UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ELIOT I. BERNSTEIN, et. al.

DOCKET NO:
07Civ11196 (SAS)

Plaintiffs,

-against-

APPELLATE DIVISION FIRST DEPARTMENT DEPARTMENTAL DISCIPLINARY COMMITTEE, et. al.

MOTION

Defendants

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MOTION TO RECONSIDER BASED ON NEW INFORMATION: APPOINTMENT OF PRO BONO COUNSEL; ACCEPT REMOTE APPEARANCE OF PLAINTIFF BERNSTEIN FOR COURT PROCEEDINGS; PHYSICAL PROTECTION OF PLAINTIFFS FOR COURT APPEARANCES; AND (IV) REQUEST FOR EXTRAORDINARY CONFLICT CHECKS.

PLAINTIFFS, ELIOT I. BERNSTEIN, Pro se, individually and **P. STEPHEN LAMONT,** Pro se and Plaintiff BERNSTEIN on behalf of shareholders of Iviewit Holdings, Inc., Iviewit Technologies, Inc., Uview.com, Inc., Iviewit Holdings, Inc., Iviewit Holdings, Inc., Iviewit.com, Inc., Iviewit.com, Inc., I.C., Inc., Iviewit.com LLC, Iviewit LLC, Iviewit Corporation, Iviewit, Inc., Iviewit, Inc., and other John Doe companies (collectively, "Iviewit Companies"), and patent interest holders, and based on new information, move this Court to: (I) Order to appoint pro bono counsel; (II) Order to accept remote appearance of Plaintiff BERNSTEIN for Court proceedings; (III) Order for physical protection of Plaintiffs for Court appearances; and (IV) Order to accept request for extraordinary conflict checks.

I. APPOINTMENT OF PRO BONO COUNSEL

A. That, and based on new information, Plaintiffs are requesting this Court to appoint Pro Bono counsel for the following reasons:

A. BACKGROUND

(1) Plaintiffs cannot attest to any of the true ownership of any of these identities as many were unknown to exist pending ongoing investigations. The companies will be added as Defendants in the amend

Where it is the Plaintiffs responsibility, perhaps, in most cases to secure counsel, this case departs from the norm in that the system of law(s) where Plaintiffs have sought legal representations and legal protections in the past, have exhibited a pattern of conflicts of interests, violations of public offices to derail complaints and investigations that would have otherwise resulted from such complaints, violations of attorney ethics in the handling of complaints filed by Plaintiffs, violations of Plaintiffs' civil rights, denial of due process, violation of attorney client privileges, violations of judicial cannons by justices involved, all to the detriment of the now indigent Plaintiffs as a result of these ~~patterns that~~ obfuscate themselves as justice.

Moreover, had Plaintiffs been afforded due process when these events first entered the courts through investigators prompted by the then non-indigent Plaintiffs, the situations would have had reversed themselves with the result that Plaintiffs would be far from indigent or in need of anything extraordinary from this Court; unfortunately, this is not the present situation. Factually, the indigent nature of the Plaintiffs is in part due to the damages done by former counsel and the system of laws they misused, as the *Christine C. Anderson v. the State of New York, et.al.* case so pointedly alleges in its factual allegations, *inter alia,* of attorney complaint whitewashing at the First Department Departmental Disciplinary Committee ("First Department"), ~~and~~ that such whitewashing of Plaintiffs complaints and written statements have, in numerous venues[1], already incurred exorbitant costs to Plaintiffs, all exacerbated by the above referenced diabolical actions of former counsel, public officials, and court officials in multiple states. More specifically, eight (8) years of railroaded complaints, public officials ignoring court orders for investigations, and other malfeasances to deny due process that have starved Plaintiffs through attrition since the evidence first surfaced that the attorneys retained to protect the Plaintiffs were sabotaging Plaintiffs' patent applications and committing, ~~possibly~~, fraud upon the United States Patent and Trademark Office ("USPTO"), the United States Copyright Office, the Small Business Administration, the Iviewit

Exhibit A - List

[1] Exhibit ~ List of Investigations

Shareholders and Inventors; these are the direct ~~incidents~~ that have succeeded in causing financial ruin[2] upon Plaintiffs.

Furthermore, the delays caused by the alleged whitewashing of the complaints claimed in *Anderson,* coupled with the original crimes, have caused undue emotional hardship on Plaintiffs, wherein Plaintiff BERNSTEIN being forced to rely on welfare to feed his family, has had his family minivan bombed, has fled for his and his family's life, while attempting to bring forth the crimes that investigators were consistently failing in their requirements to provide due process for ~~and~~ by failing to fully investigate and prosecute such former counsel, public officials, and court officials. Anderson reveals the first indication from an insider, of just how the process was circumvented to cause harm upon the complainants; it was her duty to protect the public, including Plaintiff Bernstein, and her claims are of the highest caliber, being from an attorney employee of the New York Supreme Court, ~~that~~ also serve to further bolster Plaintiff's claim that these disingenuous schemes can cause ruin upon the unsuspecting complainants. Further forcing Plaintiffs to secure counsel after knowing of the damages both financially and personally ~~this~~ has cost them, appears to put due process in these matters beyond the means of Plaintiffs.

Hailing back to the mid 1990's, upon information and belief, several of the key Defendants in the present cluster have a prior history of patent theft, based on statements made by Monte Friedkin of Florida ("Friedkin"), to Plaintiffs former counsel Caroline Prochotska Rogers, Esq. whereby Friedkin reveals a similar fraud committed by several of the key Defendants herein, immediately prior to meeting Plaintiffs: an attempt to remove valuable hydro mechanical intellectual properties from Friedkin's company through another crime with similar false oaths to the USPTO for patent applications ~~and other crimes~~!

Clearly, in the view of Plaintiffs, the Friedkin illustration demonstrates that the conspiratorial ring, consisting of, among others, Christopher C. Wheeler ("Wheeler") of Proskauer Rose LLP ("Proskauer"), William J. Dick ("Dick") of Foley & Lardner LLP ("Foley"), and Brian G. Utley ("Utley") former President of the Iviewit Companies

[2] Complaints at the Boca Raton Police Department have been elevated to Internal Affairs and stalled since 2003 regarding several million dollars of stolen funds from the Iviewit Companies whereby witnesses have never been contacted and where such money may be funds from the SBA. A complaint was also filed with the SBA regarding these monies, the FBI and the Securities & Exchange Commission, all have lingered without notice to Plaintiffs of any outcome regarding the funds.

(placed with a materially false resume by Proskauer – See Exhibit A), was formed **not** solely ("soullessly") to deprive Plaintiffs of title and pay deriving from its technology, but was an ongoing criminal enterprise, perhaps hailing back to the late 1980's and early 1990's in circumstances involving the IBM Corporation.

Involving IBM? upon information and belief, this cast of characters worked together at IBM where Dick was IBM far eastern patent counsel, Utley was GM of IBM Boca, and upon information and belief Hon. Judith S. Kaye (Judge Kaye") was also an IBM employee in the legal affairs department, the time and place of where and when, and whether she had known Dick fails to appear in any biographical information of Judge Kaye whom provides a variety of backgrounds some listing IBM and others not on her resumes. Additionally, where now indigent Plaintiffs were further abused through a skewing of the legal scale by those entrusted to uphold law, an instance that will emphasize the need for this Court to assign Pro Bono counsel instantly versus later to prevent similar malfeasences, is the Motion to Amend Answer and Counter Complaint filed by Steven Selz, Esq. ("Selz") (See Exhibit B) in *Proskauer Rose LLP v. Iviewit.com, Inc. et. al., Case No. CA 01-04671 AB* [3] *(Circuit Court of the 15th Judicial Circuit in and for Palm Beach County, Florida filed May 2, 2001)* and the circus court that ensued in Florida.

