UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

X

ELIOT I. BERNSTEIN, et. al.

Plaintiffs,

-against-

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

Defendants

X

MOTION

07 Civ. 11196 (SAS)

SHIRA A. SCHEINDLIN, U.S.D.J.:

MOTION TO RECONSIDER ALL PRIOR ORDER DENIALS IN PART, BASED ON NEW INFORMATION, INCLUDING BUT NOT LIMITED TO: (I) RECONSIDER APPOINTMENT OF PRO BONO COUNSEL; (II) ACCEPT REMOTE APPEARANCE OF PLAINTIFF BERNSTEIN FOR COURT PROCEEDINGS; (III) PHYSICAL PROTECTION OF PLAINTIFFS FOR COURT APPEARANCES; (IV) REQUEST FOR EXTRAORDINARY CONFLICT CHECKS; AND (V) REQUEST FOR EXTENSION OF TIME TO FILE RICO STATEMENT.

PLAINTIFFS, ELIOT I. BERNSTEIN, Pro se, individually and **P. STEPHEN LAMONT**, Pro se and Plaintiff BERNSTEIN together 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., other John Doe companies (collectively, "Iviewit Companies"[1]) and patent interest holders, and, based on

[1] Plaintiffs cannot confirm or deny which companies, if any, are owned by the legitimate shareholders, as all of the Iviewit Companies are under investigation and part of what appears a corporate shell game consisting of authorized and unauthorized companies. Defendant Proskauer filed all incorporation papers and controlled the corporate records and stocks. Shareholders were never sent stock certificates for many of the entities found. The Iviewit Companies therefore will be added additionally as Defendants in the amended complaint until such time that investigators can determine which are owned by the legitimate Iviewit shareholders.

new information, move this Court to reconsider its prior Order dated January 9, 2008 ("ORDER") and: (I) Order to appoint pro bono counsel and overturn all other denials in part in the ORDER; (II) Order to accept remote appearance of Plaintiff BERNSTEIN for Court proceedings; (III) Order for physical protection of Plaintiffs for Court appearances; (IV) Order to accept request for extraordinary conflict checks; and (V) Order an extension of time to file RICO statement.

I. RECONSIDER APPOINTMENT OF PRO BONO COUNSEL & ALL PRIOR ORDERS PARTIAL DENIALS

Based on new information, Plaintiffs are requesting this Court to appoint Pro Bono counsel and overturn all the prior ORDER partial denials in favor of Plaintiffs for all the following reasons:

A. Background of the Alleged Crimes

> "It is from numberless diverse acts of courage and belief that human history is shaped. Each time a man stands up for an ideal, or acts to improve the lot of others, or strikes out against injustice, he sends forth a tiny ripple of hope, and crossing each other from a million different centers of energy and daring, those ripples build a current that can sweep down the mightiest walls of oppression and resistance."[2]

Denial of Due Process and Procedure Evidenced in *Anderson*

This Courts initial denial in part of the request for Pro Bono counsel in the ORDER may be viewed differently with a bit more information than was provided in the hurried initial filing and so Plaintiffs will set about to more clearly explain the need in light of the ORDER by this Court. Where it is the Plaintiffs responsibility, perhaps, in most cases to secure counsel, this case departs wholly from the norm in that the system of

[2] Robert Francis Kennedy ~ Day of Affirmation Address, University of Capetown, South Africa on June 6, 1966

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 had they not been usurped through the miscarriage of justice, would have otherwise resulted in due process and procedure long ago. Violations of attorney ethics in the handling of complaints filed by Plaintiffs, violations of Plaintiffs' civil rights, denial of due process and procedure, violation of attorney client privileges, violations of judicial cannons by justices involved, all to the detriment of the now indigent Plaintiffs, indigent as a result of these obfuscations of justice.

Had Plaintiffs been afforded due process when these events first entered the courts the situations would have had already 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. The indigent nature of the Plaintiffs is in part due to the damages done by former counsel and state officials and the system of laws they misused, as the *Christine C. Anderson v. the State of New York, et.al Docket No. 07 Civ. 9599(SAS) ("Anderson")* case so pointedly alleges of attorney complaint whitewashing at the First Department Departmental Disciplinary Committee ("First Department"). Such whitewashing of Plaintiffs complaints and written statements have, in numerous venues under ongoing investigation (Exhibit A[3]), already incurred enormous costs to Plaintiffs, all exacerbated by the above referenced diabolical actions of former counsel, public officials, and court officials in multiple states and internationally to deny and derail due process and procedure. Eight years of railroaded complaints, public officials and investigators ignoring such things as court orders for investigations and other malfeasances to deny due process have starved Plaintiffs through attrition since the

[3] Exhibit A – List of Investigations and Investigators

evidence first surfaced that the attorneys retained to protect the Plaintiffs Intellectual Property ("IP") rights were actually sabotaging Plaintiffs' IP and committing, allegedly, including but not limited to, fraud upon the United States Patent and Trademark Office ("USPTO"), fraud upon the United States Copyright Office ("USCO"), fraud upon the Small Business Administration ("SBA")[4], fraud upon the Iviewit Shareholders and Inventors; these are only some of the crimes originally committed, less the cover up crimes, that have succeeded in causing financial ruin upon Plaintiffs, to be discussed at length herein.

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 several times, while attempting to bring forth the crimes. Crimes, evidence and witnesses that certain of the investigators were consistently failing in their legal requirements to provide due process and procedure for and by failing to fully investigate and prosecute such former counsel, public officials, court officials and hosts of others named in the complaints. *Anderson* reveals the first indication from an insider, of just how due process and procedure was willfully and with intent circumvented to cause harm upon the complainants; according to her suit, *Anderson* felt that it was her duty to protect the public[5], including Plaintiffs, and her claims are of the highest caliber, being from an attorney employee of the New York State Unified Court System ("NYUCS"). *Anderson's* claims serve to further bolster Plaintiffs' claims that these disingenuous

[4] The SBA represents one of the largest investors in Iviewit Companies
[5] Kudos to Anderson for having the courage to stand in the face of evil men and women, fearing no evil and what has prompted Plaintiffs to join her efforts.

schemes exist and can cause ruin upon the unsuspecting complainants, in this case almost death. For this Court to force Plaintiffs to secure counsel after knowing of the damages both financially and personally this denial of due process and procedure has already cost them, appears to put due process in these matters again beyond the means of Plaintiffs, as there is no way for Plaintiffs to afford qualified counsel as will be evidenced herein.

Certain Defendants Found to have Conspired to Steal IP prior to Iviewit

Hailing back to the 1990's, upon information and belief, several of the key Defendants in the present criminal cluster have a prior history together of patent theft. Based on statements made by Monte Friedkin of Florida ("Friedkin"), to Plaintiffs former counsel, Caroline Prochotska Rogers, Esquire ("Rogers"), Friedkin reveals a similar fraud committed upon him by several of the original Iviewit conspirators, immediately prior to learning of the Iviewit inventions and being retained by the Iviewit Companies. An attempt to remove valuable hydro mechanical IP from Friedkin's company, Diamond Turf Equipment, Inc. through, including but not limited to, similar false oaths to the USPTO for patent applications, again constituting fraud not only upon Friedkin but the federal offense of false patent oaths!

The Friedkin illustration demonstrates that the conspiratorial ring, consisting of, Christopher C. Wheeler ("Wheeler")[6] of Proskauer Rose LLP ("Proskauer")[7], William J.

[6] Arrested in Del Ray Beach, Florida for Driving Under the Influence with Injury, Case No. FLO 500 400, a felony DUI requiring a warrant for his arrest. Quoting from the Police Report "Additionally, the Defendants wife, Deanna Wheeler, was following her husband and told me that her husband had taken off from the red light at 1000 South Congress Ave. at a high rate of speed for unknown reasons and had been drinking. Moments later, he struck the vehicle ahead of him. She then told me that her husband shouldn't have been driving and expressed concerns for the victim still trapped in his car."

