearings in this Court despite the severe dangers to his life that this additional stress is causing, including postponing several doctors to try and prepare for Court hearings that the Court has refused to change to allow a proper diagnosis and recovery.
2. A brief chronology of the medical situation is attached in Exhibit 1 - “AFFIDAVIT OF CANDICE BERNSTEIN IN SUPPORT OF ELIOT BERNSTEIN’S “MOTION TO POSTPONE AND RESCHEDULE NOVEMBER 15, 2017 HEARING” that outlines and supports that the Situational Vasovagal Syncope according to Hospital records is “**Apparent Life Threatening Event**,” “Syncope” and “Apnea.”
3. Eliot has only addressed primarily the time period from August 2017 to November 2017 to show that he has been unable to properly prepare for or attend hearings in a healthy state of mind and body during this period and remains in such unhealthy state as of this date.
4. It is anticipated that Eliot can in 30-60 days both recover and have diagnosis completed and be back in a functioning capacity after that time period as Exhibit 1 shows. The Court was requested prior to the 10/19/17 hearing in this Court to allow time for Eliot to seek medical treatment and recover properly from a life threatening ailment and the Court refused to grant such request despite being made aware of the danger to Eliot’s life and in fact moved the hearing from October 27, 2017 to October 19, 2017 instead.

5. That these deadlines have only made the medical conditions worse and have not allowed Eliot to properly prepare or represent himself Pro Se before this Court.
6. Eliot has allowed his wife Candice to submit medical reports of his to this Court in her attached affidavit so that the Court may see not only the hospital and other doctor reports but the amount of very heavy narcotic analgesics, muscles relaxers and antibiotics he has been on from August 2017 through November 2015 and remains on to this date and was further proscribed another week worth after his dental implant prosthesis was reinserted on November 08, 2017, which had been out since October 11, 2017 and required daily pain medication as reported in Exhibit 1.
7. Finally, this Court should take notice of the attached 60(a) and (b) Motion for the Illinois Federal Court case (Exhibit 2 - 60(a) and (b) Case # 13-cv-03643 - US District Court of Eastern Illinois,) which outlines the continuing and ongoing fraud on the Illinois Federal Court and Hon. Judge John Robert Blakey and on this Court being committed by this Court's Court Appointed Officers (Attorneys, Fiduciaries and Guardian.) This filing should also provide ample cause for this Court to stay the proceedings and have all parties involved in the ongoing Fraud on the Court and Fraud on the True & Proper Beneficiaries and Interested Party to be called to show cause involving the frauds committed that have deprived the Eliot Bernstein family of their US and Florida Constitutional rights to fair and impartial due process and procedure rights and MORE.

WHEREFORE, Eliot seeks from this Court a 30-60 day stay of all cases before the Court to fully recover from his current injuries and complete the necessary tests without having to stress more over Court hearings and deadlines, which add to the Vasovagal Syncope attacks and risk of fatal injury. Further, stay the proceedings to

report and correct all recently discovered frauds upon the court by Court appointed officers, discovered in hearings held before this Court on February 16, 2017 and March 02, 2017, based on claims that Eliot Bernstein was not a beneficiary of his mother and father's estates and trusts and where it was learned that in fact at the minimum he is a beneficiary with standing in his father's estate. Eliot believes that if the Court reviews the 60(b) motion and the documents attached, the two Wills and two Inter-vivos Trusts that were declared valid at the December 15, 2015 hearing that the Court will see that not only does Eliot have standing in each as Natural Born son but that each document has him named as a beneficiary despite any claims or orders or pleadings claiming he is not.

DATED: November 09, 2017

Respectfully submitted,

/s/ Eliot Ivan Bernstein

Eliot Ivan Bernstein

2753 NW 34th St.

Boca Raton, FL 33434

561-245-8588

iviewit@iviewit.tv

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 and/or Court ECF on this 9th day of November, 2017.

/s/ Eliot Ivan Bernstein

Eliot Ivan Bernstein

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EXHIBIT 1

“AFFIDAVIT OF CANDICE BERNSTEIN IN SUPPORT OF ELIOT BERNSTEIN’S

“MOTION TO POSTPONE AND RESCHEDULE NOVEMBER 15, 2017 HEARING”

FILED SEPARATELY ECF

**AFFIDAVIT OF CANDICE BERNSTEIN IN SUPPORT OF ELIOT BERNSTEIN'S
"MOTION TO POSTPONE AND RESCHEDULE NOVEMBER 15, 2017 HEARING"**

State of Florida
County of Palm Beach

BEFORE ME, the undersigned Notary,

Lauren A. Araneo, on this 9th day of November, 2017, personally appeared Candice M. Bernstein, known to me to be a credible person and of lawful age, who being by me first duly sworn, on her oath, deposes and says:

I, Candice M. Bernstein hereby declare as follows:

I am over the age of 18 and a resident of Palm Beach County, Florida.

I make this declaration and affidavit based upon my own personal knowledge of the cases listed below in the Palm Beach courts, and if called upon testify as to its contents, could and would do so consistently herewith. The cases include, but are not limited to, the following and any all cases involving the Simon and Shirley Bernstein Estates and Trusts and the Eliot and Candice Bernstein Family;

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

INRE: CASE NO. 502012CP004391XXXXNBIH

ESTATE OF SIMON L. BERNSTEIN,
_____ /

TED BERNSTEIN, as Trustee
of the Shirley Bernstein Trust Agreement
dated May 20, 2008, as amended,

Probate Division
Case No.: 502014CP003698XXXXNBIH
HONORABLE ROSEMARIE SCHER

Plaintiff,

V.

ALEXANDRA BERNSTEIN; ERIC BERNSTEIN; MICHAEL BERNSTEIN; MOLLY SIMON; PAMELA B. SIMON, Individually and as Trustee f/b/o Molly Simon under the Simon L. Bernstein Trust Dtd 9113 /12; ELIOT BERNSTEIN, individually, as Trustee f/b/o D.B., Ja. B. and Jo. B. under the Simon L. Bernstein Trust Dtd 9113112, and on behalf of his minor children D.B., Ja. B. and Jo. B.; JILL IANTONI, Individually, as Trustee f/b/o J.I. under the Simon L. Bernstein Trust Dtd 911 3112, and on behalf of her Minor child J. I.; MAX FRIEDSTEIN; LISA FRIEDSTEIN, Individually, as Trustee f/b/o Max Friedstein and C.F ., under the Simon L. Bernstein Trust Dtd 9/ 13/ 12, and on behalf of her minor child, C.F.,

Defendants.

I make this declaration in support of the exhibits fairly and accurately and reflect what I perceive to be true in regard to the courts in FL that have ignored life threatening medical issues facing my husband, Eliot Bernstein. In fact, opposing counsel in these matters have scheduled more and more hearings and pleadings for him to respond to in efforts to further take advantage and exacerbate life threatening medical problems despite doctors orders to not stress while trying to determine and resolve a very real life threatening problem my husband Eliot is suffering from.

Eliot Bernstein has been medically unfit to proceed with hearings for several months continuously as previously noted to the Court repeatedly in hearings and pleadings due to chronic Vasovagal Syncope that has led to repeated daily passing out unconscious, which has further led to several traumatic falls and injuries. These episodes are further exacerbated by having to prepare for hearings in this Court despite the severe dangers to his life that this additional stress is causing, including the fact that he is postponing doctor visits and necessary tests to try and prepare for these Court hearings that in many instances over the past two years the Florida Courts have refused to change to allow for a proper diagnosis and recovery.

A brief medical chronology follows.

On 6/4/13 - 6/5/13 Eliot laughed at a joke told, passed out (syncope) and fell from a stool at a friends home and landed on his head which led to being rushed to the hospital unconscious with bleeding on the brain and hospitalization for several days. He was heavily medicated for several weeks following due to massive trauma to the head and body caused from the fall. The diagnosis from the hospital was "SYNCOPE & COLLAPSE, SUBARACHNOID HEMORRHAGE FOLLOWING INJURY, WITHOUT MENTION OF OPEN INTRACRANIAL WOUND, WITH STATE OF CONSCIOUSNESS UNSPECIFIED." (Exhibit 1 - June 04, 13 Hospital Report) At follow up with a cardiologist it was determined that the accident was caused by Vasovagal syncope and a series of follow up tests was scheduled. Eliot did complete several of the tests but due to the need to prepare for court hearings he did not finish the complete review by the all the doctors recommended at that time.

September 06, 2016 Eliot had a Vasovagal Syncope attack and our son caught him as he was falling. Thinking he was having a heart attack our athletic son tried to give him CPR that he learned at a swimming camp and in the process broke his rib and injured others. The diagnosis of that event was, "Ox 1: Fx L rib closed Rx 1: Percocet Tablets 325mg,5mg (acetaminophen,oxycodone) 1 tablet by mouth every 6 hrs as needed for pain." A 4-6 week recovery was necessary for the ribs to heal but in his case due to coughing attacks it took several weeks longer. My husband began following up with doctors but due to the Florida courts refusal to give him ample time to recover and seek diagnosis he instead chose to fight in the courts versus take medical advice to not endure stress and continue diagnostic treatments as Vasovagal Syncope collapses can be deadly and are a leading cause of death among elderly persons afflicted with this condition. (Exhibit 2 - September 06, 2016 Hospital Report)

On August 4, 2017, Eliot went to Urgent Care for an illness that he had for several days leading to a constant hard cough that was making him cough so hard he had lost consciousness (syncope) several times. He was prescribed antibiotics, a puff inhaler, cough pearls and cough syrup.

On August 9, 2017 Eliot had a Vasovagal Syncope that led to a loss of consciousness and he fell to the ground hitting the back and front of his head causing contusions, bruising to the side of his face, a black eye and caused two broken ribs and other severe and traumatic damages to his body. He was taken to the Delray Beach Medical hospital (Exhibit 3 - August 09, 2017 Hospital Report) and admitted for several days under constant watch and had various tests conducted by a cardiology team, neurology team, pulmonologist and others. During this stay he had multiple x-rays, cat scans and a MRI and narcotic analgesic medicine to control the pain including IV drip Morphine. He later also received 2 bags of IV antibiotics and more antibiotic pills to take home. He was told to rest 4-6 weeks and to wait for the ribs and nerves to heal to

then finish the testing proscribed. One of the tests ordered was a tilt table test to determine blood pressure during the syncope episodes, yet it is too painful to be on the test table with broken ribs and he was advised by his doctors it would have to wait for the ribs to heal 4-6 weeks. Eliot was on narcotic analgesics for most of this recovery period, again repeatedly going off his medicine to cope with court hearings and pleadings due that could not be changed or delayed by the courts despite his requests. The discharge papers concluded “**Apparent Life Threatening Event**,” “Syncope” and “Apnea.” As the record reflects Eliot left the hospital against medical advice to prepare for court related events that he feared would not be able to be changed as the courts had previously refused to reschedule deadlines due to his medical condition. Again, this has put him at further risk.

At this point the syncope "fainting" episodes began consistently occurring every 2-3 hours a day.

On August 16, 2017, Eliot again lost consciousness and again collapsed to the ground at freefall speed hitting his head and nose on a granite countertop which left several lacerations and bruising, again re-injuring his ribs and his legs.

On August 17, 2017 Eliot was taken back to Urgent Care for review and prescribed more cough suppressant medicine, anti-inflammatory medication and narcotic analgesic pain medication.

On August 18, 2017, during another syncope episode Eliot lost consciousness and fell to the ground landing on his elbow and bruising his whole left side.

On August 20, 2017 Eliot discontinued a high blood pressure medicine that happens to have a side effect of dry cough that can lead to "cough syncope".

On August 24, 2017 Eliot suffered a sudden sharp pain on the left side of his body and was advised by his cardiologist to go to the ER. At the hospital the nurses witnessed several syncope episodes and Eliot was taken for several x-rays and cat scans that concluded he now had 2 completely fractured ribs (#6 and #9) and the sharp pain appeared to be a hairline fracture of a rib that then fully broke when he sat down. Eliot was given narcotic analgesic pain medication and told to follow up with a primary physician and told the ribs would take another 6-9 weeks to heal, if not longer due to the lingering hard cough that was exacerbating the problem of the ribs healing. The final diagnosis for this visit was, “FINDINGS- 4 views of the left ribs. There is a nondisplaced fracture of the sixth lateral rib, question of nonspace fracture of the ninth lateral rib.” (Exhibit 4 - August 24, 2017 Hospital Report)

On August 25, Eliot was seen by a cardiologist and placed on a heart monitor for 2 weeks and prescribed a different hypertension medication.

September 23, 2017 Eliot suffered another Vasovagal Syncope attack while out in Delray Beach after a dinner and fell into the street and hit a car. He sprained/fractured his ankle and endured deep wounds to his leg, again injured his ribs and broke a dental prosthesis that encompasses his entire lower teeth.

That on October 11, 2017 Eliot had his lower prosthesis removed from his mouth due to the injury sustained on September 23, 2017 and as his dentist has noted he has been under treatment and on narcotic analgesics and muscle relaxers since October 11 for this treatment, (Exhibit 5 - Dr. Ronik S. Seecharan PA DMD Medical Letter) Eliot has been suffering massive TMJ requiring additional heavy narcotic analgesics and muscle relaxers to this day. The prosthesis is set to be reinserted on November 08, 2017 and typically from the time the new one is put back in it takes him 1-2 weeks to fully recover from the TMJ and resulting migraine headaches and requires medication throughout.

On October 17, 2017, Eliot went back to the hospital, Boca Medical Center and was diagnosed with a sprained ankle that may in fact be a fracture that had partially healed as he refused to go to the hospital after the original injury as he was trying to prepare for Court hearings that this Court refused to reschedule despite being advised of the life threatening condition Eliot was in and denying his request for extension. They also diagnosed a MRSA infection developing in the deep wounds that caused his lower leg to completely swell up from infection. The results of this visit were as follows, "Dx 1: Cellulitis L lower limb, Dx 2: Sprain L ankle. unspecified ligament, Dx 3: Fx L foot 5th metatarsal nondisplaced. Closed, Rx 1: Norco Tablets 325mg,5mg (acetaminophen,hydrocodone), 1 tablet by mouth every 6 hrs as needed for pain (max 4 tablets per day), Rx 2: Bactrim OS Tablets (sulfamethoxazole,trimethoprim) 800mg, 160mg 160mg/tablet Order 1 tablet by mouth every 12 hrs for 10 days, Rx 3: Keflex Capsules (cephalexin) 500mg/capsule, 1 capsule by mouth every 8 hrs for 10 days." (Exhibit 6 - October 17, 2017 Hospital Report)

That despite requesting that the October 19, 2017 hearing before this Court be delayed due to these most serious and life threatening conditions the Court instead forced Eliot to appear refusing to reschedule and allow him to recover and complete necessary tests and doctor visits. The Court will note that Eliot came to court on October 19, 2017 with a sprained/fractured ankle, a case of MRSA, missing his entire bridge of lower teeth and having 8 titanium spikes protruding from his lower gums making it virtually impossible for him to talk or chew, two broken ribs and on heavy pain medicine, antibiotics and muscle relaxers.

That since the October 19, 2017 hearing that Eliot was debilitated for, Eliot has been in a constant disabled state and trying to recover but hardly able to get out of bed. He is having daily syncope attacks that leave him under constant supervised care. The facial swelling caused by the

loss of the entire lower jaw of teeth and 8 metal nail implants sticking out from his gums that rip his lips, cheeks and gums daily has also caused him to lose vision in his left eye and make it virtually impossible for him to work on a computer to prepare for the upcoming November 15, 2017 hearing, especially while heavily medicated (Exhibit 7, August through November 5 2017 Prescription Report) and virtually unable to walk due to his leg injury and infection.

That on October 31, 2017 Eliot finally completed the tilt table test for the Vasovagal Syncope and while ruling out a heart condition as the problem, it revealed that the cause of the attacks is due to "situational syncope" stress and coughing being the leading situations of the fainting attacks. Falling from these attacks is life threatening at any given time. The heart specialist has now referred Eliot to see a Pulmonologist to run the next series of tests and Eliot is scheduling that as soon as his teeth problem is resolved in the next week or two. The Table Test showed a dramatic loss of blood pressure and a Vasovagal Syncope attack during the procedure that caused Eliot to pass out during the test and this now narrows the causes and may finally provide a solution to the problem. If it is not pulmonary he will need to be seen by a neurologist and have another series of tests done, however, the cardiologist after witnessing a cough syncope feels strongly it is a pulmonary problem and a classic case of "Cough Syncope,"exacerbated by stress.

The Court should note that Eliot has been trying to resolve the Vasovagal Syncope with doctors over the last two years and most of the delay in diagnosis and treatment is due to the Florida courts refusal to allow adequate time for Eliot to have proper treatment and opposing counsel continuously demanding hearings whenever he has pled for extensions for these medical issues instead of allowing proper time for medical treatment, recovery and diagnosis. In fact, I have read pleadings to the courts by Ted Bernstein and his counsel Alan Rose suggesting that Eliot was faking these illnesses and the requests for extensions were part of some elaborate plan to delay hearings and I was completely appalled and distraught that the courts bought this wholly unsupported and unsubstantiated claim by opposing counsel without fully checking with Eliot's medical doctors or even reviewing medical records supplied in his pleadings and instead demanded timelines be met without concern for his well being.

I am also aware that several of the court appointed officers and fiduciaries involved in these matters thus far have committed a series of FELONY crimes against our family personally and through their law firm and their replacements upon their resignations steeped in fraud appear to be continuing the criminal activity in the courts and are trying to cover up the prior crimes and committing others at the same time and definitely taking advantage of my husbands medical condition and inability to properly prepare or defend our family as a Pro Se litigant.

Far more serious are the crimes that have been committed against my husband and my children by the court appointed fiduciaries Ted Bernstein, Robert Spallina, Alan Rose, Donald

Tescher et al. and their counsel that I have witnessed while attending every hearing with my husband since September 2013. The following criminal acts committed by fiduciaries and counsel in these matters are the cause for all of these delays and tortious interference with expectancy that have occurred over the four years this has been ongoing in the Florida courts and nothing my husband has done. These crimes that have led to arrest and resignations include but are not limited to,

1. PROVEN forgery of my husbands name on documents submitted to the court along with five other parties names forged in my mother-in-law's estate.
2. PROVEN forged documents and fraudulently notarized documents submitted to the court including forgeries done of my father-in-law's signature after he was deceased.
3. The PROVEN closing of my mother-in-law's estate through fraud using my deceased father-in-law to appear to have closed her estate as a fiduciary at a time after he was deceased, the uncovering of this fraud leading to the estate being reopened for now 4 years. This crime was done at a time Ted Bernstein and his lawyers Robert Spallina and Donald Tescher who were the former estate planning attorney to my mother-in-law and father-in-law, former resigned Co-Personal Representative and Co-Trustee of my father-in-law's Estate and Trust (resigning after the crimes were admitted to by Spallina to the Palm Beach Sheriff and the Court) and acting counsel to Ted Bernstein as fiduciary in his mother's estate and trust where many of the crimes were committed that ALL benefited Ted Bernstein to the disadvantage of my family and great suffering and damages caused to us and still causing as the Court has allowed Ted to remain a fiduciary despite these facts.
4. A PROVEN AND ADMITTED forged trust of my mother-in-law's done after her death by several years and sent via mail fraud to my children's counsel by Robert Spallina in efforts to change the beneficiaries of her trust through fraud and deceit and make our former counsel Christine Yates and our family believe that Ted and his sister Pam who were disinherited with their lineal descendants were reinserted back into her trust. This was done through a fraudulent amendment added in her trust that Spallina crafted allegedly in January 2013. Spallina admitted to this FELONY crime at a hearing I attended on December 15, 2015, ironically at a "validity" hearing where he was the only witness called by Ted and his counsel Rose to validate documents he drafted, executed and gained interest in and then when cross examined admitted to a host of crimes he personally committed and his law firm had committed.

I have attended numerous sham hearings conducted by former Judge in these matters John L Phillips that resulted in a bizarre series of Orders that have led to claims that my husband has no standing to participate in his father and mother's estate and trusts, despite him being a named beneficiary in all of the documents and further just being a natural born child of his parents giving him standing despite what any documents may say and this after over two years where his standing was never questioned or proven not to exist. I imagine an Order that states

that natural born children do not have standing in their parents estates and trusts would overturn years of established probate and civil trust law and case law and set new precedence.

I have then attended hearings after Judge Phillips left where a new Judge Honorable Rosemarie Scher has determined that despite prior claims that my husband was not a beneficiary and had no standing in his father's estate by Ted Bernstein, Alan Rose and Brian O'Connell that he factually did, contradicting many pleadings filed by Ted and Alan Rose his counsel that led to sham and void orders that claimed he did not have standing and was not a beneficiary, which kept him from participating in hearings for now almost two years and denied him Constitutionally protected due process rights to be heard.

I have witnessed my husband be removed from a federal action in Illinois, Case # 13-cv-03643 - in the US District Court of Eastern Illinois on claims that this Florida Probate court had determined he was not a beneficiary and without standing in his father's estate and citing Collateral Estoppel as the reason for his removal in that action based on this Court's flawed alleged findings and similarly false pleadings made to that Court by Ted and his counsel. Despite it now being factually determined that my husband does have standing and is a beneficiary of his father's estate by Judge Scher the Illinois Court has not been notified by the parties that made these false claims to that court and he still remains removed from the hearing through this fraud and removed from settlements etc. based on the Illinois court and HONORABLE Judge John Robert Blakey not being informed that information tendered to that court was intentionally false and misleading. This again has caused my husband loss of Constitutionally Protected Due Process Rights to be heard in a Federal court.