Plaintiffs must provide a briefer to *Proskauer*, and to provide this briefer, one must first know that Rogers was called by Plaintiff BERNSTEIN to investigate claims by Warner Bros. senior investment officials who discovered, while performing due diligence to invest upwards of $25 Million for a Wachovia Securities Co. Private Placement, that the Iviewit Companies were being sued by counsel Proskauer in a billing dispute and that the Iviewit Companies were the subject of an involuntary bankruptcy suit at the U.S. Bankruptcy Court Southern District of Florida Case No. 01-33407-BKC-SHF- the plaintiffs of which were, RYJO Inc. (acting through and on behalf of Real 3D, Inc. -- a consortium of Intel Corporation 10%, Silicon Graphics Inc.20%, and Lockheed Martin Corp. 70%, later wholly acquired by Intel), Brian Utley, Raymond Hersh, and Michael Reale consisting of former management all referred to the Iviewit Companies by

[3] Plaintiffs cannot confirm or deny that Labarga was the original Judge handling the case or that the case docket number provided was the original filing number, further discovery will be required to pursue this convoluted matter.

Proskauer. Neither management, nor shareholders, nor Board of Directors had any notice that such legal actions had begun and that the Iviewit Companies involved were represented by counsel, counsel that was never authorized by the principals of the Iviewit Companies, never heard of, never retained!

Additionally, on or about this time, an audit of the financial records of the Iviewit Companies by Arthur Andersen ("AA") was underway whereby while conducting such audit for the Iviewit Companies' largest investor, Crossbow Ventures, whose investment is approximately Four and One-Half Million Dollars ($4,500,000) after leverage by a factor of two to one by monies from the Small Business Administration[4], AA found Iviewit Companies that were identically named, causing AA to request further information from Proskauer, Goldstein Lewin & Co., the Iviewit accounting firm and Erika Lewin, CPA, daughter of the accountancy firms partner Gerald Lewin and employee for internal accounting at Iviewit. Moreover, other evidence was surfacing at that time that Raymond A. Joao ("Joao"), patent counsel secured by Kenneth Rubenstein ("Rubenstein") and Proskauer was patenting inventions faster than Edison, in his own name, while acting as counsel to Iviewit, and patenting inventions he had learned from Iviewit disclosures and business plans while still retained by Iviewit.

Further, upon Joao's termination, attorney's brought in by Proskauer from Foley, Dick and others, who were thought to be investigating and correcting the deficient work of Joao, as well as, contacting the appropriate authorities regarding the possible crimes committed by Joao, instead, we later learn that Foley attorneys further perpetrated the false filing of patents through falsified patent oaths with the USPTO (a federal offense), the European Patent Office, the Japanese Patent Office and the Korean Patent Office (all through violation of international trade treatises) now writing them into a series of companies similarly and identically named to the Iviewit Companies and now with Utley's name as a sole[5] ("soulless") inventor in some where Utley never invented anything with the Iviewit inventors, Utley added on to others inventions and an almost exact repeat of the attempted theft committed upon Friedkin. Further, it was later learned that owners, assignees and inventors were all fraudulent and the mathematical claims

[4] The SBA therefore constitutes the largest holder of Iviewit stock.
[5] Exhibit ~ Utley Patent Applications

the patents were mathematically incorrect and even after ~~it was~~ found incorrect before filing and supposedly changed by Foley, they filed fraudulently anyway.

Still further, Roger's found that the two court cases were active and after terminating unauthorized counsel who were originally retained by unknown parties, the Iviewit Companies retained Selz to file the Motion to Amend Answer and Counter Complaint for Damages which was denied by Jorge Labarga presiding on the case, claiming that former counsel who represented the Iviewit Companies without authority had basically waived the right to counter sue. Moreover, after depositions with Rubenstein and Wheeler whereby they both fled the depositions, refusing to return as new evidence surfaced ~~including~~ at their depositions that revealed their deposition testimony was contrary to statements made by them to that court and constituting perjury.

As such, the Iviewit Companies readied for trial armed with devastating evidence of perjured statements and depositions wherein they retained new, equity based counsel, Schiffrin & Barroway LLP ("Schiffrin"), as part and parcel of a Letter of Understanding ("LOU") (See Exhibit ~~C~~ F) to defend the Iviewit Companies in the upcoming trial combined with a variety of collateral suits to follow. (~~the **DRAFT** Amended Complaint for this case, is attached herein as Exhibit D~~)

Accordingly, "all well and good you might say," but a funny thing happened on the way to the courthouse, where the powerful Proskauer was to enforce their billing case against companies that they had no retainer agreements with, and after investigations are concluded, may prove to be companies formed without authorization from the Board of Directors or management. On the date of the first trial, Plaintiff BERNSTEIN and Selz showed up at the courtroom to find the lights out and nobody home, the trial had been cancelled by Labarga the prior evening without notice to the Iviewit Companies or their counsel Selz or Schiffrin, another crime according to FBI investigators to deny due process rights to Plaintiffs.

"Impossible" you say, but true and then it became even more apparent that Labarga was, in the words of the just recent Supreme Court Justice, Sandra Day O'Connor, in relation to the Florida Supreme Court election recount that Labarga was central too, that he was "off on a trip of his own...," wherein at the rescheduling hearing a true court room fiasco unfolded. First, at the suggestion of new counsel Schiffrin, co-counsel Selz filed a

motion (See Exhibit E) to remove himself from the case based on consideration of the Schiffrin LOU to represent the Iviewit Companies; Schiffrin requested the removal of Selz and Labarga granted the motion.

Furthermore, what follows next led to a complete denial of due process to prevent the Iviewit Companies from going to trial, as Labarga heard a motion filed the same day as the Selz motion, again without notice to the Iviewit Companies, that Schiffrin had simultaneously filed a motion to remove itself as counsel; Labarga granted that motion as well, leaving the Iviewit Companies without counsel at all, despite a few days to retain new counsel in a complex case and to prepare for trial. Days to find replacement counsel, days to find replacement counsel in a case that would take months, if not years for a new legal team to investigate, digest, and present the information accumulated by former counsel, Schiffrin and Selz. Both Schiffrin and Selz took months to get up to speed on the amount of evidence that existed at that time and digest the magnitude of the crimes to prepare for trial and Labarga had granted additional time to Selz when he took the case from formerly illegally retained counsel Sax Sachs & Klein. But this was a railroading of due process & procedure to thwart Additionally, to further tip the scales against the Iviewit Companies, former counsel Schiffrin and Selz refused to release the case files so that defendants could even attempt to timely secure new counsel for a trial or prepare for an appeal. After weeks of attempting to contact Selz and Schiffrin, at the advice of Rogers, Bernstein went to Selz's office and removed approximately 20 banker boxes of trial materials forcing Selz to release the documents he and Schiffrin tried to withhold. Needless to say this all came too late to secure counsel or file a timely appeal and Labarga instead of understanding what was unfolding and the need for more time to secure counsel, ruled a default judgment against defendants Iviewit Companies for failure to retain replacement counsel.

having the Schiff LOU, and only the crimes from being exposed, including crimes Labarga was aware of.

Further, may it please the Court, but with Labarga having evidence that Rubenstein had perjured himself in deposition and in sworn written statements to Labarga whereby Rubenstein claimed in deposition testimony and written statements to Labarga that he never heard of Plaintiff BERNSTEIN or the Iviewit Companies (in fact, claiming he was the target of harassment and would not be deposed), and then in diametric opposition to his initial deposition statements where he first denies knowing Iviewit and Eliot Ivan Bernstein, and then amidst a flurry of evidence contracting his statements at deposition,

he breaks down and admits such knowledge of both the companies and Eliot Ivan Bernstein and then flees the deposition refusing to answer further questions inapposite of law. What scared Rubenstein so, was evidence presented at deposition showing Rubenstein opining on the technologies for Warner Bros. and others, billing statements with Rubenstein's name all over them submitted by Proskauer at their billing case, and other evidence that surfaced at his deposition clearly showing his former statements to Labarga and in deposition to be wholly perjurious. Clearly viewable by Labarga prior to his default judgment ruling, making the ruling a highly suspect action by this Circuit County Judge who has many years of practicable experience, not to mention a gross violation of his Judicial Canons in his failure to report the perjurious statements to the proper authorities; interestingly, prior to Labarga's opportunity to grant the default judgment, Labarga was forced to rule that Rubenstein and Wheeler were to return to complete their depositions and answer the questions they refused at the first deposition (See Exhibit G) and despite their pining that they were not going to return to further deposition **at their lawsuit**.