[7] It will become important for this Court to note here that, on information and belief, Congressional records show that Joseph Proskauer, a founding partner of Proskauer and Supreme Court Justice at the First Department was involved as a stooge for JP Morgan, in the 1934 coup to overthrow FDR and have the United States join forces with Nazi Germany. The coup, know as the "Business Plot" was exposed and foiled by Smedley Darlington Butler, one of the most decorated war veterans of all time, a hero to this great

Dick ("Dick") of Foley & Lardner LLP ("Foley"), and Brian G. Utley ("Utley") former President of the Iviewit Companies who was placed by Proskauer with a materially false resume (Exhibit B[8]), was **not** formed solely to deprive Plaintiffs of royalties deriving from its technology, but was an ongoing criminal enterprise, perhaps hailing back to a group that started at the IBM Corporation ("IBM").

Involving IBM? upon information and belief, this same cast of characters worked together at IBM where Dick was IBM far eastern patent counsel in Boca Raton, FL ("Boca"), 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 or Utley fails to appear in any biographical information of Judge Kaye whom provides a variety of resume backgrounds some listing IBM and others not. How far back in time this group goes and how many times this patent scam has been committed on inventors will take further discovery and perhaps investigation by criminal investigators. Have other inventors been

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nation whom the treasonous group tried to recruit to turn the US military against the People and suppress any rebellion that might follow with military force. Congressional hearings were held into the matters and much of the plot was confirmed as stated in Wikipedia "In 1934, Butler came forward and reported to the U.S. Congress that a group of wealthy pro-Fascist industrialists had been plotting to overthrow the government of President Franklin D. Roosevelt in a military coup. Even though the congressional investigating committee corroborated most of the specifics of his testimony, no further action was taken." The coup was thwarted, brought into the light by the McCormack-Dickstein House Committee, but the treasonous traitors' evaded prosecution. It will be presented herein, that the actual conspiratorial ring begins here and has been operating through secret cults, including but not limited to, Yale's Skull and Bones, to plant members in prominent government posts to again plan a takeover of the United States government. It should also be noted that, on information and belief and directly from their client list on their website, Proskauer represents both Yale and Yale Law School. Joseph Meyer Proskauer was involved in the coup through the American Liberty League of which he was Advisory Council and on its Executive Committee, he was also an executive of the American Jewish Committee which, during the 1930s, opposed efforts by the American Jewish Congress to promote a widespread public boycott of German products. A Jew who aids and abets Nazi efforts is termed Judenrat, a term applied to the Jews who welcomed concentration camp victims to the showers and ovens, promising warm water and cookies for Nazi favors at the expense of the soul.

[8] Exhibit B – Fraudulent Utley Resume

robbed and perhaps then murdered prior to Friedkin and Iviewit? This will become an issue that this Court may have to review as discovery continues in these matters.

Proskauer Lawsuit & Involuntary Bankruptcy briefer

Iviewit was further denied due process and procedure through a skewing of the legal scale by those entrusted to uphold law, in two illegal legal actions that will emphasize further reasons for this Court to assign Pro Bono counsel instantly versus later, to prevent similar scams by Defendant counsel from occurring, in and on this Court, and to protect Plaintiffs from further complex illegal legal trickery. Plaintiffs must first provide a briefer to the two mysterious illegal legal actions found by Rogers who was called by Plaintiff BERNSTEIN to investigate claims by Warner Bros. ("WB") and at that time AOL/Time Warner, Inc. ("AOL") senior investment, technology and patent employees, who discovered while performing due diligence to invest upwards of $25 Million for a Wachovia Securities Co. ("Wachovia") Private Placement, that certain Iviewit Companies were being sued by their counsel Proskauer and that certain Iviewit Companies were the subject of an involuntary bankruptcy suit, neither of these actions ever heard of before nor disclosed to any investors, management or the Board.

First, Rogers found a billing suit instigated by Proskauer in *Proskauer Rose LLP v. Iviewit.com, Inc. et. al., Case No. CA 01-04671 AB*[9] ("Proskauer Lawsuit") (Circuit Court of the 15th Judicial Circuit in and for Palm Beach County, Florida filed with Judge Jorge Labarga ("Labarga") and second she found there existed a federal involuntary bankruptcy action at the U.S. Bankruptcy Court Southern District of Florida Case No. 01-

[9] 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.

33407-BKC-SHF ("IB")[10] filed this time by Proskauer referred management and Proskauer referred strategic alliance partners, including but not limited to, Intel Corporation ("Intel"), acting through Real 3D, Inc.[11] ("R3D") (R3D at the time, a consortium of Intel 10%, Silicon Graphics Inc.20% and Lockheed Martin Corp. 70%, later R3D wholly acquired by Intel, ***with the Iviewit technologies***) acting through their subcontractor, RYJO Inc., Proskauer referred Utley, Proskauer placed Iviewit employee Raymond Hersh, and Proskauer placed employee Michael Reale.

It should be noted here that, on or about this time, an audit of the financial records of the Iviewit Companies by Arthur Andersen ("AA") was already underway whereby while conducting such audit for the Iviewit Companies' largest investor, Crossbow Ventures ("Crossbow")[12], AA found Iviewit Companies that were identically named and other misleading corporate information, including missing stock for several entities, causing AA to request further information from, including but not limited to, Proskauer, Goldstein Lewin & Co., (the Iviewit accounting firm) and Erika Lewin, CPA, daughter of the accountancy firms partner Gerald Lewin[13] who was simultaneously an employee for internal accounting at Iviewit.

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[10] This action was dropped almost immediately after Iviewit retained new counsel, replacing the old unauthorized counsel by plaintiffs in that matter.

[11] Plaintiff BERNSTEIN, along with Wheeler, Lewin, Utley, James F. Armstrong ("Armstrong"), Simon L. Bernstein and others were flabbergasted when in a meeting with over 10 engineers fro R3D, Intel, SGI and Lockheed, who were studying the Iviewit inventions for investors, R3D's lead engineer, a one Rosalie Bibona, stated that the technologies, were "priceless" and when pressed further by R3D Chief Executive Officer, Gerald Stanley, Bibona claimed that the video inventions were worth hundreds of billions of dollars annually and the imaging hundreds more, or words to that effect. Immediately thereafter, R3D became Iviewit's first strategic alliance partner, the contracts however are under investigation as there appears to be massive fraudulent documents attempting to move the contract from the Iviewit company that originally signed such agreement. Evidence has been supplied to investigators.

[12]Crossbow instigated the audit for compliance with their own and the SBIC SBA loans they secured, their investment is approximately Four and One-Half Million Dollars ($4,500,000) with a two to one of monies from the SBA

[13] Lewin introduced Plaintiff BERNSTEIN to Proskauer's Wheeler and Albert Gortz to find patent counsel for the Iviewit inventions, initially Wheeler stated that Proskauer had no patent department but that he

Roger's, after finding that the two illegal legal actions were actually existent terminated unauthorized counsel who were originally retained by unknown parties and the Iviewit Companies retained Steven Selz, Esq. ("Selz") to represent the Iviewit companies being sued and file a Motion to Amend Answer and Counter Complaint for Damages (See Exhibit C[14]) which was denied by Labarga who was presiding on the case, claiming that former counsel who represented the Iviewit Companies without authority had basically waived the right to countersue and the circus court began. Labarga also refused to dismiss the case based on the fact that Proskauer had no retainers or any other contract with many of the companies they sued, their contracts with a separate Iviewit entity.

