IVIEWIT TECHNOLOGIES, INC.
IVIEWIT HOLDINGS, INC.
ELIOT I. BERNSTEIN ~ FOUNDER AND INVENTOR

FACSIMILE TRANSMITTAL SHEET

TO:	FROM:
The Honorable Shira A. Scheindlin	Eliot Ivan Bernstein
COMPANY:	DATE:
United States District Court ~ Southern District of New York	3/6/2008
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(212) 805-0246 Chambers	2842
RE:	YOUR REFERENCE NUMBER:
Courtesy Copy	2842WC

☑ URGENT ☐ FOR REVIEW ☐ PLEASE COMMENT ☑ PLEASE REPLY ☐ PLEASE RECYCLE

NOTES/COMMENTS:

The following is a courtesy copy of a letter being sent via US Mail to the Pro Se Desk for Judge Scheindlin, please deliver immediately to the Judge.

Thank You,

Eliot I. Bernstein
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Via US Mail and Facsimile

Wednesday, March 05, 2008

Honorable Shira A. Scheindlin
United States District Judge
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: Plaintiffs Opposition to State Defendants Letter of February 29, 2008 in Eliot I. Bernstein, et al. v. Appellate Division, First Department Departmental Disciplinary Committee, et al.,
Docket No. 07 CV 11196 (SAS)

Dear Judge Scheindlin:

In a letter dated February 29, 2008, the Office of the Attorney General of the State of New York claimed it is or will be representing thirty nine of the defendants, collectively "State Defendants" and requested additional time to respond to this Court. Plaintiffs oppose these measures as extreme and unwarranted, for the following reasons:

I. Possible Conflict of Interest and Appearance of Impropriety in the Attorney General's Representation of State Defendants

Plaintiffs, on two separate occasions, have been directed to deliver written statements and evidence to the Attorney General ("AG"): first in or about 2004 under Eliot Spitzer and most recently 2007 under Andrew M. Cuomo ("Cuomo"), apprising them of the multiplicity of crimes committed by the State Defendants and defendants and asking for a full investigation and if warranted prosecution. Eliot Spitzer did not respond at all and Andrew Cuomo's Office of Public Integrity refused to investigate and stated no reason or rationale in a letter dated September 24, 2007 regarding Case #07-507.

On March 4, 2008 Assistant AG, Monica Connell ("Connell") called and we asked if there was a potential conflict of interest to have their office acting as counsel for the State Defendants after having already been privy to the information already submitted to their offices in our earlier complaints.

Questioning if, the same office could act as both investigator for Plaintiffs and defense counsel for State Defendants, regarding the exact same events. Ms. Connell stated "this is an issue you should take up with the Court" or words to that effect. It then perplexes Plaintiffs as to who to now appeal Cuomo's prior office decision to not investigate based on the new revelations of public office corruptions alleged in the related 07 Civ. 9599 (SAS) Christine C. Anderson v. the State of New York, et al. matters, as this would certainly call for such criminal investigations of public officials and to further determine how they relate and support our earlier complaints to the AG and our case.

Plaintiffs request that the Court determine if a conflict of interest exists, and if so, to direct the State Defendants to seek third party non-conflicted counsel. Plaintiffs additionally request that if the AG continues to represent all or part of the State Defendants that this Court advise us who to appeal the earlier AG complaints to, on the basis of the new and astonishing "whistle-blower" public office corruptions alleged in Anderson's case, as they now relate to our case and are cause for reinvestigation of all prior complaints with the AG.

Perhaps from the myriad of conflicts that already finds many of the State Defendants sitting in defense, we can preclude further defendants from being added to these matters, by the strictest adherence to ethics in advance, to advance a fair and impartial courtroom proceeding from the very first instant. This Court may thus prefer a federal level investigation versus one conducted by New York state actors, as the conflicts and public office violations in New York seem the only way to continue a full press denial of due process there and have already caused a world of trouble for that State in these matters.

II. Possible Conflict of Interest and Appearance of Impropriety in the AG's Representation of Judith S. Kaye

Governor Mario Cuomo appointed Judge Kaye to the Court of Appeals in mid-1990 and the current AG is his son. In the Connell conversation we also asked if whether to have the very same office acting as counsel for Judge Kaye, presumably both personally and professionally, who is the direct appointment of the father of the AG, constitutes a possible conflict of interest and appearance of impropriety. Ms. Connell stated "this is an issue you should take up with the Court," or words to that effect.

In light of this information, the information in section I and the conversation with Ms. Connell, Plaintiffs request that the Court determine if a conflict of interest and an appearance of impropriety exist, and if so, that this Court direct Judge Kaye to seek third party non-conflicted counsel.