On another front, after *Proskauer* ended, and upon presenting evidence to Harry I. Moatz, the USPTO's Director of Enrollment and Discipline ("Moatz"), it was learned that patents had been assigned to corporations that were contrary to what the attorney intellectual property dockets from Meltzer, Proskauer and Foley had indicated to officers, shareholders, investors (including the SBA), the USPTO, the state bar authorities investigating several of the accused and the Board of Directors of the Iviewit Companies, leading Moatz to immediately form a specialized USPTO team to handle the Iviewit patent filings. Moatz instantly directed Plaintiff's remove all prior counsel to the pending applications and not speak to any other USPTO staff, but the newly appointed Moatz team, and directed the Iviewit Companies to file with the Commissioner of Patents a request for patent suspensions based on allegations of fraud on the USPTO (See Exhibit H); adding strong credibility to the fraud claims to the Commissioner, the allegations were similarly signed by the Chairman and CEO of Crossbow Ventures Inc. ("Crossbow"), Iviewit Companies' lead investor, Stephen J. Warner ("Warner"), a 20 year veteran investment banker from Merrill Lynch Capital Ventures Inc.

Still further, what Plaintiffs had discovered and will take further discovery, hopefully by this Courts granting Pro Bono counsel in tandem with federal, state and international investigators of the RICO claims both civilly and criminally in this suit, was the existence of two sets of patent applications in a "patent shell game" and two sets of identically and/or closely named corporations, in what appears to be a "corporate shell game" creating an illusion as to which patent applications had been assigned to which unauthorized companies and which unauthorized companies contained fraudulently filed patents to steal off with the real intellectual properties.

May it please the Court, this new information should suffice for your understanding as to why the cases before Labarga and the U.S. Bankruptcy Court were advanced in secrecy and once discovered attempted to be instantly buried, where the bankruptcy case was immediately dismissed upon the Iviewit Companies discovery of the case and replacing former unauthorized counsel by those plaintiffs but the Labarga case had to be derailed using a complete denial of due process and procedure by that court, as Rogers secured new counsel Selz to prosecute the matters, again dismissing prior unauthorized counsel. Before Proskauer could complete its sham suit against its sham companies with illegally assigned backbone, enabling video and imaging technology of the Iviewit Companies[6]. Plaintiffs shall argue that as the Arthur Anderson audit was beginning, Proskauer attempted to dispose of their sham entities with the wrongly assigned technology before the Iviewit Companies knew the better and seize the wrongly assigned technology by inserting themselves as the largest creditor of the sham companies, through the sham billing dispute case, with entities with which they had no retainers agreements or other documents supporting their cause of action. Following along, having their friends and strategic alliance partners filing the involuntary bankruptcy suit with the intent of their friends in that action becoming the other

[6] Plaintiffs wish to again emphasize that, as it relates to the Iviewit Companies' technlogy, we are not talking about some rudimentary software that will be rendered obsolete as newer versions emerge, but that the Iviewit video scaling and image overlay systems are THE backbone, enabling technologies for the encoding and transmission of video and images across all transmission networks and viewable on all display devices, where the inventors went back to square one to create an elegant upstream solution (towards the content creator) of reconfiguring video and image frames to unlock former bandwidth constraints, led to new processing and storage capabilities and took the video and imaging worlds to a new dimension – the "Holy Grail" of video and imaging of priceless proportion.

benefactors of the sham companies, and "a batta bing", it would have been all over in hocus pocus New York minute, with Proskauer and their friends having gained control of the assets in the bogus companies with the stolen intellectual properties, effectively walking the backbone, enabling patents out the back door, reaping the spoils of their soon to be ill-fated bungled crime. The reason that it was critical for Proskauer to steal the original inventions was that they needed the inventions and their original filing dates, to gain future royalties from the patents once they were converted in the scam to their patent pools, patent pools they now controlled. Patent pools are designed as a revenue share amongst inventors of the pool making up a standard, certainly the crimes were not committed for only the attorney fees they were generating from proliferation of the technologies through the pools, again illegally in violation of their attorney client privileges with Iviewit, they wanted ~~the [illegible]~~ a piece of the pie. Fortunately for Plaintiffs, executives at ~~one of the major motion picture studios,~~ Warner Bros., and ~~a leading technology company,~~ Time Warner, Inc., stumbled onto the fraudulent legal actions and all the while through the Labarga case and the Bankruptcy, new counsel Selz and Schiffrin appeared to have no idea that the companies they were defending were not truly the Iviewit Companies but instead shell companies with wrongly assigned patents, certainly most shareholders not involved in the scam had no idea. Plaintiffs will argue how hindsight would serve a RICO conspiracy well here, yet like all effective conspiracies, it is the secretive nature that allows the crimes to be committed while the victims are often at first unaware of how the pieces all inter-relate. Selz, Schiffrin and Labarga were all further reported for their actions to a variety of investigators including the Judicial Qualifications Commission (to be re-opened upon submission of the new evidence and the Anderson matters), The Florida Bar and the Pennsylvania Bar, all investigations which will have to be re-instigated especially in light of Anderson's claims. It is interesting to note here, that Anderson's assertions will cause a domino effect in this house of cards, to allow cause to re-investigate a multitude of derailed investigations that were relied upon in part by information gained from the First Department investigations.

Plaintiffs further state that the beginnings of a conspiracy were exposed at this time with AA's initial exposure of the corporate crimes and missing stocks, the Joao investigations

and discovery of Joao writing Iviewit Companies' patents into his own name, and other evidence surfacing such as two set of patents with different inventors, Utley as a soulless inventor, all that further revealed that technologies were being misappropriated out the back door and other unauthorized technology transfers were occurring.

Upon information and belief, one of the unauthorized technology transfers that was being attempted at that time was to a brand new Internet company, Enron Broadband (see Exhibit). Enron Broadband, who was found booking revenue in advance of constructive receipt of the revenue, on a scheme to deliver movies via the Internet using the Iviewit Companies' technologies. Ah, to have counted the chickens before they had hatched, so gluttonous with their soon to be ill-fated success that they had walked the backbone, enabling technology out the back door, Enron booked enormous revenue through Enron Broadband without a single movie to distribute and the technology not yet converted wholly in the scam, but comfortable enough to begin an Enron/Blockbuster (it is notable that Wayne Huizenga of Blockbuster was the Iviewit Companies' seed investor secured by Proskauer) deal, with full press and full accounting for the breakthrough technology for Internet movie delivery, which prior to the Iviewit Companies' technologies was thought impossible. As such, Enron Broadband was now caught with revenue that was never realized due to suddenly losing the technology, the promised investors and as the audit and investigations of the Iviewit Companies began to dig deeper, the Enron/Blockbuster deal collapsed over night causing massive losses to Enron investors. Subsequently, Enron and AA were instantly tangled up in other scandals that brought both of them down and out of the picture almost overnight, stymieing investigations into what really happened at Enron Broadband, where it may be advisable that this Court notify Enron's federal investigators of the possible connections to the Iviewit Companies and invite them into this action, where Plaintiffs have already tried and failed to be heard.

Such a tangled web, including but not limited to, Defendants herein, have now woven that this too can only be fully investigated and presented by qualified Pro Bono counsel to this Court, taking far more legal expertise than Plaintiffs BERNSTEIN and LAMONT could ever possibly hope to possess in securities and criminal law.