After taking depositions with Rubenstein and Wheeler whereby they both fled their depositions at their lawsuit, refusing to return, owing to the fact that at deposition evidence surfaced contradicting their deposition statements and previous written statements made to the court, which constituted obvious perjury. The Iviewit Companies thus readied for trial armed with devastating evidence of perjured written statements, perjured depositions and Iviewit had retained a new, and equity based counsel in addition to Selz, Schiffrin & Barroway LLP ("Schiffrin"). Schiffrin signed a binding Letter of Understanding ("LOU") (See Exhibit D[15]) to defend the Iviewit Companies in the upcoming trial and a variety of collateral suits to follow.

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would check with his New York constituents and partners to see if he could find such, or words to that effect. It is not known yet and will take further discovery to find if Lewin knew of the patent scam committed upon Friedkin when choosing Wheeler, a real estate attorney and Gortz an estate planner, although Boca is a small town known to be a gossip sewing circle, especially amongst its Jewish community.

[14] Exhibit C - Motion to Amend Answer and Counter Complaint for Damages

[15] Exhibit D – Schiffrin & Barroway Letter of Understanding with Iviewit

Accordingly, "all well and good you might say," but a funny thing happened on the way to the courthouse, where the supposedly powerful Proskauer was to enforce their bogus billing case against bogus companies that they had no retainer agreements with which, after investigations are concluded, may prove to be companies formed without authorization from the Board of Directors or management and which contained the converted and stolen IP. On the first day of 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 not only part of the conspiracy but in the words of the just recent Supreme Court Justice, Sandra Day O'Connor, in relation to the Florida Supreme Court election recount in the Bush v. Gore presidential election that Labarga was central too, that he was "off on a trip of his own…,[16]" perhaps referring to the Iviewit matters which were consuming him at the time. At the rescheduling hearing an even more bizarre court room fiasco unfolded. First, at the suggestion of new counsel Schiffrin, co-counsel Selz filed a motion to remove himself from the case based on the fact that Schiffrin had committed to take over as lead counsel when they signed their LOU to represent the Iviewit Companies. Schiffrin requested the removal of Selz and Labarga then granted Selz's motion which claimed Schiffrin was taking over.

[16] Supreme Conflict ~ The Inside Story of the Struggle for Control of the United States Supreme Court Jan Crawford Greenberg, Penguin.

What follows next led to a complete denial of due process and procedure through illegal legal trickery to prevent the Iviewit Companies from going to trial or even rescheduling one to present their damning evidence. Labarga then heard a motion filed the same day as the Selz motion to withdraw, a surprise motion, submitted without notice to the Iviewit Companies, that Schiffrin had simultaneously alongside Selz filed to remove themselves as counsel stating Selz was going to be counsel? To make things surreal, Labarga granted the Schiffrin motion to withdraw as counsel as well, despite having copies of their signed and binding LOU/Retainer to represent Iviewit in the matters before him and knowing he had just let go of counsel Selz, almost happy in telling Plaintiff BERNSTEIN that day that he now had no counsel and better get some quickly. Labarga thus rendered the Iviewit Companies without counsel on the eve of trial. Labarga then gave the Iviewit Companies a few days to retain new counsel in a complex case that was already ready for trail and which Iviewit had spent their remaining monies to get too. Further, Schiffrin never performed on their binding LOU/Retainer and failed to put in their required investment funds, sending over approximately $7,000 dollars, including a minute partial salary for Plaintiff BERNSTEIN and leaving the Iviewit companies devastated financially. Iviewit had turned away all other interested investors at the time in favor of the Schiffrin LOU, and Schiffrin then violated the LOU in violation of law and their ethics rules, intentionally attempting to destroy what was left of Iviewit and Plaintiff BERNSTEIN and making it impossible to sue them or Proskauer or anyone else. Plaintiff BERNSTEIN's wife applying for food stamps and other relief to feed their kids, devastated by the series of events intended to derail due process and procedure.

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, having to digest the enormous amount of evidence that existed at that time and get a handle on the magnitude of the crimes committed. Labarga had granted additional time to Selz even when he took the case from formerly illegally retained counsel Sax Sachs & Klein, yet he was unwilling to budge this time on an extension. Plaintiff BERNSTEIN could not even represent the Iviewit Companies, as there is a law against Pro Se representation of corporations. At this point, Plaintiffs filed a motion to have Labarga recuse himself from the case for this bizarre denial of due process and procedure and violations of the judicial cannons, of which he ruled on the motion to have himself removed, in his own favor, and so stayed on.

To further tip over the scales of justice 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 or prepare for an appeal. After weeks of attempting to contact Selz and Schiffrin, at the advice of Rogers, Plaintiff BERNSTEIN went to Selz's office where he was hiding from Plaintiff BERNSTEIN and after heated conversation where Selz tried to preclude Plaintiff BERNSTEIN from the records and further conferencing in Schiffrin who stated that Selz should stand fast and that they owned the files, Plaintiff BERNSTEIN ignored their threats and removed approximately 20 banker boxes of trial materials. This fiasco 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. Justice not served.

Labarga had evidence that Kenneth Rubenstein ("Rubenstein") of Proskauer had perjured himself in deposition and in sworn written statements to that court (Exhibit E[17]) 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 further in the deposition, in diametric opposition to his initial deposition statements where he first denies knowing Iviewit and Plaintiff BERNSTEIN and amidst a flurry of evidence confronting him contracting his statements, he breaks down and admits such knowledge of both the companies and Plaintiff BERNSTEIN and then flees the deposition refusing to answer further questions, again inapposite of law as so noted in the deposition transcripts. Why it is essential that Rubenstein feign that he has no knowledge of Iviewit, the inventors or the technologies is that to posses such knowledge exposes the glaring conflict of his MPEGLA LLC roles as gatekeeper (determining which submitted patents to include in the pool) and senior counsel for the pool, and his and Proskauer's simultaneously acting as Iviewit patent counsel, which pool now has adopted the Iviewit inventions. How could Iviewit's patent counsel have filed the patents and at the same time the pool Proskauer and Rubenstein now control are the direct benefactors of the technologies and the Iviewit shareholders and inventors are not?

What scared Rubenstein causing him to flee was that the evidence presented at deposition and to Labarga which showed (i) Rubenstein opining on the technologies for AOL and others, (ii) billing statements with Rubenstein's name all over them submitted

[17] Exhibit E – Rubenstein perjured deposition and perjured written statements.

by Proskauer at their billing case, (iii) letters from Wheeler showing entire patent files were sent to Rubenstein for review, (iv) business plans and the Wachovia Private Placement with Rubenstein named as lead "retained" patent counsel and as a Board of Director member (remember the Wachovia Private placement was billed for, reviewed and disseminated by Proskauer), (v) letters from senior technologists at AOL showing that Rubenstein had opined on the IP, (vi) letters showing investors, board members and management who claimed they relied on his opinion before investing, (vii) letters from Wheeler sent to numerous investors by Wheeler stating Proskauer's patent counsel (Rubenstein is the head of the Proskauer IP department as well) had opined favorably on the technologies (viii) technology evaluations conducted by R3D whereby Wheeler sent letters to investors again claiming the technology had been reviewed by their counsel and technologists and was novel and much more, all clearly showing his former statements to Labarga and in deposition to be wholly perjurious. All of this "extraordinary" evidence and witnesses establishing a conflict larger than the China Wall.

