

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

IN RE: THE ESTATE OF

CASE NO. 502012CP004391XXXXSB

SIMON BERNSTEIN,
Deceased

HON. JUDGE FRENCH

_____/

ELIOT IVAN BERNSTEIN, PRO SE
PETITIONER,

V.

TESCHER & SPALLINA, P.A., (AND ALL PARTNERS,
ASSOCIATES AND OF COUNSEL),
ROBERT L. SPALLINA, ESQ., PERSONALLY,
ROBERT L. SPALLINA, ESQ., PROFESSIONALLY,
DONALD R. TESCHER, ESQ., PERSONALLY,
DONALD R. TESCHER, ESQ., PROFESSIONALLY,
THEODORE STUART BERNSTEIN, INDIVIDUALLY,
JOHN AND JANE DOE'S (1-5000)

RESPONDENTS

_____/

ADDITIONAL RESPONDENTS TO BE ADDED

THEODORE STUART BERNSTEIN, AS TRUSTEE FOR HIS
CHILDREN,
LISA SUE FRIEDSTEIN, INDIVIDUALLY AS A
BENEFICIARY,
LISA SUE FRIEDSTEIN, AS TRUSTEE FOR HER
CHILDREN,
JILL MARLA IANTONI, INDIVIDUALLY AS A
BENEFICIARY,
JILL MARLA IANTONI, AS TRUSTEE FOR HER
CHILDREN,
PAMELA BETH SIMON, INDIVIDUALLY,
PAMELA BETH SIMON, AS TRUSTEE FOR HER
CHILDREN,

BENEFICIARIES/INTERESTED PARTIES TO BE ADDED

JOSHUA ENNIO ZANDER BERNSTEIN (ELIOT
MINOR CHILD)
JACOB NOAH ARCHIE BERNSTEIN (ELIOT
MINOR CHILD)
DANIEL ELIJSHA ABE OTTOMO BERNSTEIN
(ELIOT MINOR CHILD)
ALEXANDRA BERNSTEIN (TED ADULT CHILD)
ERIC BERNSTEIN (TED ADULT CHILD)
MICHAEL BERNSTEIN (TED ADULT CHILD)
MATTHEW LOGAN (TED'S SPOUSE ADULT
CHILD)
MOLLY NORAH SIMON (PAMELA ADULT
CHILD)
JULIA IANTONI – JILL MINOR CHILD
MAX FRIEDSTEIN – LISA MINOR CHILD
CARLY FRIEDSTEIN – LISA MINOR CHILD

**OBJECTION TO MOTION TO STRIKE PETITION TO DETERMINE AND
RELEASE TITLE OF EXEMPT PROPERTY**

COME NOW, Eliot Ivan Bernstein (“Petitioner”), as Beneficiary and Interested Party both for himself personally and as Guardian for his three minor children who also are alleged Beneficiaries and Interested Parties of the Estate of Simon Bernstein (“Simon”), PRO SE, and hereby files this OBJECTION TO MOTION TO STRIKE PETITION TO DETERMINE AND RELEASE TITLE OF EXEMPT PROPERTY and in support thereof state, as follows:

1. Eliot Bernstein, pro se, filed a Petition to Determine and Release Title of Exempt Property on October 10, 2013.
2. That on October 24, 2013, Attorney at Law, Mark Manceri (“Manceri”) filed a MOTION TO STRIKE PETITION TO DETERMINE AND RELEASE TITLE OF EXEMPT PROPERTY on behalf of Co Personal Representatives, Robert Spallina (“Spallina”) and Donald Tescher (“Tescher”) without first filing for an appearance on their behalf. Where currently the

only attorney at law who has filed with this Court to represent Tescher and Spallina is Spallina who represents both himself and Tescher. Therefore, Manceri's pleading should be stricken for his failure to enter an appearance but that is not the only reason.

3. A copy of an ALLEGED Will of Simon L. Bernstein dated July 25, 2012, has been admitted to probate by Tescher and Spallina. However, the ALLEGED Will of Simon has been timely challenged in this Court already in Petitioner's filings listed below and where all filings below are fully incorporated herein by reference, as some were not filed in this Court already.

4. That the separate and distinct motions in each filing have not been addressed by this Court at this time, as the Court has only ruled on if Petitioner's filing were an "Emergency," which it deemed at the time of filing in May 2013 not be an Emergency. Today however, with proven FRAUD and FORGERY in the estate of Simon's predeceased spouse Shirley Bernstein ("Shirley"), forgeries including one done Post Mortem for Simon, the nature of Emergency has elevated, especially where the crimes are directly attributable to counsel acting as Officers of this Court in these matters, who are acting as alleged Co Personal Representatives on a whole series of documents that are alleged fraudulent and legally deficient in both Simon and Shirley's estates, documents used to fraudulently attempt to change the beneficiaries POST MORTEM of both Simon and Shirley and begin to loot the estates in a host of other alleged criminal acts. The delays by the courts in hearing Petitioner's Motions and Petitions has allowed more criminal acts to continue to occur, which have resulted in new crimes that now must also be prosecuted and investigated and have damaged the beneficiaries further. The motions yet to be heard in toto or

denied in toto, are as follows;

MOTIONS AND PETITIONS FILED BY PETITIONER

- i. That on May 6, 2013 Petitioner filed Docket #34 an **“EMERGENCY PETITION TO: FREEZE ESTATE ASSETS, APPOINT NEW PERSONAL REPRESENTATIVES, INVESTIGATE FORGED AND FRAUDULENT DOCUMENTS SUBMITTED TO THIS COURT AND OTHER INTERESTED PARTIES, RESCIND SIGNATURE OF ELIOT BERNSTEIN IN ESTATE OF SHIRLEY BERNSTEIN AND MORE”** (“Petition 1”).
 - www.iviewit.tv/20130506PetitionFreezeEstates.pdf 15th Judicial Florida Probate Court and
 - www.iviewit.tv/20130512MotionRehearReopenObstruction.pdf US District Court Southern District of New York, Most Honorable Shira A. Scheindlin. Pages 156-582 reference estate matters in Simon and Shirley as it relates to RICO allegations.
- ii. That on May 29, 2013, Petitioner filed Docket #37 **“RENEWED EMERGENCY PETITION”** (“Petition 2”)
 - www.iviewit.tv/20130529RenewedEmergencyPetitionShirley.pdf
- iii. That on June 26, 2013, Docket #39 Petitioner filed a **“MOTION TO: CONSIDER IN ORDINARY COURSE THE EMERGENCY PETITION TO FREEZE ESTATE ASSETS, APPOINT NEW PERSONAL REPRESENTATIVES, INVESTIGATE FORGED AND FRAUDULENT DOCUMENTS SUBMITTED TO THIS COURT AND OTHER INTERESTED PARTIES, RESCIND SIGNATURE OF ELIOT BERNSTEIN IN ESTATE OF SHIRLEY BERNSTEIN AND MORE FILED BY PETITIONER”** (“Petition 3”)
 - www.iviewit.tv/20130626MotionReconsiderOrdinaryCourseShirley.pdf
- iv. That on July 15, 2013, Petitioner filed Docket #40 **“MOTION TO RESPOND TO THE PETITIONS BY THE RESPONDENTS”** (“Petition 4”)
 - www.iviewit.tv/20130714MotionRespondPetitionShirley.pdf
- v. That on July 24, 2013, Petitioner filed Docket #41 **“MOTION TO REMOVE PERSONAL REPRESENTATIVES”** for insurance fraud and more. (“Petition