So, as the Iviewit Companies scam was quickly unraveling, there was the need to cover up the crimes with people more powerful than merely the original conspirators alone, wherein enter stage right, Hon Judith S. Kaye, the central figure on the "daisy-chain" of events in New York with her deceased Proskauer husband Stephen R. Kaye (who became an Intellectual Property partner late in his career, after Proskauer formed their intellectual property group instantly ~~upon~~ after learning of the Iviewit inventions, an Iviewit shareholder (and now Judith Kaye presumably a shareholder through the estate,) yet far from the most prominent figure(s) these allegations may rise to. Additionally, and in order to stave off the multiplicity of complaints filed by Plaintiffs following discovery of the ever growing list of Federal, State, and International laws ~~trampled upon~~ broken to commit such monumental crimes, the need now arose for requisite top down control of certain Federal agencies to thwart exposure and keep the matters from all ~~of Federal, State, and International~~ courtrooms and derail all investigations.

Incidentally, and to raise the bar even higher on extraordinary claims this case will expose the Court to, as the case evolves and the Amended Complaint filed, some would attribute the Labarga influenced 2001 Presidential election that led to the Supreme Court decision to choose the President for the people, George Bush, may have been part of an engineered plan to gain such top down control of the Executive Branch and Justice Department, in order to prevent the Plaintiffs' complaints from elevating – a veritable, 21st century "Patentgate", with top down control. Such claims have been levied with investigators showing the relations to certain of the leading figures of the Iviewit crimes and certain high level Executive Branch and Legislative Branch figures. Moreover, cover ups ~~of crimes~~ that could only be controlled by the highest ranking officials, officials that would have to be planted through Executive selection may still be occurring; the accused law firms have both the ways and the means (including billions of dollars of Plaintiffs converted royalties) to easily extend into government positions by planting people in any public office or courtroom, in which such top down control of complaints is still necessary. "How might the siege on the government have occurred?" you might ask, and "Who has that kind of political leverage to siege the government?" Enter stage **far right**, Defendant Michael C. Grebe ("Grebe") of Foley, who at the time was the Chief Counsel for the Republican National Committee ("RNC") and whom some

claim is the powerhouse behind the Bush campaign in 2001 and again in his successful reelection effort and who has everything to lose if found culpable in the RICO matters, estimated ~~worth of a billion dollars~~. Gerbe's personal net worth is estimated at a billion & Foley is worth quite a lot when their purloined assets are totaled. The RNC, the very organization now under investigation by Glenn Fine, Inspector General of the Department of Justice, for millions of missing emails sent on a back channel through the RNC to circumvent the Whitehouse and Presidential record requirements for communications, including those involving the exposed spy Valerie Plame Wilson and, perhaps, the Iviewit Companies. An election of a President that was legally engineered to ensure a Bush/Cheney[7] victory, the pinnacle of extraordinary claims that this Court will have to deal with as this case evolves, although one need only watch the Judiciary Committee hearings over the last two years to know these very same issues are under immediate and ongoing investigations, albeit not yet related. Finally, what could the many secretive meetings by the Bush administration and Enron executives been all about, perhaps about how to bury the Iviewit information and then the inventors? (extraordinary)

It then follows that with the "fox in the henhouse," Plaintiffs will argue that Alberto R. Gonzales, the just former Attorney General of the United States and a new Defendant in Plaintiffs Amended Complaint, ~~was~~ may have been planted by the Bush/Cheney regime, to, *inter alia*, stymie Plaintiffs complaints from elevating through to the U.S. Attorney Office ~~in the Southern District of Florida~~ and the Federal Bureau of Investigation, and why the Iviewit files dating back to our first contact in 2001 including FBI written statements, evidence in thousands of pages, and the lead investigating Special Agent, Stephen Lucchesi, have disappeared. This has led new investigators at the FBI to refer the matters to the office of Glenn A. Fine, Department of Justice, Inspector General and H. Marshall Jarrett of the Federal Bureau of Investigation, Office of Professional Regulation for further investigation.

The above referenced pattern of frauds deceits, and misrepresentations run so wide and so deep that Plaintiffs need discovery and other legal aid beyond their scope, challenging enough for the best legal practitioners, let alone Pro Bono counsel, let alone indigent Pro

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[7] Another allegation that discovery in these matters may prove true, is that Lynne Cheney was a Board member of Lockheed Martin, when a unit of Lockheed entered a strategic alliance with the Iviewit Companies and where their engineers claimed to a large audience that the technologies were the "holy grail" of digital video and imaging and worth trillions of dollars. That deal was also arranged by Proskauer and later evidence surfaced that showed that this deal through Lockheed owned and controlled Real 3D, Inc. was also involved in unauthorized technology transfers and the fraudulent involuntary bankruptcy to walk the technologies out the back door. ~~The Attorney~~ Many of the Bush presidency, including his "Adam" Rove ~~etc~~ & Libby Weld Bolton Bush & Cheney is known to have had "secret" meetings w/ Kenneth Lay & others.

Se Planitiffs BERNSTEIN and LAMONT; to add the required substance to these alleged "extraordinary" crimes, there is "extraordinary" evidence being investigated by "extraordinary" investigators at the top of the Justice Department, by the FBI Office of Professional Responsibility (See Exhibit K and the Department of Justice's Office of the Inspector General, Glenn A. Fine's office.

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B. Discussion

The New York conspiracy as described herein that tentacles to *Anderson*, is part of an even more "extraordinary" set of events that need "extraordinary" evidence, evidence of which has already been supplied to hosts of investigators worldwide and that now unfold in this Court. *Anderson*, alone should provide irrefutable, undeniable, factually provable and credible "extraordinary evidence", strong enough to have this Court reconsider its entire denials in part within the prior Order.

Factually, indigent as Plaintiffs are, the likeliness of our claims being proven would be greatly enhanced in this instance where not only New York officials are involved, but hosts of other members of other Federal agencies, State courts, and international agencies will be newly named Defendants in the Amended Complaint, with this Court granting not only Pro Bono counsel but over sighting[8] such Pro Bono counsel in the many specialized areas of law this case will require as described herein, will Pro Bono counsel level the playing field, be leveled just a bit. Moreover, the "extraordinary" claims against the legal community make the need for professional counsel even more important to the successful prosecution of the case before this Court, to ensure fair and impartial due process that without such put Plaintiffs at a severe disadvantage, inapposite of the Hodges ruling. Plaintiffs bring this suit against law firms that are comprised of thousands of partners, high ranking government and court officials, State bar associations across several States, and, absent Pro Bono counsel, this skews the playing field unfairly in arguing the case before this Court; approximately six thousand attorneys, judges, court officials, disciplinary officials and other state, federal and international figures will be named defendants in the Amended Complaint. For the accused professional firms this suit pierces through their limited liability partnerships, and where the winner takes all and

[8]Where over sighting means preventing: further conflicts of interest through diligent checks; further violations of attorney-client privileges; and further violations of the Professional Rules of Responsibility.

Exhibit K OPR letter

the losers have with everything to lose under a successful prosecution of, as outlined in the Amended Complaint: Article 1, Section 8, Clause 8 of the Constitution of the United States, Fifth Amendment to the Constitution of the United States, and Fourteenth Amendment to the Constitution of the United States; 15 U.S.C.A. §§ 1 and 2; Title VII of the Civil Rights Act of 1964 (as amended); and 18 U.S.C. § 1961 through 18 U.S.C. § 1968 in these matters and all against two indigent Pro Se Plaintiffs denied Pro Bono counsel. Either way though, Plaintiffs are prepared to take them all on, in a Simpson v. Goliath, even denied Pro Bono, here & now in this Court. Still further, and where, among others, these law firms have already committed gross violations of public offices and violated almost every ethical cannon they are bound by in order to keep these matters from surfacing publicly and in court, including those that *Anderson* argues have occurred at the First Department, the Court should be on notice these law firms, ~~and others~~ will stop at nothing to protect themselves from prosecution and that this Court has a duty to further ensure these law firms, among others, from further entangling others in their desperate attempt to evade prosecution – hence Pro Bono counsel and more importantly prosecutorial counsel for the hosts of federal, state and international crimes committed in the criminal acts of this case and the more locally the criminal acts alleged under *Anderson* and related to this case.