This evidence was presented to Labarga prior to his default judgment ruling, making the ruling a highly suspect action by Labarga not to mention a gross violation of his Judicial Canons. Most nefarious was Labarga's failure to report the perjurious statements to the proper authorities and more heinous his failure to report to the proper authorities that qualified counsel Selz had filed a counter complaint that had evidence that their was perhaps a major fraud on the USPTO, the Copyright Office, foreign patent offices and hosts of other crimes committed by the attorney's representing themselves before him as the judicial cannons would mandate him to report such. Prior to Labarga's granting the default judgment though, 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 F[18]) despite Rubenstein and Wheeler's pining that they were not going to return to further deposition **at their lawsuit**. The only way out for Rubenstein and Proskauer at the time was to have the case fixed and wholly deny due process. This court should siege the records of the Labarga court proceedings which again should provide ample evidence to substantiate the Plaintiffs' claims, again of course, if file thinning has not occurred as suggested in *Anderson*.

Intellectual Property Fraud Committed Directly Upon the USPTO and the Iviewit shareholders.

In addition to these two legal actions that show cause that Plaintiffs should be granted Pro Bono counsel and this Court reconsider all of the prior denials in part of the prior ORDER, is another complex set of legal issues that arose at this time regarding the IP. It was stated by AOL employee David Colter (Exhibit G[19]) that AOL patent counsel had found during due diligence that the patents that were displayed to their patent counsel for investment did not match up with patents on file at the USPTO and that Iviewit may have more serious problems than just the illegal legal actions, or words to that effect! Other evidence was surfacing at that time that Raymond A. Joao ("Joao"), patent counsel secured by Kenneth Rubenstein[20] ("Rubenstein") and Proskauer was patenting inventions

[18] Exhibit F – Labarga order for Rubenstein and Wheeler to return to deposition.
[19] Exhibit G – AOL letters
[20] On information and belief, Rubenstein and Joao were partners together at the law firm Meltzer Lippe Goldstein Wolfe and Schlissel prior to meeting Iviewit, although Wheeler introduced them originally as Proskauer partners. It was later learned, as investors were doing due diligence that neither of them were with Proskauer at the time they took disclosures from the Iviewit inventors acting as Proskauer partners. Upon being confronted with the information learned from investors, Wheeler stated that Rubenstein and Joao were transferring over to Proskauer and immediately thereafter Rubenstein transferred to Proskauer to start their IP department, Joao never made it.

faster than Edison, in his own name, while acting as counsel for and retained by Iviewit, for inventions he had learned from Iviewit IP disclosures.

Joao was then terminated for cause and upon termination, Wheeler and Utley recommended their "good friend" Dick from Foley (recall the Friedkin affairs), whom brought in Defendants Bohemn and Becker also of Foley, all were retained to investigate and correct what appeared at the time to be deficient work of Joao (later learned to be almost wholly fraudulent work), 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 (through violation of international trade treatises). Foley instead secretly continued the scam by further writing the IP into a series of fraudulent companies, similarly and identically named to the Iviewit Companies, and in other instances IP written with Utley's name as the sole ("soulless") inventor (Exhibit H[21]) with the filings being directed to his home address not the Iviewit offices. In other instances, where Utley never invented anything with the Iviewit inventors, Utley mysteriously is added on to other inventors' inventions, replacing original inventors, all this an almost exact repeat of the attempted theft committed upon Friedkin by Wheeler, Utley and Dick.

It was later learned, in a bizarre instance where Utley was caught holding two varied sets of patent portfolios, where the Iviewit Companies had only been aware of one, that in the other set owners, assignees and inventors were all fraudulently misstated when compared to the IP dockets and other patent documentation given to investors and the

[21] Exhibit H – Intellectual Property Docket showing Utley as sole inventor and copies of filing pages.

inventors. Hmmm, two sets of patent books and two sets of corporations? This second set of patent books was never shown or submitted with investment documents, to the Iviewit Companies Board(s), management, inventors and/or Iviewit shareholders, including the SBA. At the time, the recently prepared and disseminated by Proskauer, Wachovia Private Placement had no mention of these IP's and where they contradicted much of the information given by Proskauer, Utley, Lewin and Wheeler to Wachovia and everyone else.

Further damning and bizarre, the mathematical claims made by Foley in the patents in one set were mathematically incorrect, the claims wrong and again there were owner, assignment and inventor frauds, so meetings were held to confront Foley and Utley with the evidence found after analyzing the portfolios for one day. These irregularities in the filings were then supposedly corrected in the taped meetings, over three or four days, with Foley, Plaintiff BERNSTEIN, James F. Armstrong (an initial inventor, investor and senior manager), members of the Board of Directors and certain other management and after exhaustive work (as the problems were discovered in the patents only days before they were to be filed from Provisional status to Pending status and filed as well at the EPO, and inventors were presented with some documents to sign with only one day to review and now their were patents they had never knew existed or seen before. The math problems and assignments were thought by Iviewit to be corrected by Foley before filing but they were filed wrong anyway. These meetings were taped at the advice of certain Board of Directors and management of the Iviewit Companies, as these meetings where concerning to all shareholders (Exhibit I[22]) as it evidenced that assignments, owners and inventors of the patents were wrong, the core assets investors

[22] Exhibit I – Letter from James F. Armstrong

invested in, although executed correctly they were never filed correctly and it appeared were replaced with fraudulent applications and in the meetings Foley now admitted to not have been executed or filed at all many of the documents. Foley had even made representations to Wachovia for the Private Placement for due diligence and to others, that the IP was properly assigned and these were wholly false statements. This evidence was completely contrary to the prior statements, IP dockets and IP applications that Proskauer, Meltzer and Foley had tendered to investors and inventors, including wholly changed patent filings from what the inventors filed. Only later was it learned that Foley, despite taped calls whereby they agree to make the changes and file the assignments, etc., had instead filed the applications fraudulently anyway, disregarding the changes in certain instances and at the time apparently defying human logic. Still at this point the Iviewit Companies were wholly unaware that a major conspiracy was going on and since the attorney's and accounting professionals, the criminals, controlled all the documentation it was harder to penetrate the scam while being given wholly false information from the professionals that were hired to protect the Iviewit Companies.

On another front, after the Proskauer Lawsuit and the IB ended, and upon presenting further evidence to Harry I. Moatz ("Moatz"), the USPTO's Director of the Office of Enrollment and Discipline "USPTO OED" it was learned that patents had been assigned to corporations that were contrary to what the attorney IP dockets and documents 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 and to

begin formal USPTO OED investigations of all those involved who were licensed with the USPTO OED. 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. Moatz then directed Plaintiffs to file with the Commissioner of Patents a request for patent suspensions based on allegations of **FRAUD ON THE USPTO**[23] (Exhibit J[24]), and not merely the Iviewit shareholders. To add strong credibility to the fraud claims to the Commissioner, the allegations were similarly signed by the Chairman and CEO of Crossbow, Stephen J. Warner ("Warner") who had spent enormous time reviewing the evidence, a 20 year veteran investment banker from Merrill Lynch Capital Ventures Inc.

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 what appears a "patent shell game". Combined with the two sets of identically and/or closely named corporations, the "corporate shell game", these two fraud scams combined then created an illusion as to which patent applications had been assigned to which unauthorized companies and individuals and which unauthorized companies contained the fraudulently filed patents, the illegally incorporated corporations and companies designed to steal off with the real intellectual properties in a "bait and switch".

[23] These charges alone should cause this Court to enjoin investigators to this case but more importantly prosecutors who can represent the United States in the crimes against the United States and many US and foreign government agencies, of which Pro Se indigent Plaintiffs or possible future Pro Bono counsel can represent. It is the duty of this Court to make sure the People of the United States are protected from crimes against the United States and foreign nations, not Plaintiffs.