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- www.iviewit.tv/20130724ShirleyMotionRemovePR.pdf
- vi. That on August 28, 2013, Petitioner filed Docket #TBD **"NOTICE OF MOTION FOR: INTERIM DISTRIBUTION FOR BENEFICIARIES NECESSARY LIVING EXPENSES, FAMILY ALLOWANCE, LEGAL COUNSEL EXPENSES TO BE PAID BY PERSONAL REPRESENTATIVES AND REIMBURSEMENT TO BENEFICIARIES SCHOOL TRUST FUNDS"** ("Petition 6")
- www.iviewit.tv/20130828MotionFamilyAllowanceSHIRLEY.pdf
- vii. That on September 04, 2013, ELIOT filed Docket #TBD, **"NOTICE OF EMERGENCY MOTION TO FREEZE ESTATES OF SIMON BERNSTEIN DUE TO ADMITTED AND ACKNOWLEDGED NOTARY PUBLIC FORGERY, FRAUD AND MORE BY THE LAW FIRM OF TESCHER & SPALLINA, P.A., ROBERT SPALLINA AND DONALD TESCHER ACTING AS ALLEGED PERSONAL REPRESENTATIVES AND THEIR LEGAL ASSISTANT AND NOTARY PUBLIC, KIMBERLY MORAN: MOTION FOR INTERIM DISTRIBUTION DUE TO EXTORTION BY ALLEGED PERSONAL REPRESENTATIVES AND OTHERS; MOTION TO STRIKE THE MOTION OF SPALLINA TO REOPEN THE ESTATE OF SHIRLEY; CONTINUED MOTION FOR REMOVAL OF ALLEGED PERSONAL REPRESENTATIVES AND ALLEGED SUCCESSOR TRUSTEE."** ("Petition 7")
- www.iviewit.tv/20130904MotionFreezeEstatesSHIRLEYDueToAdmittedNotaryFraud.pdf.
- viii. That on September 21, 2013 Petitioner filed in the IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT COURT ILLINOIS EASTERN DIVISION, Case No.. 13-cv-03643, an Answer and Cross Claim titled **"ELIOT IVAN BERNSTEIN ("ELIOT") (1) ANSWER TO JACKSON NATIONAL LIFE INSURANCE COMPANY ("JACKSON") ANSWER AND COUNTER-CLAIM AND THIRD-PARTY COMPLAINT FOR INTERPLEADER AND (2) CROSS CLAIM."**
- www.iviewit.tv/20130921AnswerJacksonSimonEstateHeritage.pdf
- ix. That on October 10, 2013 Petitioner filed in Shirley's estate case Motions titled,
- (I) MOTION TO ORDER ALL DOCUMENTS BOTH CERTIFIED AND**

VERIFIED REGARDING ESTATES OF SHIRLEY AND SIMON (SIMON'S DOCUMENT ARE REQUESTED AS IT RELATES TO SHIRLEY'S ALLEGED CHANGES IN BENEFICIARIES) BE SENT TO ELIOT AND HIS CHILDREN IMMEDIATELY IN PREPARATION FOR THE EVIDENTIARY HEARING ORDERED BY THIS COURT

- (II) MOTION TO FOLLOW UP ON SEPTEMBER 13, 2013 HEARING AND CLARIFY AND SET STRAIGHT THE RECORD**
- (III) MOTION TO COMPEL FOR IMMEDIATE, EMERGENCY RELIEF!!!, INTERIM DISTRIBUTIONS AND FAMILY ALLOWANCE FOR ELIOT, CANDICE & THEIR THREE MINOR CHILDREN DUE TO ADMITTED AND ACKNOWLEDGED FRAUD BY FIDUCIARIES OF THE ESTATE OF SHIRLEY AND ALLEGED CONTINUED EXTORTION**
- (IV) MOTION TO CORRECT AND DETERMINE THE BENEFICIARIES OF THE ESTATE BASED ON PRIOR CLOSING OF THE ESTATE THROUGH FRAUD ON THE COURT BY USING FRAUDULENT DOCUMENTS SIGNED BY SIMON WHILE HE WAS DEAD AND POSITED BY SIMON IN THIS COURT WHEN HE WAS DEAD AS PART OF A LARGER FRAUD ON THE ESTATE BENEFICIARIES**
- (V) MOTION TO ASSIGN NEW PERSONAL REPRESENTATIVES AND ESTATE COUNSEL TO THE ESTATE OF SHIRLEY FOR BREACHES OF FIDUCIARY DUTIES AND TRUST, VIOLATIONS OF PROFESSIONAL ETHICS, VIOLATIONS OF LAW, INCLUDING BUT NOT LIMITED TO ADMITTED AND ACKNOWLEDGED FRAUD, ADMITTED AND ACKNOWLEDGED FRAUD ON THE COURT, ALLEGED FORGERY, INSURANCE FRAUD, REAL PROPERTY FRAUD AND MORE**
- (VI) MOTION FOR GUARDIAN AD LITUM FOR THE CHILDREN OF TED, P. SIMON, IANTONI AND FRIEDSTEIN AND ASSIGN A TRUSTEE AD LITUM FOR TED FOR CONFLICTS OF INTEREST, CONVERSION AND MORE**
- (VII) MOTION TO RECONSIDER AND RESCIND ORDER ISSUED BY THIS COURT "ORDER ON NOTICE OF EMERGENCY MOTION TO FREEZE ASSETS" ON SEPTEMBER 24TH FOR ERRORS AND MORE AND**
- (VIII) MOTION TO RECONSIDER AND RESCIND ORDER ISSUED BY THIS COURT "AGREED ORDER TO REOPEN THE ESTATE**

**AND APPOINT SUCCESSOR PERSONAL REPRESENTATIVES”
ON SEPTEMBER 24TH FOR ERRORS AND MORE**

- www.iviewit.tv/20131010MotionCompelFreezeYouHaveTheRighttoRemainSilent.pdf
- x. That on October 10, 2013 Petitioner filed in Simon’s estate, a **“PETITION TO DETERMINE AND RELEASE TITLE OF EXEMPT PROPERTY.”**
- www.iviewit.tv/20131010PETITIONDETERMINERELEASETITLEOFEXEMPTPROPERTYJOSHUAKIA.pdf
- xi. That on December 08, 2013 Petitioner filed in the IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT COURT ILLINOIS EASTERN DIVISION, Case No.. 13-cv-03643, a motion titled,
“(1) MOTION TO STRIKE PLEADINGS AND REMOVE ADAM SIMON FROM LEGAL REPRESENTATION IN THIS LAWSUIT OTHER THAN AS DEFENDANT FOR FRAUD ON THE COURT AND ABUSE OF PROCESS AND (2) MOTION TO REMOVE ADAM SIMON FROM LEGAL REPRESENTATION ON BEHALF OF ANY PARTIES IN THIS LAWSUIT OTHER THAN AS A DEFENDANT PRO SE or REPRESENTED BY INDEPENDENT NON-CONFLICTED COUNSEL.”
- www.iviewit.tv/20131208MotionStrikePleadingAdamSimonForFraudOnCourt.pdf
- xii. That on December 10, 2013 Petitioner filed in the estate of Shirley, an Objection titled **“BENEFICIARY AND INTERESTED PARTY ELIOT BERNSTEIN OBJECTIONS TO SUCCESSOR PERSONAL REPRESENTATIVE’ S OBJECTIONS TO FIRST SET OF INTERROGATORIES AND FIRST REQUEST FOR PRODUCTION OF DOCUMENTS AND THINGS PROPOUNDED BY ELIOT BERNSTEIN”**
- www.iviewit.tv/20131210PetitionerObjectionToObjectionsToDiscovery.pdf
- xiii. That on December 10, 2013 Petitioner filed in the estate of Shirley, a **“MOTION TO TAX ATTORNEY’ S FEES AND COSTS AND IMPOSE SANCTIONS.”**
- www.iviewit.tv/20131210TaxAttorneyFees.pdf

NOTE: All PETITIONS and MOTIONS listed in items i-xiii above filed in each of the courts listed above are hereby incorporated by reference in entirety, including but not limited to

inclusion of ALL motions, petitions, orders, etc. in each case, as they all relate to the same nexus of events in the estates of both Simon and Shirley.

5. That in the aforesaid Petitions and Motions, relating to Simon and Shirley's estates and trusts, Petitioner prayed to the courts already to Freeze the Estates of both Simon Bernstein ("Simon") and Shirley on various grounds of alleged criminal activity claimed in the Petitions and Motions and sought proper relief in each. Petitioner requests this Court to consider all the allegations and reliefs sought as stated in the prior Petitions and Motions, included now as part of this Motion and reconsider each Motion in each pleading, in light of new and damning **ADMITTED AND ACKNOWLEDGED CRIMINAL ACTS, INCLUDING BUT NOT LIMITED TO, FORGERY¹, NOTARY PUBLIC FRAUD², FRAUD ON THIS COURT³,**

¹ 831.02 Uttering forged instruments

² 117.105 False or fraudulent acknowledgments; penalty.-

³ "Fraud on the Court as a Basis for Dismissal with Prejudice or Default: An Old Remedy Has New Teeth" by John T. Kolinski, The Florida Bar Journal, February, 2004 Volume LXXVIII, No. 2. http://www.floridabar.org/DIVCOM/JN/JNJournal01.nsf/c0d731e03de9828d852574580042ae7a/7ee566f4f7305b2085256e24006a34b6!OpenDocument&Highlight=0,disability*

" Whenever any officer of the court commits fraud during a proceeding in the court, he/she is engaged in "fraud upon the court". In *Bulloch v. United States*, 763 F.2d 1115, 1121 (10th Cir. 1985), the court stated "Fraud upon the court is fraud which is directed to the judicial machinery itself and is not fraud between the parties or fraudulent documents, false statements or perjury. ... It is where the court or a member is corrupted or influenced or influence is attempted or where the judge has not performed his judicial function --- thus where the impartial functions of the court have been directly corrupted."