Therefore, and based on what already exists in the investigatory files and *Anderson* in regard to the allegations against this conspiratorial community, this Court should find several reasons to grant Pro Bono counsel according to its cited *Hodges v. Police Officers* test that requires the litigants claims "seem likely to be of substance[9]":

a. Very real shareholders have been bled dry, their monies and their stocks are missing, the companies are under a host of state, federal and international investigations, many already mired in conflicts.

b. In New York, very real conflicts of interest and the appearance of impropriety have already been discovered at the First Department, prior to *Anderson's* claims of gross whitewashing of First Department investigations in the handling of Iviewit complaints filed. Those conflicts led to a New York State Supreme Court Appellate Division First Department's court order ("First Department Orders") (See Exhibit A for investigation of attorneys: Rubenstein of Proskauer; Steven C. Krane of the New York's First Department

Exhibit (L)

[9] 802 F. 2d 58, 61-62 (2d 1986).

Departmental Disciplinary Committee who also was former New York State Bar Association President, Proskauer partner in the newly formed (after learning of the Iviewit inventions) intellectual property group, an Iviewit shareholder, former clerk to Hon. Judith S. Kaye's and partner with Judith Kaye's recently deceased husband Stephen R. Kaye, (another partner in the newly formed Proskauer IP group and Iviewit shareholder) and, upon information and belief, First Department member, and finally, Raymond A. Joao, all for their part in a multitude of violations of First Department rules.

c. Another substantive fact to aid this Court in granting Pro Bono counsel is that Rubenstein, Joao and many other intellectual property attorneys, and for several years running, are already the subjects of ongoing substantive investigations by Moatz and the Commissioner of Patents. It should be noted that Moatz upon receiving similar evidence to the complaints at the First Department requested that Cahill and The Florida Bar contact him as to why the New York and Florida disciplinary investigations had languished under the preponderance of evidence and why no charges had been brought or formal investigations undertaken. Cahill and the Florida Bar counsel refused to contact Moatz, which led the Iviewit Companies to begin investigation into Cahill's actions, which further revealed that Cahill and Krane were acting in violation of their public offices in many ways and led to discovery that Krane was wholly conflicted and violating First Department public office rules as he was a Proskauer partner and at the same time a First Department member, as well as, a leading disciplinary figure in the New York attorney disciplinary system[10], acting wholly in conflict of interest and violation of public offices in his handling First Department complaints against his Proskauer partners and later against himself, failing to even mention his multitude of conflicts. Cahill, later subject of an attorney complaint presently under review by Defendant Martin R. Gold in Special Inquiry #2004.1122. When pressed on Krane's roles in the disciplinary and First Department was economical with the truth and claimed he did not know Krane and that he had no affiliation with the First Department. These statements by Cahill were refuted later that day by Defendant Catherine O'Hagan Wolfe ("Wolfe") who sat on a First Department committee with both Cahill and Krane and was attending a First Department

[10] In Krane's handling complaints at the First Department against his Proskauer partners and himself, Krane also violated the rules of the NYSBA which prohibited him from involvement in any complaints for a period of one year following his service as an executive officer of NYSBA.

meeting with them later, claiming that they were all good friends and there had to be some mistake or words to that effect. Upon hearing the outrageous statements made by Cahill, Wolfe directed Plaintiffs to file a motion with the First Department[11] demanding investigation into the conflicts and violations of public offices. Plaintiff's filed such motion with the New York State Supreme Court Appellate Division First Department ("First Department Court") and ~~the Bench~~, after thorough review of the approximate eighty page motion pointing to the ~~complaints~~, granted, in Unpublished Orders (See Exhibit K), that the complaints against all those complained of be moved and immediately investigated; this Court should secure such files and determine the existence of file thinning similar to the claims in *Anderson*. Similar conflicts of interests and violations of public offices were found ~~in the~~ Florida Bar ~~and~~ led to a series of similar complaints and similar derailing of complaints by that state authority and their actions have been reported to all of the proper authorities and will prove invaluable to this Court in further determining how this criminal network works within the state court systems. At this juncture, Plaintiffs argue that the above series of events provides this Court with a substantive ~~presumption~~ of the claims made, according to *Hodges*, ~~in~~ these matters ~~that further~~ require highly specialized Pro Bono counsel to investigate and properly present and argue this case. Plaintiffs suggest, as well, that this Court advise criminal investigators and prosecutors to ~~enforce the orders of the First Department Court.~~

d. Another irrefutable fact that substantiates Plaintiffs claims is the fact that *Anderson* cites Plaintiffs' and the Iviewit Companies' matters as support for her case. Moreover, the *Anderson* connection provides solid support to substantiate Plaintiffs' claims as not only substantive but prosecutable. Plaintiffs as part and parcel of a "whistleblower" suit by an insider at the First Department is undeniable, the cases of ~~which are now~~ "associated" by this Court, and therefore fully satisfies the *Hodge's* test to have reasonable belief that Plaintiffs claims are substantive in nature.

e. Additionally, another highly substantive set of facts in these matters is that very real patent applications of the Iviewit Companies have been factually suspended by the United States Patent and Trademark Office based on allegations of Fraud Upon the

[11] Such motion comprises moving the complaints against Rubenstein, Joao, Proskauer, MLWGS, Cahill, and Krane consisting of more than six thousand (6,000) pages of complaints, chock full of evidence, witnesses, etc., to an unbiased forum free of conflicts of interest and appearances of impropriety.

United States Patent and Trademark Office (See Exhibit N), further substantiated by Warner and Crossbow additional petitioners alongside Plaintiff BERNSTEIN in making such claim to the USPTO. This Court should also note that Patent, Copyright, and Trademark law alone, without the convolution of the racketeering charges, requires highly specialized and licensed attorneys, certainly licensed by the USPTO patent bar. Clearly, Plaintiffs BERNSTEIN and LAMONT possess no such skills in these highly specialized areas, and are not licensed with the USPTO patent bar, factors which again lend support under the tests of *Hodges* for the need for Pro Bono counsel to "would be more likely to lead to a just disposition.[12]"

f. More substantiation of the Plaintiffs' claims and lending further support to *Anderson's* claims of "file thinning" is the ongoing investigation by Chris P. Mercer, President of the Institute of Professional Representatives Before the European Patent Office ("Mercer") that evidences "file thinning" of the Plaintiffs' files at the European Patent Office and the response of Plaintiff LAMONT (See Exhibit M) Moreover, the Mercer investigation now substantiates the claims in *Anderson*, claims that these type of case file tampering occurs not only in New York and in Florida but similarly across the pond.

Moreover, the nature of the Mercer investigation substantiates that these matters involve not only the highly specialized art of patent law, but now violations of international trade treaties that serve to entangle over thirty countries that comprise the EPO, the situation of which will also require highly specialized international legal counsel to "likely to lead to a just disposition[13]" in this matter. Again, this international legal expertise is far outside the capabilities of indigent Plaintiffs BERNSTEIN and LAMONT and this Court's continued denial of specialized Pro Bono counsel will severely limit Plaintiff's ability to "likely to lead to a just disposition[14];" it should also be of note at this juncture that Plaintiff BERNSTEIN and LAMONT, in some instances especially the files at the USPTO, are not privy to complaint files and it is unclear whether the subpoena power of the Court is sufficient to gain access to such files.

[12] 802 F. 2d 58, 61-62 (2d 1986)
[13] Id. at 61-62.
[14] Id. at 61-62.