I have witnessed a Guardian Ad Litem placed on my adult son in an evidentiary hearing in the Probate court, not a hearing in the GAL Division, at a time when Ted, my son's uncle and Alan Rose both knew he was an adult and pled fraudulently to the Court that he was a minor. That Guardian, Diana Lewis, also knew she was illegally kidnapping my Adult son's legal rights through a fraudulent GAL appointment and attended court hearings in his name, entered settlements in his name and destroyed trusts and companies set up for him by my mother-in-law and father-in-law many years prior to their deaths, all in coordination with Ted Bernstein and Alan Rose. Despite my son sending Diana Lewis a Cease and Desist letter to cease this fraud she has ignored such request and has failed to notify the court or other parties she deceived of her prior acts illegally in his name as his alleged Guardian Ad Litem and continues to act illegally in his name to deprive him his CONSTITUTIONALLY PROTECTED DUE PROCESS RIGHTS.

I have witnessed my middle child turn 18 on January 1, 2017 and any predatory GAL that was placed on him should have been ended by Diana Lewis and a final report entered in the Court by her ending her alleged GAL over him and instead she continued to act on his behalf illegally and entered into settlements on his behalf, attended court proceedings representing his

interests as a GAL and more. Despite her receiving a Cease and Desist from him she has still not entered a final report and ceased her representations and continues to act illegally in his name to deprive him his CONSTITUTIONALLY PROTECTED DUE PROCESS RIGHTS.

These crimes are the reasons for all this delay and my husband's requests for medical extensions have been due to very serious and life threatening reasons that are medically documented and verified and the Court's refusal to grant additional time as if these cases now must be rushed to judgment while new frauds are being exposed and there are missing millions of dollars and Shirley's Trust is unaccounted for since 2010 in violation of Florida Probate Rules and Statutes seems remarkable to say the least. Further, the attempt to shift the blame to make my husband appear in the Court record to be the cause of problems, as a disgruntled disinherited son, when in fact our family whether my husband or children have never been disinherited, whereas by brother and sister in law and their lineal descendants have been disinherited. They in fact are the disgruntled family members, creating disputes, generating exorbitant legal fees and frauds to re-insert their lineal descendants back in the wills and trusts fraudulently with help from attorneys that altered and fabricated trust documents. I have witnessed first hand the fraud, waste and abuse of court resources in these actions. The Court has wholly failed to report the crimes of the officers of this Court as required by Judicial Canons, Attorney Conduct Codes and laws makes this appear a deliberate attempt to try and shift the blame and take advantage of my husband or cause him intentional harm that may kill him. As a Pro Se litigant who crimes have occurred against committed by Court Appointed Officers (Fiduciaries, Attorneys and Guardians) the Court should be sympathetic to him but instead in the last two years of hearings I have witnessed they are completely lacking any care or respect for him. In fact, I have instead witnessed repeated assaults on him and myself verbally by the Judges and court appointed officers involved, slandering and defaming him and we fear the Court is being used as a weapon against our family to silence our exposure of the mass of frauds taking place and cover up those that have been proven to have taken place in this Court.

I have attached herein several of the medical reports and prescription drug reports to support my statement and I am willing to give the Court a complete list of doctors treating him to confirm these claims and the danger to Eliot's life that is current and ongoing. Eliot is still suffering from syncope episodes every 6-8 hours, including night time while he is sleeping. He is only able to sleep for 2-3 hours at a time, sitting up only and unable to lie down for any period of time and in constant pain. He is currently being supervised 24/7 and cannot be left alone in the event of an syncope episode and risk of falling. I am praying that this Court under the new Judge Rosemarie Scher will take a moment to look at the danger my husband is in physically and understand that he fears for his families lives against those court appointed officers who have already caused our family so much harm and give him the time he is requesting of 30-60 days to be medically evaluated and recover versus forcing him to continue to come to hearings during this time and put his life in imminent danger.

If the Court refuses I will demand my husband not attend hearings for fear of his life and I will report these matters to state and federal authorities that my husband is already working with as a potential attempt to cause him and my family great harm while trying to effectuate further frauds upon us. I urge the Court to consider the stress upon me personally as I find my husband laying on the ground, passed out, not breathing and appearing dead, then waking out of a coma like state with blood coming from his head, his eyes, his leg and more and unable to breath or recognize where he was just a minute ago, rush to hospitals and sleep there as many nights as he is confined and take compassion on our family and give my husband the necessary time to respond properly to this Court after his medical tests and recovery is over. To see my husband try and respond to pleading and prepare for hearings while passing out in his seat choking until he is unconscious is unimaginable but true and he will not lie down with these deadlines and court proceedings to contend with.

Under penalties of perjury, I declare that I have read the foregoing "AFFIDAVIT OF CANDICE BERNSTEIN IN SUPPORT OF ELIOT BERNSTEIN'S MOTION TO POSTPONE AND RESCHEDULE NOVEMBER 15, 2017 HEARING and that the facts stated in it are true to the best of my knowledge and belief"

Dated: November 09, 2017

/s/ Candice Bernstein

Candice Bernstein
2753 NW 34th St.
Boca Raton, FL 33434
(561) 245-8588
tourcandy@gmail.com



[signature of affiant]

Candice Bernstein
2753 NW 34th St.
Boca Raton, FL 33434

State of Florida

County of West Palm Beach

Sworn to (or affirmed) and subscribed before me this 9th day of November, 2017, by Candice M. Bernstein.

Lauren A. Araneo

(Signature of Notary Public - State of Florida)



Lauren A. Araneo
Notary Public
State of Florida

My Commission Expires 4/18/2020
Commission No. FF 983473

Lauren A. Araneo

(Print, Type, or Stamp Commissioned Name of Notary Public)

Personally Known _____ OR Produced Identification

Type of Identification Produced - Drivers License
Florida DL # B652-113-72-869-0 Expiration 10/20/24

*Driver's License
Florida DL # B652-113-72-869-0
exp 10/9/2024*

EXHIBIT 1

DELRAY MEDICAL CENTER
5352 Linton Boulevard
Delray Beach, FL 33484

Name: BERNSTEIN, ELIOT TR
MRN: 000188764
ACCT: 012940564

RICHARD H KIM, MD
ADM: 06/04/2013

Consultation

DATE OF CONSULTATION: 06/04/2013

CHIEF COMPLAINT: Syncope.

HISTORY OF PRESENT ILLNESS: The patient is a 49-year-old gentleman who was at dinner at a friend's house. His wife apparently told a joke. He began laughing and then coughing. He then thinks he passed out. He apparently had urinary incontinence. He fell and hit his head on a marble floor. He sustained a subarachnoid hemorrhage. He also complains of chest discomfort now. Cardiology consultation is requested.

ALLERGIES: IODINE which has apparently caused anaphylaxis in the past.

PAST MEDICAL HISTORY: Borderline hypertension. No history of diabetes, myocardial infarction, CVA. He does have hyperlipidemia. He is now vegetarian.

FAMILY HISTORY: Mother and father both have had myocardial infarction at a premature age.

PAST SURGICAL HISTORY: Facial reconstruction, lower extremity surgery secondary to trauma in his late teens.

SOCIAL HISTORY: Still smokes 3 cigarettes a day, used to smoke 40, social alcohol.

REVIEW OF SYSTEMS:

CONSTITUTIONAL: No fevers, chills or sweats.

VISION: No double vision, blurry vision or cataracts.

HEENT: No hearing loss or tinnitus.

LUNGS: No wheezing, cough or hemoptysis.

GASTROINTESTINAL: No nausea or vomiting.

GENITOURINARY: No hematuria or dysuria.

CENTRAL NERVOUS SYSTEM: No strokes or seizures.

ENDOCRINE: No diabetes or thyroid.

HEMATOLOGIC: No anemia or leukemia.

CARDIOVASCULAR: No chest pain or pressure, but he does complain his chest pain as described above.

PHYSICAL EXAMINATION:

GENERAL: Pleasant, well-developed, well-nourished gentleman, in no acute distress.

VITAL SIGNS: 98.4, 69, 144/75.

Work Type: Consultation
T001

Work Type Code: CON
Page: 1

DATE 07/18/2013

PRINTED BY: MariaGeribon

Page 1 of 1

DELRAY MEDICAL CENTER
5352 Linton Boulevard
Delray Beach, FL 33484

Name: BERNSTEIN, ELIOT TR
MRN: 000188764
ACCT: 012940564

RICHARD H KIM, MD
ADM: 06/04/2013

Consultation

HEENT: Anicteric sclerae. Mucous membranes are moist.
NECK: Supple, no jugular venous distention, no carotid bruits.
CARDIAC: Regular rate and rhythm.
LUNGS: Lung fields are clear to auscultation.
ABDOMEN: Soft, nontender.
EXTREMITIES: No clubbing, cyanosis or edema. His left chest wall is clearly extremely tender to palpation.

ASSESSMENT:

1. Atypical musculoskeletal chest discomfort.
2. Syncope.
3. Subarachnoid hemorrhage.
4. Family history of _____ heart disease.
4. Tobacco abuse.
5. Hypertension
5. Borderline hyperlipidemia.

PLAN: Check echo color Doppler study when he can tolerate pain on his left chest. This is clearly not cardiac pain, but musculoskeletal. Syncope is probably vagal posttussive. Monitor on tele. We will be happy to follow this patient with you.

Richard H. Kim, MD

TR:RHK/HN
DD:06/04/2013 13:12 EDT
DT:06/04/2013 20:03 EDT
Dictation ID: 9462482/Confirmation #: 3900064
R:

Authenticated by RICHARD H KIM MD [1397] on 06/07/2013 at 13:03:19

Work Type: Consultation
T001

Work Type Code: CON
Page: 2

DATE 07/18/2013

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RADIOLOGY REPORT

DELRAY MEDICAL CENTER

5352 LINTON BOULEVARD
AREA CODE (561) 495-3170

DELRAY BEACH, FL

PT NAME: BERNSTEIN, ELIOT I

DOB: 09/30/1963

LOCATION: ER -

ACCT. # 012940564

DR. ROYCRAFT, EDWARD L

MR # 000188764

ORDER # 714438281

06/04/2013

CT HEAD OR BRAIN W/O CONT

Abbrv: CTHD1

INDICATION: Trauma

A CT scan of the brain was performed from the base of the skull through the vertex without intravenous contrast.

No prior images are available for comparison.

The ventricles and CSF spaces appear normal. This addendum is made of a cavum the cecum, normal anatomic variant. There is no mass or mass effect present. Small amount of subarachnoid blood is seen within sulci within the a right temporal lobe in right sylvian fissure. Brain parenchyma is normal in attenuation. There is no evidence of acute infarct or intracranial hemorrhage. The mastoid air cells, paranasal sinuses and orbits appear normal.

IMPRESSION:

1. Small amount of subarachnoid blood within sulci right temporal lobe and right sylvian fissure likely posttraumatic
2. No midline shift or mass effect.
3. No evidence of infarct or hydrocephalus.

Edward Roycraft, MD was notified of critical results at 12:27 a.m. on June 4, 2013

*** Final ***

Dictated By: THAME, CRAIG (06/04/2013 00:26)

Signed By: THAME, CRAIG (06/04/2013 00:28)

DATE 07/18/2013

PRINTED BY: MariaGeribon

CRIMINAL JUSTICE TRAINING CENTER

RADIOLOGY REPORT
5352 LINTON BOULEVARD
AREA CODE (561) 495-3170

PT NAME: BERNSTEIN, ELIOT TR I DOB: 09/30/1963
LOCATION: TI 0282-A ACCT. # 012940564
DR. ROYCRAFT, EDWARD L MR # 000188764

ORDER # 714438281
06/04/2013
CT HEAD OR BRAIN W/O CONT
Abbrv: CTHD1

ADDENDUM:

Trauma over read:

Quality assurance review of the head and cervical spine CT examinations was performed and is in agreement with the initial interpretation of mild right-sided subarachnoid hemorrhage. The cervical spine is intact, as reported.

Final assessment: No discrepancy.

*** Addendum ***

Dictated By: MARTELLO, RICHARD (06/04/2013 10:55)

Signed By: MARTELLO, RICHARD (06/04/2013 10:57)

INDICATION: Trauma

A CT scan of the brain was performed from the base of the skull through the vertex without intravenous contrast.

No prior images are available for comparison.

The ventricles and CSF spaces appear normal. This addendum is made of a cavum the cecum, normal anatomic variant. There is no mass or mass effect present. Small amount of subarachnoid blood is seen within sulci within the a right temporal lobe in right sylvian fissure. Brain parenchyma is normal in attenuation. There is no evidence of acute infarct or intracranial hemorrhage. The mastoid air cells, paranasal sinuses and orbits appear normal.

IMPRESSION:

1. Small amount of subarachnoid blood within sulci right temporal lobe and right sylvian fissure likely posttraumatic
2. No midline shift or mass effect.
3. No evidence of infarct or hydrocephalus.

Edward Roycraft, MD was notified of critical results at 12:27 a.m. on June 4, 2013

*** Final ***

Dictated By: THAME, CRAIG (06/04/2013 00:26)

DATE 07/18/2013

PRINTED BY: MariaGeribon

Relayed By: [illegible]

RADIOLOGY REPORT

DELRAY MEDICAL CENTER Case 1:13-cv-03643 Document 299 Filed 11/09/17 Page 29 of 78 PageID 15999
5352 LINTON BOULEVARD DELRAY BEACH, FL
Document: 12-25 Filed: 03/12/2018 Pages: 194

PT NAME: BERNSTEIN, ELIOT TR I

DOB: 09/30/1963

LOCATION: TI 0282-A

ACCT. # 012940564

DR. ROYCRAFT, EDWARD L

MR # 000188764

ORDER # 714438281

06/04/2013

CT HEAD OR BRAIN W/O CONT

Abbrv: CTHD1

Signed By: THAME, CRAIG (06/04/2013 00:28)

DATE 07/18/2013

PRINTED BY: MariaGeribon

05 N/A 1/1/13 12:00:00

DELTA MEDICAL CENTER 5252 LINTON BOULEVARD DELRAY BEACH, FL

PT NAME: BERNSTEIN, ELIOT TR I

DOB: 09/30/1963

LOCATION: TI 0282-A

ACCT. # 012940564

DR. PACKER, EVAN

MR # 000188764

ORDER # 714507263
06/04/2013
MRA HEAD W/O CONTRAST
Abbrv: MRAHD1

MRA brain without gadolinium

HISTORY: Subarachnoid hemorrhage

FINDINGS: Study performed utilizing 3-D MIPS. The circle of Willis appears normal with no occlusion or stenosis. No aneurysm or AVM identified. Specifically in the region of the right MCA trifurcation there is no aneurysm identified. No AVM. In the posterior circulation there is robust intracranial vertebral sterile flow with a normal basilar artery. The right posterior vertebral artery is supplied by the large posterior communicating artery from the right ICA.

IMPRESSION: Normal study

*** Final ***

Dictated By: ROBERTSON, STEPHEN (06/04/2013 16:24)
Signed By: ROBERTSON, STEPHEN (06/04/2013 16:26)

DATE 07/18/2013

PRINTED BY: MariaGeribon

RADIOLOGY REPORT
5252 LINTON BOULEVARD
AREA CODE (561) 495-3170

PT NAME: BERNSTEIN, ELIOT TR I

DOB: 09/30/1963

LOCATION: TI 0282-A

ACCT. # 012940564

DR. STAFF, PHYSICIAN NOT ON

MR # 000188764

ORDER # 714820363

06/05/2013

CT HEAD OR BRAIN W/O CONT

Abbrv: CTHD1

BERNSTEIN, ELIOT TR I

INDICATION: Evaluate brain.

CT scan of the brain was performed from the base of the skull through the vertex without intravenous contrast.

Comparison is made to prior exam dated June 4, 2013 crit

Previously identified subarachnoid blood within sulci of the right temporal lobe and right sylvian fissure has significantly decreased. No new area of hemorrhage is present. There is no midline shift the there is no mass effect present. No parenchymal hematoma is seen. Incidental note is made of a cavum septum pellucida. Brain parenchyma normal in attenuation. Mastoid air cells, paranasal sinuses and orbits are normal.

IMPRESSION:

- 1. Decrease in volume of subarachnoid blood within the sulci of the right temporal lobe and right sylvian fissure.
- 2. No midline shift or mass effect.

*** Final ***

Dictated By: THAME, CRAIG (06/05/2013 05:39)

Signed By: THAME, CRAIG (06/05/2013 05:43)

PATIENT NO: 012940564 ADMIT DT/TIME: 6/04/13 02:10 M/R NO: 000188764
NS/RM/BED/ACM: TI 282 A 17 RESISTANT ORG:
DISCH DT/TIME: 6/05/13 13:30 BY: ARAS
PATIENT NAME: BERNSTEIN, ELIOT TR T TITLE:
MAILING ADDR: 2753 NW 34TH ST SOCIAL SECURITY: 361622566
CITY/STATE: BOCA RATON FL 33434 3459 PHONE: (561) 245-8588
PHYSICAL ADR: 2753 NW 34TH ST NPP: 2.0 DATE: 12/08/03
CITY/STATE: BOCA RATON FL 33434 3459 PHONE: (561) 245-8588
OCCUPATION: UNKNOWN LANGUAGE: EN FC: 80
POB: ADMT PHYS: 1173- RODRIGUEZ EUGENIO HSV: 37
DOB: 9/30/1963 ADMT PHYS PHONE: (561) 330-4695 RLG: PAR:
AGE: 49 Y RACE: WHI ATTEND PHYS: 1173- RODRIGUEZ EUGENIO MS: S
SEX: M REF PHY: 1173-RODRIGUEZ EUGENIO PHN: 561 330-4695 SMK: N
PCP PHY: - PHN: VAL: PT: 1
ETHNICITY:NON FLAG: FATHER'S DOB: MOTHER'S DOB:

EMER CONTACT: CANDICE BERNSTEIN REL: SPOUSE
ADDRESS: 72753 NW 34TH ST PHONE: (561) 245-8588
CITY/STATE: BOCA RATON FL 33434 1111
NEAREST RELT: REL:
ADDRESS: PHONE: ()
CITY/STATE: RESEARCH ID:

GUARANTOR: BERNSTEIN, ELIOT I REL: SELF
ADDRESS 1: 2753 NW 34TH ST PHONE: (561) 245-8588
ADDRESS 2: SOCIAL SECURITY: 361622566
CTY/STE/ZIP: BOCA RATON FL 33434 3459 OCC: AF:
PAYOR NAME 1: BCBS-FL INS. PLAN ID: 07033 SRV/TYPE: ALLIP
PLAN NAME: BC FL PPO/ADVANTAGE 65/PPC/BLEU CHO IPA:
BILL C/O NAME: BC FL PPC AUTH #: 10251606
BILL ADDRESS: P.O. BOX 1798 CERT-SSN-HIC-ID#: QCB6046973501
CTY/STE/CNTRY: JACKSONVILLE FL 32231 0014 BILL PHONE: (800) 275-2583
BILLING NAME: GP #: 509415
INSURED: BERNSTEIN, ELIOT I SEX/REL: M SELF
EMPLOYER: MSP: TRACKING#:
ADDRESS: EMP PHONE: () 000-0000
CITY/STATE: 00000 0000 ESC: 1
PAYOR NAME 2: INS. PLAN ID:
PLAN NAME:
BILL C/O NAME: CERT-SSN-HIC-ID#:
BILL ADDRESS: AUTH #:
CTY/STE/CNTRY: BILL PHONE: () 000-0000
BILLING NAME: GP #:
INSURED: SEX/REL:
EMPLOYER: TRACKING#:
ADDRESS: EMP PHONE: () 000-0000
CITY/STATE: ESC:

SPAN CODE: PRIOR VISIT: 6/09/13
FROM/TO DATE: PRIOR HOSPITAL:
CONDITION CD CONDITION CD OCCURRENCE CD/DATE OCCURRENCE CD/DATE
P7 05 6/03/13
11 6/03/13

CHIEF COMPLAINT DESCRIPTION: ADMIT DIAGNOSIS CODE: 780.2
SAH
COMMENTS: ER ADMIT TO TICU
1ST ORIGINAL-CHART COPY 2-PHYSICIAN COPY 3-MEDICAL RECS. COPY 4-UTIL. REV.