"Fraud upon the court" has been defined by the 7th Circuit Court of Appeals to "embrace that species of fraud which does, or attempts to, defile the court itself, or is a fraud perpetrated by **officers of the court [ie Attorneys at Law, TSPA, Spallina and Tescher] (emphasis added)** so that the judicial machinery cannot perform in the usual manner its impartial task of adjudging cases that are presented for adjudication." *Kenner v. C.I.R.*, 387 F.3d 689 (1968); 7 Moore's Federal Practice, 2d ed., p. 512, ¶ 60.23. The 7th Circuit further stated "a decision produced by fraud upon the court is not in essence a decision at all, and never becomes final."

FRAUD ON THE BENEFICIARIES AND INTERESTED PARTIES⁴ AND INTERSTATE MAIL AND WIRE FRAUD⁵, COMMITTED BY OFFICERS OF THIS COURT AND OTHERS.

6. That evidence of proven FRAUDULENT NOTARIZATIONS and admitted FORGERY in the estate of Shirley Bernstein (“Shirley”) has been uncovered, wherein signatures were FORGED and FRAUDULENTLY notarized on six separate documents for six separate people, including a document FORGED for Simon **POST MORTEM**.

7. That these Fraudulent and Forged Waivers were used in part to close the estate of Shirley illegally by a DEAD Personal Representative, Simon, who acting while dead through counsel, Donald Tescher (“Tescher”) and Robert Spallina (“Spallina”), who perpetrated this FRAUD ON THE COURT and FRAUD ON THE BENEFICIARIES by using Simon as if alive, in order to close the estate of Shirley, for four months after Simon was deceased, prompting judge Colin when he learned of the Fraud on his court, to state he had enough evidence at a September 13, 2013 hearing to read Miranda rights to Spallina, Tescher, Mark Manceri (“Manceri”) and Theodore Stuart Bernstein (“Theodore”) for these crimes.

8. That the perpetrator of a minute part of the fraud, the tip of the iceberg, the admitted and acknowledged FORGERY and FRAUDULENT NOTARIZATIONS for six Waivers is a legal assistant / notary public employed by the alleged Co Personal Representatives

⁴ “Florida Title XLVI CRIMES, Chapter 817, FRAUDULENT PRACTICES PART I FALSE PRETENSES AND FRAUDS, GENERALLY” and more

⁵ 18 U.S.C. § 1341
18 U.S.C. § 1343 provides:

of the estate of Simon, Attorneys at Law Robert Spallina (“Spallina”) and Donald Tescher (“Tescher”) of the law firm Tescher & Spallina, P.A., a one Kimberly Moran (“Moran”), who has now been arrested by the Palm Beach County Sheriff for Fraudulent Notarization and admitted to FORGERY of the signatures and Fraudulently Notarizing documents.

9. That for the Court to focus on the ADMITTED FELONY crimes of Moran and ignore the plethora of other crimes and perpetrators, would be to “miss the forest from the trees,” as Moran’s crimes, horrible as they may be are only one part of a much larger set of fraudulent documents and criminal activities committed by several other persons, including the Co Personal Representatives, that are part of an effort to change the beneficiaries of the estates, Post Mortem for Simon and Shirley and fraudulently convert the assets through a number of other violations of law. If the Moran documents were a one off accident or mistake or anything of that sort, Petitioner’s argument might appear weaker that this is part of a larger series of frauds but virtually every document used to try and make the changes post mortem to the beneficiaries in both estates are legally deficient, improperly notarized, improperly witnessed, forged and more, many of which Moran was involved in but many that she was not.

10. That evidence now exists that Moran’s statements to two different state investigatory agencies have been perjured, as her sworn statements conflict.

11. That evidence exists, recently uncovered that Spallina, Manceri and Theodore made false statements in both the September 13, 2013 hearing and the October 28, 2013 Evidentiary Hearing to Judge Colin that directly contradicts the factual evidence in the estates. Where there is perjury and false official statements by Officers of the court to the court in

Colin's case, one can presume there is more to the story. For a listing of the perjurious statements and false statements made by Officers of the court to the court in both hearings, see MOTIONS AND PETITIONS FILED BY PETITIONER, number ix of xiii, Motion II, already listed above.

12. That the separate and distinct criminal acts of the Attorneys at Law in further using these fraudulent documents to then perpetrate a Fraud on the Courts in both Simon and Shirley's estates, as Officers of the courts, used to illegally seize Dominion and Control of the estates and personally gain fiduciary roles and interests from such frauds, as defined further herein, which have not yet been criminally prosecuted by the courts or criminal authorities. Complaints for these recently uncovered crimes are being formalized by Petitioner.

13. That once the estate was seized by these frauds, all types of other frauds were then committed with the estate assets, including alleged insurance frauds, theft of assets, Fraud on a Federal Court and violations of virtually all legal fiduciary duties owed to the beneficiaries by these alleged Personal Representatives, all in efforts to loot the estate and defeat the last wishes and desires of both Simon and Shirley before anyone caught on.

14. That Theodore's personal assistant, a one Lindsay Baxley ("Baxley") is now currently under separate investigation for improper notarizations on documents, including but not limited to, the alleged Will of Simon and the alleged Amended & Restated Trust of Simon, done allegedly weeks before Simon's death, documents filed in this Court by again Tescher and Spallina. Both the alleged Will and alleged Amended and Restated Trust documents are improperly notarized and more.

15. That Baxley failed to state if Simon appeared to sign the alleged Will and Amended and Restated Trust of Simon on the date allegedly signed, as neither box confirming that the notary either personally knew Simon on the alleged date it was signed or that he produced identification on that date is checked off, indicating that Simon did not appear at all when the document is alleged signed.

16. That Petitioner also alleges the documents were improperly drafted, witnessed and executed by Spallina, as he drafted the documents, he witnessed and executed the documents, along with the arrested Moran who also witnessed them and where the documents gave Spallina and his partner Tescher financial interests and control of the estate of Simon and for these reasons they also appear legally void, other than as evidence of further fraud.

17. That a Post Mortem Simon achieved all of the following acts in Shirley's estate as if he were alive, posited by Tescher and Spallina in official proceedings perpetrating fraud on the courts and whereby they further failed to notify and concealed from Judge Colin's court that Simon had passed and failing intentionally to elect a successor Trustee or Personal Representative and continued to file documents illegally to close the estate with Simon who was dead as they needed him to appear alive when he then tried to change Shirley's beneficiaries once the estate was closed and again it is important to note that these are separate and distinct criminal acts from those of Moran;

- i. On 24-Oct-2012, Simon while deceased and acting as Personal Representative filed an AFFIDAVIT/STATEMENT RE: CREDITORS, filed by Tescher and Spallina as if Simon were alive and submitting as Affidavit on this date. Petitioner alleges that this document is FORGED and FRAUDULENT.
- ii. On 24-Oct-2012, Simon while deceased and acting as Personal Representative filed a PETITION FOR DISCHARGE, filed by Tescher and Spallina as if Simon

were alive and submitting the Petition on this date and where almost all of the alleged statements made by Simon under penalty of perjury are false on the date the document is alleged signed on April 09, 2012. Petitioner alleges this document is forged and fraudulent.

- iii. On 24-Oct-2012, Simon while deceased and acting as Personal Representative filed a WAIVER OF ACCOUNTING AND PORTIONS OF PETITION FOR DISCHARGE; WAIVER OF SERVICE OF PETITION FOR DISCHARGE; AND RECEIPT OF BENEFICIARY AND CONSENT TO DISCHARGE. It is alleged that this is a FORGED and fraudulent document created Post Mortem for Simon and was never filed and docketed with Judge Colin's court, as it was not notarized per his rules and rejected, it too was signed with the alleged Petition in ii above. in April 2012. Simon did not file this with the Judge Colin's court until he was deceased, yet still acting as Personal Representative.
- iv. On 24-Oct-2012, Simon while deceased and acting as Personal Representative filed a NON-TAX CERT /RECEIPT/AFFIDAVIT filed by Tescher and Spallina as if Simon were alive and signing on this date.
- v. On 24-Oct-2012, Simon while deceased and acting as Personal Representative filed a PROBATE CHECKLIST, filed by Tescher and Spallina as if Simon were alive. This document is dated February 15, 2012, yet it is docketed by the Court on October 24, 2012 and it is signed by what appears to be Spallina's signature, in an unknown capacity.
- vi. On 19-Nov-2012, Simon while deceased and still acting as Personal Representative filed an alleged replacement WAIVER OF ACCOUNTING AND PORTIONS OF PETITION FOR DISCHARGE; WAIVER OF SERVICE OF PETITION FOR DISCHARGE; AND RECEIPT OF BENEFICIARY AND CONSENT TO DISCHARGE that was amazingly notarized in November 2013 for Simon while he was still dead. This new Waiver notarized by a dead man in the present has now has been admitted to be a WHOLLY FORGED AND FRAUDULENTLY NOTARIZED document created from scratch by Moran. Simon filed five other WHOLLY FORGED AND FRAUDULENTLY NOTARIZED WAIVERS for his five children on this date while dead, ALL crafted by Moran and filed by Tescher and Spallina, for Simon as Personal Representative, as if he were alive.
- vii. On 19-Nov-2012, Simon while deceased and acting as Personal Representative filed a PETITION FOR DISCHARGE, filed by Tescher and Spallina with the other FORGED and FRAUDULENTLY NOTARIZED documents on that date and there are many problems with the voracity of the statements made by Simon in the document, as virtually every statement under penalty of perjury is untrue. Including the fact that Simon, while dead, claims that he has all the Waivers for the Beneficiaries and Interested Parties, yet his daughter Jill Iantoni ("Iantoni") did not sign and return a Waiver until after Simon was dead in October 2013, so how could Simon claim he had all the Waivers when he allegedly signed the document in April of 2012 or when it was filed by him while he was dead in