Again, this Court, and for all of the above reasons, should not only provide Pro Bono counsel for Plaintiffs, but should bring about investigations by all Federal, State and international criminal authorities for those matters beyond the reach of Plaintiffs.

g. Wherein, either individually, but certainly collectively, all of the above are facts that there are very real ongoing investigations into many of the claims presented to this Court and in that very real investigators are investigating very real evidence, wholly satisfying the Second Circuit's threshold requirement in *Hodges* of "seems likely to be of substance,[15]" where not only are the allegations substantive, may it please the Court, but factual in its acceptance by a multiplicity of investigators from Washington to Munich, and many places in between.

h. Plaintiffs could stop here but, may it please the Court, allow us to continue and that, despite this Court's initial read of the case, and as will be claimed in the First Amended Complaint (~~See Exhibit C~~), Plaintiff's disagree with the Court's position that "there is no indication that plaintiffs lack the ability to investigate the facts of the case. Plaintiffs seem reasonably able to present their case[16]," while being honored at this Court's confidence in the abilities of Plaintiffs, but for all of the reasons stated herein Plaintiffs beg this Court for specialized legal counsel including but not limited to: Copyrights (~~failure of counsel to file~~), Corporations ~~(corporate shell game to move patent assignments away from Plaintiffs)~~, Anti-Trust, Entertainment, Media, Information & Technology ~~(ubiquity of Plaintiffs technology)~~, Finance, Intellectual Property and Patent Law and Non-Compete and Trade Secrets ~~(sabotage of Plaintiffs patent applications)~~, Trademark, Securities Litigation and Enforcement, Taxation and finally criminal prosecutors and investigators, all beyond the means of indigent Pro Se Plaintiffs.

Moreover, due to the lack of legal expertise in all of the above highly specialized legal fields by Plaintiffs BERNSTEIN and LAMONT, and without Pro Bono counsel, this Court hampers Plaintiffs ability to investigate the facts of the case and reasonably present this case, whereby in light of the Plaintiffs' lack of abilities, by appointing Pro Bono

[15] Id. at 61-62.
[16] Order § II, A, 3.

counsel, this Court satisfies the extraneous factors of the Second Circuit in *Hodges* for the allegations to "likely to lead to a just disposition[17].

Furthermore, in being able to present the case in all of the required complex areas of law, Plaintiffs argue that it would take several large law firms specialized in the numerous complex legal areas to bring this case properly before the Court and where the Schiffrin LOU illustrates, the cost would be astronomical, and upwards of Five Million Dollars ($5,000,000), ~~while Plaintiffs have~~ Iviewit had money which has been illegally misappropriated and converted already by certain of the Defendants, including of several million dollars of stolen funds, including possibly Small Business Administration funds, as reported to the Boca Raton PD, that led to Internal Affairs investigations, that led to the SEC, that led to SBA OIG, that led to FBI, that led to the DOJ, that led to the DOJ OIG, that led to FBI OPR and we still await the answers as to what the outcome of that investigation is where evidence and witnesses were provided to all those involved. We have been waiting on that outcome since, on or about, 2001 when Iviewit and witnesses first filed those complaints. Still further, where most of the counts include criminal penalties as well as civil penalties, to force Plaintiff's to do the criminal legal work in the areas of civil racketeering, especially where corruption has already allegedly stymied criminal investigatory efforts, puts Plaintiff's at a severe disadvantage in investigating the facts and presenting the case, and where the crimes alleged in *Anderson* complain of public office corruptions, it should be the State of New York and Federal Investigators that investigate corruption in public offices, not Plaintiffs and, to say the least, certainly Pro Bono counsel would be invaluable in these civil/criminal matters as well.

i. Where the risks of sabotage by counsel are likely and already apparent in past representation of the Iviewit Companies, as illustrated by the Schiffrin affairs described herein, unless Pro Bono counsel is not only offered but over sighted by this Court, and forced to adhere to the strictest of ethics, attorneys may again be acting inapposite to Plaintiffs legal rights and in concert with the accused conspirators to further sabotage and derail fair and impartial due process under the law, again, similar to the Schiffrin and Selz debacles.

[17] 802 F. 2d 58, 61-62 (2d 1986)

j. Where the Krane and Cahill matters already pose a severe credibility threat to the ethics departments of New York and may lead to a complete loss of confidence in the legal system and its flawed, if not criminally liable, self regulatory disciplinary system by the people of the State of New York, the Court would serve the people of New York well by providing Pro Bono counsel to prevent further malfeasances that expose the State courts and their agencies to further corruption. This Court should be compelled by the evidence cited within this Motion, as well as in *Anderson*, to afford Plaintiffs the best legal counsel the Court can offer for the necessary legal services and alert, if not compel criminal prosecutors and investigators to enjoin the case, to ensure that no further public office violations occur to derail Plaintiff's constitutional rights, civil rights, fair markets, all free of racketeering practices, thus contributing to a fair and impartial due process, lest the lack of could cause further lack of confidence in the New York State courts and this Court. In fact, the decision by this Court to not provide Pro Bono counsel, where the *Hodges* tests are fully satisfied, could be construed, albeit, perhaps, wrongly, of a further denial of due process and procedure under law.

C. Summary

The Court's Carl Sagan analogy (paraphrasing David Hume) that "extraordinary claims require extraordinary evidence[18]" confuses Plaintiffs, yet the Court seems to use that theory to deny Plaintiffs previously filed Motion to appoint Pro Bono counsel; Plaintiffs request this Court's declaration as to what case law has to say about allegations against a State Supreme Court Chief Judge, rather than the philosophizing of the 18th century academic about which has been roundly critiqued by the likes of John Earman[19], where in essence, Earman claims that Hume is vague about what he says, and that his arguments can be interpreted in a fashion that ranges from the trivial (one ought to be careful about accepting eyewitness testimony in the case of miracles) to the absurd (no testimony will ever be sufficient to establish a miracle). Moreover, Earman couches his critique in terms of Bayes's Theorem on conditional probability[20], claiming that Bayes's Theorem can be interpreted as a devastating blow to Hume's "pompous" opinion on the matter; in short,

[18] This expression was frequently stated by Carl Sagan, likely paraphrasing an argument from David Hume, *An Enquiry Concerning Human Understanding* (1748)
[19] In a collection entitled *Bays's Theorem*, edited by Christian theologian Richard Swinburne.
[20] *Thinking about Science*, May/June 2004.

Plaintiffs, and insofar as the views on Hume are mixed, ask this Court to stick to what case law says about allegations against high ranking jurists, and to what level of "extraordinary," evidence needs to arise to be substantive, and only for a court to appoint Pro Bono counsel. In fact, our cherished Declaration of Independence states:

> We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. — That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed, — That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness. Prudence, indeed, will dictate that Governments long established should not be changed for light and transient causes; and accordingly all experience hath shewn that mankind are more disposed to suffer, while evils are sufferable than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same Object evinces a design to reduce them under absolute Despotism, it is their right, it is their duty, to throw off such Government, and to provide new Guards for their future security.

It then should follow that if all men are equal, all evidence is equal and no more or less evidentiary requirement should follow in this or any other case before this Court and whereby public servants who are alleged to have committed crime are no more or less under law owing to their rank in public offices as a servant to the People. Plaintiffs added the additional text from the Declaration of Independence as it will soon be apparent to this Court that these matters herein may pose a grave threat from terrorists within our government to the great people of the United States of America.