ELIOT BERNSTEIN

Race: White | Ethnicity: Not Hispanic or Latino | Gender: Male | DOB: September 30, 1963 | Language: eng

Patient IDs: 188764

Encounter

DEL Account Number 12940564 Date(s): 6/4/13 - 6/5/13

Delray Medical Center 5352 Linton Boulevard Albert Cohen, MD Delray Beach, FL 33484-6514 United States (561) 498-4440

Final: OTHER AND UNSPECIFIED HYPERLIPIDEMIA

Final: Vaccination not carried out because of patient refusal

Final: SUBARACHNOID HEMORRHAGE FOLLOWING INJURY, WITHOUT MENTION OF OPEN INTRACRANIAL WOUND, WITH STATE OF CONSCIOUSNESS UNSPECIFIED

Final: UNSPECIFIED FALL

Final: ACCIDENTS OCCURRING IN OTHER SPECIFIED PLACES

Final: UNSPECIFIED ESSENTIAL HYPERTENSION

Final: TOBACCO USE DISORDER

Discharge Disposition: Home/Self Care

Attending Physician: rodriguez, eugenio

Admitting Physician: rodriguez, eugenio

Referring Physician: rodriguez, eugenio

Reason for Visit

SAH

Vital Signs

Most recent to oldest [Reference Range]:	1	2	3
Temperature C	36.7 degC (6/4/13 2:10 AM)	36.7 degC (6/4/13 1:55 AM)	37.1 degC (6/4/13 1:40 AM)
Temperature F [98-100.5 degF]	98.4 degF (6/5/13 12:00 PM)	98.8 degF (6/5/13 8:00 AM)	
Temperature F [98-101 degF]	98.4 degF (6/5/13 11:56 AM)		
Heart Rate [60-100 bpm]	73 bpm (6/5/13 2:06 PM)	75 bpm (6/5/13 1:00 PM)	58 bpm *LOW* (6/5/13 12:00 PM)
Respiratory Rate [14-20 breaths/min]	25 breaths/min *HI* (6/5/13 2:06 PM)	21 breaths/min *HI* (6/5/13 1:00 PM)	16 breaths/min (6/5/13 12:00 PM)

Most recent to oldest [Reference Range]:

Blood Pressure [90-140/60-90 mmHg]	131/77 mmHg (6/5/13 2:06 PM)	140/76 mmHg (6/5/13 1:00 PM)	137/71 mmHg (6/5/13 12:00 PM)
Mean Arterial Pressure	97 mmHg (6/5/13 1:00 PM)	93 mmHg (6/5/13 12:00 PM)	89 mmHg (6/5/13 11:00 AM)
SpO2/Pulse Oximetry [85-100 %]	96 % (6/5/13 2:06 PM)	96 % (6/5/13 1:00 PM)	93 % (6/5/13 12:00 PM)
Height	173 cm (6/4/13 9:01 AM)	173 cm (6/4/13 3:15 AM)	173 cm (6/4/13 3:15 AM)
Current Weight kg	97.3 kg (6/4/13 3:15 AM)	99.77 kg (6/4/13 12:51 AM)	
BSA	2.11 (6/4/13 3:15 AM)	2.13 (6/4/13 12:51 AM)	

Problem List

Condition	Effective Dates	Status	Health Status	Informant
Bronchitis(Confirmed)		Active		patient
Car accident(Confirmed)		Active		patient
Syncope(Confirmed)		Active		patient
Hypertension(Confirmed)		Active		
Kidney stone(Confirmed)		Active		patient
Cough(Confirmed)		Active		patient
Vasovagal syncope(Confirmed)		Active		patient

Allergies, Adverse Reactions, Alerts

Substance	Reaction	Severity	Status
Iodine; iodine Containing			Active

Medications

acetaminophen-HYDROcodone (Vicodin)
Oral, Refills: 0

Results

Patient Viewable Results

Most recent to oldest [Reference Range]:

WBC [5.0-10.0 x10(3)/mcL]	12.3 x10(3)/mcL *HI* (6/5/13 5:00 AM)	12.8 x10(3)/mcL *HI* (6/4/13 12:40 AM)
RBC [4.70-6.10 x10(6)/mcL]	4.29 x10(6)/mcL *LOW* (6/5/13 5:00 AM)	4.59 x10(6)/mcL *LOW* (6/4/13 12:40 AM)
Hgb [14.0-18.0 g/dL]	13.5 g/dL *LOW* (6/5/13 5:00 AM)	14.3 g/dL (6/4/13 12:40 AM)
Hct [42.0-52.0 %]	39.3 % *LOW* (6/5/13 5:00 AM)	41.6 % *LOW* (6/4/13 12:40 AM)
MCV [81.0-98.0 fL]	91.7 fL (6/5/13 5:00 AM)	90.8 fL (6/4/13 12:40 AM)
MCH [27.0-31.0 pg]	31.5 pg *HI* (6/5/13 5:00 AM)	31.2 pg *HI* (6/4/13 12:40 AM)
MCHC [33.4-35.5 %]	34.3 % (6/5/13 5:00 AM)	34.4 % (6/4/13 12:40 AM)
RDW [11.5-14.5 %]	13.6 % (6/5/13 5:00 AM)	13.3 % (6/4/13 12:40 AM)
Platelet Count [150-450 x10(3)/mcL]	256 x10(3)/mcL (6/5/13 5:00 AM)	262 x10(3)/mcL (6/4/13 12:40 AM)
MPV [7.4-10.4 fL]	8.1 fL (6/5/13 5:00 AM)	7.8 fL (6/4/13 12:40 AM)
Neutrophil Rel [40.0-80.0 %]	72.0 % (6/5/13 5:00 AM)	75.9 % (6/4/13 12:40 AM)
Lymphocyte Rel [10.0-50.0 %]	20.4 % (6/5/13 5:00 AM)	19.0 % (6/4/13 12:40 AM)
Monocyte Rel [1.0-8.0 %]	6.0 % (6/5/13 5:00 AM)	3.8 % (6/4/13 12:40 AM)

Most recent to oldest [Reference Range]:

Eosinophil Rel [0.0-5.0 %]	1.1 % (6/5/13 5:00 AM)	1.0 % (6/4/13 12:40 AM)
Basophil Rel [0.0-1.0 %]	0.5 % (6/5/13 5:00 AM)	0.3 % (6/4/13 12:40 AM)
Neutrophil Abs [1.0-7.5 /cm3]	8.8 /cm3 *HI* (6/5/13 5:00 AM)	9.7 /cm3 *HI* (6/4/13 12:40 AM)
Lymphocyte Abs [1.0-5.0 /cm3]	2.5 /cm3 (6/5/13 5:00 AM)	2.4 /cm3 (6/4/13 12:40 AM)
Monocyte Abs [0.2-1.0 /cm3]	0.7 /cm3 (6/5/13 5:00 AM)	0.5 /cm3 (6/4/13 12:40 AM)
Eosinophil Abs [0.0-0.7 /cm3]	0.1 /cm3 (6/5/13 5:00 AM)	0.1 /cm3 (6/4/13 12:40 AM)
Basophil Abs [0.0-0.2 /cm3]	0.1 /cm3 (6/5/13 5:00 AM)	0.0 /cm3 (6/4/13 12:40 AM)
PT [9.0-11.5 sec]	10.0 sec (6/4/13 12:40 AM)	
INR	0.9 *NA* (6/4/13 12:40 AM)	
PTT [23.6-33.5 sec]	31.0 sec (6/4/13 12:40 AM)	
Plt Fx Col/EPI [75-174 sec]	142 sec (6/4/13 12:40 AM)	
Sodium Lvl [135-145 mEq/L]	135 mEq/L (6/5/13 5:00 AM)	139 mEq/L (6/4/13 12:40 AM)
Potassium Lvl [3.5-5.1 mEq/L]	3.9 mEq/L (6/5/13 5:00 AM)	3.7 mEq/L (6/4/13 12:40 AM)
Chloride Lvl [98-111 mmol/L]	100 mmol/L (6/5/13 5:00 AM)	101 mmol/L (6/4/13 12:40 AM)
CO2 [22-32 mmol/L]	26 mmol/L (6/5/13 5:00 AM)	25 mmol/L (6/4/13 12:40 AM)

Most recent to oldest [Reference Range]:

AGAP [5-15 mEq/L]	9 mEq/L (6/5/13 5:00 AM)	13 mEq/L (6/4/13 12:40 AM)
Calcium Lvl [8.7-10.3 mg/dL]	8.9 mg/dL (6/5/13 5:00 AM)	9.4 mg/dL (6/4/13 12:40 AM)
BUN [8-26 mg/dL]	11 mg/dL (6/5/13 5:00 AM)	13 mg/dL (6/4/13 12:40 AM)
Creatinine Lvl [0.4-1.2 mg/dL]	0.8 mg/dL (6/5/13 5:00 AM)	0.8 mg/dL (6/4/13 12:40 AM)
BUN/Creat [10-20 ratio]	14 ratio (6/5/13 5:00 AM)	16 ratio (6/4/13 12:40 AM)
Total Protein [6.5-8.1 g/dL]	7.8 g/dL (6/4/13 12:40 AM)	
Albumin Lvl [3.4-5.0 g/dL]	4.6 g/dL (6/4/13 12:40 AM)	
Globulin [2.0-5.0 g/dL]	3.2 g/dL (6/4/13 12:40 AM)	
A/G Ratio	1.4 *NA* (6/4/13 12:40 AM)	
Alk Phos [38-126 IU/L]	78 IU/L (6/4/13 12:40 AM)	
ALT [17-63 IU/L]	33 IU/L (6/4/13 12:40 AM)	
AST [15-41 IU/L]	23 IU/L (6/4/13 12:40 AM)	
Osmolality Calc [275-305 mmol/kg]	280 mmol/kg (6/5/13 5:00 AM)	288 mmol/kg (6/4/13 12:40 AM)
GFR African Am [≥60.0 mL/min/1.73m2]	>60.0 mL/min/1.73m2 (6/5/13 5:00 AM)	>60.0 mL/min/1.73m2 (6/4/13 12:40 AM)
GFR Non African Am [≥60.0 mL/min/1.73m2]	>60.0 mL/min/1.73m2 (6/5/13 5:00 AM)	>60.0 mL/min/1.73m2 (6/4/13 12:40 AM)

Most recent to oldest [Reference Range]:

Bili Total [0.3-1.2 mg/dL]	0.4 mg/dL (6/4/13 12:40 AM)	
Glucose Level [74-118 mg/dL]	114 mg/dL (6/5/13 5:00 AM)	99 mg/dL (6/4/13 12:40 AM)
Magnesium Lvl [1.8-2.5 mg/dL]	2.2 mg/dL (6/5/13 5:00 AM)	
Calcium Corrctd	8.9 mg/dL *NA* (6/4/13 12:40 AM)	
Troponin I [0.00-0.50 ng/mL]	<0.01 ng/mL (6/4/13 5:30 PM)	<0.01 ng/mL (6/4/13 9:15 AM)
CKMB [0.6-6.3 ng/mL]	1.9 ng/mL (6/4/13 5:30 PM)	2.0 ng/mL (6/4/13 9:15 AM)
BB ID Number	AMTR 1017 *Unknown* (6/4/13 12:40 AM)	
ABORh Bld Gr/Tp	O POS *Unknown* (6/4/13 12:40 AM)	
Antibody Screen	Negative ABSC (6/4/13 12:40 AM)	

Microbiology Reports

TEST: MRSA Screen
STATUS: Auth (Verified)
BODY SITE: Nares
SOURCE: Nasal
COLLECTED DATE/TIME: 6/4/13 5:36 AM

FINAL REPORT

No Methicillin Resistant Staphylococcus aureus isolated

Immunizations

No data available for this section

Procedures

Social History

Social History Type	Response
Smoking Status	Current every day smoker

Assessment and Plan

No data available for this section

Hospital Discharge Instructions

Patient Education

Subarachnoid Hemorrhage

Follow Up Care

06/03/2013 23:49:31

With: Schedule a follow up appointment with any cardiologist covered on the insurance plan.

Address: Unknown

When: 5-7 days

With: JACOB STEIGER

Address:

1001 N. FEDERAL HIGHWAY
BOCA RATON, FL 33432
(561)499-9339 Business (1)

When: 5-7 days

Comments: Call office to schedule a hearing test either at the office or to where ever they refer. Schedule a follow up appointment after hearing test with Dr. Steiger.

With: follow up CT Scan of the head at Delray Outpatient Center, Bring copy of films to appointment with Dr. Greenberg

Address:

5130 Ionton Blvd suite I-1
Delray Beach, FL 33484
561-637-5315

When: 06/19/2013

With: MARTIN GREENBERG

Address:

670 GLADES ROAD, SUITE 100
BOCA RATON, FL 33431
(561)392-8855 Business (1)

When: 06/26/2013

Comments: Please follow up with Dr. Greenberg in 2 weeks with ct brain

Details

11/6/2017

Document Created
November 6, 2017

Case: 17-3595

Document: 12-25

Filed: 03/12/2018

Pages: 194

Call Team

EUGENIO RODRIGUEZ, MD
Tel: (561)330-4695
5130 LINTON BOULEVARD, SUITE E2
DELRAY BEACH, FL 33484-

Encounter Date
From June 4, 2013 to June 5, 2013

LUIS ALVAREZ
Tel: (561)477-2862
19801 HAMPTON DR C12
BOCA RATON, FL 33434-

EXHIBIT 2

JAMAL A. HALIM, M.D.
WELLINGTON RESERVE
1035 SOUTH STATE ROAD 7, SUITE 214
WELLINGTON, FL 33414-6137

(561) 422-1006 TEL.
(561) 422-1078 FAX
BATCH # MDH16012603027791054

DEA # _____
LIC. # ME85753

NAME Eliot Bernstein DOB _____
ADDRESS _____ DATE _____

TAMPER-RESISTANT SECURITY FEATURES LISTED ON BACK OF SCRIPT

R

11/7/16

Patent should avoid
all types of s/ben till
his ENT Evaluation
on Dec 15, 16

Label

Refill NR 1 2 3 4 5

(Signature)

In order for the brand name product to be dispensed, the prescriber must write 'Medically Necessary' on the front of this prescription.

MEDISCRIPTS – TAMPER-RESISTANT SECURITY FEATURES

STANDARD FEATURES:

- ✓ SAFETY-BLUE ERASE-RESISTANT BACKGROUND
- ✓ "ILLEGAL" PANTOGRAPH
- ✓ REFILL INDICATOR
- ✓ SERIALIZATION
- ✓ ARTIFICIAL WATERMARK ON BACK
- ✓ MICROPRINTING

ADDITIONAL FEATURES (where applicable):

- ✓ QUANTITY CHECK-OFF BOXES (optional in some states)
- ✓ UNIQUE TRACKING IDENTIFICATION NUMBER (FL)
- ✓ THERMOCHROMIC APPROVED STATE SEAL (WA)

WEST PALM BEACH NEUROLOGIST, P.A.
JAMAL A. HALIM, M.D.
WELLINGTON RESERVE
1085 SOUTH STATE ROAD, SUITE 204
WELLINGTON, FL 33414-6137

(561) 422-4000 TEL
(561) 422-1078 FAX
BATCH # MD116012603027791054

DEA #
LIC. # ME85753

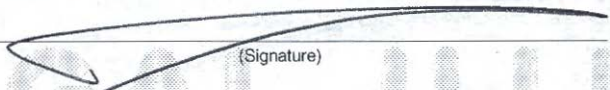
NAME Gust Bernstein DOB _____
ADDRESS _____ DATE _____

TAMPER-RESISTANT SECURITY FEATURES LISTED ON BACK OF SCRIPT

R 10/24/16

Patient should avoid
all type of stren over
the next 2 wks pending
GNJ /small bowel
evaluation for recurrent
syncope

Label
Refill NR 1 2 3 4 5


(Signature)

In order for the brand name product to be dispensed, the prescriber must write 'Medically Necessary' on the front of this prescription.



Emergency Department
800 Meadows Road
Boca Raton, FL 33486
(561) 955-4425

Case: 17-3595 Document: 12-25

Filed: 03/12/2018 Pages: 194

Patient: Bernstein, Eliot
Pt Acct: 1625001096
Med Rcd: 000446213
DI Printed: 9/6/2016 1248

Patient: Bernstein, Eliot
MD ED: Cohen, Terry M.D.

DI Printed: 9/6/2016 1248
RN Eval: Karen F.R.N.
RN Dispo:

AFTERCARE INSTRUCTIONS

We are pleased to have been able to provide you with emergency care. Please review these instructions when you return home in order to better understand your diagnosis and the necessary further treatment and precautions related to your condition. Your diagnoses and prescribed medications today are:

This page is not a prescription.

Dx 1: Fx L rib, closed
Rx 1: Percocet Tablets 325mg,5mg (acetaminophen,oxycodone)

1 tablet by mouth every 6 hrs as needed for pain

Orders performed during ED visit

Order
XR RIBS UNILATERAL LEFT

Procedures performed during ED visit

Procedure

Follow Up Info

Follow-up 1: Dr. Esener

F/U MD Ph: _____
F/U MD Fax: _____

Specialty: _____

Follow-up 1 Date: As needed

Msg F/U MD: _____

EKGs and X-Rays: If you had an EKG or X-Ray today, it will be formally reviewed by a specialist tomorrow. If there is any change from today's Emergency Department reading, you will be notified.

IMPORTANT NOTICE TO ALL PATIENTS: The examination and treatment you have received in our Emergency Department have been rendered on an emergency basis only and will not substitute for definitive and ongoing evaluation and medical care. If you have an assigned physician, or physician of record, it is essential that you make arrangements for follow-up care with that physician as instructed. If you do not currently have a physician locally, please contact our Health Navigator at 561-955-4714 and they will assist you with scheduling an appointment. Report any new or remaining problems to your physician at your scheduled appointment, because it is impossible to recognize and treat all elements of injury or disease in a single Emergency Department visit. *Significant changes or worsening in your condition may require more immediate attention. The Emergency Department is always open and available if this becomes necessary.*

General Information on BROKEN RIBS

The ribs are long, thin bones that curve around each side of the chest. There are twelve ribs on each side. Any firm blow to the chest can break a rib(s). Most of the time this results from sports injuries, falls or motor vehicle accidents. Medically speaking, the words "broken", "cracked" and "fractured" all mean the same thing.

What are the symptoms?

Ordinarily there is a sharp pain in the chest, usually in the area of the broken rib(s). The pain is often worse with bending,



Emergency Department
800 Meadows Road
Boca Raton, FL 33486
(561) 955-4425

Case: 17-3595 Document: 12-25

Filed: 03/12/2018 Pages: 194

Patient: Bernstein, Eliot

Pt Acct: 1625001096

Med Rcd: 000446213

DI Printed: 9/6/2016 1248

lifting, deep breathing or any strenuous activity.

What can be done?

Simple rib fractures usually heal on their own within TWO TO SIX WEEKS. Splinting and other therapies used in the past have proven not to be helpful and are generally not recommended.

What are the risks?

Rib fractures usually heal completely and produce no serious medical problems. There are, however, some risks:

1. Because of the pain, many people with broken ribs avoid breathing deeply. Persistent, shallow breathing increases the risk of developing pneumonia.
2. A severe blow to the chest sometimes damages the lungs, heart, liver or spleen. This damage can be serious and is occasionally even life-threatening.

INSTRUCTIONS

- 1) Acetaminophen (Tylenol) or ibuprofen (Advil) will help ease the pain. WARNING: Do not take these drugs if you are allergic to them. Do not take these drugs if you are already taking a prescription pain medication that contains acetaminophen or ibuprofen.
- 2) Every two or three hours, while you are awake, take several deep breaths and cough. This will help keep your lungs well expanded. You can challenge yourself to take deep breaths by trying to blow up a balloon, or blow to knock down an empty paper cup. You should continue this routine until the pain is gone (usually two to six weeks).
- 3) Except for deep breathing, avoid any strenuous activity that makes your pain worse.
- 4) SEEK IMMEDIATE MEDICAL ATTENTION if you develop difficulty breathing, pain in the belly, vomiting, severe chest pain, persistent dizziness, cough up blood, pass out or if your condition worsens in any other way.



Emergency Department
800 Meadows Road
Boca Raton, FL 33486
(561) 955-4425

Case: 17-3595 Document: 12-25

Filed: 03/13/2018 Pages: 194

Med Review Printed: 9/6/2016 12:48

Patient: Bernstein, Eliot

DOB: 9/30/1963

Age: 52yr

Pt Acct: 1625001096

Med Rcd: 000446213

1625001096

Medication Reconciliation

MEDICATION RECONCILIATION (Discharge)

MD ED: Cohen, Terry M.D.

PA: _____

Triage: Fettner, Karen R.N.

RN Eval: Karen F.R.N.

Local P Esener

PMD Ph: _____

Allergies		
Allergic Substance	Reaction	Severity
NKDA		

Home Meds (Discharge Reconciliation)		
Arrival Medication	Instructions	Modified Medication
Lisinopril <unknown dose>	NO CHANGE - keep taking & ask your physician	

The table above shows the home medication(s) you are currently taking; information which was provided to the Emergency Department.

Read the last column (MD Review) for further medication instructions.

The list below shows any prescription(s) provided to you upon discharge from the Emergency Department.

Prescription / Rx

Rx 1: Percocet Tablets 325mg,5mg (acetaminophen,oxycodone)

1 tablet by mouth every 6 hrs as needed for pain

2060149564



Health Information Management Department
634 Glades Road
Boca Raton, FL 33431
Phone Number: 561-955-4072

BERNSTEIN, CANDICE
2753 NW 34TH STREET
BOCA RATON, FL 33434

RELEASE OF INFORMATION INVOICE

For Producing Copies of Medical Records for:

Patient Name:	MRN:	Invoice Date:	Invoice Number:
BERNSTEIN, ELIOT	000446213	Monday, January 09, 2017	185226

Number of Pages: 8

Billing Tier:	PATIENT	Billing Tier Pages:	8	Subtotal:	\$8.00
---------------	---------	---------------------	---	-----------	--------

Payment (\$8.00) Cash

Adjust/Payment Total: (\$8.00)

Balance Due: \$0.00

-----PLEASE RETURN LOWER PORTION WITH PAYMENT-----

Boca Raton Regional Hospital
Health Information Department
634 Glades Road
Boca Raton, FL 33431
Phone Number: 561-955-4072

Requester: BERNSTEIN, CANDICE

Balance Due: \$0.00

Patient Name:	MRN:	Invoice Date:	Invoice Number:
BERNSTEIN, ELIOT	000446213	Monday, January 09, 2017	185226

BOCA RATON REGIONAL HOSPITAL
 Eliot Bernstein DOB:09/30/1963 ACCT:1625001096 MRN:000446213
 Patient:Bernstein, Eliot
 Mailing Address:2753 Nw 34Th Street
 City:Boca Raton
 State:FL Zip:33434
 Home Ph:(561)245-8588

EMERGENCY REPORT

Arrival:9/6/2016 1132 Mode of Arrival:Personal Transport
 Registration Time:9/6/2016 1134 Dispo Summary Printed:9/6/2016 1248
 Disposition:Home Mode of Departure:Ambulatory
 Condition at DispStable Accompanied By:wife
 Diagnostic Eval9/6/2016 1141
 Time Left ED:9/6/2016 1254 Admit Decision:

Chief Cmplnt:Possible Broken Rib Per Pt
 Triage ImpressiPain, Local
 Acuity:4 Pt weight:93 kg (205 lbs)
 Precautions:
 Ebola Exposure?No
 Travel Outside No

=====
 Allergies
 =====

Allergic Substance	Reaction	Severity
--------------------	----------	----------

NKDA
 =====

=====
 Home Medications (MDM)
 =====

Arrival Medication	Last Dose
--------------------	-----------

Lisinopril <unknown dose>
 =====

=====
 Past Medical History (Problem List)
 =====

Condition	Confirmed By
Kidney stone	Fettner, Karen R.N.
Diverticulitis	Fettner, Karen R.N.
HTN - Hypertension	Fettner, Karen R.N.
Multiple trauma	Fettner, Karen R.N.
Vasovagal syncope	Fettner, Karen R.N.
Cerebral hemmorrhage after vasovagal syncope	Fettner, Karen R.N.