[24] Exhibit J – USPTO Commissioner filing alleging fraud on the USPTO

The Conspiracy that Almost Was - The Almost Perfected Patent & Corporate Shell Games

The new information herein should suffice this Court for understanding why the case before Labarga and the U.S. Bankruptcy Court were advanced in secrecy and once discovered were attempted to be instantly buried. The bankruptcy case was immediately dropped upon the legitimate Iviewit Companies discovery of the case and replacing former unauthorized counsel retained by unknown parties. On the other hand, the Labarga case did not go away so quickly, it 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 in the illegitimate Iviewit companies they now faced counsel retained by the legitimate Iviewit companies. Plaintiffs shall argue that as the Arthur Anderson audit was beginning, Proskauer attempted to dispose of their sham entities with the stolen technology before the legitimate Iviewit Companies knew the better and seize the illegally converted stolen technology by inserting themselves as the largest creditor of the illegitimate Iviewit sham companies, through the sham billing dispute case with the illegally set up Iviewit companies with the stolen technologies.

The bankruptcy would complete the scam and was necessary to gain the assets (the stolen IP) buried in the illegal companies. Proskauer had their friends and strategic alliance partners filing the IB suit with the intent of their friends in that action becoming the other largest 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 stolen assets in the bogus companies, effectively walking the backbone, enabling patents out the back door and reaping the spoils of their soon to be ill-fated bungled crime. It is presumed and will take further discovery to confirm but it appears that all Proskauer would have had to then do to complete the scam was get rid of the legitimate Iviewit Companies through a billing dispute with the legitimate Iviewit Companies and then forcing a bankruptcy to mirror the illegal bankruptcy and it would all get lost in the confusion, no one ever knowing the sham companies and patents existed. One more element that may have then been considered was to get rid of the inventors, slowly and methodically, so that no one would be able to make claims against the stolen patents.

The reason presumably, again a bit more discovery should prove out these claims, 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 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 the proliferation of the technologies through the pools. No, Proskauer wanted the bigger slice of pie that owning the stolen technologies would have yielded in a patent pool revenue share plan whereby they would get a piece commensurate with other inventors, despite the fact that they invented nothing, unless of course you consider inventing the largest bungled fraud on the USPTO an invention.

Fortunately for Plaintiffs, executives at AOL stumbled onto the fraudulent legal actions and bizarre patent filings and all the while through the Proskauer Lawsuit and the

IB, new counsel Selz and Schiffrin appeared to have no idea that the illegitimate Iviewit Companies they were defending were not the legitimate Iviewit Companies but instead the illegally set up shell companies with stolen IP, certainly most shareholders not involved in the scam had no idea. Plaintiffs will argue how hindsight would serve a 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 in the *Anderson* suit), The Florida Bar and the Pennsylvania Bar, all investigations which will have to be re-instigated especially in light of *Anderson's* claims and other new evidence that has surfaced. 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 this further revealed that technologies were being converted and stolen out the back door through a number of unauthorized technology transfers that were occurring. Upon information and belief, one of the unauthorized technology transfers that were being attempted at that time was to a brand new Internet

company, Enron Broadband (see Exhibit K[25]). Enron Broadband, who was found by federal investigators, on information and belief, to be booking revenue in advance of constructive receipt of the revenue on a scheme to deliver movies via the Internet using the Iviewit Companies' technologies, technologies they may have thought were soon to be theirs. 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. Comfortable enough however to begin an Enron/Blockbuster[26] deal, with full press and full accounting for the scheme for Internet movie delivery, which prior to the Iviewit Companies' technologies distributing Internet movies in full screen at real time frame rates was thought impossible. Without the Iviewit technologies, using prior technologies as was common at that time such as MPEG, the movies to be sold would have been far to large in file size to transfer with limited Internet bandwidth for the public and to stream them as Enron/Blockbuster was claiming, using MPEG technology prior to its stealing the Iviewit scaling inventions, would have left consumers with a postage stamp size video, at 4-6 frames per second far below the 29.97 required for the user to experience real time video. Certainly using MPEG technology prior to the Iviewit inventions they would have not sold many movies, at least to anyone who had ever watched television, in fact, engineers around the globe had deemed the search for a method to provide full screen full frame rate video on the web was the "Holy Grail" of the internet.

[25] Exhibit K – Enron Articles
[26] It is notable that Wayne Huizenga founder of Blockbuster was the Iviewit Companies' seed investor secured by Proskauer.

Enron Broadband was now caught with revenue that was never realized due to suddenly losing the technologies they promised would deliver such VHS quality movies 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, perhaps in efforts to bury the evidence. 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 Defendants have now wove, that all these matters 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.

The Cover Up Conspiracy

> "The individual is handicapped by coming face-to-face
> with a conspiracy so monstrous he cannot believe it exists."
> J. Edgar Hoover

As the scams against the Iviewit Companies were 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, among others, the Judge Kaye, the central figure on the "daisy-chain" of events in New York with her deceased Proskauer husband Stephen R. Kaye ("S. Kaye") (who became a Proskauer IP partner late in his career, after Proskauer formed their IP group instantly after learning of the Iviewit inventions, and

was an Iviewit shareholder and now Judge Kaye presumably an Iviewit shareholder through their estate), to derail any New York court actions and investigations. In order to stave off the multiplicity of complaints filed by the Iviewit Companies, not only in New York, following discovery of the ever growing list of federal, state, and international laws violated to commit such monumental crimes, the need now arose for requisite top down control of certain state, federal and international agencies too, to thwart exposure and keep the matters from all 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 (Exhibit L[27]), some would attribute the Labarga influenced 2001 Presidential election that led to the Supreme Court decision to choose the President for the people, George W. Bush, may have been part of an engineered plan to gain such top down control of the Executive, Legislative and Judicial Branch's, 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 government figures[28].

[27] Exhibit L – Draft Amended Complaint for the case before this Court

[28] One need only look at the riveting number of scandals in the years since the Bush regime may have stolen two elections to see and know what happened when the fox entered the henhouse. Further, to make these claims by Plaintiffs alone would seem paranoid or words from a conspiracy theorist but it is the words of former Supreme Court Justice Sandra Day O'Connor immediately after leaving the bench in a speech on March 9, 2006, at Georgetown University in Washington, D.C., O'Connor said some Republican leaders' attacks on the independence of the courts pose a direct threat to the constitutional freedoms of Americans, whereby she stated that "[I]t takes a lot of degeneration before a country falls into dictatorship but we should avoid these ends by avoiding these beginnings", "[T]he nation's founders wrote repeatedly that without an independent judiciary to protect individual rights from the other branches of government those rights and privileges would amount to nothing. But, as the founding fathers knew statutes and constitutions don't protect judicial independence, people do" and "We must be ever-vigilant against those who would strong-arm the judiciary." It is these statements that should scare this Court, the question everyone wants to know is what role this Court will have in stopping the degradation of the courts in this emerging dictatorship and what actions it will take to preserve fundamental property and due process rights of the individuals, when the courts fail to do so?

Moreover, to block complaints would require cover ups of crimes that could only be controlled by the highest ranking officials, officials that would have to be planted in many instances through Executive selection. Planting which may still be occurring today, as 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. The Defendants cannot face a fair and impartial courtroom providing due process and procedure where there is already "extraordinary" existing evidence and witness against them, the only way out is to keep denying due process at the highest levels through more and more crimes, involving more and more people.

"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") formerly of Foley and now with the über right The Lynde and Harry Bradley Foundation, Inc., 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 against his Skull and Bones brother, John Kerry. Grebe who has everything to lose if found culpable in the Iviewit RICO matters. "How much to lose is enough to have risked everything to block due process and commit these cover up crimes" you ask, well Grebe alone has an estimated personal worth of a billion dollars and the law firm Foley, another several billion to boot.

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 (Exhibit M[29]) and, perhaps, the Iviewit Companies. An election of a President that was legally engineered to ensure a Bush/Cheney 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 that even more "extraordinary[30]" issues are under immediate and ongoing investigations, albeit not yet related, including recent demands by Democrats for criminal investigations of leading Executive branch figures including Bush, Cheney, Rumsfeld, Rove, Libby, etc. Finally, what could the many secretive meetings by the Bush administration and Enron executives been all about? Perhaps they met about how to bury the Iviewit information and then the inventors, of course while planning to derail investigative efforts.