Yet, the Court seemingly uses Hume's analogy again and ~~again we will~~ provide evidence ~~throughout this case in support, evidence in part contained in the exhibits~~ to this Motion,

in support of our claims herein and hundreds of exhibits in the documents and witness statements, etc. provided to hosts of investigators and have all seemingly fell off the procedural statues regarding them. May it please the Court, what should not apply to the Court's decision for Pro Bono counsel is a statement in the Order that infers that this logic extends a greater burden when allegations are against high ranking public officers, an illogical leap that appears to claim that extraordinary claims, against extraordinary people, require extraordinary evidence to secure Pro Bono counsel, where it has already been pointed to above that Hon Judith S. Kaye is only one of many conspirators, albeit a central figure in the "daisy-chain" of conspiracy in New York, but small compared to the others involved to sabotage and block Plaintiffs technology, to convert such ill gotten royalties to Defendant's criminal enterprise run through Proskauer and the patent pools they control.[21]

Further, Plaintiffs move this Court that, no matter how high in the political and legal chain these allegations may rise, Plaintiffs respectfully request this Court to abide to what case law exists, when determining what such case law holds as the required evidence for a court to appoint Pro Bono counsel, it is unclear why this Court assigns the class of Defendants, rather than abiding to "We hold these truths to be self-evident, that all men are created equal."[22]

(II) ACCEPT REMOTE APPEARANCE OF PLAINTIFF BERNSTEIN FOR COURT PROCEEDINGS

Based on what little confidence, if any, Plaintiff BERNSTEIN has in the courts at this time, Plaintiff BERNSTEIN respectfully asks this Court to reconsider its denial to accept telephonic appearances, whereby he can remain close to his family to protect them personally and cannot afford to bring them to New York for these proceedings. Moreover, Plaintiffs request this Court to provide security, much like in the United States Federal Witness Protection Program, rather than a promise of the Courts faith in the system once and if Plaintiff Bernstein makes it to the Courtroom.

---

[21] This Court can see in the attached draft amended complaint, that thousands of Defendants become embroiled in these matters with the filing for an injunctive relief by this Court against MPEGLA LLC, other Proskauer controlled patent pools, as Proskauer engineered violations of Non Disclosure Agreements and Proskauer engineered violations of Strategic Alliance Agreements, and other violations of Plaintiffs proprietary patent rights.

[22] Declaration of Independence, ¶ 2 (July 4, 1776).

Plaintiffs request until the protections of (III) below are in place, this Court to hear Plaintiff BERNSTEIN by conference call for his safety and due to his poverty caused by Defendants, including public officers of the State of New York.

(III) PHYSICAL PROTECTION OF PLAINTIFFS FOR COURT APPEARANCES

Plaintiff BERNSTEIN, and others deemed ~~worthy~~ by this Court, are asking for protection not only during proceedings at the Court but more akin to the United States Federal Witness Protection Program offered to other "whistleblower" witnesses against high ranking government officials and criminal enterprises. Whereby these corruption charges may elevate to senior ranking officials of the United States government, the court system and to corruption allegedly committed by United States Justice Department officials and Executive Branch members, all being collaterally related to attempted murder and reported death threats of Plaintiff BERNSTEIN.

Plaintiffs ask this Court to review early notifications on or about May 13, 2002 to both FBI officials in Long Beach, California and the County of Los Angeles – Sheriff's Department ~ File No. 402-02059-1799-339 to the Detective Bureau concerning threats made by Utley on behalf of Proskauer and Foley, that "if information discovered regarding a second set of patents found was told to anyone else, that Bernstein should watch his and his family's back when returning from California to Florida, in fear of their lives," or words to that effect. Where in light of this threat, Plaintiff BERNSTEIN promptly called his wife Candice and told her to pack their children and a suitcase, whereby Candice Bernstein packed and fled overnight, abandoning their home and possessions to reside incognito in several hotels for several months with their infant children, while preparing a case to take to federal authorities on the evidence already in possession at that time. Bernstein immediately began to interface with a variety of Federal, State and International authorities, including but not limited to those mentioned herein.

Later, the same "pack the children and flee for their lives" situation was created when their minivan was bombed, this time moving to California to live with Candice Bernstein's mother and sister in a two bedroom, one bathroom flat: seven people, again leaving their possessions behind. Moreover, at each juncture, pleas to the legal system, the courts and investigators fell on deaf ears or were derailed, continuing the exposure

and risk to Plaintiff BERNSTEIN and his family's lives, that now need this Court to intervene order for their safety by instituting protections similar to the United States Federal Witness Protection Program, considering the already existing attempts and threats made, all very substantive claims with "extraordinary" evidence such as the minivan bombing; Plaintiff BERNSTEIN is not asking for protection solely at the Court house, but in every step of the way to and from it.

That, these almost deadly series of events and their factual reporting ~~to~~ investigation by authorities, combined with the *Anderson* inference of her being physically assaulted to suppress corruption, the missing case files at the FBI and US Attorney's office and missing investigators, all reveal a classic pattern of racketeering that includes tampering with investigations, tampering with documents, violating public offices, death threats, attempted murder to cover up the hosts of Title 18 crimes Defendants' find themselves accused of, all requiring a more complete protection of Plaintiff BERNSTEIN so that he may live to get to this Court and testify against the accused.

That Plaintiff BERNSTEIN should be entitled to witness protection in the full meaning of the word, not merely for court appearances and not only in regard to the New York set of facts in the conspiracy but as a witness in possibly one of the largest public office corruption cases ever brought in this Court, perhaps in this country. Moreover, as this Court so astutely noted, the allegations in New York contain charges that the Chief Judge of the New York Court of Appeals may be implicated as an attempted murderess, and, therefore, this makes travel into and out of New York potentially deadly for Plaintiff BERNSTEIN and his family and although Plaintiff BERNSTEIN respectfully notes the Courts confidence in the U.S. Marshall service for protective services, Plaintiff BERNSTEIN's confidence in the courts for protection is not existent, or not substantial enough to feel his appearance (except where critical) are worth his life and respectfully requests that this Court reconsider protections according to this new information.

Equally, Plaintiffs request that should Plaintiff BERNSTEIN travel to court proceedings with protection akin to the United States Federal Witness Protection Program, such protection according to the United States Federal Witness Protection Program be afforded to Plaintiff BERNSTEIN's wife and children (also) who remain in California, as Plaintiff BERNSTEIN has not been secure leaving them out of earshot for almost eight years now. we beg this court that

and in light of his potential testimony as a witness not only in this case, but as a potential witness to the associated *Anderson* "whistleblower" case, fans the fears of Plaintiff BERNSTEIN & his family since who care about him.

Lastly, with the financial hardship, regular trips to this Court would cause Plaintiff BERNSTEIN, in poverty for almost eight years now, and lack of telephonic hearings for basic hearings places even more undue financial pressure, especially where Plaintiff BERNSTEIN would bring his wife and children back and forth as well for their safety.

Finally, regular trips for hearings also promotes medical problems for Plaintiff BERNSTEIN as flying causes severe head trauma resulting from a face smashing, neck breaking, spinal unit auto accident as a young man, although certainly for major needs he would fly and endure the trauma, he will more often be forced to drive from California to New York with his family for mundane hearings, if this Court so demands, and thus such timing would need to be taken into account.

(IV) REQUEST FOR EXTRAORDINARY CONFLICT CHECKS

Plaintiffs request this Court to order all participants in these proceedings to sign an affirmed statement that no conflicts exist with their involvement in these matters. Plaintiffs have included as an exhibit[23] and in the original case filing, a statement of no conflict and we urge this Court to institute a mandatory signing of such document or one similarly agreed to, whereby all (i) Judges and Magistrates, (ii) Court officers and employees, (iii) Defendant Counsel, (iv) Plaintiff Counsel (if one can be found), (v) Other Interested Parties and (vi) everyone privy to any information regarding this case, sign and affirm such statement to this Court under penalty of law.

That such request while seeming egregious at first, is merely to ferret out any would be conflicted individuals from attempting to further subterfuge or derail the due process rights of Plaintiffs as evidenced through Anderson. Further, where other conflicts of interest of Supreme Court of New York officials exists and some may be unknown at this time, and many officers of the court system are named as already Defendants, who have already been complained of by *Anderson* and Iviewit ~~prior~~, and where some were found violating public offices and then using conflict to evade prosecution, finds more than just precautionary cause but factual cause to preclude such actions further in this Court by a

[23] Exhibit - COI

simple conflict of interest check affirmed by all parties. Without such, Plaintiffs again may be in a position whereby conspiracy continues to exist that could be prevented with such simple tool and where the lack of such exposes the proceedings of this Court to such test, sooner or later. The information cited herein should establish Plaintiffs as the "poster boys" for Pro Bono counsel and if truly Pro Bono counsel is to be revered as a means of protecting New York's indigent Pro Se parties, this would stand as the litmus test.