November of 2012??? At no time while living did Simon have all the Waivers and this document appears wholly forged and fraudulent or Simon was committing major perjuries in his sworn, under penalty of perjury, claims in the estate documents of his beloved wife's estate.

- viii. On 03-Jan-2013, Simon while deceased and acting as Personal Representative filed a FINAL DISPOSITION SHEET, filed by Tescher and Spallina as if Simon were alive and acting while dead as Personal Representative.
- ix. On 03-Jan-2013, Simon while deceased and acting as Personal Representative filed an ORDER OF DISCHARGE, filed by Tescher and Spallina as if Simon were alive and acting, while dead, as Personal Representative.

18. That due to these crimes, Judge Colin reopened the estate of Shirley and it remains so today. The relation of Simon and Shirley's probate cases is obvious and there are similar allegations of Fraud running through both estates, using many of the same documents, which should cause this Court to take Judicial Notice of these crimes and act on its own motions to protect the beneficiaries and estate of Simon from fraud and more. However, the relation should not cause the cases to be merged yet as it is alleged that separate and distinct crimes have occurred in each court, two separate frauds on two separate courts and where all court officers, judges and counsel in each case, may now become witnesses in various actions stemming from these frauds, it would be wise to keep them separate until all of Petitioner's prior Motion's and each and every particular claim and relief sought for thereunder be first heard by the separate courts.

19. That further, alleged attempts were made to change the beneficiaries of the estate of Shirley by Simon, using another series of documents that are improperly notarized, witnessed and executed, including the Will of Simon and the Amended and Restated Trust of Simon, again these attempts appear to have been made Post Mortem but this time in Simon's estate and again,

Moran and Spallina who are involved in the FORGERY and FRAUD in Shirley's estate are found acting as witnesses on these documents in Simon's estate notarized now by Baxley.

20. That the Will and Amended and Restated Trust documents have been challenged in several prior Petitions and Motions filed by Petitioner, as listed herein, that Petitioner is awaiting this Court and Judge Colin's court for specific rulings on each Motion and all of its sub-motions, including but not limited to,

- i. MOTION TO FREEZE ESTATE ASSETS,
- ii. MOTION TO APPOINT NEW PERSONAL REPRESENTATIVES,
- iii. MOTION TO INVESTIGATE FORGED AND FRAUDULENT DOCUMENTS SUBMITTED TO THIS COURT AND OTHER INTERESTED PARTIES,
- iv. MOTION TO RESCIND SIGNATURE OF ELIOT BERNSTEIN IN ESTATE OF SHIRLEY BERNSTEIN,
- v. MOTION TO RESPOND TO THE PETITIONS BY THE RESPONDENTS,
- vi. SECOND MOTION TO REMOVE PERSONAL REPRESENTATIVES,
- vii. MOTION FOR INTERIM DISTRIBUTION FOR BENEFICIARIES NECESSARY LIVING EXPENSES,
- viii. MOTION FOR FAMILY ALLOWANCE,
- ix. MOTION FOR LEGAL COUNSEL EXPENSES TO BE PAID BY PERSONAL REPRESENTATIVES,
- x. MOTION FOR REIMBURSEMENT TO BENEFICIARIES SCHOOL TRUST FUNDS,
- xi. SECOND MOTION TO FREEZE ESTATES OF SIMON BERNSTEIN DUE TO ADMITTED AND ACKNOWLEDGED NOTARY PUBLIC FORGERY, FRAUD AND MORE BY THE LAW FIRM OF TESCHER & SPALLINA, P.A., ROBERT SPALLINA AND DONALD TESCHER ACTING AS ALLEGED PERSONAL REPRESENTATIVES AND THEIR LEGAL ASSISTANT AND NOTARY PUBLIC, KIMBERLY MORAN,
- xii. MOTION FOR INTERIM DISTRIBUTION DUE TO EXTORTION BY ALLEGED PERSONAL REPRESENTATIVES AND OTHERS,
- xiii. MOTION TO STRIKE THE MOTION OF SPALLINA TO REOPEN THE ESTATE OF SHIRLEY;
- xiv. CONTINUED MOTION FOR REMOVAL OF ALLEGED PERSONAL REPRESENTATIVES AND ALLEGED SUCCESSOR TRUSTEE."
- xv. MOTION TO ORDER ALL DOCUMENTS BOTH CERTIFIED AND VERIFIED REGARDING ESTATES OF SHIRLEY AND SIMON (SIMON'S DOCUMENT ARE REQUESTED AS IT RELATES TO SHIRLEY'S

ALLEGED CHANGES IN BENEFICIARIES) BE SENT TO ELIOT AND HIS CHILDREN IMMEDIATELY IN PREPARATION FOR THE EVIDENTIARY HEARING ORDERED BY THIS COURT

- xvi. MOTION TO FOLLOW UP ON SEPTEMBER 13, 2013 HEARING AND CLARIFY AND SET STRAIGHT THE RECORD
- xvii. MOTION TO COMPEL FOR IMMEDIATE, EMERGENCY RELIEF!!!, INTERIM DISTRIBUTIONS AND FAMILY ALLOWANCE FOR ELIOT, CANDICE & THEIR THREE MINOR CHILDREN DUE TO ADMITTED AND ACKNOWLEDGED FRAUD BY FIDUCIARIES OF THE ESTATE OF SHIRLEY AND ALLEGED CONTINUED EXTORTION
- xviii. MOTION TO CORRECT AND DETERMINE THE BENEFICIARIES OF THE ESTATE BASED ON PRIOR CLOSING OF THE ESTATE THROUGH FRAUD ON THE COURT BY USING FRAUDULENT DOCUMENTS SIGNED BY SIMON WHILE HE WAS DEAD AND POSITED BY SIMON IN THIS COURT WHEN HE WAS DEAD AS PART OF A LARGER FRAUD ON THE ESTATE BENEFICIARIES
- xix. MOTION TO ASSIGN NEW PERSONAL REPRESENTATIVES AND ESTATE COUNSEL TO THE ESTATE OF SHIRLEY FOR BREACHES OF FIDUCIARY DUTIES AND TRUST, VIOLATIONS OF PROFESSIONAL ETHICS, VIOLATIONS OF LAW, INCLUDING BUT NOT LIMITED TO ADMITTED AND ACKNOWLEDGED FRAUD, ADMITTED AND ACKNOWLEDGED FRAUD ON THE COURT, ALLEGED FORGERY, INSURANCE FRAUD, REAL PROPERTY FRAUD AND MORE
- xx. MOTION FOR GUARDIAN AD LITUM FOR THE CHILDREN OF TED, P. SIMON, IANTONI AND FRIEDSTEIN AND ASSIGN A TRUSTEE AD LITUM FOR TED FOR CONFLICTS OF INTEREST, CONVERSION AND MORE
- xxi. MOTION TO RECONSIDER AND RESCIND ORDER ISSUED BY THIS COURT "ORDER ON NOTICE OF EMERGENCY MOTION TO FREEZE ASSETS" ON SEPTEMBER 24TH FOR ERRORS AND MORE AND
- xxii. MOTION TO RECONSIDER AND RESCIND ORDER ISSUED BY THIS COURT "AGREED ORDER TO REOPEN THE ESTATE AND APPOINT SUCCESSOR PERSONAL REPRESENTATIVES" ON SEPTEMBER 24TH FOR ERRORS AND MORE

21. That within each of the Motions and Petitions filed already with the courts, are clearly articulated reasons and evidence for seeking the Court's rulings and reliefs on each and these Motions and Petitions should all be heard, along with any other pleadings in the order they were filed upon the court, with this instant proceeding being the last in the list, not the first.