=====
 Past Surgical History (Procedures)
 =====

Procedure	Confirmed By
Lithotripsy	Fettner, Karen R.N.
Cystoscopy	Fettner, Karen R.N.
Reconstructive surgery face and neck, sp trauma	Fettner, Karen R.N.
Dental implants	Fettner, Karen R.N.
Tracheotomy	Fettner, Karen R.N.

Pg 2

=====
 =====
 Meds Given-ED(If Blank-See Orders/Notes)
 =====

Medication	Dose	Route/SitRate	Start/GiEnd	Entered By
No Entries				

=====
 =====
 Orders ED Record (MDM)
 =====

Order	Providers	Sched D/In	Prog Comp	D/T
XR RIBS UNILATERAL LEFT	316-Cohen, Terry M.D.; same	9/6/2016 1204	9/6/2016 1218	9/6/2016 1242

=====
 =====
 Clinical Alerts
 =====

Description	Origin	Result	Alert Text	Reason to CoDate T	User Name
No Entries					

=====
 =====
 vital signs (MDM)
 =====

Sys Dia	PulResp	SAT O2	DelTemp	(Route Pain Scale Taken at	User Name
136 82	77 16	97% RA	97.7 F	oral 10/10 Standard 1153	9/6/2016 Fettner, Karen R.N.

=====
 =====
 Input Output
 =====

Fluid Type	Intake	Output	I/O Time
No Entries			

=====
 =====
 Calls
 =====

Name	Requested By	Call 1	Returned
No Entries			

MD ED:Cohen, Terry M.D.
 PA:
 Triage Full:Fettner, Karen R.N.
 RN Eval Full:Fettner, Karen R.N.
 RN Dispo:Fettner, Karen R.N.

MD ED ID:316
 PA ID:
 Triage ID:32560
 RN Eval ID32560
 RN Dispo I

=====
 =====
 EMS/PMD
 =====

LocalEsener

PMD Ph:

=====
 =====
 RN Notes
 =====

 Fettner, Karen R.N. Created: 9/6/2016 1154 Last Entry: 1200

ADULT TRIAGE 9/6/2016 1136

Pg 3

>>>> HPI:
Pain - Onset 16hrs prior to arrival. Occurred in left middle chest.
(?)injury. Associated Symptoms:, pain left chest to touch or breathing.
>>>> PMH List (See PMH Table) PSH List (See PSH Table)
>>>> TRIAGE DATA:
Travel outside US (<= Click to view/enter)
Ebola Exposure (<= Click to view/enter)
Last Tetanus: less than 10yrs.
Pneumonia Vaccine: Potential candidate (> 5 years).
Influenza Vaccine: Potential candidate.
LMP: Not applicable.
Safety of Living Environment: Safe
>>>> SH: (+)smokes, patient advised on smoking cessation, drinks socially,
no drugs
>>>> PREHOSPITAL CARE: Took one of his wife's Vicodin last pm.
>>>> TRIAGE INTERVENTION: ED physician notified.

Fettner, Karen R.N. Created: 9/6/2016 1154 Last Entry: 1205

Nurse Note: 9/6/2016 1137
ASSESSMENT CARE CENTER - Adult
Patient's wife at bedside.
Cohen, Terry M.D. at the bedside 9/6/2016 1201
>>>> PHYSICAL EXAM: Pt reports while taking a drink and coughing about 16
hrs prior to arrival he passed out. Pt reports his 17 yo son was w/ him,
caught him and lowered him to the ground. Pt reports his 17 yo son then
"pounded" on the left side of his chest and he "woke right up."
GENERAL APPEARANCE: alert, cooperative.
PAIN: pain scale: 10/10 Standard.
location: left middle chest
quality: sharp.
aggravating factors: activity.
alleviating factors: rest.
MENTAL STATUS: speech clear, oriented x 3, normal affect, responds
appropriately to questions.
SKIN: warm, dry, good color, (-)cyanosis, no rash, no ulcers.
Nutritional Screening: normal nutrition
>>>> COMMUNICATION DEFICIT: None Identified.
Learning Aids Needed: (+)none, ()Signer, ()Interpreter.
Educational Needs: patient and wife needs information on (+)current
illness, ()medications, ()equipment, ()home care, ()activity, ()diet,
()community resources.
>>>> SH: Support system: lives w family or significant other
Suspected Violence: none
Referrals Reporting: none
patient verbalizes suicidal or homicidal ideations: no suicidal
homicidal ideations
>>>> JHFRAT FALL RISK Assessment
If patient has any of the following KNOWN conditions, select it and
apply Fall Risk interventions as indicated. If any of these KNOWN fall
risks are selected, do NOT continue with the Fall Risk Score Calculation.
If there are NO KNOWN fall risks, choose the option for NO KNOWN fall
risks and proceed with the Fall Risk calculation.
Fall Risk Status NO KNOWN Fall Risk
Age: _____ 0=Less than 60 years
Fall History: _____ 0=No fall 6 months prior to admit
Elimination bowel urine: _____ 0=No incontinence

Medications: _____ 0=No high fall risk drugs
Equipment: _____ 0=None present

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Mobility: _____ 0=No mobility issues
Cognition: _____ 4=Lack of understanding of one's physical
and cognitive limitations
JHFRAT Total Score:, Low Risk(less than 6) Green.

>>>> Fall Prevention Interventions:
(+)bed in lowest position (L-M-H), (+)bedside rails up times 2,
(+)educated patient how to use call bell call bell within reach,
(+)educated patient and or family about preventing falls.

Fettner, Karen R.N. Created: 9/6/2016 1221 Last Entry: 1221

Nurse Note:
RADIOLOGY Transport - Patient transported without RN accompanying to XRay
Plain films via walking escorted by radiology technologist.

Fettner, Karen R.N. Created: 9/6/2016 1253 Last Entry: 1254

Nurse Note:
DSP DISCHARGE with Prescription(s) - Plan of care discussed with patient
and wife. Patient discharged with printed instructions. Prescriptions
given to patient. Reviewed prescribed medications with patient;
including potential interactions with other substances. (-)Adverse Drug
Reactions (ADR) during this ED visit: if ADR see details in RN Notes.
Patient encouraged to follow-up with PMD or clinic. Patient verbalized
understanding and ability to comply. Medical Driving Restrictions: none.
Patient is stable and condition is now unchanged. Extended stay less
than 4hours.
Time of Departure - 9/6/2016 1254 to home

=====Other Notes=====

=====MD/PA Notes=====

Sarwary, Sophia (Scribe) Created: 9/6/2016 1158 Last Entry: 1158

MD Note:
ATTENDING NOTE (Scribe) - I, Sarwary, Sophia (Scribe), am scribing for,
and in the presence of, Cohen, Terry M.D..

Sarwary, Sophia (Scribe) Created: 9/6/2016 1158 Last Entry: 1208
Cohen, Terry M.D. First Entry: 9/6/2016 1251 Last Entry: 1253

PHYSICIAN H P (Medical)
(+)Nursing Notes Reviewed Travel outside US (<= click to view/enter) Ebola
Exposure (<= Click to view/enter)
Physician/PA Evaluation Time: 9/6/2016 1141
>>>> HPI:
Patient with h/o vaso vagal syncopal episodes with coughing spells.c/o L
sided rib pain. Last night, patient had a syncopal episode during a
coughing spell and was caught by his son who laid him on the floor. Son
immediately started to perform CPR, heard a loud pop and patient woke up
almost immediately. Patient denies head trauma, dizziness, headache,
visual change, speech change, nausea, vomiting, chest pain, SOB,
diaphoresis, fever or chills. Has been worked up extensively for these
syncopal episodes which are associated with coughing spells and they have

been dx'd as vasovagal. This episode was typical.
Sx began after CPR.

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breathing out, breathing in, laying, movement worsens sx.
standing still improves SX.
Previous Episodes: prior hx of similar problem.
Additional HPI Information: none
>>>> ROS: no fever, (-)chills, (-)LOC, (-)headache, (-)visual changes,
(-)sore throat, no cough, (-)SOB, (-)chest wall pain,
(-)chest pain, (-)nausea, (-)vomiting, (-)myalgias, (-)rash, (-)dysuria,
in addition to the systems reviewed, all other systems reviewed are
negative.
PREHOSPITAL CARE:
>>>> PMH List (PMH Table Reviewed) PSH List (PSH Table Reviewed)
(+)Medical Records Reviewed
>>>> FH: (-)DM, (-)HTN, (-)CAD.
>>>> SH: no tobacco, no alcohol, no drugs.
>>>> PHYSICAL EXAM:
VITAL SIGNS: reviewed as documented.
GENERAL APPEARANCE: well nourished, alert, cooperative, no acute distress,
no discomfort.
MENTAL STATUS: speech clear, oriented X 3, normal affect, responds
appropriately to questions.
NEURO: CNS normal as tested, motor intact, sensory intact.
FACE: no tenderness on the face.
EYES: PERRL, EOMI, conjunctiva clear.
NOSE: no nasal discharge.
MOUTH: (-)decreased moisture.
THROAT: no tonsillar inflammation, no airway obstruction.
NECK: supple, no neck tenderness, (-)thyromegaly.
BACK: no CVAT, no back tenderness.
CHEST WALL: exquisite point tenderness L anterolateral lower ribs which
exactly reproduces his pain
HEART: normal rate, normal rhythm, normal S1, normal S2, no murmur, no
rub.
LUNGS: no wheezing, no rales, no rhonchi, (-)accessory muscle use, good
air exchange bilateral.
ABDOMEN: (-)ascites, normal BS, soft, no abd tenderness, (-)guarding,
(-)rebound, no organomegaly, no abd masses.
EXTREMITIES: good pulses in all extremities, no extremity tenderness, no
edema.
SKIN: warm, dry, good color, no rash.
>>>> DIFFERENTIAL Dx: Including but not limited to; chest wall contusion,
rib fracture, intercostal strain

Sarwary, Sophia (Scribe) Created: 9/6/2016 1245 Last Entry: 1246
Cohen, Terry M.D. First Entry: 9/6/2016 1250 Last Entry: 1251

MD Note:

I have counseled the patient regarding their ()labs, (+)radiological
exams, ()EKG, (+)diagnosis. Although no fx seen on x-ray, he clinically
has one. Will treat accordingly.
DISCUSSION - Discussed diagnosis and condition of patient with patient.
DISCHARGE with Prescription(s) - Plan of care discussed and questions
answered. The patient was discharged with verbal and printed
instructions. Prescription(s) were given and prescribed medications were
reviewed, including potential interactions with other substances. The
importance of outpatient follow up was emphasized and should be followed
as noted in the discharge instructions. The understanding of the
instructions and ability to comply was verbalized. The condition at

discharge is stable. Instructions to return to the emergency department for worsening symptoms.

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Sarwary, Sophia (Scribe) Created: 9/6/2016 1246 Last Entry: 1246

MD Note:

//////////////////////////////// Author: wellsoft Interface ////////////////////////////////// 9/6/2016

12:42pm //////////////////////////////////

Patient: BERNSTEIN, ELIOT ; Date/Time: 9/6/2016 1217 ; 1016697767

- - - - - HXR RIBS LT UNILAT - - - - -

EXAM START: 9/6/2016 1216

EXAM STOP: 9/6/2016 1218

Left RIBS, 3 views

Clinical history- Trauma

Findings- Multiple views of the left ribs were obtained. There is no evidence of fracture or bone destruction.

IMPRESSION-

Negative left ribs.

-Authenticated and electronically signed by- Jonathan Shapir, M.D.

Electronically signed- 9/6/2016 12-40 PM

Read By- JONATHAN SHAPIR M.D.

Released Date Time- 09/06/16 1241

READ BY: JONATHAN SHAPIR M.D.

RELEASED BY: JONATHAN SHAPIR M.D.

Cohen, Terry M.D. Created: 9/6/2016 1247 Last Entry: 1247

Results Reviewed by ED Physician:

XR RIBS UNILATERAL LEFT

Cohen, Terry M.D. Created: 9/6/2016 1248 Last Entry: 1248

MD Note:

ATTENDING NOTE (Scribe attestation) - I, Cohen, Terry M.D., personally performed the services described in this documentation, as scribed by Sarwary, Sophia (Scribe) in my presence, and it is both accurate and complete.

Cohen, Terry M.D. Created: 9/11/2016 0920 Last Entry: 0921

MD Note:

Addendum: The ROS should include the following (+): cough, chest wall pain
=====

Results=====

Dx/Instr =====

Dx 1:Fx L rib, closed
Follow-up 1:Dr. Esener

Follow-up 1 Date:As needed

=====
Patient BelongiNone

Belongings locaSent_home

=====
Prescription / Rx =====

RX 1:Percocet Tablets 325mg,5mg (acetaminophen,oxycodone)
Dose/Conc:

Freq/Rte:1 tablet by mouth every 6 hrs as needed for pain
Disp:#24 (twenty four) ta Refill:zero

Pg 7

====work/School Excuse====
==== Signatures =====
MD Sgntr:Cohen, Terry M.D. 9/6/2016 1248
RN Sgntr:Fettner, Karen R.N. 9/6/2016 1254
Triage Sgntr:Fettner, Karen R.N. 9/6/2016 1206
=== (C) 2009 wellsoft, Elsevier ===== THIS IS THE LAST PAGE ===

EXHIBIT 3

ELIOT BERNSTEIN

Race: White | Ethnicity: Not Hispanic or Latino | Gender: Male | DOB: September 30, 1963 | Language: eng
 Patient IDs: 188764

Encounter

DEL Account Number 16919438 Date(s): 8/9/17 - 8/11/17

Delray Medical Center 5352 Linton Boulevard Albert Cohen, MD Delray Beach, FL 33484-6514 United States (561) 498-4440

- Final: Syncope and collapse
- Final: Essential (primary) hypertension
- Final: Shortness of breath
- Final: Hyperlipidemia, unspecified
- Final: Unspecified urinary incontinence
- Final: Tobacco use
- Final: Personal history of urinary calculi
- Final: Personal history of traumatic brain injury
- Final: History of falling
- Final: Family history of ischemic heart disease and other diseases of the circulatory system
- Discharge Diagnosis: Apparent life threatening event
- Discharge Diagnosis: Syncope
- Discharge Diagnosis: Apnea
- Discharge Disposition: Against Med Advice
- Attending Physician: ESPINEL MD, MANUEL
- Admitting Physician: ESPINEL MD, MANUEL
- Referring Physician: ESPINEL MD, MANUEL

Reason for Visit

APNEA.APPARENT LIFE THREATENING EVENT.SYNCOPE

Vital Signs

Most recent to oldest [Reference Range]:	1	2	3	4
Pulse Sitting	89 bpm (8/11/17 8:00 AM)	73 bpm (8/11/17 4:00 AM)	66 bpm (8/10/17 3:20 PM)	
Temperature F [98-100.5 degF]	97.3 degF *LOW* (8/11/17 11:32 AM)	97.9 degF *LOW* (8/11/17 8:00 AM)	98 degF (8/11/17 4:00 AM)	
Heart Rate [60-100 bpm]	66 bpm (8/11/17 11:32 AM)	76 bpm (8/11/17 8:00 AM)	70 bpm (8/11/17 12:33 AM)	
Respiratory Rate [14-20 breaths/min]	18 breaths/min (8/11/17 11:32 AM)	18 breaths/min (8/11/17 8:00 AM)	18 breaths/min (8/11/17 4:00 AM)	

Most recent to oldest [Reference Range]: 1 Case: 17-3595 Document: 12-25 Filed: 03/12/2018 Pages: 194 4

Blood Pressure [90-140/60-90 mmHg]	157/98 mmHg *HI* (8/11/17 11:32 AM)	127/94 mmHg (8/11/17 8:00 AM)	131/92 mmHg (8/11/17 12:33 AM)	
Mean Arterial Pressure	118 mmHg (8/11/17 11:32 AM)	105 mmHg (8/11/17 8:00 AM)	105 mmHg (8/11/17 12:33 AM)	
SpO2/Pulse Oximetry [85-100 %]	96 % (8/11/17 11:32 AM)	95 % (8/11/17 8:00 AM)	94 % (8/11/17 4:00 AM)	
Height	172 cm (8/10/17 12:28 AM)	172 cm (8/10/17 12:24 AM)	172 cm (8/10/17 12:24 AM)	172 cm (8/10/17 12:24 AM)
Current Weight kg	100 kg (8/10/17 12:24 AM)	100 kg (8/10/17 12:24 AM)		
BSA	2.12 (8/10/17 12:24 AM)	2.12 (8/10/17 12:24 AM)		

Problem List

Condition	Effective Dates	Status	Health Status	Informant
Bronchitis(Confirmed)		Active		patient
Car accident(Confirmed)		Active		patient
Syncope(Confirmed)		Active		patient
Hypertension(Confirmed)		Active		
Kidney stone(Confirmed)		Active		patient
Cough(Confirmed)		Active		patient
Vasovagal syncope(Confirmed)		Active		patient

Allergies, Adverse Reactions, Alerts

Substance	Reaction	Severity	Status
Iodine; iodine Containing			Active

Medications

acetaminophen-HYDROcodone (Vicodin)

Oral, Refills: 0

Results

EXHIBIT 4



Case: 17-3595
Emergency Department
800 Meadows Road
Boca Raton, FL 33486
(561) 955-4425

Document: 12-25

Filed: 03/12/2018 Pages: 194

Patient: Bernstein, Eliot

Pt Acct: 1723601103

Med Rcd: 000446213

DI Printed: 8/24/2017 2017

Patient: Bernstein, Eliot
MD ED: Cohen, Terry M.D.
PA: Bastoky, Jeffrey P.A.

DI Printed: 8/24/2017 2017
RN Eval: Ron R.N.
RN Dispo: _____

AFTERCARE INSTRUCTIONS

We are pleased to have been able to provide you with emergency care. Please review these instructions when you return home in order to better understand your diagnosis and the necessary further treatment and precautions related to your condition. Your diagnoses and prescribed medications today are:

~~_____~~ This page is not a prescription. ~~_____~~

Dx 1: Fx L ribs, closed

Rx 1: Norco Tablets 325mg,5mg (acetaminophen,hydrocodone)

1 tablet by mouth every 6 hrs as needed for pain (max 4 tablets per day)

Orders performed during ED visit
Order
*EKG IN ED
*CBC WITH PLATELET
*BASIC METABOLIC PANEL
*MYOCARDIAL INFARCTION PROFILE
*XR CHEST PORTABLE
*LIPOPROTEIN PROFILE
CT CHEST W/ CONTRAST
CT ANGIO CHEST W/ Contrast
CT ABD/PELVIS W/ IV Contrast Contrast: <u>IV_Only</u>
XR RIBS UNILATERAL LEFT
PT WITH INR
PTT

Procedures performed during ED visit
Procedure

Follow Up Info

Follow-up 1: Your Electrophysiologist

F/U MD Ph: _____

F/U MD Fax: _____

Specialty: _____

Follow-up 1 Date: as scheduled tomorrow

Msg F/U MD: _____

EKGs and X-Rays: If you had an EKG or X-Ray today, it will be formally reviewed by a specialist tomorrow. If there is any change from today's Emergency Department reading, you will be notified.

IMPORTANT NOTICE TO ALL PATIENTS: The examination and treatment you have received in our Emergency Department have been rendered on an emergency basis only and will not substitute for definitive and ongoing evaluation and medical care. If you have an assigned physician, or physician of record, it is essential that you make arrangements for follow-up care with that physician as instructed. If you do not currently have a physician locally, please contact our Health Navigator at 561-955-4714 and they will assist you with scheduling an appointment. Report any new or remaining problems to your physician at your scheduled appointment, because it is impossible to recognize and treat all elements of injury or disease in a single Emergency Department visit. *Significant changes or worsening in your condition may require more immediate attention.*

The Emergency Department is always open and available if this becomes necessary.

General Information on BROKEN RIBS

The ribs are long, thin bones that curve around each side of the chest. There are twelve ribs on each side. Any firm blow to the chest can break a rib(s). Most of the time this results from sports injuries, falls or motor vehicle accidents. Medically speaking, the words "broken", "cracked" and "fractured" all mean the same thing.