WHEREFORE, Plaintiffs, and based on new information, move this Court to reconsider and: (I) Order to appoint Pro Bono counsel; (II) Order to accept remote appearance of Plaintiff BERNSTEIN for Court proceedings; (III) Order for physical protection of Plaintiffs for Court appearances, (IV) Order for Extraordinary Conflict Checks and such other relief as this Court deems just and equitable.

~~At the same time,~~ Plaintiffs request this Court to review and oversight all present investigations and the evidences presented herein (~~See Exhibit H~~), call into these matters all criminal investigators to aid in the discovery and prosecution of the criminal allegations. ~~Whereby,~~ After reviewing the materials and evidence presented to investigators world wide this Court should be overwhelmed with supporting evidence to further substantiate the claims. Further, we are asking this Court to call in criminal investigators into the civil racketeering allegations of this case, as the bulk of the racketeering allegations fall under criminal sections of the United States Code; therefore, these claims should be investigated first and/or simultaneously to test and prosecute the evidence presented.

Moreover, Plaintiffs ~~argue~~ that this Court ~~must~~ take an oversight role to prevent further obfuscations of justice, to prevent further file thinning by any investigators as suggested in *Anderson*, illustrated further by recent events at the EPO, and to prevent further ~~file thinning or~~ file erasing as ~~alleged by Plaintiffs against other of the investigators, including~~ at the FBI and U.S. Attorney for the Southern District of Florida~~, which have gone into a new dimension of investigation~~. Furthermore, as Plaintiffs case files are now missing from the Department of Justice's offices (FBI case file and U.S. Attorney for the Southern District of Florida case file) and, to top that, the lead FBI special agent is missing along with the aforementioned case files, which upon discovery of such, the FBI

and US Attorney field investigators suggested elevating the matters to the Hon. Inspector General of the Department of Justice, Glenn A. Fine, whose offices directed Plaintiffs to further contact H. Marshall Jarrett, Chief Counsel at the FBI Office of Professional Responsibility ("OPR") to investigate and determine what exactly has transpired with missing case files in an investigation that includes crimes against the United States, the attempted murder through a car bombing and death threats on certain of the Plaintiffs.

Moreover, the FBI OPR confirmed that they are now investigating the matters (See Exhibit O), whereby that complaint further implicates leading government officials and hosts of government criminal operatives not yet named in these matters before this Court. That this Court has little to do determine to the preponderance of substantive claims against the accused the Defendants than to instantly secure the records of all ongoing investigations and complaints world wide, and all evidence chock full of extraordinary evidence within each complaint for the extraordinary allegations against not so extraordinary corrupt public officials of high rank.

Lastly, the New York part of this allegation and the senior ranking officials implicated becomes outranked as this Court will soon become aware of, as the case evolves more to a crime against the USPTO and a possible ring of racketeering individuals under the cloak of legal degrees, public offices, and court robes attempting to infiltrate and misappropriate the USPTO, wherein, again, the Hon. Judith S. Kaye, ever becomes a lower link in the "daisy chain" of events.

rob inventors filing w/

Finally, what will become apparent, as it does to those involved for almost a decade, is that this crime involves an existing criminal enterprise that was robbing the USPTO and inventors in a very elaborate attempt to raid the national treasure of the United States, the backbone to free commerce, the USPTO, whereby through the use of patent pooling schemes and other anticompetitive practices, a criminal group of lawyers, judges and politicians may be similarly operating to commit similar crimes on other inventors and the USPTO, perhaps the road to the USPTO is littered w/ dead inventors.

Plaintiffs pray that this Court, based on the new information provided for herein and supporting documents attached, finds sufficient substance to immediately appoint Pro Bono counsel, and to reconsider and grant all the items that this Court in the last motion, limited through partial acceptance,

Attorney for Petitioners
Eliot I. Bernstein, Pro se
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Red Bluff, Cal. 96080
Tel.: (530) 529-4410

By:_____
Eliot I. Bernstein

P. Stephen Lamont, Pro se
35 Locust Avenue
Rye, N.Y. 10580
Tel.: (914) 217-0038

By:_____
P. Stephen Lamont

AFFIDAVIT OF SERVICE

I hereby certify that a true and correct copy of the foregoing will be furnished by facsimile or other methods approved by this Court, to the aforementioned Defendants with the original Complaint.

_____
Eliot I. Bernstein, Pro se

_____
P. Stephen Lamont, Pro se

CERTIFICATE OF AFFIRMATION

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
---------- X

ELIOT I. BERNSTEIN, et al.

DOCKET NO:
07 CV 11196 (SAS)

Plaintiffs,

-against-

APPELLATE DIVISION FIRST DEPARTMENT
DEPARTMENTAL DISCIPLINARY COMMITTEE, et. al.

Defendants
---------- X

PLAINTIFF, Eliot Ivan Bernstein, affirms under the penalty of perjury that all of the foregoing is true and accurate, and allege upon knowledge as to my own facts and upon information and belief as to all other matters.

Dated: January __, 2008
Red Bluff, California

Respectfully submitted,

by: _____

Eliot Ivan Bernstein (Pro-se Plaintiff)

39 Little Ave.
Red Bluff, California 96080
(530) 529-4110 (o)
(530) 526-5751 (c)
Email: iviewit@iviewit.tv
URL: http://www.iviewit.tv

CERTIFICATE OF AFFIRMATION

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
_____ X

ELIOT I. BERNSTEIN, et al.

DOCKET NO:
07 CV 11196 (SAS)

Plaintiffs,

-against-

APPELLATE DIVISION FIRST DEPARTMENT
DEPARTMENTAL DISCIPLINARY COMMITTEE, et. al.

Defendants
_____ X

PLAINTIFF, P. Stephen Lamont, affirms under the penalty of perjury that all of the foregoing is true and accurate, and allege upon knowledge as to my own facts and upon information and belief as to all other matters.

Dated: January __, 2008
Rye, New York

Respectfully submitted,

By: _____
P. Stephen Lamont (Pro-se Plaintiff)

35 Locust Avenue
Rye, New York 10580
(914) 217-0038

EXHIBIT A

[INSERT UTLEY RESUME AND DEPOSITION TESTIMONY]

EXHIBIT B

[INSERT LABARGA MOTION AND COUNTER COMPLAINT NOT JUST COUNTER COMPLAINT]

EXHIBIT C

[INSERT FIRST AMENDED COMPLAINT]

EXHIBIT D

[INSERT SCHIFFRIN LOU]

EXHIBIT E

[INSERT SELZ MOTION]

EXHIBIT F

[INSERT RUBENSTEIN LETTER TO LABARGA, RUBENSTEIN DEPOSITION, LABARGA ORDER TO RETURN TO DEPOSITION]

EXHIBIT G

[INSERT USPTO PETITION FOR FRAUD]

EXHIBIT H

[INSERT ENRON ARTICLES]

EXHIBIT I

[INSERT OPR LETTER]

EXHIBIT K

[INSERT FIRST DEPARTMENT ORDER]

EXHIBIT L

[INSERT PATENT SUSPENSION NOTICES]

EXHIBIT M

[INSERT MERCER'S LETTER EVIDENCING FRAUDULENT DOCUMENTS
AND
LAMONT EMAIL RESPONSE OF 04/09/2007 AT 12:01PM]

EXHIBIT N

[INSERT EXHIBIT OF CRIMES ALLEGEDLY COMMITTED]

EXHIBIT O

[INSERT FBI OPR LETTER CONFIRMING INVESTIGATION]