22. That instead of ruling on Petitioner's Motions and reliefs requested, both courts have failed to rule on each motion timely and deprived Petitioner due process rights and where Petitioner has challenged and contested properly the Wills and Trusts of Simon and the actions and inactions of the fiduciaries, the courts have again ignored these as if Petitioner has no rights. Despite clear and convincing evidence of FRAUD AND FORGERY in the courts by the Personal Representatives and Attorneys at Law involved, the courts have wholly ignored the injured victims and in fact allow the perpetrators of the frauds to continue to act as Officers of the courts, with fiduciary roles in the estate and without reporting them to the proper authorities as demanded by judicial cannons and law, quite amazingly. Further, that the Court is allowing and ruling on pleadings submitted by Attorneys at Law and Personal Representatives who have now adverse interests and conflicts of interest with Petitioner and have violated law and committed fraud on the court, even allowing in both courts pleadings by Manceri who has not been admitted to the courts on behalf of the parties he alleges to be representing.

23. That these delays by the courts are having severe impact on Petitioner and his family, including three minor children and where Petitioner and his children's delay in their inheritance caused by these torturous acts by the fiduciaries of the estates must cease and all prior Motions and Petitions of Petitioner heard first and orderly from the time of filing to this present Motion.

24. Further, evidence of fraud exists in the documents in Simon's estate, as the notarizations on both the Will and Amended and Restated Trust are flawed, the witnessing on both appears legally flawed as Spallina drafted the documents, witnessed them and they gave

him and his partner Tescher financial and fiduciary gains in the estate. Petitioner alleges these documents were also crafted POST MORTEM to allow Tescher and Spallina et al. to illegally seize Dominion and Control of the estates of both Simon and Shirley after their deaths and then once the fraud on the court with the documents was completed and entirely new series of criminal acts began to illegally loot the estates in defiance of the last wishes and desires and estate plans of Simon and Shirley.

25. That learned in the October 28, 2013 Evidentiary Hearing before Judge Colin in Shirley's estate was that attempts were then made to use an alleged Power of Appointment in Simon's alleged and improper Will and Amended & Restated Trust to attempt to make changes in both Shirley and his beneficiaries from their 2008 estate plans they did together and while both were alive.

26. That even if the Will and Amended and Restated Trust documents from Simon's estate survive in any part, it was learned that Simon could not add beneficiaries to the designated beneficiaries of Shirley's 2008 Trust or Will beneficiaries, as the Power of Appointment was limited to her designated beneficiaries only, which wholly excluded Theodore and Pamela Simon ("P. Simon") and their lineal descendants. Allegedly, Simon tried to include them back into Shirley's estate, although no records of such changes exist in Shirley's estate and the alleged new beneficiaries were never noticed that they were beneficiaries or any laws followed to execute such changes. Perhaps that would be due to the fact that there was no Personal Representative to make changes at the time the alleged changes were made, allegedly after the estate of Shirley was ILLEGALLY closed, as Simon was dead at the time he closed the estate

and the changes are alleged to have also occurred post mortem if ever.

27. That despite how changes to the beneficiaries allegedly occurred and if it was legally possible or executed, the beneficiaries of Shirley's trusts and estate have now come into question for this reason and others and Petitioner claims the same questions will have to be answered in Simon's estate as to the legality of these documents and their effect on the ultimate beneficiaries, which now must be heard prior to any final distributions or discharge of the estates. Petitioner has already sought the courts to determine the beneficiaries under law in his prior Motions and Petitions exhibited herein. Petitioner has previously in his prior Motions sought the Court's determination of the true and proper beneficiaries from these alleged illegal acts and does so again challenging the Will and Amended and Restated Trust and other documents and their legality again herein.

28. That the improper Will and Amended and Restated Trust of Simon were alleged executed only weeks before Simon's death and allegedly signed while Simon was under massive physical and emotional duress, as fully defined in the May 2013 Petition to this Court, due to extreme pressure put upon him to attempt to force him to change his estate plan by two of his five children, Theodore and P. Simon over their being disinherited from both Shirley and Simon's estate.

29. That Spallina and Tescher are both close personal and business associates of Theodore, where Theodore is believed to have enlisted their aid in changing the beneficiaries Post Mortem of Simon and Shirley's estate documents, as he was enraged since learning that both he and his lineal descendants were wholly disinherited from the estates of both Simon and

Shirley and that Simon was not and had not made changes to beneficiaries since considering so doing in the May 2012 meeting.

30. That P. Simon, Theodore's sister, was also wholly disinherited by both Simon and Shirley for many years prior and she too was enraged with Simon and Shirley over learning that she and her lineal descendants were disinherited from both of their estates. P. Simon and her lawyer husband, who was given a job out of college in Simon's companies where he has worked ever since, threatened to sue Simon for P. Simon's inheritance while Simon was alive and this according to eye witnesses devastated Simon as one of the saddest days of his life when he received the correspondence, when Simon had already given them the moon in companies and intellectual properties he developed and more over the years, which had allowed them to take their inheritances while living and both Theodore and P. Simon both led elaborate lifestyles from these living transfers.

31. That Theodore and P. Simon led large lives while Simon and Shirley were alive through businesses they inherited and partially why they were excluded from the estates, whereas, Petitioner, Iantoni and Friedstein did not inherit businesses worth millions of dollars when their parents were alive and led much lower style lifestyles, having worked for what they got independent of their parents.

32. That effort was made to resolve problems between Simon, Theodore and P. Simon in May 2012, when Simon called a meeting of all five of his children to discuss the possibility of including Theodore and P. Simon's adult children only back into his estate, still leaving Theodore and P. Simon with nothing. Petitioner is the one who prompted Simon to try to

work things out in a series of April 2012 letters with Theodore, exhibited within the May 2012 Petition to this Court as Exhibit 1, in efforts to have Theodore stop the boycott of Simon with seven of the ten grandchildren, over the inheritance and his relation with his companion, so as not to kill his father who had many heart problems and Petitioner feared this pressure could and was killing him.

33. That the deal was that if Simon would do this estate beneficiary changes, Theodore, P. Simon, Iantoni and Friedstein would allow their children to see Simon again, as a boycott had begun immediately after Shirley died against Simon, whereby four of his five children had seven of their ten grandchildren used as pawns to try and extort Simon to make these changes in the estates or he would never see them again. Petitioner and his children refused to participate in the boycott. That the whole deal was predicated first on if Petitioner, Iantoni and Friedstein were willing to consider giving up their interests in the estates and dividing it up between the grandchildren, including Theodore and Pamela's children, as Petitioner, Iantoni and Friedstein were the ONLY beneficiaries of the estates, in an exchange for releasing Simon from this maddening pain and suffering they were causing.

34. That at the May 2012 meeting Simon asked Petitioner and his two sisters, Iantoni and Lisa Friedstein ("Friedstein") if they would be willing to give up their shares in the estate to all the grandchildren in order to stop the disputes and pain and suffering of their father and they agreed that they would do anything to stop the pain and suffering caused Simon. However, this was agreed to in principal only, it was agreed at that time that Simon would consider making the changes and Spallina who was at the meeting stated he would begin getting

information to the three beneficiaries, Petitioner, Iantoni and Friedstein, regarding their inheritances and what interests they would be waiving rights to if the deal went through.

35. That Spallina failed to send Petitioner, Iantoni and Friedstein any of the documents they were owed legally as beneficiaries for the prior SEVENTEEN months, which already was in violation of probate rules and statutes, as Petitioner and his two sisters had received nothing from Spallina regarding their beneficial interests since the passing of Shirley in December 2010 to the May 2012 and Petitioner claims these were intentionally suppressed and denied, even though Simon had thought everyone was notified by Spallina and Tescher of their interests, he was shocked they had not at the May 2012 meeting and Spallina assured Petitioner they were on the way.

36. That Spallina then sent only one document, one page, to each child, a waiver, and never sent any of the information regarding their inheritances and information regarding what they would be waiving, necessary to even sign the Waiver prior to Simon's passing. Petitioner signed his Waiver anyway to cause no delay that would harm his father and yet wrote upon the original and in an email sent with it that he was only signing the Waiver prior to knowing what he was waiving to relieve Simon of duress, where Simon had major heart problems. However, Petitioner made it clear to Spallina and Tescher that he was waiting to receive the information from Spallina regarding his interests and accountings, etc. in order to make any of the statements in the Waiver true, as he signed blindly to save his father and none of the statements in the Waiver were true at the time he signed, as for example he had never seen his interest in the estate, as Spallina had not sent him the information to review and so how

could he state that he had seen his interest and waived rights regarding his interests when Spallina had suppressed and denied the information with scienter to the three beneficiaries.