What are the symptoms?

Ordinarily there is a sharp pain in the chest, usually in the area of the broken rib(s). The pain is often worse with bending, lifting, deep breathing or any strenuous activity.

What can be done?

Simple rib fractures usually heal on their own within TWO TO SIX WEEKS. Splinting and other therapies used in the past have proven not to be helpful and are generally not recommended.

What are the risks?

Rib fractures usually heal completely and produce no serious medical problems. There are, however, some risks:

1. Because of the pain, many people with broken ribs avoid breathing deeply. Persistent, shallow breathing increases the risk of developing pneumonia.
2. A severe blow to the chest sometimes damages the lungs, heart, liver or spleen. This damage can be serious and is occasionally even life-threatening.

INSTRUCTIONS

- 1) Acetaminophen (Tylenol) or ibuprofen (Advil) will help ease the pain. **WARNING:** Do not take these drugs if you are allergic to them. Do not take these drugs if you are already taking a prescription pain medication that contains acetaminophen or ibuprofen.
- 2) Every two or three hours, while you are awake, take several deep breaths and cough. This will help keep your lungs well expanded. You can challenge yourself to take deep breaths by trying to blow up a balloon, or blow to knock down an empty paper cup. You should continue this routine until the pain is gone (usually two to six weeks).
- 3) Except for deep breathing, avoid any strenuous activity that makes your pain worse.
- 4) **SEEK IMMEDIATE MEDICAL ATTENTION** if you develop difficulty breathing, pain in the belly, vomiting, severe chest pain, persistent dizziness, cough up blood, pass out or if your condition worsens in any other way.



Case: 17-3595
Emergency Department
800 Meadows Road
Boca Raton, FL 33486
(561) 955-4425

Document: 12-25

Filed: 03/12/2018 Pages: 194

Meds Review Printed: 8/24/2017 2017

Patient: Bernstein, Eliot
DOB: 9/30/1963
Age: 53yr
Pt Acct: 1723601103
Med Rcrd: 000446213

1723601103

Medication Reconciliation

MEDICATION RECONCILIATION (Discharge)

MD ED: Cohen, Terry M.D.
PA: Bastoky, Jeffrey P.A.

Triage: Caroll, Brandon R.N.
RN Eval: Ron R.N.

Local P No Local Medical Doctor

PMD Ph: _____

Allergies		
Allergic Substance	Reaction	Severity
Iodine		

Home Meds (Discharge Reconciliation)		
Arrival Medication	Instructions	Modified Medication
None	not applicable	

The table above shows the home medication(s) you are currently taking; information which was provided to the Emergency Department.

Read the last column (MD Review) for further medication instructions.

The list below shows any prescription(s) provided to you upon discharge from the Emergency Department.

Prescription / Rx

Rx 1: Norco Tablets 325mg,5mg (acetaminophen,hydrocodone)

1 tablet by mouth every 6 hrs as needed for pain (max 4 tablets per day)

2060149564



Case: 17-3595
Emergency Department
800 Meadows Road
Boca Raton, FL 33486
(561) 955-4425

Document: 12-25

Filed: 03/12/2018

DOB: 9/30/1963
Age: 53yr

Pt Acct: 1723601103

Med Rcd: 000446213

Registration Time: 8/24/2017 1705

LAB/XRAY RESULTS

Patient: Bernstein, Eliot
MD ED: Cohen, Terry M.D.
Local P No Local Medical Doctor
Follow-up 1: Your Electrophysiologist

Lab Results:

Wellsoft Interface Created: 8/24/2017 1834 Last Entry: 1834

Patient: BERNSTEIN, ELIOT ; Date/Time: 8/24/2017 1810 ; 1017118311

--- CBC WITH PLATELET ---

WBC	11.3	High K/UL	4.0-10.0
RBC	4.47	Low M/UL	4.70-6.10
HGB	13.9	GM/DL	12.0-16.0
HCT	41.2	%	37.0-47.0
MCV	92.2	FL	80.0-94.0
MCH	31.1	High PG	27.0-31.0
MCHC	33.7	G/DL	33.0-37.0
RDW	12.8	%	11.5-14.5
PLATELET COUNT	339	K/UL	150-400

Wellsoft Interface Created: 8/24/2017 1853 Last Entry: 1853

Patient: BERNSTEIN, ELIOT ; Date/Time: 8/24/2017 1810 ; 1017118312

--- BASIC METABOLIC PANEL ---

SODIUM	142	MMOL/L	138-148
POTASSIUM	4.0	MMOL/L	3.6-5.2
CHLORIDE	108	MMOL/L	100-108
CO2	26	MMOL/L	21-32
GLUCOSE	99	MG/DL	70-99
BUN	19	High MG/DL	7-18
CREATININE	0.9	MG/DL	0.6-1.3
GFR EST NON AFRICAN AMERICAN	>60	ML/MIN/1.73M2	
GFR EST AFRICAN AMERICAN	>60	ML/MIN/1.73M2	
CALCIUM	8.7	MG/DL	8.5-10.1

Wellsoft Interface Created: 8/24/2017 1853 Last Entry: 1853

Patient: BERNSTEIN, ELIOT ; Date/Time: 8/24/2017 1810 ; 1017118314

--- LIPOPROTEIN PROFILE ---

CHOLESTEROL	179	MG/DL	<200
CHOLESTEROL	PER NCEP/NHBLI/NIH GUIDELINES		
CHOLESTEROL	<200 MG/DL	DESIRABLE	
CHOLESTEROL	200-239 MG/DL	BORDERLINE HIGH	
CHOLESTEROL	>239 MG/DL	HIGH	
HDL	27	Low MG/DL	40-60
HDL	PER NCEP/NHBLI/NIH GUIDELINES		
HDL	<40 MG/DL	LOW	
HDL	>59 MG/DL	HIGH	
LDL (CALCULATED)	85	MG/DL	<129
LDL (CALCULATED)	PER NCEP/NHBLI/NIH GUIDELINES		
LDL (CALCULATED)	<100 MG/DL	OPTIMAL	
LDL (CALCULATED)	100-129 MG/DL	NEAR OPTIMAL	
LDL (CALCULATED)	130-159 MG/DL	BORDERLINE HIGH	
LDL (CALCULATED)	160-189 MG/DL	HIGH	
LDL (CALCULATED)	>189 MG/DL	VERY HIGH	
TRIGLYCERIDE	335	High MG/DL	<150
TRIGLYCERIDE	PER NCEP/NHBLI/NIH GUIDELINES		



Case: 17-3595
Emergency Department
800 Meadows Road
Boca Raton, FL 33486
(561) 955-4425

Document: 12-25

Filed: 03/12/2018

DOB: 9/30/1963
Age: 53yr

Pt Acctnt: 1723601103

Med Rcrd: 000446213

Registration Time: 8/24/2017 1705

TRIGLYCERIDE	<150 MG/DL	NORMAL
TRIGLYCERIDE	150-199 MG/DL	BORDERLINE HIGH
TRIGLYCERIDE	200-499 MG/DL	HIGH
TRIGLYCERIDE	>499 MG/DL	VERY HIGH

Wellsoft Interface Created: 8/24/2017 1853 Last Entry: 1853

Patient: BERNSTEIN, ELIOT ; Date/Time: 8/24/2017 1810 ; 1017118313

----- MYOCARDIAL INFARCTION PROFILE -----

CREATINE KINASE	96	IU/L	0-177
CK MB FRACTION	1	NG/ML	0-4
CK MB RELATIVE INDEX	NOT REPORTED	%	0-2
TROPONIN I	<0.015	NG/ML	<0.050
TROPONIN I	REFERENCE:		
TROPONIN I	NEGATIVE		<0.050 NG/ML
TROPONIN I	INDETERMINATE		0.051-0.500 NG/ML
TROPONIN I	SUGGESTIVE OF MYOCARDIAL INJURY		>0.500 NG/ML

Wellsoft Interface Created: 8/24/2017 1918 Last Entry: 1918

Patient: BERNSTEIN, ELIOT ; Date/Time: 8/24/2017 1810 ; A90291022

----- PT WITH INR -----

PROTHROMBIN TIME	PEND	SEC	11.5-14.4	<-- Results Pendin
INR	PEND		0.9-1.2	<-- Results Pendin

NOTE: Additional Information is Available in the Sections Below.

Wellsoft Interface Created: 8/24/2017 1922 Last Entry: 1922

Patient: BERNSTEIN, ELIOT ; Date/Time: 8/24/2017 1810 ; A90291022

----- PT WITH INR -----

PROTHROMBIN TIME	12.5	SEC	11.5-14.4
INR	0.9		0.9-1.2
INR	BASED ON MEDICAL LITERATURE DATA AN INR OF 2.0 - 3.0 MAY BE CONS		
INR	PROPHYLAXIS/TREATMENT OF VENOUS THROMBOSIS AND PULMONARY EMBOLI		
INR	PREVENTION OF SYSTEMIC EMBOLISM. AN INR OF 2.5 - 3.5 MAY BE CO		
INR	MECHANICAL PROSTHETIC VALVES.		

Wellsoft Interface Created: 8/24/2017 1922 Last Entry: 1922

Patient: BERNSTEIN, ELIOT ; Date/Time: 8/24/2017 1810 ; A90291023

----- PTT -----

PTT	37.0	High SEC	22.0-34.8
-----	------	----------	-----------

Rad Results:

Wellsoft Interface Created: 8/24/2017 1901 Last Entry: 1901

Patient: BERNSTEIN, ELIOT ; Date/Time: 8/24/2017 1757 ; 1017118316

----- HXR CHEST PORTABLE 1VIEW -----

EXAM START: 8/24/2017 1835
EXAM STOP: 8/24/2017 1835
SINGLE VIEW CHEST
INDICATION- SYNCOPE
COMPARISON- Most recent radiograph dated September 6, 2016.
TECHNIQUE- Single view.
FINDINGS-
Lines and tubes- none
Heart and Mediastinum- The cardiac silhouette is normal in size.
Lungs and Hila- Linear opacity along the right base that may represent platelike atelectasis. No appreciable pneumothorax. There is no hilar enlargement.
Bones and Soft tissues-There are no acute osseus findings.
Other- Not applicable.
IMPRESSION-
1. Linear right base with differential including atelectasis.

QF1

-Authenticated and electronically signed by- Ricardo A Palmquist PRA,

MD

Electronically signed- 8/24/2017 6-59 PM

Read By- RICARDO A PALMQUIST M.D.

Released Date Time- 08/24/17 1901

READ BY: RICARDO A PALMQUISTM.D.

RELEASED BY: RICARDO A PALMQUISTM.D.

Wellsoft Interface Created: 8/24/2017 1925 Last Entry: 1925

Patient: BERNSTEIN, ELIOT ; Date/Time: 8/24/2017 1902 ; 1017118416

- - - - - HXR RIBS LT UNILAT 2VIEW - - - - -

EXAM START: 8/24/2017 1903

EXAM STOP: 8/24/2017 1907

RIBS SERIES

REASON FOR EXAM- PAIN.

COMPARISON- Radiograph September 6, 2016. .

FINDINGS- 4 views of the left ribs. There is a nondisplaced fracture of the sixth lateral rib, question of nonspace fracture of the ninth lateral rib. No appreciable pneumothorax. Adjacent soft tissues are unremarkable. The visualized portions of the heart and lungs are normal for the technique.

IMPRESSION-

1. No displaced fracture of the left sixth lateral rib with question of nondisplaced fracture of the ninth lateral rib for correlation with point tenderness. No appreciable pneumothorax.

-Authenticated and electronically signed by- Ricardo A Palmquist PRA,

MD

Electronically signed- 8/24/2017 7-23 PM

Read By- RICARDO A PALMQUIST M.D.

Released Date Time- 08/24/17 1924

READ BY: RICARDO A PALMQUISTM.D.

RELEASED BY: RICARDO A PALMQUISTM.D.

EXHIBIT 5

EXHIBIT 6



Emergency Department
800 Meadows Road
Boca Raton, FL 33486
(561) 955-4425

Patient: Bernstein, Eliot
Pt Acct#: 1729001305
Med Rcd: 000446213
DI Printed: 10/17/2017 1934

Patient: Bernstein, Eliot
MD ED: Fontana, Peter M.D.

DI Printed: 10/17/2017 1934
RN Eval: Erica R.N.
RN Dispo: _____

AFTERCARE INSTRUCTIONS

We are pleased to have been able to provide you with emergency care. Please review these instructions when you return home in order to better understand your diagnosis and the necessary further treatment and precautions related to your condition. Your diagnoses and prescribed medications today are:

----- This page is not a prescription. -----

- Dx 1: Cellulitis L lower limb
- Dx 2: Sprain L ankle, unspecified ligament
- Dx 3: Fx L foot 5th metatarsal nondisplaced, closed
- Rx 1: Norco Tablets 325mg,5mg (acetaminophen,hydrocodone)

1 tablet by mouth every 6 hrs as needed for pain (max 4 tablets per day)
- Rx 2: Bactrim DS Tablets (sulfamethoxazole,trimethoprim) 800mg,160mg
160mg/tablet
1 tablet by mouth every 12 hrs for 10 days
- Rx 3: Keflex Capsules (cephalexin)
500mg/capsule
1 capsule by mouth every 8 hrs for 10 days

Orders performed during ED visit

Order
XR ANKLE LEFT
XR FOOT LEFT
XR FOOT RIGHT
US LE VEN DUPLEX DVT LEFT

Procedures performed during ED visit

Procedure

Follow Up Info

Follow-up 1: Alvarez, Luis A M.D.
19801 Hampton Dr #C1-2
Boca Raton Fl 33434

F/U MD Ph: (561)477-2862
F/U MD Fax: 561-477-2864

Specialty: _____

Follow-up 1 Date: 2-3 Days

Msg F/U MD: _____

Follow-up 2: Saperstein, Alan L M.D.
1905 Clint Moore Rd #214
Boca Raton Fl 33496

F/U 2 MD Ph: (561)241-8668
F/U 2 MD Fax: 561-912-9556

Specialty: _____

Follow-up 2 Date: 5 Days

EKGs and X-Rays: If you had an EKG or X-Ray today, it will be formally reviewed by a specialist tomorrow. If there is any change from today's Emergency Department reading, you will be notified.

IMPORTANT NOTICE TO ALL PATIENTS: The examination and treatment you have received in our Emergency Department

have been rendered on an emergency basis only and will not substitute for definitive and ongoing evaluation and medical care. If you have an assigned physician, or physician of record, it is essential that you make arrangements for follow-up care with that physician as instructed. If you do not currently have a physician locally, please contact our Health Navigator at 561-955-4714 and they will assist you with scheduling an appointment. Report any new or remaining problems to your physician at your scheduled appointment, because it is impossible to recognize and treat all elements of injury or disease in a single Emergency Department visit. *Significant changes or worsening in your condition may require more immediate attention. The Emergency Department is always open and available if this becomes necessary.*

General Information on CELLULITIS (skin infection)

Cellulitis is a particular type of skin infection. It results from the growth of small germs underneath the skin. Cellulitis sometimes develops around cuts, burns or scrapes, but often it develops for no apparent reason in normal, uninjured skin.

What are the symptoms?

Any area of skin can develop cellulitis. The infected area is usually red, warm, swollen and tender. It usually measures less than five inches across, but it can grow to be quite large. In addition, cellulitis sometimes produces a fever.

What can be done?

The bacteria that cause cellulitis can usually be destroyed with antibiotic medication. When treated with antibiotics, most cases of cellulitis get better over two to three days.

What are the risks?

Cellulitis does not ordinarily produce any serious medical problems. There are, however, some risks:

1. Occasionally, cellulitis produces a small pocket of pus under the skin. This problem usually requires minor surgery.
2. Sometimes cellulitis continues to get worse in spite of the antibiotics. This can be serious.
3. Occasionally, cellulitis germs spread through the blood and produce infections in other parts of the body (brain, bones or heart). This is of particular concern when dealing with cellulitis of the face.
4. Patients with other illnesses such as diabetes, poor circulation, or weak immune systems will have an increased risk of developing a serious infection.

INSTRUCTIONS

- 1) Rest.
- 2) Apply warm packs to the infected area, for 15 to 20 minutes, three to four times a day. This may help speed the healing process.
- 3) Keep the infected area elevated to help reduce swelling.
- 4) Make sure to take all medication as prescribed, even if you are feeling better. If you stop taking the antibiotic medication early, you will be more likely to get the infection back again.
- 5) If you are not allergic to them, you may take aspirin, acetaminophen (Tylenol) or ibuprofen (Advil) to help ease the pain.

WARNING: DO NOT GIVE ASPIRIN TO ANYONE LESS THAN 18 YEARS OLD.

- 6) SEEK IMMEDIATE MEDICAL ATTENTION if you develop any signs of worsening infection, such as:
 - A) increased pain, redness or swelling,
 - B) a high fever or
 - C) red streaks on the skin near the area of cellulitis.
 - D) Condition worsens in any other way.

Be extra careful with small children; also look for poor feeding, vomiting, increased fussiness, unusual sleepiness, difficulty breathing, a stiff neck, or decreased urination.

General Information on a SPRAINED ANKLE

The ankle joint is made up of three bones held together by several strong bands, called ligaments. If the ankle is forcefully bent, hit or twisted, one or more of these ligaments may be damaged, resulting in a "sprained ankle". Most of the time this results from sports injuries, falls or motor vehicle accidents. Depending on the circumstances, the ligaments may be only slightly damaged, or they may be completely torn in half.

What are the symptoms?

A sprained ankle produces pain that gets worse with any movement of the foot. In addition, there may be some swelling or

discoloration of the skin around the ankle.

What are the risks?

Ordinarily a sprained ankle heals within 2 to 3 weeks and does not produce any serious medical problems. There are, however, some risks:

1. Severe sprains can take months to heal.
2. If the skin has been cut or scraped, it may get infected.
3. A badly sprained ankle sometimes develops severe swelling that can cut off the circulation to the foot.
4. A badly sprained ankle can lead to persistent ankle pain that lasts for months or even years.

INSTRUCTIONS

- 1) REST the ankle and give it time to heal. If necessary, use an Ace wrap and/or crutches. When the ankle is no longer painful, gradually start using the leg again, but be careful. If you put too much stress on the ankle too quickly, you could re-injure it. Remember: If it hurts to move the ankle, then you should not be moving it. If a soft cast (Jones Dressing) has been applied, it should be removed after 3 days.
- 2) If you have an Ace wrap that feels too tight, loosen it.
- 3) Keep the ankle elevated as much as possible for the first two to three days. This will help keep the swelling down.
- 4) Ice packs are helpful during the first two days. Put the ice in a plastic bag. Roll up the bag in a towel and put it on the ankle for 5 to 15 minutes at a time.
- 5) After the first two days, warm packs may help ease the pain and speed healing. Roll up a small towel. Soak it in warm water and put it on the ankle for 5 to 15 minutes at a time.
- 6) No medicine will relieve the pain completely, but ibuprofen (Advil), acetaminophen (Tylenol) or aspirin may help.
WARNING: Do not take these drugs if you are allergic to them or have any contraindications to them. Do not take these drugs if you are already taking a prescription pain medication. DON'T GIVE ASPIRIN TO ANYONE LESS THAN 18 YEARS OLD.
- 7) SEEK IMMEDIATE MEDICAL ATTENTION if:
 - A) you develop severe pain, severe swelling, numbness, tingling, weakness or discoloration in the leg, ankle or foot OR
 - B) you develop chest pain, difficulty breathing or pass out.

General Information on a BROKEN FOOT

There are 26 bones in each foot (including the toes). If the foot is forcefully bent, hit or twisted, one or more of these bones may crack, resulting in a "broken foot". Most of the time this results from sports injuries, falls or motor vehicle accidents. Medically speaking, the words "broken", "cracked" and "fractured" all mean the same thing.

What are the symptoms?

A broken foot is usually painful and swollen in the area of the cracked bone. Any movement of the foot usually makes the pain worse.

What can be done?

The best form of treatment depends on how serious the injury is. Relatively mild breaks are usually splinted for one to three days and then put in a cast for three to six weeks. If the broken bone is bent out of shape, it may need to be put back into position before it is splinted. If the bone is badly broken, it may need special treatment, or even surgery.

What are the risks?

Ordinarily, a broken foot heals in 4 to 8 weeks and does not produce any serious medical problems. There are, however, some risks:

1. If the skin has been cut or scraped, it may get infected.
2. A BADLY broken foot may also have injured nerves, tendons or blood vessels.
3. On rare occasions, severe swelling can cut off the circulation to the foot or toes.
4. Occasionally a broken foot does not heal properly, resulting in persistent pain or weakness.

INSTRUCTIONS

- 1) Take proper care of your splint (or cast).
 - A) Keep it dry. Don't take a shower until the splint (or cast) has been removed. Take a sponge bath instead.
 - B) Be careful not to break the splint (or cast).

EXHIBIT 7

Confidential Patient Information
Prescription Profile
11/25/2016 through 11/06/2017

Report date/time: 11/06/2017 12:39 PM

Patient Info: ELIOT BERNSTEIN
2753 NW 34TH ST
BOCA RATON, FL 33434-3459

Store Info: 3003 YAMATO ROAD
BOCA RATON, FL 33496
(561)241-1105

Patient Phone: (561)245-8588
Date of Birth: 09/30/1963
Gender: M

Prescription Number: 2493784-02664
Medication: VICODIN ES 7.5-300MG TABLETS (NEW)
Your insurance saved you \$30.29

Ins. Plan(s) Claim Ref#(s): PCHEALTH/
A8175465291271

Date of Service: 05/26/17
Quantity: 10.000

Prescriber: MJF SEECHARAN, R.