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, may have been planted to succeed John Ashcroft, by the Bush/Cheney regime, to, inter alia, stymie Plaintiffs complaints from elevating through to the U.S. Attorney Office and the Federal Bureau of Investigation. This may explain why the Iviewit files dating back to our first contact in 2001 including FBI written statements, evidence in the thousands of pages including original materials, and the lead investigating Special Agent, Stephen Lucchesi, have disappeared and no one

[29] Exhibit M – Article relating to missing Whitehouse emails
[30] Articles of Impeachment drafted by Dennis Kucinich are now before the House Judiciary Committee after a congressional vote sent them there and the charges of "high crimes and misdemeanors" include war crimes and violations of human torture treatises!!! Again, not a conspiracy theory, fact.

at the agency knows where he or the files have gone off too. This has led new investigators at the FBI to instantly refer these "extraordinary" matters to the highest levels of the department, to the office of Glenn A. Fine, Department of Justice, Inspector General and H. Marshall Jarrett (Exhibit N[31]) of the Federal Bureau of Investigation, Office of Professional Regulation for further investigations, extra-extraordinary.

B. Discussion

The New York conspiracy as described herein that tentacles to *Anderson*, is part of an even more "extraordinary" set of events that may need "extraordinary" evidence (whatever that may be), regular evidence of which has already been supplied to hosts of investigators worldwide. *Anderson*, alone should provide this Court with irrefutable, undeniable, factually provable and credible "extraordinary evidence" strong enough to have this Court reconsider its entire denials in part within the prior Order and overturn them wholly in Plaintiffs favor. Indigent as Plaintiffs are, the likeliness of our claims being proven would be greatly enhanced in this instance with the addition of Pro Bono counsel where not only New York officials are involved but hosts of other members of federal agencies, state courts, and international agencies will be newly named Defendants in the Amended Complaint (See Exhibit ?). With this Court granting not only Pro Bono counsel but over sighting such Pro Bono counsel, in the many specialized areas of law this case will require as described herein, and to further prevent further illegal legal trickery, will Pro Bono counsel level the playing field, 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 and without such Court anointed counsel this Court

[31] Exhibit N – FBI OPR letter

will put Plaintiffs at a severe disadvantage inapposite of the *Hodges* ruling and other Pro Bono tests this Court cited in the ORDER. 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 officials and all against two indigent Pro Se litigants. Either way though, Plaintiffs are prepared to take them all on, with all their supposed power and our converted royalties, in the greatest David v. Goliath since biblical times, with or without Pro Bono counsel, here and now in this Court, as we, "fear no evil". All Plaintiffs have needed to successfully prosecute the matters is a fair and impartial venue affording due process and procedure and we cannot thank this Court enough for its accepting this case and relating it to *Anderson* so that justice may be served.

This Court should be weary that 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* states have occurred at the First Department. This Court should be on notice that 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 use no more illegal legal tactics which may further entangle others, including our cherished court system and political system thereby lowering the public confidence in the courts, in their desperate attempt to evade prosecution. Collaterally already, all those who have aided and abetted in even the slightest way, may now be implicated under law in the possible

attempted murder charges that may follow. Hence, Pro Bono counsel and more importantly prosecutorial counsel for the hosts of federal, state and international crimes committed in this case and more locally the criminal acts alleged under *Anderson* and related to this case, could be further prevented with qualified counsel that could see the dirty legal tricks coming and prevent them, where indigent Pro Se'ers like Plaintiffs LAMONT and BERNSTEIN, lacking the requisite legal knowledge would only be able to stop them after the fact, as has historically been the case.

Based on what already exists in the multitude of investigatory files combined with the support from the hero *Anderson* alone, 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* test and other cited tests that requires the litigants claims "seem likely to be of substance":

a. Very real shareholders have been bled dry, their monies and their stocks are missing and 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 perhaps the Iviewit complaints filed. Those conflicts prior to *Anderson* led to a NYUCS Appellate Division First Department's court order ("First Department Orders") (Exhibit O[32]) for investigation of Proskauer, Meltzer, Rubenstein of Proskauer and MPEGLA LLC; Steven C. Krane ("Krane") of the New York's First Department Departmental Disciplinary Committee who also was (i) former New York State Bar Association

[32] Exhibit O – First Department Unpublished Orders

President, (ii) Proskauer partner in the newly formed (after learning of the Iviewit inventions) IP group, (iii) an Iviewit shareholder, (iv) former clerk to Judge Kaye and (v) partner with Judge Kaye's recently deceased husband S. 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 IP attorneys, and for several years running, are already the subjects of ongoing substantive investigations by Moatz of the USPTO, the Commissioner of Patents and the FBI (or at least until the case files and investigator went missing). It should be noted that Moatz upon receiving similar evidence to the complaints at the First Department requested that Defendant Thomas J. Cahill ("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. This led to discovery that Krane was wholly conflicted and violating First Department public offices rules by representing his firm, his partners and even himself (Exhibit P[33]), as he was a Proskauer partner and at the same time a First Department member, as well as, the leading disciplinary figure in the whole

[33] Exhibit P – Krane Suicide Letter to First Department

New York attorney disciplinary system[34] along with Judge Kaye, Krane failing to even mention one of his multitude of conflicts prior to representation of any of the parties. Cahill, later subject of an attorney complaint presently under review by Defendant Martin R. Gold in Special Inquiry #2004.1122 that has languished endlessly, unless of course Mr. Gold can aid us in understanding where his investigation has led him.

When Cahill was pressed on Krane's roles in the disciplinary and First Department he 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 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 demanding investigation into the conflicts and violations of public offices. Plaintiff's filed such motion with the NYUCS Appellate Division First Department ("First Department Court") and the Defendant Justices named in this action, after thorough review of the approximate eighty page motion pointing to the several thousand pages of attorney complaints submitted to Cahill, granted, in Unpublished Orders that the complaints against all those complained of be moved and immediately and investigated for "conflict of interest and the appearance of impropriety." This Court should additionally secure such files of the First Department Court and the original several thousands pages of complaints filed with the First Department and

[34] On information and belief, Krane's position as NYSBA President, also had a one year blackout period precluding him from representing any party, let alone his firm, his partners and himself in any disciplinary matters in New York of which he violated to make such representations.

determine if the existence of file thinning and other crimes alleged in *Anderson* have already occurred and certainly to prevent such if not already the case.

Similar conflicts of interests and violations of public offices were found with Defendant The Florida Bar, again committed again by Proskauer partners, Wheeler and Matthew Triggs, and led to a series of similar complaints and similar derailing of complaints by that state authority. Triggs, similar to Krane represented his partner Wheeler and Proskauer while in a blackout period that precluded him from representing any party for a period of a year after his being an officer of The Florida Bar. Triggs, also represented his firm and partners at The Florida Bar, while also representing Proskauer in the Proskauer Lawsuit in Labarga's court, all in violation of The Florida Bar rules and attorney ethics codes. Further, Defendant John Anthony Boggs, legal counsel for The Florida Bar, while admitting that Triggs had violated the conflict and ethics rules, then attempted to justify the actions by citing proposed bar rule changes he had drafted that were not approved! The Florida Supreme Court then refused to force The Florida Bar to docket complaints against Triggs, Boggs and others, inapposite the Florida Constitution. Their actions for these obfuscations of justice have been reported to all of the proper authorities and the information contained within those actions will prove invaluable to this Court in further determining how this criminal network works within the state court systems, thus those records should also be secured by this 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. Iviewit as part and parcel of a

"whistleblower"[35] 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 a reasonable belief that Plaintiffs claims are substantive in nature and this Courts other cited tests for granting Pro Bono counsel.

e. 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 USPTO based on allegations of Fraud upon the USPTO (Exhibit Q[36]). 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* and other of this Courts tests for the need for Pro Bono counsel to "would be more likely to lead to a just disposition."