37. That none of this matters in the end other than as evidence of Forgery and Fraud, as the documents Petitioner, his siblings and allegedly Simon signed were never filed and docketed with the court and the Waivers on file have been proven FORGED and FRAUDULENTLY NOTARIZED and therefore while it looks like they were signed by Petitioner, Simon and Petitioner's siblings, they are not their signatures or documents, they are wholly Moran's creations as she has admitted forging them from scratch to the Palm Beach County Sheriff.

38. That for five months prior to Simon's death, from the time of the meeting in May 2012 to September 2012 Petitioner received nothing else regarding his inheritance, none of the documents Spallina promised to send, no accountings, no copies of the will or trusts, all owed to him as a beneficiary and necessary to make the waiver claims true, all owed to him since shortly after Shirley's death two years earlier and as the disputes between Simon and his other four children had only intensified since the May 2012 meeting in violation of what had been agreed to in principle in the May 2012 meeting, Petitioner assumed after speaking to Simon that he had not and was not planning on making any changes to the estate beneficiaries.

39. That in fact, Simon, only weeks before his death severed business relations with Theodore entirely, packed some of his belongings and went into a business he began funding at a new office, away from Theodore with his secretaries husband, Scott Banks ("Banks"). Simon recruited Petitioner and his wife to join the new venture and get it setup and running and when

Petitioner asked Simon why he was doing this so suddenly, he stated he was **afraid** of Theodore and that Theodore might have stolen monies from a one, William Stansbury (“Stansbury”) and him and that Theodore was hostile to him over the lawsuit Stansbury filed claiming that Theodore has stolen approximately two million dollars of monies owed Stansbury and where it was learned that Simon was not joining Theodore’s defense of the Stansbury lawsuit and may have been in fact considering joining Stansbury or filing an independent suit against Theodore for monies he believed had been stolen by Theodore from him, similar to the claims of Stansbury. Simon was also worried over the inheritance matters, as Theodore continued having massive fights according to witnesses with Simon and Spallina was in attendance at certain of these blowouts and Simon was refusing to make any changes. Eyewitness accounts in the weeks leading up to his death of the intensity of these disputes that forced Simon out of his offices, reveal that Theodore was scaring Simon and that Spallina was also at some of these meetings trying to coerce Simon to make changes to his estate plan that he and Shirley had done in 2008. These disputes intensified weeks before Simon’s death and where Simon during that time began experiencing a host of strange medical problems that were making him delusional and having massive headaches leading to sudden and unexpected brain scans and more.

40. That when Simon died in September 2013, Spallina had still sent Petitioner NO information or documents regarding his inheritance and what interests he would be waiving his rights in and now TWENTY ONE months after Shirley’s death Petitioner still had received NOTHING but the Waiver, no notices or accountings or anything required by Probate Law and Statutes due beneficiaries. Spallina has also now not sent any documents legally owed to the

alleged new beneficiaries either and no new accountings, etc. required by law were sent out or docketed with the courts.

41. That Petitioner still has not received many of the records, including the original trust of Simon, accountings and more that are legally due to him and/or his children that he is Guardian for in the estates of Simon and Shirley and virtually the entire probate rules and statutes have been violated by Tescher and Spallina as more fully defined in Petitioner's May 2013 filing and others filings docketed with this Court and exhibited already herein.

42. That after Simon died, it is alleged that through a set of fraudulent documents and forged signatures, in the estates of both Simon and Shirley, efforts were made to change the beneficiaries of Simon and Shirley to Theodore and P. Simon's likings aided and abetted by Theodore's close personal friends and business associates Spallina and Tescher.

43. That Judge Colin then in November of 2012, after Simon's death, refused to file or docket the Waivers of Petitioner, his siblings and his deceased father as they were not notarized per his rules.

44. That the Waivers sent back to the court were not the ones the court had sent back as they were admitted FORGED and FRAUDULENTLY NOTARIZED, recreated 100% by Moran and these bogus documents and others were used to close the estate of Shirley by the dead personal representative Simon.

45. That in a September 13, 2013 hearing before Judge Colin, it was learned that not only had Moran FORGED and FRAUDULENTLY NOTARIZED documents but that Attorneys at Law, Tescher and Spallina had further presented a series of documents to close the estate

from September 2012 through January 2013, using Simon as the Personal Representative while dead to close the estate, acting as Personal Representative while dead. Spallina and Tescher intentionally failed to notify the Court that Simon had died and failed to elect successor Trustees or a Personal Representatives, so in essence the estate was closed with a dead Personal Representative and no successors were chosen and thus why the estate was not represented in the September 13, 2013 hearing by any party when it was reopened by Judge Colin.

46. That upon learning of the Fraud on the Court and the Fraud on the Beneficiaries caused by these new criminal acts, Judge Colin stated that he had enough at that point to read Tescher, Spallina, Theodore and Manceri their Miranda's, for these new and riveting crimes in addition to those already committed by Moran.

47. That this Court should be fully apprised already by Judge Colin of the illegal nefarious acts in his Court relating to Shirley's estate, as these matters are joined at the hip since certain of the documents used to effectuate these frauds were used symbiotically in both estates to attempt to change the beneficiaries for Simon and Shirley POST MORTEM.

48. That Petitioner filed the following motions in Shirley's estate regarding the September 13, 2013 hearing, which can be found in that Court record or online @ www.iviewit.tv/20131010MotionCompelFreezeYouHaveTheRighttoRemainSilent.pdf , fully incorporated by reference herein and titled,

“(I) MOTION TO ORDER ALL DOCUMENTS BOTH CERTIFIED AND VERIFIED REGARDING ESTATES OF SHIRLEY AND SIMON (SIMON'S DOCUMENT ARE REQUESTED AS IT RELATES TO SHIRLEY'S ALLEGED CHANGES IN BENEFICIARIES) BE SENT TO ELIOT AND HIS CHILDREN IMMEDIATELY IN PREPARATION FOR THE EVIDENTIARY HEARING ORDERED BY THIS COURT

(II).MOTION TO FOLLOW UP ON SEPTEMBER 13, 2013 HEARING AND CLARIFY AND SET STRAIGHT THE RECORD

(III) MOTION TO COMPEL FOR IMMEDIATE, EMERGENCY RELIEF!!!, INTERIM DISTRIBUTIONS AND FAMILY ALLOWANCE FOR ELIOT, CANDICE & THEIR THREE MINOR CHILDREN DUE TO ADMITTED AND ACKNOWLEDGED FRAUD BY FIDUCIARIES OF THE ESTATE OF SHIRLEY AND ALLEGED CONTINUED EXTORTION

(IV) MOTION TO CORRECT AND DETERMINE THE BENEFICIARIES OF THE ESTATE BASED ON PRIOR CLOSING OF THE ESTATE THROUGH FRAUD ON THE COURT BY USING FRAUDULENT DOCUMENTS SIGNED BY SIMON WHILE HE WAS DEAD AND POSITED BY SIMON IN THIS COURT WHEN HE WAS DEAD AS PART OF A LARGER FRAUD ON THE ESTATE BENEFICIARIES

(V) MOTION TO ASSIGN NEW PERSONAL REPRESENTATIVES AND ESTATE COUNSEL TO THE ESTATE OF SHIRLEY FOR BREACHES OF FIDUCIARY DUTIES AND TRUST, VIOLATIONS OF PROFESSIONAL ETHICS, VIOLATIONS OF LAW, INCLUDING BUT NOT LIMITED TO ADMITTED AND ACKNOWLEDGED FRAUD, ADMITTED AND ACKNOWLEDGED FRAUD ON THE COURT, ALLEGED FORGERY, INSURANCE FRAUD, REAL PROPERTY FRAUD AND MORE

(VI) MOTION FOR GUARDIAN AD LITUM FOR THE CHILDREN OF TED, P. SIMON, IANTONI AND FRIEDSTEIN AND ASSIGN A TRUSTEE AD LITUM FOR TED FOR CONFLICTS OF INTEREST, CONVERSION AND MORE

(VII) MOTION TO RECONSIDER AND RESCIND ORDER ISSUED BY THIS COURT "ORDER ON NOTICE OF EMERGENCY MOTION TO FREEZE ASSETS" ON SEPTEMBER 24TH FOR ERRORS AND MORE AND

(VIII) MOTION TO RECONSIDER AND RESCIND ORDER ISSUED BY THIS COURT "AGREED ORDER TO REOPEN THE ESTATE AND APPOINT SUCCESSOR PERSONAL REPRESENTATIVES" ON SEPTEMBER 24TH FOR ERRORS AND MORE"

49. That further filings were made with Judge Colin's court recently and should also be made part of this record, those filings include,

- i. www.iviewit.tv/20131210PetitionerObjectionToObjectionsToDiscovery.pdf
- ii. www.iviewit.tv/20131210TaxAttorneyFees.pdf

50. That new alleged crimes were discovered in relation to an insurance policy of Simon's that are now before the UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT COURT ILLINOIS EASTERN DIVISION, Case No. 13-cv-03643. This case finds Spallina filing a fraudulent insurance claim, acting as the Trustee of a "lost" trust that Spallina claimed he never possessed or even saw a copy of, yet filed the claim as the Trustee of the "lost" "Simon Bernstein Irrevocable Insurance Trust dtd. 6/21/95" acting in false fiduciary capacity as such. The insurance claim was denied by the carrier and directive for a probate court order was sought by the carrier to prove the beneficiaries.