III. Delayed Return of Waivers of Personnel Service

In its letter, the AG asks for an extension of time in regarding its return of Waivers of Personal Service from this Court. Connell states that she does "not wish to delay or prolong service" on the one hand but on the other hand seeks to delay these proceedings by returning the Waivers of Personal Service a full twenty three days after service. As a reminder to this Court, service has already been delayed for almost a month due to the service complications under investigation currently.

Plaintiffs request that this Court reject the AG's request for additional time to return the Waivers of Personal Service.

IV. Delayed Return of Answer to the Complaint

The AG additionally asks for a lengthy extension of time from this Court to respond to the Complaint above and beyond the allotted time. This Court denied Pro Se Plaintiffs' request for an extension of time to file an amended complaint. Unlike Pro Se Plaintiffs, the State Defendants and the AG are mostly lawyers who have adequate state and individual legal staff, abundant resources and should have no problems timely responding.

Plaintiffs request this Court to deny the AG and State Defendants additional time to answer the Complaint. Connell called Plaintiffs, claiming to be delivering a "message from your Honor" asking Plaintiffs directly for additional time and such request was refused.

V. Conflict of Interest and Appearance of Impropriety in Self Representation by Proskauer Rose LLP. and Foley & Larder LLP.

Connell confirmed that Proskauer Rose LLP. and Foley & Lardner LLP. are representing themselves in this lawsuit as indicated in the carbon copy section of her letter.

Plaintiffs direct the Court's attention to New York Lawyer's Code of Professional Responsibility (Updated Through November 3, 2007), DR 5-101 [1200.20] Conflicts of Interest - Lawyer's Own Interests that states:

> **A lawyer shall not accept or continue employment if the exercise of professional judgment on behalf of the client will be or reasonably may be affected by the lawyer's own financial, business, property, or personal interests...**

Plaintiffs show that self representation in a matter where these law firms have everything to lose, including perhaps lengthy federal prison sentences, is in

direct violation of DR 5-101 [1200.20] New York Lawyer's Code of Professional Responsibility (Updated Through November 3, 2007).

Further, based on Proskauer's prior self-representations in state bar complaints and in a civil billing case, all of which have resulted in conflicts of interest and abuses of public offices being found in both Florida and New York, Plaintiffs request that this Court direct Proskauer Rose LLP and similarly Foley Lardner LLP to seek third party, non-conflicted counsel.

It is already confusing how the AG interfaced with these Defendants representing themselves and did not notice them that they were in violation of ethics rules which could constitute cause for the AG to file charges or further disciplinary complaints to be filed. Instead, based on the AG call and her letter, they have already been sharing information and exchanging papers together in these matters and working together on a defense, in complete defiance of ethics laws. So as not to sound offish to this Court, Plaintiffs have complained that due process has continually been denied through a pattern and series of conflict of interests and violations of public offices and that the only way to prevent such in this venue and impart a fair and impartial conflict free courtroom is to force defendants and State Defendants to adhere to attorney ethics and public office rules. Thus, Plaintiffs request that this Court review the already established conflicts represented in the self representations by these law firms that easily could retain third party non-conflicted counsel, or perhaps not so easily and if this Court finds violations have occurred already to refer these parties to the appropriate authorities to investigate and perhaps prosecute them under DR5-101 [1200.20] and any other regulations they may have violated.

VI. Joao Representation by Fried

John W. Fried by virtue of his prior representation of Raymond A. Joao at the First Department Disciplinary Committee in a prior disciplinary complaint has now become a figure in the nexus of events claimed in the Complaint. Accordingly, Plaintiffs see it as a very real possibility, if not a certainty, that Fried will be called as a fact witness in the proceedings or even perhaps a defendant. Therefore, rather than waiting until then for Joao to seek new representation, Plaintiffs request this Court to direct Joao to seek other non-conflicted counsel. In fact, the claims asserted in the related Anderson case will serve as cause to have all those prior disciplinary complaints at the First Department and all those actors involved, including Fried, investigated.

VII. Request Court to Direct SBA to Obtain Counsel To Protect Government Interests

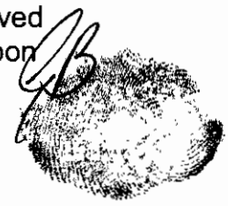
Plaintiffs point the Court to the Complaint whereby Plaintiff Bernstein complains individually and on behalf of patent interest holders and the

shareholders of the Iviewit Companies and Plaintiff Lamont complains on behalf of patent interest holders and the shareholders of the Iviewit Companies. As the SBA is a shareholder of the Iviewit Companies it therefore is aligned with the Plaintiffs and as a government instrumentality should be separately represented by counsel that can represent the government interest and not by the Pro Se Plaintiffs, in order to protect the SBA's financial and other interests. There are many reasons for this Court to have the government represented by qualified counsel not only for their interests in the intellectual property but as many of the crimes alleged have been committed directly against the United States and foreign nations through violations of international treatises and Pro Se Plaintiffs are unsure if they can either charge or represent criminal activities against the United States and foreign nations. An example of this would be at the USPTO whereby patents have been suspended pending ongoing investigations of allegations of fraud upon the USPTO by many of the defendants licensed with the USPTO OED and whereby these matters are wholly relevant to this case and should be represented if possible by qualified counsel.