Subtotal: 10.000

Prescription Number: 2493785-02664
Medication: CYCLOBENZAPRINE 10MG TABLETS
Your insurance saved you \$11.99

Ins. Plan(s) Claim Ref#(s): PCHEALTH/
A4175461991241

Date of Service: 05/26/17
Quantity: 10.000

Prescriber: MJF SEECHARAN, R.

Subtotal: 10.000

Prescription Number: 2500489-02664
Medication: LISINAPRIL-HCTZ 10/12.5MG TABLETS
Your insurance saved you \$23.99

Ins. Plan(s) Claim Ref#(s): PCHEALTH/
A7175837038661

Date of Service: 07/02/17
Quantity: 30.000

Prescriber: DSH LAINA, L.

Subtotal: 10.000

Prescription Number: 2500489-02664
Medication: LISINAPRIL-HCTZ 10/12.5MG TABLETS
Your insurance saved you \$5.21

Ins. Plan(s) Claim Ref#(s): HTHR /
172206754523029999

Date of Service: 08/08/17
Quantity: 30.000

Prescriber: MJF LAINA, L.

Subtotal: 60.000

Total Fillings: 2
Subtotal: 60.000

Confidential Patient Information

Report date/time: 11/06/2017 12:39 PM

Prescription Profile

11/25/2016 through 11/06/2017

Patient Info: ELIOT BERNSTEIN
2753 NW 34TH ST
BOCA RATON, FL 33434-3459

Store Info: 3003 YAMATO ROAD
BOCA RATON, FL 33496
(561)241-1105

Patient Phone: (561)245-8588
Date of Birth: 09/30/1963
Gender: M

Prescription Number Medication

Rph Prescriber

Ins. Plan(s) Date of Service

Claim Ref#(s) Quantity

2501000-02664 VICODIN ES 7.5-300MG TABLETS (NEW)
Your insurance saved you \$30.29

DSH SHECHARAN, R.

PCHEALTH/
A0175873898471 07/06/17 10.000

2506144-02664 AMOX-CLAV 875MG TABLETS
Your insurance saved you \$18.88

MJF FREITAG, J.

RXCUT / 08/04/17 14.000
A5176165810461

2506145-02664 BENZONATATE 100MG CAPSULES
Your insurance saved you \$0.0099

SFA FREITAG, J.

RXCUT / 08/04/17 15.000
A2176164161831

2506146-02664 PROAIR HFA ORAL INH (200 PFS) 8.5G
Your insurance saved you \$17.96

MJF FREITAG, J.

CTRX / 08/08/17 8.500
172207512290028999

Total Fillings: 1 Subtotal: 10.000

Total Fillings: 1 Subtotal: 14.000

Total Fillings: 1 Subtotal: 15.000

Total Fillings: 1 Subtotal: 8.500

Confidential Patient Information
Prescription Profile
11/25/2016 through 11/06/2017

Report date/time: 11/06/2017 12:39 PM

Patient Info: ELIOT BERNSTEIN
2753 NW 34TH ST
BOCA RATON, FL 33434-3459

Store Info: 3003 YAMATO ROAD
BOCA RATON, FL 33496
(561)241-1105

Patient Phone: (561)245-8588
Date of Birth: 09/30/1963
Gender: M

Prescription Number	Medication	NDC	RPh	Prescriber	Ins. Plan(s) Claim Ref#(s)	Date of Service	Quantity
2506851-02664	PROMETHAZINE VC W/CODEINE SYRUP Your insurance saved you \$22.98	50383-0805-16	DSH	SHINTRE, L.	CTRX / 172224418314001999	08/10/17	100.000

Total Fillings: 1 Subtotal: 100.000

2507477-02664 ACETAMINOPHEN/COD #3 (300/30MG) TAB
Your insurance saved you \$2.85

HTHR /
172236910974001999

MJF BLACK, C.

65162-0033-11

08/11/17

10.000

Total Fillings: 1 Subtotal: 10.000

2508307-02664 TRAMADOL 50MG TABLETS
Your insurance saved you \$5.87

CTRX /
172286604954005999

MJF SHINTRE, L.

68362-0319-10

08/16/17

15.000

Total Fillings: 1 Subtotal: 15.000

2508342-02664 MELOXICAM 15MG TABLETS
Your insurance saved you \$0.0500

CTRX /
172287053669028999

MJF FREITAG, J.

69097-0159-15

08/16/17

14.000

Total Fillings: 1 Subtotal: 14.000

19.54

Confidential Patient Information
Prescription Profile
11/25/2016 through 11/06/2017

Report date/time: 11/06/2017 12:39 PM

Patient Info: ELIOT BERNSTEIN
2753 NW 34TH ST
BOCA RATON, FL 33434-3459

Store Info: 3003 YAMATO ROAD
BOCA RATON, FL 33496
(561)241-1105

Patient Phone: (561)245-8588
Date of Birth: 09/30/1963
Gender: M

Prescription

Prescription Number	Medication	NDC	Rph	Prescriber	Ins. Plan(s) Claim Ref#(s)	Date of Service	Quantity
2508518-02664	PROMETHAZINE VC W/CODEINE SYRUP Your insurance saved you \$24.97	50383-0805-16	SFA	SHINTRE, L.	CTRX / 172295590113026997	08/17/17	110.000

Total Fillings: 1 Subtotal: 110.000

2510009-02664	AMLODIPINE BESYLATE 2.5MG TABLETS Your insurance saved you \$18.41	68180-0750-09	MJF	VAFAL, J.	HTHTR / 172375499114022999	08/25/17	30.000
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Total Fillings: 1 Subtotal: 30.000

2511613-02664	PROMETHAZINE VC W/CODEINE SYRUP Your insurance saved you \$22.98	50383-0805-16	SFA	SHINTRE, L.	CTRX / 172466141992006999	09/03/17	100.000
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Total Fillings: 1 Subtotal: 100.000

2518676-02664	HYDROCODONE/ACETAMINOPHEN 7.5-300 T Your insurance saved you \$16.5	00406-0377-05	JDS	SEECHARAN, R.	RXCUT / A5176841509061	10/11/17	20.000
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Total Fillings: 1 Subtotal: 20.000

EXHIBIT 2

60(a) and (b) Case # 13-cv-03643 - US District Court of Eastern Illinois

FILED SEPARATELY ECF

This Exhibit is DOCKET # 297 in Case 13-cv-03643 with ALL EXHIBITS

**UNITED STATES DISTRICT COURT
FOR THE Northern District of Illinois – CM/ECF LIVE, Ver 6.1.1.2
Eastern Division**

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

Plaintiff,

v.

Case No.:
1:13-cv-03643
Honorable John
Robert Blakey

United Bank of Illinois

Defendant.

NOTIFICATION OF DOCKET ENTRY

This docket entry was made by the Clerk on Monday, November 13, 2017:

MINUTE entry before the Honorable John Robert Blakey: Eliot Bernstein's motion for relief pursuant to Rule 60(b)(3) [297] is denied. The motion recycles the same arguments made in prior pleadings, and none of the cited evidence alters the Court's prior conclusion that Plaintiffs are entitled to summary judgment on Eliot Bernstein's claims. Docket Entry [299] is stricken from the docket, as it appears to be a motion directed to the Florida Circuit Court, Probate Division. The 11/14/17 Notice of Motion date is stricken as to this motion, but remains as to docket entry [296]. Mailed notice(gel,)

ATTENTION: This notice is being sent pursuant to Rule 77(d) of the Federal Rules of Civil Procedure or Rule 49(c) of the Federal Rules of Criminal Procedure. It was generated by CM/ECF, the automated docketing system used to maintain the civil and criminal dockets of this District. If a minute order or other document is enclosed, please refer to it for additional information.

For scheduled events, motion practices, recent opinions and other information, visit our web site at www.ilnd.uscourts.gov.

**UNITED STATES DISTRICT COURT
FOR THE Northern District of Illinois – CM/ECF LIVE, Ver 6.1.1.2
Eastern Division**

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

Plaintiff,

v.

Case No.:
1:13-cv-03643
Honorable John
Robert Blakey

United Bank of Illinois

Defendant.

NOTIFICATION OF DOCKET ENTRY

This docket entry was made by the Clerk on Tuesday, November 14, 2017:

MINUTE entry before the Honorable John Robert Blakey: Case called for a motion hearing. First Motion for Interpleader Disbursement [296] is entered and continued to 11/21/2017 at 9:45 a.m. in Courtroom 1203. Mailed notice(gel,)

ATTENTION: This notice is being sent pursuant to Rule 77(d) of the Federal Rules of Civil Procedure or Rule 49(c) of the Federal Rules of Criminal Procedure. It was generated by CM/ECF, the automated docketing system used to maintain the civil and criminal dockets of this District. If a minute order or other document is enclosed, please refer to it for additional information.

For scheduled events, motion practices, recent opinions and other information, visit our web site at www.ilnd.uscourts.gov.

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

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

Plaintiff,)

v.)

HERITAGE UNION LIFE INSURANCE)
COMPANY,)

Defendant,)

HERITAGE UNION LIFE INSURANCE)
COMPANY)

Counter-Plaintiff,)

v.)

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

Counter-Defendant,)

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

Intervenor.)
_____)

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

Filers:
Brian O'Connell, as Personal Representative
of the Estate of Simon L. Bernstein

Simon Bernstein Irrevocable Insurance Trust
Dated 6/21/95

Ted Bernstein, individually and as Trustee

Pamela B. Simon

Lisa Friedstein

Jill Iantoni

**AGREED MOTION FOR ENTRY OF ORDERS OF DISMISSAL AND
DISTRIBUTION OF INTERPLEADED FUNDS PURSUANT TO SETTLEMENT**

Plaintiffs Simon Bernstein Irrevocable Insurance Trust Dated June 21, 1995 (the "1995 Trust"), Ted Bernstein individually and as trustee of the 1995 Trust, and Pamela B. Simon, through their attorney Adam M. Simon, Intervenor Brian M. O'Connell, Personal Representative of the

Estate of Simon L. Bernstein (“Intervenor” or the “Estate”), through his attorneys James J. Stamos and Theodore H. Kuyper, and Plaintiffs Lisa Friedstein and Jill Iantoni appearing *pro se* (collectively, “Movants”), pursuant to 28 U.S.C. § 1335, respectfully move the Court to disburse the interpleaded funds and dismiss this action with prejudice pursuant to the parties’ settlement. In support of this Motion, the Movants state as follows:

1. On or about July 5, 2017, Movants, the only remaining parties to this action, entered into a settlement agreement resolving all remaining issues in this litigation, including but not limited to the terms regarding distribution of the life insurance policy proceeds that remain on deposit with the Registry of the Court.

2. Intervenor, as personal representative of the Estate of Simon Bernstein, subsequently filed a motion to approve the settlement with the 15th Judicial Circuit of Florida, In and For Palm Beach County, where the Estate has been probated and administered.

3. On October 19, 2017, following an evidentiary hearing on Intervenor’s motion to approve the settlement, Judge Rosmarie Scher, 15th Judicial Circuit Court Judge for Palm Beach County, Florida, entered an order granting Intervenor’s motion and approving the settlement. A true and correct copy of that order is attached hereto as **Exhibit 1**.

4. Accordingly, Movants jointly seek entry of the Proposed Orders disbursing the interpleaded funds and dismissing this matter with prejudice pursuant settlement, which Proposed Orders are being submitted to the Court contemporaneously with this filing.

WHEREFORE, Movants respectfully request that the Court grant this Motion and enter the proposed Disbursement Order and Dismissal Order Movants submitted to the Court, or alternatively, enter Orders in a form substantially similar to those Proposed Orders disbursing the

interpleaded funds and dismissing this matter with prejudice pursuant to the remaining parties' settlement.

Dated: November 20, 2017

Respectfully Submitted,

/s/ James J. Stamos

James J. Stamos (ARDC # 3128244)
Theodore H. Kuyper (ARDC # 6294410)
STAMOS & TRUCCO LLP
One East Wacker Drive, Third Floor
Chicago, Illinois 60601
(312) 630-7979

jstamos@stamostrucco.com

tkuyper@stamostrucco.com

Attorneys for Intervenor, Brian O'Connell, as Personal Representative of the Estate of Simon L. Bernstein

/s/ Adam Simon

Adam Simon (ARDC #6205304)
303 East Wacker Drive, Suite 2725
Chicago, Illinois 60601
(312) 819-0730

asimon21@att.net

Attorney for Plaintiffs, the 1995 Trust, Ted Bernstein, and Pamela B. Simon

/s/ Lisa Friedstein

Lisa Sue Friedstein
2142 Churchill Lane
Highland Park, Illinois 60035

Lisa@friedsteins.com

Pro Se Litigant

/s/ Jill Iantoni

Jill Marla Iantoni
2101 Magnolia Lane
Highland Park, Illinois 60035

jilliantoni@gmail.com

Pro Se Litigant

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he caused a copy of the foregoing **Agreed Motion for Entry of Orders of Dismissal and Distribution of Interpleaded Funds Pursuant to Settlement** to be served upon all registered E-Filers via electronic filing using the CM/ECF system, and to be served upon the following persons via U.S. mail, proper postage prepaid:

Lisa Sue Friedstein
2142 Churchill Lane
Highland Park, IL 60035
Lisa@friedsteins.com
Pro Se Litigant

Jill Marla Iantoni
2101 Magnolia Lane
Highland Park, IL 60035
jilliantoni@gmail.com
Pro Se Litigant

on this 20th day of November, 2017.

/s/ James J. Stamos

IN THE CIRCUIT COURT OF THE 15TH
JUDICIAL CIRCUIT OF FLORIDA, IN
AND FOR PALM BEACH COUNTY

PROBATE DIVISION

FILE NO.: 502012CP004391XXXXNB IH _____

IN RE: ESTATE OF

SIMON L. BERNSTEIN,

Deceased. _____ /

**ORDER ON SUCCESSOR PERSONAL REPRESENTATIVE'S
VERIFIED MOTION FOR APPROVAL OF SETTLEMENT AGREEMENT
ENTERED IN ILLINOIS FEDERAL ACTION**

THIS CAUSE having come upon Successor Personal Representative, Brian M. O'Connell's, Verified Motion for Approval of Settlement Agreement Entered in Illinois Federal Action ("Motion"), and the Court being duly advised on the premises, it is thereupon

ORDERED AND ADJUDGED as follows:

1. The Motion is GRANTED DENIED.

*After hearing testimony + witnesses, the Court finds
it is appropriate to approve Settlement.*

DONE AND ORDERED in Palm Beach Gardens, Palm Beach County, Florida, this _____
day of 10/19/2017, 2017.



Rosemary Scher
ROSEMARY SCHER, Circuit Judge
Rosemary

**UNITED STATES DISTRICT COURT
FOR THE Northern District of Illinois – CM/ECF LIVE, Ver 6.1.1.2
Eastern Division**

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

Plaintiff,

v.

Case No.:
1:13-cv-03643
Honorable John
Robert Blakey

United Bank of Illinois

Defendant.

NOTIFICATION OF DOCKET ENTRY

This docket entry was made by the Clerk on Tuesday, November 21, 2017:

MINUTE entry before the Honorable John Robert Blakey: Motion hearing held. The parties' agreed motion for entry of orders of dismissal and distribution of interpleaded funds pursuant to settlement [302] is granted. Enter Disbursement Order. The parties' first motion for disbursement order [296] is denied as moot. The parties having reached settlement of this matter on all outstanding claims with this Court having entered an agreed order disbursing all interpleaded funds, this matter is dismissed with prejudice and without costs under Rule 41(a). All set dates and deadlines, including the 11/28/17 motion hearing date, are stricken. Civil case terminated. Mailed notice(gel,)

ATTENTION: This notice is being sent pursuant to Rule 77(d) of the Federal Rules of Civil Procedure or Rule 49(c) of the Federal Rules of Criminal Procedure. It was generated by CM/ECF, the automated docketing system used to maintain the civil and criminal dockets of this District. If a minute order or other document is enclosed, please refer to it for additional information.

For scheduled events, motion practices, recent opinions and other information, visit our web site at www.ilnd.uscourts.gov.

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

SIMON BERNSTEIN IRREVOCABLE)	
INSURANCE TRUST DTD 6/21/95,)	
)	
Plaintiff,	)	Case No. 13 cv 3643
)	
)	
v.)	
	)	Judge John Robert Blakey
HERITAGE UNION LIFE INSURANCE)	
COMPANY,)	
)	
Defendant,)	
)	
)	
HERITAGE UNION LIFE INSURANCE)	
COMPANY)	
)	
Counter-Plaintiff)	
)	
v.)	
)	
SIMON BERNSTEIN IRREVOCABLE)	
INSURANCE TRUST DTD 6/21/95)	
)	
Counter-Defendant)	

DISBURSEMENT ORDER


Pursuant to 28 U.S.C. 1335, this Court hereby authorizes and directs the Clerk of the Court for the United States District Court for the Northern District of Illinois to disburse the amount placed on deposit as interpleaded funds (initially, the sum of \$1,703,567.09) in the Court Registry by Payer Heritage Union Life, on June 26, 2013, as evidenced by Receipt Number 4624102327, *see* [16], as follows:

- (i) First, the sum of \$1,000,000.00 (One Million Dollars) payable to: The Simon Law Firm Client Trust Account f/b/o Ted Bernstein, solely in his capacity as Trustee for the Simon Bernstein Irrevocable Insurance Trust dated 6/21/95, and his attorney, Adam M. Simon; and mailed to: **ADAM M. SIMON, THE SIMON LAW FIRM CLIENT TRUST, 303 E. WACKER DRIVE, STE. 2725, CHICAGO, IL 60601-5210.**

- (ii) Second, the remaining principal balance, plus all accrued interest, to Brian O'Connell, solely in his capacity as successor Personal Representative of the Estate of Simon L. Bernstein, and mailed to: **Estate of Simon Bernstein, c/o Brian O'Connell, 515 N. Flagler Dr., 20th Floor, West Palm Beach, FL 33401.**

Dated: November 21, 2017

ENTERED:



John Robert Blakey
United States District Judge

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

SIMON BERNSTEIN IRREVOCABLE)	
INSURANCE TRUST DTD 6/21/95, et al.)	Case No. 13 cv 3643
)	Honorable John Robert Blakey
Plaintiff,)	Magistrate Mary M. Rowland
)	
v.)	
)	MOTION FOR PERMISSION TO
HERITAGE UNION LIFE INSURANCE)	<u>PROCEED <u>INFORMA PAUPERIS</u></u>
COMPANY, et al.)	Filer(s):
)	Eliot Ivan Bernstein, Third-Party
)	Defendant and Counter-Plaintiff
)	
_____ /	

Comes now, Cross Plaintiff and Third Party Defendant, Eliot Ivan Bernstein (“ELIOT”), Pro Se, and respectfully moves this Court for Permission to Proceed In Forma Pauperis under FEDERAL RULE OF APPELLATE PROCEDURE 24:

1. ELIOT requests this Court for Permission to file In Forma Pauperis and an AFFIDAVIT ACCOMPANYING MOTION FOR PERMISSION TO APPEAL IN FORMA PAUPERIS is attached EXHIBIT A.
2. ELIOT is also filing a Motion for Attorney Representation, which is dependent on approval of this Motion.
3. ELIOT is financially in need of counsel and other court services in this Court and the 7th Circuit Court of Appeals where Notice of Appeal is being submitted on this same date.

WHEREFORE, Cross Plaintiff and Third Party Defendant, Eliot Ivan Bernstein, Pro Se, respectfully prays for an Order approving this Motion for Permission to Proceed In Forma Pauperis.



DATED: December 19, 2017

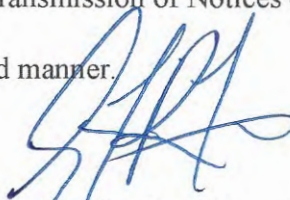


/s/ Eliot Ivan Bernstein

Eliot Ivan Bernstein
2753 NW 34th St.
Boca Raton, FL 33434
Telephone (561) 245-8588
iviewit@iviewit.tv
www.iviewit.tv

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on December 19, 2017 I electronically filed the foregoing with the Clerk of the Court using CM/ECF. I also certify that the foregoing is being served this day on all counsel of record identified below via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner.