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 Iviewit (Exhibit R[37]). Moreover, the Mercer

[35] Quoting The Honorable Shira A. Scheindlin at the United States District Court ~ Southern District of New York from transcription files in *Anderson* on December 12, 2007 at 4:45pm "The Court: Right. But it's a whistle-blower discrimination case. Basically, she's saying the reason I was fired is I tried to bring to the attention of the committee members certain things, and they didn't want to hear it; so instead, they fired me."
[36] Exhibit Q – Patent Suspensions
[37] Exhibit R - Correspondences with the EPI and EPO

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" 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."

It should also be of note at this juncture that Plaintiffs BERNSTEIN and LAMONT, in some instances, especially concerning the patent files at the USPTO, are not privy to their patent files, contrary to law, and it is unclear whether the subpoena power of the Court is sufficient to gain access to such files and this makes investigating the matters impossible for Plaintiffs. Not to mention Plaintiffs inability to investigate the Moatz and Commissioners investigatory files, in fact, Moatz has advised Plaintiffs to seek an "Act of Congress" to aid in gaining access to their files and other issues that confound current law, of which Plaintiffs have been working with Senator Dianne Feinstein's offices to begin. This Court, and for all of the above reasons, should not only provide Pro Bono but overrule the prior denials in part of the last ORDER in favor of Plaintiffs and again should bring about investigations by all federal, state and international criminal authorities for these matters beyond the reach of Plaintiffs.

g. Wherein there is also a very real investigation ongoing at the House Judiciary Committee, chaired by The Honorable John Conyers, who was sent the Iviewit matters by The Honorable John Dingell of the House Energy and Commerce Committee, who acted upon information from Representative Nita Lowey of New York, who acted on information sent to her by Plaintiff LAMONT regarding his personal shares in the Iviewit Companies and to seek Congressional oversight into what exactly was being done by any of the investigators in these matters.

Wherein, either individually, but certainly collectively, all of the above prove 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, " 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.

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 of this suit and attached in draft form herein, Plaintiff's respectfully 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," 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 (for failure of counsel to file), Corporations (corporate shell game to move patent assignments away from Plaintiffs), Anti-Trust (for

hosts of violations of Anti-Trust laws including Sherman and Clayton, Entertainment (for following the technology applications), Media, Information & Technology (ubiquity of Plaintiffs technology), Finance (for the massive securities frauds alleged), Intellectual Property and Patent Law (obvious) and Non-Compete and Trade Secrets (sabotage of Plaintiffs patent applications), Trademark (obvious), Securities Litigation and Enforcement, Taxation (for the multitude of alleged crimes in reporting and accountancy prepared and disseminated by certain Defendants to the Internal Revenue Service and others) and finally criminal prosecutors and investigators, all needing those skilled in the art of law, all beyond the means of indigent Pro Se Plaintiffs LAMONT[38] and BERNSTEIN.

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. In light of the Plaintiffs' lack of abilities, by appointing Pro Bono counsel, this Court satisfies the extraneous factors of the Second Circuit in *Hodges* for the allegations to "likely to lead to a just disposition".

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) at that time. Millions of dollars that Iviewit had which have been illegally misappropriated and converted already by certain of the Defendants, including several

[38] Although Plaintiff Lamont holds a J.D. in Intellectual Property Law from Columbia University, an M.B.A in Finance, and a B.S. in Industrial Engineering he does not hold a law license and thus does not feel that he can represent the Iviewit Companies in spite of his education in these specialized areas.

million dollars of stolen funds including possibly Small Business Administration funds. These stolen funds have been reported to the Boca Raton PD where evidence of case tampering exists, 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 those investigations are and where the missing money is, where evidence and witnesses were provided to all those involved. Point being, that Plaintiffs cannot afford such counsel and due to the crimes alleged herein. We have been waiting the outcome of the stolen cash investigations since, on or about 2001 when the Iviewit Companies 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 on behalf of the crimes alleged against the United States and other government agencies in the areas of civil racketeering, public office violations, fraudulent documents tendered to worldwide authorities etc., 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. 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. To say the least, certainly Pro Bono counsel would be invaluable in investigating and prosecuting these civil/criminal matters as well.

Where the risks of sabotage by counsel are likely and already apparent in past representation of the Iviewit Companies, as illustrated by the Proskauer, Meltzer, Foley and 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. This Court must act to stop these legal debaucheries committed by Proskauer and others involved, here and now, preventing those who appear studied in law but who practice the art of crime from making a further mockery of law and lowering the publics confidence in the legal system of which is fundamental to the sanctity of this great nation.

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 courts and their agencies to further corruptions. 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 all the necessary legal services required to protect not only Plaintiffs but the court system. In fact, the decision by this Court to not provide Pro Bono counsel as the case progresses and this Court feels the claims are more substantial, 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 " 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 NYUCS Chief Judge, rather than the philosophizing of the 18th century academic about which has been roundly critiqued by the likes of John Earman , 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, claiming that Bayes's Theorem can be interpreted as a devastating blow to Hume's "pompous" opinion on the matter; in short, Plaintiffs, and insofar as the views on Hume are mixed, ask this Court to cite 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.[39]

It then should follow that if all men are equal, all evidence is equal and no more or less evidentiary requirement should be necessary depending on the stature of the accused 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 they are merely replaceable servants to the People[40], not the other way around. 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, who would then be moved to "abolish" and "throw off" these rogue elements of our government.

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 "extraordinary" logic extends the notion that a greater burden of proof is necessary 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 Judge Kaye is only one of many conspirators, albeit a central figure in the "daisy-chain" of conspiracy in New York, yet a relatively small player when compared to the others this may involve.

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

[39] Declaration of Independence, ¶ 2 (July 4th 1776)
[40] Some would argue that public servants need to conversely be upheld to higher standards not less under law and thus would require even less evidence, again Plaintiffs argue "all men…"

Based on what little confidence, if any, Plaintiff BERNSTEIN has in the courts at this time, Plaintiff BERNSTEIN respectfully begs 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 all these proceedings. Understanding this Court's position that such telephonic appearances are not accounted for in the rules, Plaintiffs request that this Court bend such rules in light of the "extraordinary" circumstances and dangers to Plaintiff BERNSTEIN regular appearances would cause. Plaintiffs request this Court to provide security, much like in the United States Federal Witness Protection Program ("USFWPP"), rather than a promise of the Courts faith in the system once and if Plaintiff BERNSTEIN makes it to the courtroom. 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 NYUCS.

(III) PHYSICAL PROTECTION OF PLAINTIFFS FOR COURT APPEARANCES

Plaintiff BERNSTEIN, and others deemed in need by this Court, are asking for protection not only during proceedings at the Court but more akin to the USFWPP 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 NYUCS and to corruption allegedly committed by United States Justice Department officials and Executive Branch members. Where such crimes may all now be collaterally related to the attempted murder and reported death threats against Plaintiff BERNSTEIN, BERNSTEIN is in real danger.