Finally, where the First Department Disciplinary conflicts and violations of public offices have already led five justices there to instigate investigation into the matters which now 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 allegations alleged within Anderson, to afford Plaintiffs and the great State of New York the best legal counsel the Court can offer for all the necessary legal services required to protect not only the Plaintiffs but to protect the people's confidence in the New York court system.

VIII. Confusion Pertaining to Service of the Summons and Complaint by the U.S. Marshal Service

Plaintiffs request definitive proof of service in this case based on the fact that there appears to be fault already in the servicing of the Complaint. We are waiting to find out whom the U.S. Marshal Service ultimately received the replacement Complaints from that were lost in transit, as we have not heard back from the Pro Se desk regarding our written request for this Court to generously expend additional time and resource to get them to either the US Marshal or us. As we wrote previously, the United States Post Office has record of receiving a twenty-two pound package in Red Bluff, California but no record of transmitting the twenty-two pound package anywhere, let alone to the United States Marshals office. The Marshals office has claimed that when they received the package, the Complaints (estimated to have weighed about twenty pounds) was removed by someone from the package and that they were missing and not served upon



Defendants at all. This has forced Plaintiffs to request the Pro Se desk to consider recopying and expending tremendous energies and costs again to facilitate getting new Complaints delivered either through Plaintiffs or this time directly to the Marshal to have them served properly.

The AG's office appears not to have received even the courtesy copy sent by the Court for the Marshal to serve upon them and instead appears to rely on hearsay as to what was received by Defendants. Ms. Connell's letter provides no help in that she relies on qualified statements such as "what appears to be the compliant" and later goes on to state that "Upon information and belief, the marshals re-served the defendants with the complaint..."

Plaintiffs request that a Court official describe the ACTUAL receipt of the Summons and Complaint including but not limited to: who received the documents, when they received the documents, and proof positive that the bona fide Complaint was served on each and every Defendant. Plaintiffs request this Court to clarify this series of events by and between the United States Post Office, the US Marshal Service and the State Defendants so that it presents no future problems in the matters. Plaintiffs request that until proper service can be affirmed and both The United States Post Office (Investigation # C036249070) and the US Marshal have completed their ongoing investigations into the matters of possible federal mail fraud and who may have committed such, which has now delayed proper servicing by almost a month, that Defendants remain technically not served. While appreciating opposing counsel's generosity in accepting faulty service we remain fearful that this could lead to problems in the future and want to assure that all is procedurally correct in all phases of the case.

IX. Request for Immediate Appointment of Pro Bono Counsel

Plaintiffs respectfully request the appointment of pro bono counsel as it is absolutely critical at this stage and we beg the Court to reconsider its original denial of this request as the AG has indicated it will be filing a Motion to Dismiss. Plaintiffs are not lawyers, and while Plaintiff Lamont holds a law degree, he took a purely business oriented curriculum at Columbia, void of advanced civil procedure, Rules of Evidence, or any other litigation styled courses; he has never practiced and is not a member of the New York State Bar or any other Bar Association for that matter.

Plaintiffs are aware that many times, cases are initially decided on motions and then go to the appellate level before the case is actually tried in the district court; accordingly, without Pro Bono counsel, this Court will receive from Pro Se Plaintiffs responsive pleadings that perhaps do not conform to the Court's rules and decorum, and likely will not have the case support this Court should have and may require, as Plaintiffs are without the resources and skill sets in matters as complicated as these.

It is in the Court's best interests to have both sides of the argument properly laid out and the law briefed so that a "well reasoned" and correct decision can be made. With counsel, all this can happen. Without, it is less likely, plus the Court will have to read responses that are far too long, not straight to the point, and could result in appeasable error, at no fault of the Court's. In fact, Plaintiffs are working on an amended complaint in these matters and after consulting with the Pro Se desk, it appears that based on the RICO charge we will need to add another several hundred defendants in these matters to satisfy that charges requirements.

If counsel is appointed in the future versus immediately, then they may be at a big disadvantage as motions filed now could result in certain claims or parties being released, which may not happen with counsel's aid instantly. We beg this Court to grant instant Pro Bono counsel and give Plaintiffs time to adequately seek such representation before forcing upon them self representation that is wholly unqualified for these matters.

Respectfully submitted,

Eliot I. Bernstein, Pro Se

cc: Monica Connell (via US Mail and Facsimile)
Assistant Attorney General
Attorney for Defendants

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