/s/ Eliot Ivan Bernstein

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SERVICE LIST

James J. Stamos and Kevin Horan STAMOS & TRUCCO LLP One East Wacker Drive, Third Floor Chicago, IL 60601 Attorney for Intervenor, Estate of Simon Bernstein	Adam Simon, Esq. #6205304 303 East Wacker Drive, Suite 2725 Chicago, Illinois 60601 Attorney for Plaintiffs (312) 819-0730	Ted Bernstein, 880 Berkeley Boca Raton, FL 33487 tbernstein@lifeinsuranceconcepts.com
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<p>Alan B. Rose, Esq. PAGE, MRACHEK, FITZGERALD , ROSE, KONOPKA, THOMAS & WEISS, P.A. 505 South Flagler Drive, Suite 600 West Palm Beach, Florida 33401 arose@pm-law.com and arose@mrachek-law.com</p>	<p>Pamela Simon President STP Enterprises, Inc. 303 East Wacker Drive Suite 210 Chicago IL 60601-5210 psimon@stpcorp.com</p>	<p>Estate of Simon Bernstein Personal Representative Brian M. O'Connell, Partner and Joielle Foglietta, Esq. Ciklin Lubitz Martens & O'Connell 515 N Flagler Drive 20th Floor West Palm Beach, FL 33401 boconnell@ciklinlubitz.com</p>
<p>Jill Iantoni 2101 Magnolia Lane Highland Park, IL 60035 jilliantoni@gmail.com</p>	<p>Lisa Friedstein 2142 Churchill Lane Highland Park, IL 60035 Lisa@friedsteins.com lisa.friedstein@gmail.com lisa@friedsteins.com</p>	<p>David B. Simon, Esq. #6205304 303 East Wacker Drive, Suite 2725 Chicago, Illinois 60601 Attorney for Plaintiffs (312) 819-0730</p>

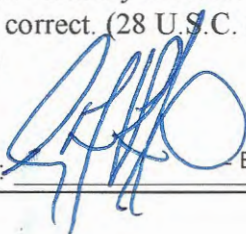
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**EXHIBIT A - AFFIDAVIT ACCOMPANYING MOTION FOR PERMISSION TO
APPEAL IN FORMA PAUPERIS**

UNITED STATES DISTRICT COURT
for the
Northern DISTRICT OF Illinois

Simon Bernstein Irrev Trust, et al.)
)
Plaintiff s)
)
v.)
) Case No. 13-cv-03643
Heritage Union Life et al.)
)
Defendant s)
)

**AFFIDAVIT ACCOMPANYING MOTION
FOR PERMISSION TO APPEAL IN FORMA PAUPERIS**

Affidavit in Support of Motion	Instructions
I swear or affirm under penalty of perjury that, because of my poverty, I cannot prepay the docket fees of my appeal or post a bond for them. I believe I am entitled to redress. I swear or affirm under penalty of perjury under United States laws that my answers on this form are true and correct. (28 U.S.C. § 1746; 18 U.S.C. § 1621.)	Complete all questions in this application and then sign it. Do not leave any blanks: if the answer to a question is "0," "none," or "not applicable (N/A)," write in that response. If you need more space to answer a question or to explain your answer, attach a separate sheet of paper identified with your name, your case's docket number, and the question number.
Signed:  Elliot Bernstein	Date: 12/19/2017

My issues on appeal are:
See Attached "Issues on Appeal" and prior filed Jurisdictional Memorandum

1. *For both you and your spouse estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.*

Income source	Average monthly amount during the past 12 months		Amount expected next month	
	You	Spouse	You	Spouse
Employment	\$0.00	\$2700.00	\$0.00	\$2700.00
Self-employment	\$0.00	\$0.00	\$0.00	\$0.00
Income from real property (such as rental income)	\$0.00	\$0.00	\$0.00	\$0.00
Interest and dividends	\$0.00	\$0.00	\$0.00	\$0.00
Gifts	\$0.00	\$0.00	\$0.00	\$0.00
Alimony	\$0.00	\$0.00	\$0.00	\$0.00
Child support	\$0.00	\$0.00	\$0.00	\$0.00
Retirement (such as social security, pensions, annuities, insurance)	\$0.00	\$0.00	\$0.00	\$0.00
Disability (such as social security, insurance payments)	\$0.00	\$0.00	\$0.00	\$0.00
Unemployment payments	\$0.00	\$0.00	\$0.00	\$0.00
Public-assistance (such as welfare)	\$0.00	\$0.00	\$0.00	\$0.00
Other (specify):	\$0.00	\$0.00	\$0.00	\$0.00
Total monthly income:	\$0.00	\$2700.00	\$0.00	\$2,700.00

2. List your employment history for the past two years, most recent employer first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of employment	Gross monthly pay
Iviewit Technologies	2753 NW 34th St Boca Raton FL 33434	1997-Present	\$0.00
			\$
			\$

4B

3. List your spouse's employment history for the past two years, most recent employer first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of employment	Gross monthly pay
Upworks	Online	Current	\$ 2700.00
			\$
			\$

4. How much cash do you and your spouse have? \$ 300.00

Below, state any money you or your spouse have in bank accounts or in any other financial institution.

Financial Institution	Type of Account	Amount you have	Amount your spouse has
US Bank	Debit	\$ 0.00	\$ 100.00
Paypal	Debit	\$ 0.00	\$ 400.00
		\$ 0.00	\$ 0.00

If you are a prisoner seeking to appeal a judgment in a civil action or proceeding, you must attach a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months in your institutional accounts. If you have multiple accounts, perhaps because you have been in multiple institutions, attach one certified statement of each account.

5. List the assets, and their values, which you own or your spouse owns. Do not list clothing and ordinary household furnishings.

Home	Other real estate	Motor vehicle #1
(Value) \$ 0.00	(Value) \$ 0.00	(Value) \$ @8,000
		Make and year: 2008 Volvo
		Model: SC90
		Registration #:

Motor vehicle #2	Other assets	Other assets
(Value) \$ 5,000.00	(Value) \$ 5,000.00	(Value) \$
Make and year: Kia 2013		
Model: Kia		
Registration #:		

6. State every person, business, or organization owing you or your spouse money, and the amount owed.

Person owing you or your spouse money	Amount owed to you	Amount owed to your spouse
n/a	\$ n/a	\$ n/a
	\$	\$
	\$	\$
	\$	\$

7. State the persons who rely on you or your spouse for support.

Name [or, if under 18, initials only]	Relationship	Age
Joshua Ennio Zander Bernstein	Son	19
Jacob Noah Archie Bernstein	Son	18
Daniel Elijsa Abe Ottomo Bernstein	Son	14

8. Estimate the average monthly expenses of you and your family. Show separately the amounts paid by your spouse. Adjust any payments that are made weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate.

	You	Your Spouse
Rent or home-mortgage payment (include lot rented for mobile home)	\$0.00	\$0.00
Are real estate taxes included? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Is property insurance included? <input type="checkbox"/> Yes <input type="checkbox"/> No		

JB

Utilities (electricity, heating fuel, water, sewer, and telephone)	\$0.00	\$1500.00
Home maintenance (repairs and upkeep)	\$0.00	\$200.00
Food	\$0.00	\$1200.00
Clothing	\$0.00	\$200.00
Laundry and dry-cleaning	\$0.00	\$100.00
Medical and dental expenses	\$0.00	\$150.00
Transportation (not including motor vehicle payments)	\$0.00	\$150.00
Recreation, entertainment, newspapers, magazines, etc.	\$0.00	\$100.00
Insurance (not deducted from wages or included in mortgage payments)		
Homeowner's or renter's:	\$0.00	\$0.00
Life:	\$0.00	\$0.00
Health:	\$0.00	\$0.00
Motor vehicle:	\$0.00	\$520.00
Other:	\$	\$
Taxes (not deducted from wages or included in mortgage payments) (specify):	\$0.00	\$0.00
Installment payments		
Motor Vehicle:	\$0.00	\$0.00
Credit card (name):	\$0.00	\$0.00
Department store (name):	\$0.00	\$0.00
Other:	\$0.00	\$0.00
Alimony, maintenance, and support paid to others	\$0.00	\$0.00
Regular expenses for operation of business, profession, or farm (attach detailed statement)	\$0.00	\$0.00
Other (specify):	\$0.00	\$0.00
Total monthly expenses:	\$0.00	\$4120

9. Do you expect any major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months?

Yes No If yes, describe on an attached sheet.

10. Have you spent — or will you be spending — any money for expenses or attorney fees in connection with this lawsuit? Yes No

If yes, how much? \$ _____

11. Provide any other information that will help explain why you cannot pay the docket fees for your appeal.

Our family inheritancy has intentionally been delayed in the Courts through Fraud on the Courts and Fraud on the Beneficiaries committed by Officers of the Court of the 15th Judicial Probate Court in West Palm Beach FL and upon the IL Federal Court Northern District. Also anticipate Intellectual Properties royalties that amount to hundreds of millions of dollars, interfered with through alleged thefts of IP by counsel


12. State the city and state of your legal residence.

Boca Raton, Florida

Your daytime phone number: (561) 245-8588

Your age: 54 Your years of schooling: College Grad BS Psych

Last four digits of your social-security number: 2566


12/19/17

CERTIFICATE OF SERVICE

The undersigned, Eliot Bernstein acting PRO SE, hereby certifies that on December 19, 2017, he served a copy of the above AFFIDAVIT ACCOMPANYING MOTION FOR PERMISSION TO APPEAL IN FORMA PAUPERIS and this certificate of service, on the parties in the Service List below by email and electronic means pursuant to Electronic Case Filing (ECF). Pursuant to FRCP 5, the undersigned certifies that, to his best information and belief, there are no non-CM/ECF participants in this matter that are not served via email.


/s/ Eliot Ivan Bernstein
Third Party Defendant/
Cross Plaintiff PRO SE
2753 NW 34th St.
Boca Raton, FL 33434
Telephone (561) 245-8588
iviewit@iviewit.tv
www.iviewit.tv

SERVICE LIST

<p>James J. Stamos and STAMOS & TRUCCO LLP One East Wacker Drive, Third Floor Chicago, IL 60601 Attorney for Intervenor, Estate of Simon Bernstein jstamos@stamostrucco.co m, dvasquez@stamostrucco.c om and Kevin Patrick Horan sberkin@stamostrucco.co m, khoran@stamostrucco.co m</p>	<p>Adam Michael Simon, Esq. #6205304 303 East Wacker Drive, Suite 2725 Chicago, Illinois 60601 Attorney for Plaintiffs (312) 819-0730 asimon@chicago- law.com</p>	<p>Ted Bernstein, 880 Berkeley Boca Raton, FL 33487 tbernstein@lifeinsurancecon cepts.com</p>
<p>Alan B. Rose, Esq. PAGE, MRACHEK, FITZ GERALD, ROSE, KONOPKA, THOMAS & WEISS, P.A. 505 South Flagler Drive, Suite 600 West Palm Beach, Florida 33401 arose@pm-law.com and arose@mrachek-law.com</p>	<p>Pamela Simon President STP Enterprises, Inc. 303 East Wacker Drive Suite 210 Chicago IL 60601- 5210 psimon@stpcorp.co m</p>	<p>Estate of Simon Bernstein Personal Representative Brian M. O'Connell, Partner and Joielle Foglietta, Esq. Ciklin Lubitz Martens & O'Connell 515 N Flagler Drive 20th Floor West Palm Beach, FL 33401 boconnell@ciklinlubitz.com</p>
<p>Jill Iantoni 2101 Magnolia Lane Highland Park, IL 60035</p>	<p>Lisa Friedstein 2142 Churchill Lane Highland Park, IL</p>	<p>David B. Simon, Esq. #6205304 303 East Wacker Drive,</p>

jilliantoni@gmail.com	60035 Lisa@friedsteins.com in lisa.friedstein@gmail.com lisa@friedsteins.com	Suite 2725 Chicago, Illinois 60601 Attorney for Plaintiffs (312) 819-0730
Michael Duane Sanders mds@pw-law.com, sjohnson@pw-law.com	Glenn E. Heilizer glenn@heilizer.com	John M. O'Halloran joh@mcveyparsky-law.com

LB

Case No. 13-cv-03643
Eliot Ivan Bernstein
Question - "My Issues on appeal"

"MY ISSUES ON APPEAL" FOR AFFIDAVIT ACCOMPANYING MOTION

FOR PERMISSION TO APPEAL IN FORMA PAUPERIS

A prior filed Motion to Accept Late Jurisdictional Statement is attached that outlines several meritorious good faith issues to be pursued on Appeal which include but are not limited to:

1. the US District Court abused its discretion and acted clearly erroneously by impermissibly changing the burden of proof on Summary Judgment to the non-moving party without the moving party satisfying the burden;
 - a. Even if Plaintiffs could succeed in their complaint at trial Reasonable Jurors could also simultaneously find the Plaintiffs and Fiduciaries withheld, destroyed and secreted away documents and evidence such as the actual Life Insurance Policy, actual operative Trust claimed to be the "Plaintiff" in the case and related documents causing substantial Delay damages to Appellant;
2. the US District Court abused its discretion by applying the wrong law on collateral estoppel erroneously applying Illinois state law instead of Florida state law in a Diversity Jurisdiction case as shown by Appellant during Summary Judgment;
 - a. the US District Court clearly erroneously applied collateral estoppel standards;
3. the US District Court abused its discretion by failing to require Plaintiffs to provide actual competent proof and evidence to support the false claim that Appellant is not a Beneficiary in the Estate of Simon Bernstein with standing and instead the District Court simply "copied and pasted" false statement of Facts by Plaintiffs without any support by an actual Court Order provided;
NOTE: As shown already to the 7th Circuit Court of Appeals, there has been a change of circumstances in Florida consistent with the Notice Appellant provided to the District Court on Jan. 30, 2017 as newly discovered Evidence and newly issued Order since the entry of the District Court's Decision on Summary Judgment shows Appellant is in fact a beneficiary of the Estate of Simon Bernstein both according to the express language of the Simon

- Bernstein "validated" Will and by Court Order of new Judge Scher in the 15th Judicial Civil Circuit / Probate and statement and testimony by PR Brian O'Connell and Plaintiff's counsel Alan B. Rose, Esq.;
4. the US District Court abused its discretion by not adding indispensable and necessary parties back in the action such as Heritage, Jackson, Reassured, the primary Beneficiary La Salle and or successor Bank of America and other parties as argued in both rounds of Summary Judgment;
 5. the US District Court abused its discretion by repeatedly denying Appellant's motions to reopen Discovery which should include Depositions and Production, including but not limited to, Estate Drafters and Planners Tescher and Spallina who should have at least copies of the operative documents, Depositions at Jackson and Heritage and Reassured on the Policy, Record Retention policies and actions, and efforts to locate the alleged Lost Policy, the alleged Plaintiff SBIIT95, and other;
 6. the US District Court abused its discretion by not scheduling proper proceedings for Hearing the Motion for Injunction under the All Writs Act and granting a narrowly tailored injunction;
 7. the District Court abused its discretion by denying Appellant's motion to Amend the Complaint;
 8. the District Court abused its discretion by not sorting out Conflicts of Interest and exercising its Inherent Powers and conducting a Winkler v Eli inquiry into "side agreements" by conflicted parties orchestrating proceedings to defeat the proper path to Judgment; and related issues.
 - a. A new Order in the Florida Probate Court by Judge Scher also reveals that Ted Bernstein as a Plaintiff and Trustee of the alleged 1995 Trust and the Estate of Simon are conflicted and adverse as Eliot Bernstein has contended since initially filing a response;
 9. the District Court abused its discretion by not addressing the Fraud on the Court specified in a 60B3 Motion filed that showed that Eliot Bernstein should not have been removed from the lawsuit as a party on Summary Judgment due to false statements made to the District Court by Court Appointed Officers (Attorneys & Fiduciary) that the Court relied on, despite new evidence proving that the statements made and relied on were false;



10. the District Court abused its discretion by removing Eliot Bernstein from the case and denying him access to the ECF Filing System and precluding him from attending hearings prior to a final judgment and an appeal;
11. the District Court abused its discretion by denying Eliot Bernstein's application for In Forma Pauperis stating that it was unnecessary where it was necessary to determine if Eliot could apply for Pro Bono Counsel to represent any Summary Judgment motions or Settlements or Motions to Vacate prior to dismissal;
12. Denial of Due Process;
13. the District Court abused its discretion by taking Jurisdiction over a legally non-existent Plaintiff;
14. the District Court abused its discretion by failing to require a bona fide copy of the insurance contract that monies were claimed to be Interpled from;
15. the District Court abused its discretion by ignoring evidence of a valid 2000 Insurance Trust that replaced the Plaintiff SBIIT95 Trust and was funded with the alleged and missing insurance contract;
16. the District Court abused its discretion by denying a natural born heir standing in the Probate of a Will of a deceased parent;
17. the District Court abused its discretion by denying standing to a natural born heir in the Probate of a Will of a deceased parent despite also being a named beneficiary in the Will;
18. the District Court abused its discretion by allowing a trust that there is no legal executed copy of to file a Federal Lawsuit through an alleged "Trustee" without producing a bona fide copy of the trust by any party determining the "Trustee" or its powers;
19. the District Court abused its discretion by allowing a breach of contract lawsuit against an insurance company to be filed when there is no bona fide executed copy of the insurance contract being litigated produced to the Court by any party to the lawsuit, including the defendant insurance company and the Plaintiff, the 1995 Trust;
20. the District Court abused its discretion by taking alleged insurance policy proceeds into the Court Registry through an Interpleader action with no insurance contract to prove the terms of the contract, such as the correct face amount, the true and proper beneficiaries, etc.;



21. The District Court abused its discretion by denying prejudicially one child's rights to claims and damages in the lawsuit stating that one of five children of the decedent is not a beneficiary of the Estate and does not have standing in the lawsuit and thus can sustain no injury in the lawsuit and yet then allow other children to stay in the lawsuit to make claims and receive awards and damages from the Court;
22. The District Court abused its discretion by dismissing a Necessary Party(ies) to a Settlement;
23. The District Court abused its discretion by ignoring evidence of Fraud on the Court.

See attached Motion to Accept Late Filing and Jurisdiction Statement filed in the 7th Circuit.

UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

U.S.C.A. - 7th Circuit
RECEIVED

JUN 19 2017 AB

GINO J. AGNELLO
CLERK

APPEAL NO. 17-1461

SIMON BERNSTEIN IRREVOCABLE	) Appeal from the United States
INSURANCE TRUST DTD. 6/21/95,	) District Court, Northern District of
et al. ,	) Illinois, Eastern Division.
Plaintiffs-Appellees,)
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:	) MEMORANDUM:
ELIOT BERNSTEIN,)
Cross and Counter-Claimant-)
)
Appellant.)

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: NO CARRIER OR PARTY TO THE DISTRICT COURT ACTION HAS TENDERED OR PROVIDED AN ACTUAL LEGALLY BINDING LIFE INSURANCE POLICY, 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 Ivewit 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 ("devises" 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.

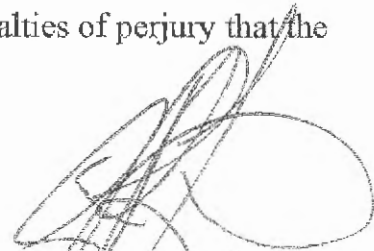
Appellant reserves the right to supplement this Statement as law and justice allows and fully seeks to brief the Appeal on the merits.

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



/s/ Eliot Ivan Bernstein

Cross and Counter-
Plaintiff, Appellant PRO
SE

Eliot Ivan Bernstein
2753 NW 34th St.
Boca Raton, FL 33434
Phone (561) 245-8588
iviewit@iviewit.tv
www.iviewit.tv
<http://www.iviewit.tv/>

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.

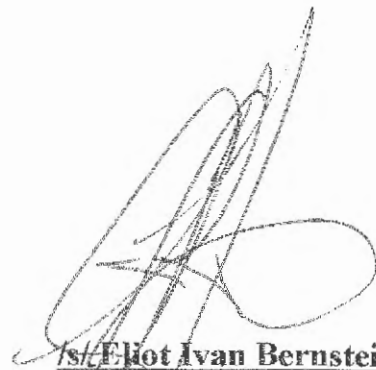
SERVICE LIST

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Attorney for Intervenor,
Estate of Simon Bernstein

Adam Michael Simon, Esq.
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2142 Churchill Lane
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/s/ Eliot Ivan Bernstein
Cross and Counter-
Plaintiff, Appellant PRO
SE
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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

Simon Bernstein Irrev Trust, et al.)	
Plaintiff(s))	
	)	Case Number: 1:13-cv-3643
v.)	
HERITAGE UNION LIFE, et al.	)	Judge: Honorable John Robert Blakey
Defendant(s))	

MOTION FOR ATTORNEY REPRESENTATION

(NOTE: Failure to complete all items may result in the denial of this motion.)

1. I, Eliot Ivan Bernstein, declare that I am the (check appropriate box)
 plaintiff defendant in this case and that I am unable to afford the services of an attorney. I hereby ask the Court for an attorney to represent me in this case.

2. I declare that I have contacted the following attorneys/organizations seeking representation:
(NOTE: This item must be completed.)

Candice Schwager,
Ron Denman
John Pankauski and @ 20 others

but I have been unable to find an attorney because:

The case involves allegations against Court Officers and Court Appointed Officers. Also have no money to pay retainers etc. upfront due to the circumstances described in the complaint.

3. I declare that (check all that apply):

(Now:)

I am not currently represented by an attorney requested by the Court in any federal criminal or civil case.

OR

I am currently represented by an attorney requested by the Court in a federal criminal or civil case. The case is described on the back of this page.

(Earlier:)

I have not previously been represented by an attorney requested by the Court in any federal criminal or civil case.

OR

I have previously been represented by an attorney requested by the Court in a federal criminal or civil case. The case is described on the back of this page.

4. I declare that (check one):

I have attached an original Application for Leave to Proceed *In Forma Pauperis* detailing my financial status.

[If you need additional space for ANY section, please attach an additional sheet and reference that section.]

I have previously filed an Application for Leave to Proceed In Forma Pauperis in this case, and it is still true and correct. 8/10/2015 DCK 210 , 6/23/17 DCK 282-284 , 6/26/17 DCK 285

I have previously filed an Application for Leave to Proceed In Forma Pauperis in this case. However, my financial status has changed and I have attached an Amended Application to Proceed In Forma Pauperis to reflect my current financial status.

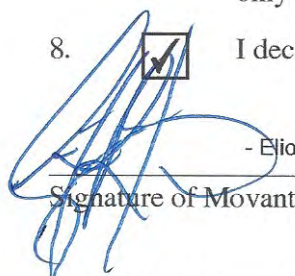
5. I declare that my highest level of education is (check one):

- Grammar school Some high school High school graduate
- Some college College graduate Post-graduate

6. I declare that my ability to speak, write, and/or read English is limited because English is not my primary language. (Check only if applicable.)