51. That after the claim was denied and the carrier asked for a probate court order to determine if the beneficiary scheme for a "lost" trust was acceptable and instead of seeking this Court's order to determine what to do in a "lost" beneficiary scheme, which under Florida Law is believed to be paid to the insured's estate, a cleverly designed Breach of Contract suit was filed by Theodore, who filed the claim as Trustee of the "lost" "Simon Bernstein Irrevocable Insurance Trust dtd. 6/21/95" and how Spallina in the process between filing the fraudulent claim and filing the fraudulent breach of contract lawsuit was somehow replaced by Theodore as Trustee of the "lost" trust remains a mystery. The alleged insurance fraud and abuse of process claims is further evidenced in the recent court filings in that case, Case No. 13-cv-03643, IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT COURT ILLINOIS EASTERN DIVISION, (SIMON BERNSTEIN IRREVOCABLE INSURANCE TRUST DTD 6/21/95, Plaintiff, v. HERITAGE UNION LIFE INSURANCE COMPANY, Defendant) before the Honorable Amy J. St. Eve. Recent filings by Petitioner can be found

online @ the following URL's, fully incorporated by reference herein, along with all pleadings, orders, etc. in Case No. 13-cv-03643;

- i. www.iviewit.tv/20130921AnswerJacksonSimonEstateHeritage.pdf
- ii. www.iviewit.tv/20131208MotionStrikePleadingAdamSimonForFraudOnCourt.pdf

52. That with that said, how does all this relate to a Kia Soul worth approximately \$15,000.00 at the heart of this instant Motion? As the alleged Co Personal Representatives claim through their non-admitted counsel Manceri, "As can be seen, Article I of the Will leaves the Decedent's tangible personal property (i.e. including the subject KIA automobile) equally to his five (5) children identified in the Will." This statement is the basis of their claim to the automobile that the Kia Soul is part of Simon's estate. First off however, the Will they refer to is improperly notarized and challenged already. Petitioner has formally challenged the Will for defects, fraud, duress and more. Therefore, Petitioner gives this alleged Will allegedly signed by Simon weeks before his death, no legal validity but that is still not germane to the question of if the Kia Soul was a gift and therefore exempt property or if it was part of Simon's estate.

53. That further the Co Personal Representatives state through their non-admitted counsel Manceri, "The Decedent's grandson, Joshua Bernstein, is not included among the class of person(s) entitled to receive exempt property as a share to the Decedent's Estate. See Florida Statute 732.402(1)." Yet, the Co Personal Representatives are cognizant, along with the four other children of Simon that the automobile was a gift to Joshua from his grandfather Simon, as a 15th Birthday Gift and each of the siblings other than P. Simon sent Joshua congratulatory emails on his getting the vehicle as a gift. SEE EXHIBIT 1 attached herein. In fact, Theodore

wrote,

From: Ted Bernstein [mailto:TBernstein@lifeinsuranceconcepts.com]
Sent: Wednesday, August 29, 2012 8:28 PM
To: iviewit@iviewit.tv
Subject: RE: Josh getting his first wheels

Go Josh!! He must have gotten really, really, really good grades last year or have some incriminating pictures on someone to get a car at 15 :-! ;-)

Ted Bernstein
561-988-8984
tbernstein@lifeinsuranceconcepts.com
www.lifeinsuranceconcepts.com
www.EquityTermInsurance.com

----- Original message -----

Subject: Josh getting his first wheels
From: Eliot Ivan Bernstein <iviewit@iviewit.tv>
To: "joshbernstein9@gmail.com" <joshbernstein9@gmail.com>, 'Joshua Ennio Zander Bernstein' <whitebengaltiger1@gmail.com>, "Candice Bernstein ~ Business Development Manager @ Rock~It Cargo USA LLC" <candyb@rockitcargo.com>, 'Jill Iantoni' <jilliantoni@gmail.com>, 'lisa friedstein' <lisa@friedsteins.com>, Ted Bernstein <TBernstein@lifeinsuranceconcepts.com>, Deborah Bernstein <mrsflorida02@hotmail.com>
CC: Josh getting his first wheels

54. That in a recent letter from Theodore, sent December 06, 2013, he states delusionally, "With respect to the KIA, I am sorry but I do not have a great deal of knowledge about this matter as it falls outside my responsibility. Having said that, I do know that it is owned by dad's estate and under his will would pass to the five of us unless some special arrangement is made to title it to Josh."

55. That the December 06, 2013 letter is filled with other insane statements and threats, including, "You pursued and caused to be arrested a paralegal that our parents loved and without ill-intent, only tried to help a situation along because of dad's death, and it now appears

that you are in the process of trying that again with my assistant who has done nothing wrong. You continue to drag Don and Robert through the mud, both of whom our parents were very fond of and who did very good work for our family, notwithstanding your relentless and slanderous accusations... **We** [refers to Theodore, Tescher and Spallina] will not continue to ignore these threats and the damage you are inflicting." The adverse interest is apparent in this statement, as it is apparent that Theodore is mad that Moran has been arrested for forging his name, Petitioner's name and his deceased father's name. Theodore bizarrely is not at Moran for the crimes against his family but instead he is angry at Petitioner, his own brother, for exposing the criminals who have disgraced their parents' last wishes and desires and committed a host of crimes in the estates to disable their last wishes. Further, he is mad at Petitioner for exposing the crimes of Tescher and Spallina his close personal friends and strange bedfellows who have violated virtually every section of the Probate Laws, breached fiduciary duties and trust beyond repair, committed criminal acts in closing the estate of his mother and more. To sum it up in Theodore's own words in a letter he sent to Petitioner and his father,

From: Ted Bernstein [mailto:TBernstein@lifeinsuranceconcepts.com]
Sent: Saturday, April 7, 2012 11:45 AM
To: Eliot Ivan Bernstein
Subject: RE: passover

Eliot,
Although I normally do not like to have these discussions via email, it does seem important to say this in a way that is documented in the record. None of this is directed at any person, in particular, and can be shared with anyone you feel is necessary. What follows is simply intended to be a roadmap.

My primary family is Deborah and our four children. They come first, before anything and anyone. **The family I was born into is no longer, that is just a fact,** it is not a matter of opinion, it just is...It is likely that we will still have a relationship however, because we are related

and we will be brought together at different times, to engage in the things that people who are related engage in (weddings, bar mitzvahs, graduations, illness and death).

That the email was in response to Petitioner trying to have Theodore invite his father over for Passover, the first Passover without his beloved wife Shirley and end the boycott of Simon.

56. That Spallina, Theodore, Iantoni and Friedstein were all cognizant that the vehicle was a gift from Simon to his grandson Joshua on the last day Joshua saw his grandfather alive, as only a few days later Simon passed away. That Theodore, Iantoni and Friedstein responded with congratulatory messages when sent the pictures in Exhibit 1, yet they participated in filing this vexatious pleading by Manceri on their behalf with full knowledge that it was fraudulently trying to convert exempt property to themselves.

57. That immediately after Simon's death, the Personal Representatives were advised that the car was a gift and were aware of the emails above but yet they put forth this fraud on the court with this baseless pleading to attempt to further convert exempt properties to themselves that they knew was a gift with the aid of Spallina, at the expense of a 15 year old boy, now 16, who has never got to drive the car sitting on the street he must pass every day to school and think of his grandfather.

58. That Joshua has been unable to drive the Kia for over a year because the Personal Representatives refuse to release the title to the car and give it to him so he can insure it, etc. Initially, Spallina and Theodore said that when they received the title from the state of Florida they would turn the vehicle over but once they realized that Petitioner was pursuing them they refused and now make these felonious claims to this Court in efforts to fraudulently convey the property to the wrong parties. In the Co Personal Representatives care of the Kia

for the estate for over a year now, as they claim it is an estate asset, they have failed to insure or register the vehicle and have left it at Petitioner's house on the street, exposing the entire estate to risk if it were involved in an accident, etc. They also failed to list it, along with many other items on the inventory of Simon as an asset.