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 and other damning evidence found was told to anyone else, that Plaintiff BERNSTEIN should watch his and his family's back when returning from California to Florida, as Utley and the law firms would kill them" 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 and kids 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 in possession at that time. Plaintiff 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 (pictures @ www.iviewit.tv homepage), this time moving to California to live with Candice's mother and sister in a two bedroom, one bathroom flat: seven people, again leaving their possessions behind for over two years. Moreover, at each juncture, pleas to the legal system, the courts and investigators to protect BERNSTEIN fell on deaf ears, continuing the exposure and risk to Plaintiff BERNSTEIN and his family, that now need this Court to intervene and issue orders for their safety by instituting protections similar to the USFWPP, 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 and investigations by authorities, combined with the *Anderson* inference of her being physically assaulted to suppress corruption, the missing case files and missing investigators at the FBI and US Attorney's office, 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. 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 this makes travel into and out of New York potentially deadly for Plaintiff BERNSTEIN and his family. Although Plaintiff BERNSTEIN respectfully notes the Courts confidence in the U.S. Marshall Service for protective services at the Court, Plaintiff BERNSTEIN's confidence in the courts for protection is not existent, or not substantial enough to feel his appearances, except where necessary to confront the accused, are worth his life and

respectfully requests that this Court reconsider protections according to this new information.

Plaintiffs request that should Plaintiff BERNSTEIN travel to court proceedings with protection akin to the USFWPP, we beg this Court that such protection according to the USFWPP also is afforded to Plaintiff BERNSTEIN's wife and children, as Plaintiff BERNSTEIN has not been secure leaving them out of earshot for almost eight years now. 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 and his family and all who care about and love them who ask tirelessly why these protections have been ignored previously.

Additionally, regular trips for hearings also promotes medical problems for Plaintiff BERNSTEIN as flying causes severe head trauma resulting from an automobile accident where his entire face was smashed breaking all the bones, his neck was broken, he was confined to a spinal unit in traction, was in a coma, and where altitude has a painful effect as he is short sinuses. Certainly for major Court appearances, he would fly and endure the trauma although for the mundane proceedings he will more often be forced to drive from California to New York with his family, if this Court so demands by denying to overturn the former ORDER denying such remote appearances.

(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 (Exhibit S[41]) and in the original case filing, a statement of no conflict and we urge this Court to institute a mandatory signing of such

[41] Exhibit S - COI

document or one similarly agreed to, whereby all (i) Judges and Magistrates, (ii) Court officers and employees, (iii) Defendant Counsel (an absolute to prevent further Proskauer styled legal subterfuge through legal and professional conflicts causing everyone involved thus far further suffering and more importantly preventing the entangling of others as new Defendants. G0d knows from the Draft Amended Complaint exhibited herein there are already enough defendants), (iv) Plaintiff Counsel (if one can be found who is willing to risk life, limb and their legal license), (v) Other Interested Parties and (vi) everyone privy to any information regarding this case and have all sign and affirm such statement of absolutely no conflict with any of the thousands of Defendants to be named, affirmed 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*. Other conflicts of interest of NYUCS officials may exist unknown at this time, and many officers of the NYUCS are already named as Defendants, some who have already been complained of by *Anderson* and Iviewit prior, and where some were found violating public offices and then using conflict and violations of public offices to evade prosecution, finds more than just precautionary cause but factual cause to preclude such actions further in this Court by a 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 a simple tool, one that should be done anyway, despite the "extraordinary" claims herein, as a matter of fundamental jurisprudence and where the lack of such exposes the proceedings of this Court to such conflict tests, sooner or later. Plaintiffs were unclear

from the ORDER where the Court stands on the request for affirmed conflict checks by all parties as begged for in the prior Motion, as the ORDER failed to address this concern.

(IV) REQUEST FOR EXTENSION OF TIME TO FILE RICO STATEMENT

Plaintiffs are requesting that this Court grant an additional ninety days to file a RICO statement in this case. Two cases related to *Anderson* have received information from the Pro Se help desk that RICO statements were not necessary for Pro Se litigants to procure, despite the rules of this Court. On February 06, 2008 Luisa Esposito ("Esposito") from related case *07 Civ. 11612 (SAS) Luisa C. Esposito v. The State of New York, et. al.* was informed similar to Plaintiffs that RICO statements were not necessary by Pro Se litigants. After going to the Court and speaking directly with Pro Se help personnel Esposito and Plaintiff BERNSTEIN were comfortable that despite this Courts rules which state counsel must submit such twenty days after filing, that the Courts' rules were intended for "counsel" and that Pro Se was excluded from the meaning of "counsel" as stated in the rules.

That Plaintiff LAMONT was not wholly satisfied with such read and then called this Courts chamber and spoke with Plaintiff BERNSTEIN to this Courts clerk who advised quite the apposite and stated that a RICO statement was necessary by Pro Se litigants, as well as, "counsel". In then receiving the rules for the RICO statement, it became apparent with the massiveness of the conspiracy and the number of Defendants to be included in the Amended Complaint and requirement to fully identify and define each party and their part, it would take several weeks without the aid of "Pro Bono" counsel

for Plaintiffs to complete such RICO statement. We are asking for an extension of time therefore to complete such and that such time begins at the time this Court rules on such.

WHEREFORE, Plaintiffs, and based on new information, beg 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 (V) Order for an extension of time to file RICO statement and such other relief as this Court deems just and equitable.

The information cited herein should establish Plaintiffs as the "poster boys" for Pro Bono counsel and other reliefs sought herein and if truly Pro Bono counsel is to be revered as a means of protecting New York's indigent Pro Se parties, this case will stand as the litmus test as to its value as a public service, especially where the integrity of the courts of the great State of New York are at risk.

Further, Plaintiffs request this Court to review and oversight all present investigations and the evidences presented in them and call into these matters all criminal investigators to aid in the discovery and prosecution of the criminal allegations. After reviewing the materials and evidence presented to investigators world wide this Court should be overwhelmed with supporting evidence to further substantiate the claims. We are asking this Court to call in criminal investigators into the criminal racketeering allegations this case imparts, 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.

Plaintiffs beg that this Court need take an oversight role of all investigations to prevent further obfuscations of justice, to prevent further file thinning and other crimes by any investigators, as suggested in *Anderson* and illustrated further by recent events at the EPO, and to prevent further file erasing or case investigator erasing as illustrated by the missing case files and investigators at the FBI and U.S. Attorney offices.

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 crimes against the USPTO and the United States, and to a larger possible ring of racketeering individuals operating under the cloak of legal degrees, public offices, and court robes attempting to infiltrate and steal inventions filed with the USPTO, wherein, again Judge Kaye becomes a lower link in the "daisy-chain" of events. What will become apparent, as it does to those involved for almost a decade, is that this crime may involve 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 Commerce Department, the USPTO and the USCO. 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 patent office is now paved in dead inventors. In the most extreme case, this case may prove to expose and even greater threat to the sanctity of this great nation as it may have provided the spark that forced this group of criminals to penetrate US policy making departments to commit the cover up crimes described herein and opened the door for them to commit other "high crimes and misdemeanors" in even more horrific treasonous acts such as, including but far from

limited to, (i) war crimes, (ii) falsifying war documents to take the country to war, (iii) exposing CIA operatives and their counterparts across the world, (iv) violation of international treatises on torture (v) election fraud, and finally (vi) murder of troops and others that may have been led to their deaths by the acts of (i) through (vi) above.

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 fully in favor of Plaintiffs, all the items that this Court in the last ORDER limited through partial denial. May G0d speed be with this Court as the sanctity of this great nation rests partially on the shoulders of those who are beholden to uphold justice.

Attorney for Petitioners

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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)

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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)

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Rye, New York 10580
(914) 217-0038

EXHIBIT A

EXHIBIT B

EXHIBIT C

EXHIBIT D

EXHIBIT E

EXHIBIT F

EXHIBIT G

EXHIBIT H

EXHIBIT I

EXHIBIT J

EXHIBIT K

EXHIBIT L

EXHIBIT M

EXHIBIT N

EXHIBIT O

EXHIBIT P

EXHIBIT Q

EXHIBIT R

EXHIBIT S

EXHIBIT T