7. I declare that this form and/or other documents in this case were prepared with the help of an attorney from the U.S. District Court Pro Se Assistance Program. (Check only if applicable.)

8. I declare under penalty of perjury that the foregoing is true and correct.


 - Eliot Ivan Bernstein
 Signature of Movant

2753 NW 34th St.
Street Address

December 19, 2017
Date

Boca Raton, FL, 33434
City, State, Zip

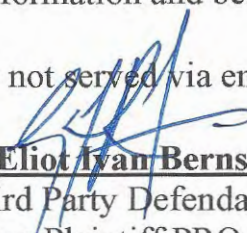
Other cases in which an attorney requested by this Court has represented me:

Case Name: _____	Case No.: _____
Attorney's Name: _____ This case is still pending <input type="checkbox"/> Yes <input type="checkbox"/> No	
The appointment was limited to settlement assistance: <input type="checkbox"/> Yes <input type="checkbox"/> No	
Case Name: _____	Case No.: _____
Attorney's Name: _____ This case is still pending <input type="checkbox"/> Yes <input type="checkbox"/> No	
The appointment was limited to settlement assistance: <input type="checkbox"/> Yes <input type="checkbox"/> No	
Case Name: _____	Case No.: _____
Attorney's Name: _____ This case is still pending <input type="checkbox"/> Yes <input type="checkbox"/> No	
The appointment was limited to settlement assistance: <input type="checkbox"/> Yes <input type="checkbox"/> No	



CERTIFICATE OF SERVICE

The undersigned, Eliot Bernstein acting PRO SE, hereby certifies that on December 19, 2017, he served a copy of the above AFFIDAVIT ACCOMPANYING MOTION FOR PERMISSION TO APPEAL IN FORMA PAUPERIS and this certificate of service, on the parties in the Service List below by email and electronic means pursuant to Electronic Case Filing (ECF). Pursuant to FRCP 5, the undersigned certifies that, to his best information and belief, there are no non-CM/ECF participants in this matter that are not served via email.


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

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<p>Alan B. Rose, Esq. PAGE, MRACHEK, FITZ GERALD, ROSE, KONOPKA, THOMAS & WEISS, P.A. 505 South Flagler Drive, Suite 600 West Palm Beach, Florida 33401 arose@pm-law.com and arose@mrachek-law.com</p>	<p>Pamela Simon President STP Enterprises, Inc. 303 East Wacker Drive Suite 210 Chicago IL 60601- 5210 psimon@stpcorp.co m</p>	<p>Estate of Simon Bernstein Personal Representative Brian M. O'Connell, Partner and Joielle Foglietta, Esq. Ciklin Lubitz Martens & O'Connell 515 N Flagler Drive 20th Floor West Palm Beach, FL 33401 boconnell@ciklinlubitz.com</p>
<p>Jill Iantoni 2101 Magnolia Lane Highland Park, IL 60035</p>	<p>Lisa Friedstein 2142 Churchill Lane Highland Park, IL</p>	<p>David B. Simon, Esq. #6205304 303 East Wacker Drive,</p>

jilliantoni@gmail.com	60035 Lisa@friedsteins.com lisa.friedstein@gmail.com lisa@friedsteins.com	Suite 2725 Chicago, Illinois 60601 Attorney for Plaintiffs (312) 819-0730
Michael Duane Sanders mds@pw-law.com, sjohnson@pw-law.com	Glenn E. Heilizer glenn@heilizer.com	John M. O'Halloran joh@mcveyparsky-law.com



UNITED STATES DISTRICT COURT
for the
Northern DISTRICT OF Illinois

Simon Bernstein Irrev Trust, et al.)
)
Plaintiff s)
)
v.)
) Case No. 1:13-cv-3643
Heritage Union Life et al.)
)
Defendant s)
)

**AFFIDAVIT ACCOMPANYING MOTION
FOR PERMISSION TO APPEAL IN FORMA PAUPERIS**

Affidavit in Support of Motion	Instructions
I swear or affirm under penalty of perjury that, because of my poverty, I cannot prepay the docket fees of my appeal or post a bond for them. I believe I am entitled to redress. I swear or affirm under penalty of perjury under United States laws that my answers on this form are true and correct. (28 U.S.C. § 1746; 18 U.S.C. § 1621.)	Complete all questions in this application and then sign it. Do not leave any blanks: if the answer to a question is "0," "none," or "not applicable (N/A)," write in that response. If you need more space to answer a question or to explain your answer, attach a separate sheet of paper identified with your name, your case's docket number, and the question number.
Signed: _____ - Eliot Bernstein	Date: December 19, 2017

My issues on appeal are:

See Attached "Issues on Appeal" and prior filed Jurisdictional Memorandum

1. *For both you and your spouse estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.*

Income source	Average monthly amount during the past 12 months		Amount expected next month	
	You	Spouse	You	Spouse
Employment	\$0.00	\$2700.00	\$0.00	\$2700.00
Self-employment	\$0.00	\$0.00	\$0.00	\$0.00
Income from real property (such as rental income)	\$0.00	\$0.00	\$0.00	\$0.00
Interest and dividends	\$0.00	\$0.00	\$0.00	\$0.00
Gifts	\$0.00	\$0.00	\$0.00	\$0.00
Alimony	\$0.00	\$0.00	\$0.00	\$0.00
Child support	\$0.00	\$0.00	\$0.00	\$0.00
Retirement (such as social security, pensions, annuities, insurance)	\$0.00	\$0.00	\$0.00	\$0.00
Disability (such as social security, insurance payments)	\$0.00	\$0.00	\$0.00	\$0.00
Unemployment payments	\$0.00	\$0.00	\$0.00	\$0.00
Public-assistance (such as welfare)	\$0.00	\$0.00	\$0.00	\$0.00
Other (specify):	\$0.00	\$0.00	\$0.00	\$0.00
Total monthly income:	\$0.00	\$2700.00	\$0.00	\$2,700.00

2. List your employment history for the past two years, most recent employer first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of employment	Gross monthly pay
Iviewit Technologigies	2753 NW 34th St Boca Raton FL 33434	1997-Present	\$0.00
			\$
			\$

3. List your spouse's employment history for the past two years, most recent employer first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of employment	Gross monthly pay
Upworks	Online	Current	\$2700.00
			\$
			\$

4. How much cash do you and your spouse have? \$ 300.00

Below, state any money you or your spouse have in bank accounts or in any other financial institution.

Financial Institution	Type of Account	Amount you have	Amount your spouse has
US Bank	Debit	\$0.00	\$100.00
Paypal	Debit	\$0.00	\$400.00
		\$0.00	\$0.00

If you are a prisoner seeking to appeal a judgment in a civil action or proceeding, you must attach a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months in your institutional accounts. If you have multiple accounts, perhaps because you have been in multiple institutions, attach one certified statement of each account.

5. List the assets, and their values, which you own or your spouse owns. Do not list clothing and ordinary household furnishings.

Home	Other real estate	Motor vehicle #1
(Value) \$ 0.00	(Value) \$ 0.00	(Value) \$ @8,000
		Make and year: 2008 Volvo
		Model: SC90
		Registration #:

Motor vehicle #2	Other assets	Other assets
(Value) \$ 5,000.00	(Value) \$ 5,000.00	(Value) \$
Make and year: Kia 2013		
Model: Kia		
Registration #:		

6. State every person, business, or organization owing you or your spouse money, and the amount owed.

Person owing you or your spouse money	Amount owed to you	Amount owed to your spouse
n/a	\$n/a	\$n/a
	\$	\$
	\$	\$
	\$	\$

7. State the persons who rely on you or your spouse for support.

Name [or, if under 18, initials only]	Relationship	Age
Joshua Ennio Zander Bernstein	Son	19
Jacob Noah Archie Bernstein	Son	18
Daniel Elijsha Abe Ottomo Bernstein	Son	14

8. Estimate the average monthly expenses of you and your family. Show separately the amounts paid by your spouse. Adjust any payments that are made weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate.

	You	Your Spouse
Rent or home-mortgage payment (include lot rented for mobile home)	\$ 0.00	\$ 0.00
Are real estate taxes included? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Is property insurance included? <input type="checkbox"/> Yes <input type="checkbox"/> No		

Utilities (electricity, heating fuel, water, sewer, and telephone)	\$0.00	\$ 1500.00
Home maintenance (repairs and upkeep)	\$0.00	\$ 200.00
Food	\$0.00	\$ 1200.00
Clothing	\$0.00	\$ 200.00
Laundry and dry-cleaning	\$0.00	\$ 100.00
Medical and dental expenses	\$0.00	\$ 150.00
Transportation (not including motor vehicle payments)	\$0.00	\$ 150.00
Recreation, entertainment, newspapers, magazines, etc.	\$0.00	\$ 100.00
Insurance (not deducted from wages or included in mortgage payments)		
Homeowner's or renter's:	\$0.00	\$0.00
Life:	\$0.00	\$0.00
Health:	\$0.00	\$0.00
Motor vehicle:	\$0.00	\$520.00
Other:	\$	\$
Taxes (not deducted from wages or included in mortgage payments) (specify):	\$0.00	\$0.00
Installment payments		
Motor Vehicle:	\$0.00	\$0.00
Credit card (name):	\$0.00	\$0.00
Department store (name):	\$0.00	\$0.00
Other:	\$0.00	\$0.00
Alimony, maintenance, and support paid to others	\$0.00	\$0.00
Regular expenses for operation of business, profession, or farm (attach detailed statement)	\$0.00	\$0.00
Other (specify):	\$0.00	\$0.00
Total monthly expenses:	\$0.00	\$4120

9. *Do you expect any major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months?*

Yes No If yes, describe on an attached sheet.

10. *Have you spent — or will you be spending — any money for expenses or attorney fees in connection with this lawsuit?* Yes No

If yes, how much? \$ _____

11. *Provide any other information that will help explain why you cannot pay the docket fees for your appeal.*

Our family inheritancy has intentionally been delayed in the Courts through Fraud on the Courts and Fraud on the Beneficiaries committed by Officers of the Court of the 15th Judicial Probate Court in West Palm Beach FL and upon the IL Federal Court Northern District. Also anticipate Intellectual Properties royalties that amount to hundreds of millions of dollars, interfered with through alleged thefts of IP by counsel

12. *State the city and state of your legal residence.*

Boca Raton, Florida

Your daytime phone number: (561) 245-8588 _____

Your age: 54 *Your years of schooling:* College Grad BS Psych _____

Last four digits of your social-security number: 2566 _____

CERTIFICATE OF SERVICE

The undersigned, Eliot Bernstein acting PRO SE, hereby certifies that on December 19, 2017, he served a copy of the above AFFIDAVIT ACCOMPANYING MOTION FOR PERMISSION TO APPEAL IN FORMA PAUPERIS and this certificate of service, on the parties in the Service List below by email and electronic means pursuant to Electronic Case Filing (ECF). Pursuant to FRCP 5, the undersigned certifies that, to his best information and belief, there are no non-CM/ECF participants in this matter that are not served via email.

/s/ Eliot Ivan Bernstein
Third Party Defendant/
Cross Plaintiff PRO SE
2753 NW 34th St.
Boca Raton, FL 33434
Telephone (561) 245-8588
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<p>Alan B. Rose, Esq. PAGE, MRACHEK, FITZ GERALD, ROSE, KONOPKA, THOMAS & WEISS, P.A. 505 South Flagler Drive, Suite 600 West Palm Beach, Florida 33401 arose@pm-law.com and arose@mrachek-law.com</p>	<p>Pamela Simon President STP Enterprises, Inc. 303 East Wacker Drive Suite 210 Chicago IL 60601- 5210 psimon@stpcorp.co m</p>	<p>Estate of Simon Bernstein Personal Representative Brian M. O'Connell, Partner and Joielle Foglietta, Esq. Ciklin Lubitz Martens & O'Connell 515 N Flagler Drive 20th Floor West Palm Beach, FL 33401 boconnell@ciklinlubitz.com</p>
<p>Jill Iantoni 2101 Magnolia Lane Highland Park, IL 60035</p>	<p>Lisa Friedstein 2142 Churchill Lane Highland Park, IL</p>	<p>David B. Simon, Esq. #6205304 303 East Wacker Drive,</p>

jilliantoni@gmail.com	60035 Lisa@friedsteins.com lisa.friedstein@gmail.com lisa@friedsteins.com	Suite 2725 Chicago, Illinois 60601 Attorney for Plaintiffs (312) 819-0730
Michael Duane Sanders mds@pw-law.com, sjohnson@pw-law.com	Glenn E. Heilizer glenn@heilizer.com	John M. O'Halloran joh@mcveyparsky-law.com

“MY ISSUES ON APPEAL” FOR AFFIDAVIT ACCOMPANYING MOTION
FOR PERMISSION TO APPEAL IN FORMA PAUPERIS

A prior filed Motion to Accept Late Jurisdictional Statement is attached that outlines several meritorious good faith issues to be pursued on Appeal which include but are not limited to:

1. the US District Court abused its discretion and acted clearly erroneously by impermissibly changing the burden of proof on Summary Judgment to the non-moving party without the moving party satisfying the burden;
 - a. Even if Plaintiffs could succeed in their complaint at trial Reasonable Jurors could also simultaneously find the Plaintiffs and Fiduciaries withheld, destroyed and secreted away documents and evidence such as the actual Life Insurance Policy, actual operative Trust claimed to be the “Plaintiff” in the case and related documents causing substantial Delay damages to Appellant;
2. the US District Court abused its discretion by applying the wrong law on collateral estoppel erroneously applying Illinois state law instead of Florida state law in a Diversity Jurisdiction case as shown by Appellant during Summary Judgment;
 - a. the US District Court clearly erroneously applied collateral estoppel standards;
3. the US District Court abused its discretion by failing to require Plaintiffs to provide actual competent proof and evidence to support the false claim that Appellant is not a Beneficiary in the Estate of Simon Bernstein with standing and instead the District Court simply "copied and pasted" false statement of Facts by Plaintiffs without any support by an actual Court Order provided; NOTE: As shown already to the 7th Circuit Court of Appeals, there has been a change of circumstances in Florida consistent with the Notice Appellant provided to the District Court on Jan. 30, 2017 as newly discovered Evidence and newly issued Order since the entry of the District Court's Decision on Summary Judgment shows Appellant is in fact a beneficiary of the Estate of Simon Bernstein both according to the express language of the Simon

Bernstein "validated" Will and by Court Order of new Judge Scher in the 15th Judicial Civil Circuit / Probate and statement and testimony by PR Brian O'Connell and Plaintiff's counsel Alan B. Rose, Esq.;

4. the US District Court abused its discretion by not adding indispensable and necessary parties back in the action such as Heritage, Jackson, Reassured, the primary Beneficiary La Salle and or successor Bank of America and other parties as argued in both rounds of Summary Judgment;
5. the US District Court abused its discretion by repeatedly denying Appellant's motions to reopen Discovery which should include Depositions and Production, including but not limited to, Estate Drafters and Planners Tescher and Spallina who should have at least copies of the operative documents, Depositions at Jackson and Heritage and Reassured on the Policy, Record Retention policies and actions, and efforts to locate the alleged Lost Policy, the alleged Plaintiff SBII95, and other;
6. the US District Court abused its discretion by not scheduling proper proceedings for Hearing the Motion for Injunction under the All Writs Act and granting a narrowly tailored injunction;
7. the District Court abused its discretion by denying Appellant's motion to Amend the Complaint;
8. the District Court abused its discretion by not sorting out Conflicts of Interest and exercising its Inherent Powers and conducting a Winkler v Eli inquiry into "side agreements" by conflicted parties orchestrating proceedings to defeat the proper path to Judgment; and related issues.
 - a. A new Order in the Florida Probate Court by Judge Scher also reveals that Ted Bernstein as a Plaintiff and Trustee of the alleged 1995 Trust and the Estate of Simon are conflicted and adverse as Eliot Bernstein has contended since initially filing a response;
9. the District Court abused its discretion by not addressing the Fraud on the Court specified in a 60B3 Motion filed that showed that Eliot Bernstein should not have been removed from the lawsuit as a party on Summary Judgment due to false statements made to the District Court by Court Appointed Officers (Attorneys & Fiduciary) that the Court relied on, despite new evidence proving that the statements made and relied on were false;

10. the District Court abused its discretion by removing Eliot Bernstein from the case and denying him access to the ECF Filing System and precluding him from attending hearings prior to a final judgment and an appeal;
11. the District Court abused its discretion by denying Eliot Bernstein's application for In Forma Pauperis stating that it was unnecessary where it was necessary to determine if Eliot could apply for Pro Bono Counsel to represent any Summary Judgment motions or Settlements or Motions to Vacate prior to dismissal;
12. Denial of Due Process;
13. the District Court abused its discretion by taking Jurisdiction over a legally non-existent Plaintiff;
14. the District Court abused its discretion by failing to require a bona fide copy of the insurance contract that monies were claimed to be Interpled from;
15. the District Court abused its discretion by ignoring evidence of a valid 2000 Insurance Trust that replaced the Plaintiff SBIIT95 Trust and was funded with the alleged and missing insurance contract;
16. the District Court abused its discretion by denying a natural born heir standing in the Probate of a Will of a deceased parent;
17. the District Court abused its discretion by denying standing to a natural born heir in the Probate of a Will of a deceased parent despite also being a named beneficiary in the Will;
18. the District Court abused its discretion by allowing a trust that there is no legal executed copy of to file a Federal Lawsuit through an alleged "Trustee" without producing a bona fide copy of the trust by any party determining the "Trustee" or its powers;
19. the District Court abused its discretion by allowing a breach of contract lawsuit against an insurance company to be filed when there is no bona fide executed copy of the insurance contract being litigated produced to the Court by any party to the lawsuit, including the defendant insurance company and the Plaintiff, the 1995 Trust;
20. the District Court abused its discretion by taking alleged insurance policy proceeds into the Court Registry through an Interpleader action with no insurance contract to prove the terms of the contract, such as the correct face amount, the true and proper beneficiaries, etc.;

21. The District Court abused its discretion by denying prejudicially one child's rights to claims and damages in the lawsuit stating that one of five children of the decedent is not a beneficiary of the Estate and does not have standing in the lawsuit and thus can sustain no injury in the lawsuit and yet then allow other children to stay in the lawsuit to make claims and receive awards and damages from the Court;
22. The District Court abused its discretion by dismissing a Necessary Party(ies) to a Settlement;
23. The District Court abused its discretion by ignoring evidence of Fraud on the Court.

See attached Motion to Accept Late Filing and Jurisdiction Statement filed in the 7th Circuit.

UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

U.S.C.A. - 7th Circuit
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APPEAL NO. 17-1461

SIMON BERNSTEIN IRREVOCABLE) Appeal from the United States
INSURANCE TRUST DTD. 6/21/95,	) District Court, Northern District of
et al. ,	) Illinois, Eastern Division.
Plaintiffs-Appellees,)
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:	) MEMORANDUM:
ELIOT BERNSTEIN,)
Cross and Counter-Claimant-)
)
Appellant.)

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,

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#: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: NO CARRIER OR PARTY TO THE DISTRICT COURT ACTION HAS TENDERED OR PROVIDED AN ACTUAL LEGALLY BINDING LIFE INSURANCE POLICY, 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 recessionation 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 ("devises" 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.

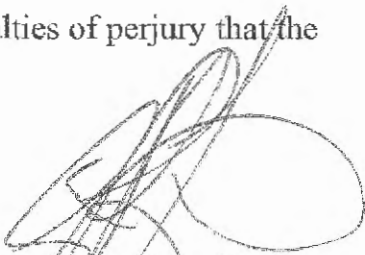
Appellant reserves the right to supplement this Statement as law and justice allows and fully seeks to brief the Appeal on the merits.

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



/s/ Eliot Ivan Bernstein
Cross and Counter-
Plaintiff, Appellant PRO
SE

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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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**UNITED STATES DISTRICT COURT
FOR THE Northern District of Illinois – CM/ECF LIVE, Ver 6.2.1
Eastern Division**

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

Plaintiff,

v.

Case No.:
1:13-cv-03643
Honorable John
Robert Blakey

Heritage Union Life Insurance Company

Defendant.

NOTIFICATION OF DOCKET ENTRY

This docket entry was made by the Clerk on Thursday, December 21, 2017:

MINUTE entry before the Honorable John Robert Blakey: Third Party Eliot Bernstein has filed a motion seeking leave to proceed on appeal in forma pauperis [308] and a motion seeking recruitment of counsel [310]. The affidavit submitted along with his motion discloses that his spouse earns \$2,700/month, and the couple has three dependent sons, ages 19, 18 and 14. Initially, the income alone places this party well above the poverty line, even for a household of five. Additionally, as the Court understands it, several members of Bernstein's household stand to receive substantial disbursements from the interpleaded funds released on 11/21/17. In short, the record before the Court does not demonstrate indigence. Accordingly, both motions are denied. The 12/26/17 Notice of Motion date is stricken, and the parties need not appear. Mailed notice(gel,)

ATTENTION: This notice is being sent pursuant to Rule 77(d) of the Federal Rules of Civil Procedure or Rule 49(c) of the Federal Rules of Criminal Procedure. It was generated by CM/ECF, the automated docketing system used to maintain the civil and criminal dockets of this District. If a minute order or other document is enclosed, please refer to it for additional information.

For scheduled events, motion practices, recent opinions and other information, visit our web site at www.ilnd.uscourts.gov.