59. That this torture of Petitioner's son is designed to extract additional pain and suffering on Petitioner and extort him to drop his state and federal complaints against them, for having Moran arrested, knowing Petitioner has filed other actions against Baxley and the Co Personal Representatives and Theodore et al. Knowing that Judge Colin has enough evidence of fraud to read them (Tescher, Spallina, Manceri and Theodore) their Miranda's they now have adverse interests to Petitioner and his family and should have therefore disqualified themselves of any fiduciary roles already. Tescher and Spallina also know that under Florida law they are directly responsible for the acts of their employee legal assistant/notary public Moran and are also liable for their fraud on the court and beneficiaries and knowing if they are removed in their illegally gained fiduciary powers their whole scheme unravels fast.

60. That in a prior motion for interim distributions in Colin's court listed already herein, Petitioner explained the extortion of his family taking place due to these adverse interests, in efforts to derail him and shut him down from having themselves prosecuted and prisoned. This automobile is one small example of the way they are playing but one of the sickest in that it harms a minor child so directly, with intent and scienter as evidenced herein, as they all know it was a gift and are using it to extort and cause more damage misusing their alleged illegally gained fiduciary powers and this WILLFUL, WANTON, RECKLESS and

GROSSLY NEGLIGENT behavior in breach of fiduciary duties and law must be stopped instantly by this Court and further, Theodore, Spallina, Tescher and Manceri all sanctioned for this knowingly fraudulent pleading and reported for this abuse of process.

61. That further, Petitioner alleges that the estates of Simon and Shirley are worth far more than Spallina and Theodore stated in the hearings before Judge Colin where they claimed the total worth of the estates and trusts was four million and where evidence submitted in the estates already shows far greater value and new evidence soon to be submitted, shows assets of the estates that were not inventoried in either Simon or Shirley's estates, worth millions. From Theodore's December 06, 2013 letter, "Notwithstanding that, you continue to believe that our parents were worth \$40 million dollars when they were worth \$4 million dollars..." one can see that now there exists a discrepancy in the value of the estates that can only be resolved through accountings, which again, Petitioner and/or his children have received NO ACCOUNTINGS from Simon and Shirley's estates or trusts, again, wholly in violation of law. Until such time that audited and forensically inspected accountings are produced this dispute of the value of the estates cannot be resolved and with all the proven and further alleged criminal acts to steal off with estate assets occurring, Petitioner prays this Court force full accounting for the estate of Simon be instantly forthcoming and allow Petitioner to have forensic accounting experts review any such accountings at the expense of the Co Personal Representatives who have failed to provide these legally required documents to the beneficiaries.

62. That this Court under Judicial Cannons and Law must report the felony acts proven and alleged herein that are directly related to these matters to the proper authorities both

ethical and criminal and all those crimes alleged in ALL prior Petitions and Motions filed with this Court, which are yet unheard since May 2012, especially where those acts were done in part by Officers of this Court, including but not limited to, Spallina, Tescher and Manceri, as much of these acts have occurred not only in Colin's court but in this Court as well.

63. That this Court should note that a creditor to the estate, a one William Stansbury ("Stansbury"), has intervened in the federal breach of contract lawsuit to convert Simon's insurance policy out of Simon's estate to fraudulent beneficiaries, already discussed herein. Stansbury also arguing to have the policy paid to the estate as it should be when the beneficiary is lost, claiming that the lawsuit was improperly filed in effort to move the policy proceeds out of the estate and his reach in what appears an attempt to fraudulently convey an insurance policy benefits by Theodore, Spallina, Moran and others and hide the asset from the estate creditors.

64. That Petitioner has also motioned that federal court to have this Court determine who the benefits are payable to, while simultaneously determining the beneficiaries in the estate, due to the questions now created by the alleged fraudulent documents and acts, asking that Court to dismiss the baseless breach of contract lawsuit as a fraud on the court and the estate beneficiaries through insurance fraud and more.

65. That the Court should note that Jackson National Insurance Company stated in their counter complaint to the breach of contract lawsuit that Theodore was advised by counsel prior to filing that he had no basis to file the litigation in the first place, as the Trustee of the "lost" trust, with not even a copy of an executed trust, that same "lost" trust that Spallina claims he is the Trustee for in filing his fraudulent claim and where they both are again allegedly acting

in fraudulent fiduciary roles in attempts to fraudulently convert the benefits to improper beneficiaries. The sick part of this insurance fraud is that Theodore and P. Simon would get nothing if the insurance went to the estate beneficiaries, their adult children and through the fraud the monies would come to them directly.

66. That through this insurance fraud they attempt to skirt the estate beneficiaries, their own children, while they are also simultaneously acting as trustees for their children as estate beneficiaries and suppressing and denying them information regarding their beneficial interests, in efforts to convert the proceeds of the policy directly into their own pockets by simultaneously waiving their children's rights as beneficiaries of the estate as trustees, in violation of law, their fiduciary duties and everything moral and good.

67. That Petitioner and his children were NOT noticed of the breach of contract lawsuit being filed, despite their beneficial interests in the policy, until Jackson sued Petitioner as a third party defendant, alerting him that there was a breach of contract lawsuit filed where he was a possible beneficiary. Later it was learned that Theodore, P. Simon, Spallina and others omitted them intentionally behind Petitioner and his children's counsel backs, while letting them believe that they were seeking a court order from this Court to determine the beneficiaries as was requested by Heritage Union Life when they denied Spallina's initial fraudulent attempt to collect the proceeds, as more fully defined in the May 2013 motion filed with this Court and subsequent motions dealing directly with the insurance fraud listed and incorporated already herein.

68. That finally, who is Mark Manceri, who was threatened once with Miranda

warning from Judge Colin for the fraud being perpetrated on that court in the September 13, 2013 hearing, in which the estate was reopened due to the fraudulent activities and more? Has Manceri entered into this case as required by law, as he is not listed on the docket as counsel for any party and made no filings for appearance in the matters prior to representing parties at will? According to the alleged Co Personal Representatives Tescher and Spallina, Spallina is their counsel as Personal Representatives, not Manceri. Yet, Manceri files his pleading representing Co Personal Representatives Tescher and Spallina and where again their appears no record of his being admitted to represent any parties and this should be cause for his disqualification of any of his pleadings or actions before the Court thus far on behalf of any parties and good cause for sanctioning and reporting this vexatious and frivolous pleading to all the proper ethical and criminal authorities, as yet another knowingly fraudulent attempt to convert assets to the wrong parties through continued fraud on the court and fraud on the true and proper beneficiaries.

69. That Manceri has also filed what appears another pleading on December 12, 2013, full of false statements that Petitioner will timely respond to but in that pleading, a "Motion to Transfer and Consolidate," Manceri attempts to merge this Court case with Judge Colin's court case regarding Simon and Shirley before one judge. In this pleading he again represents Co Personal Representatives, Spallina and Tescher, where Spallina is listed and admitted to this Court as the Co Personal Representatives counsel and again no entry was made in this Court at the time of filing as to Manceri representing any party in these matters and again these vexatious and abusive pleadings filed by a non-attorney in the case, representing parties at will, with no court entry, are all worthy of sanctions and reportable to the state bar and

authorities and all pleadings should be dismissed and disqualified entirely on this ground alone.

70. Based on all of the above, the Petition must be granted and the exempt property given to Petitioner's son as his birthday gift from his grandfather that everyone knows it was.

WHEREFORE, Petitioner hereby requests for an Order consistent with the relief requested herein, to hear all Motions in the order they were received and an award of attorney's fees and costs to be paid by Tescher, Spallina, Manceri and Theodore and further impose severe and harsh sanctions for damages already caused through these frivolous and vexatious abuse of process pleadings, fraught in adverse interests and conflict and causing ongoing harms, including harms to minor children with scienter and any other relief this Honorable Court deems just, equitable and proper.

Eliot Bernstein, Pro Se and as legal guardian on behalf of his minor three children

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by email to all parties on the following Service List on December 10, 2013.

Eliot Bernstein, Pro Se and as legal guardian on behalf of his minor three children

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ALEXANDRA BERNSTEIN (TED ADULT CHILD)
ERIC BERNSTEIN (TED ADULT CHILD)
MICHAEL BERNSTEIN (TED ADULT CHILD)
MATTHEW LOGAN (TED'S SPOUSE ADULT CHILD)
MOLLY NORAH SIMON (PAMELA ADULT CHILD)
JULIA IANTONI – JILL MINOR CHILD
MAX FRIEDSTEIN – LISA MINOR CHILD
CARLY FRIEDSTEIN – LISA MINOR CHILD

EXHIBIT 1 – Congratulatory Letters Regarding Simon Gift to Joshua of Kia Soul