UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ELIOT I. BERNSTEIN, et al.

Plaintiffs,

-against-

APPELLATE DIVISION FIRST DEPARTMENT DEPARTMENTAL DISCIPLINARY COMMITTEE, et al.

Defendants

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DOCKET NO: 07Civ11196 (SAS) [rel. 07 Civ 09599]

EMERGENCY MOTION FOR ADDITIONAL EXTENSION OF TIME TO FILE RESPONSIVE PLEADINGS TO MOTIONS TO DISMISS & OPPOSITION TO MOTIONS TO DISMISS

SUPPLEMENTAL REQUEST FOR ADDITIONAL TIME BASED ON NEW EXTRAORDINARY INFORMATION LEARNED AFTER THIS COURT'S JUNE 18, 2008 RULING AND PRELIMINARY OPPOSITION TO MOTIONS TO DISMISS

PLAINTIFFS, ELIOT I. BERNSTEIN, Pro Se, individually and **P. STEPHEN LAMONT**, Pro Se and Plaintiff BERNSTEIN on behalf of shareholders of Iviewit Holdings, Inc., Iviewit Technologies, Inc., Uview.com, Inc., Iviewit Holdings, Inc., Iviewit Holdings, Inc., Iviewit.com, Inc., Iviewit.com, Inc., I.C., Inc., Iviewit.com LLC, Iviewit LLC, Iviewit Corporation, Iviewit, Inc., Iviewit, Inc., and other John Doe companies (collectively, "Iviewit Companies"), and patent interest holders, move this honorable Court to grant additional time to file responsive pleadings to each Motion to Dismiss ("MTD") and to dismiss each MTD based on the Responses to the Motions to Dismiss ("MTD's") contained herein, and, so state all of the following in support:

SUPPLEMENTAL REQUEST TO MOTION FOR EXTENSION OF TIME DOCKETED WITH THIS COURT AS DOCKET # 85 ON JUNE 06, 2008 DUE TO NEW EXTRAORDINARY CIRCUMSTANCES

1. Plaintiff Bernstein's wife, Candice Bernstein ("Candice"), through an eviction proceeding naming only Candice was evicted from their residence based on a baseless landlord tenant proceeding, as discussed in the June 06, 2008 Docketed Motion for an Extension of Time Due to Extraneous Circumstances and the further discussed herein. The eviction forced by court order, Candice, and family, to vacate their home 5-days after posting the eviction writ. While working diligently on the responsive pleadings to the MTD's it will now not be impossible to meet the newly scheduled July 14, 2008 deadline, without jeopardizing Plaintiff Bernstein's family and therefore this best effort is put forth under tremendous duress.

2. The reason the MTD response filings are a day late, is due to a postal service error on the part of UPS, which prevented pickup Saturday July 12, 2008 for delivery on July 14, 2008. The letter confirming the UPS problem can be found at http://www.iviewit.tv/CompanyDocs/20080712%20Letter%20from%20UPS%20re%20error.pdf also contained in Exhibit 1, Evidentiary Link 875

3. Due to new and extraordinary circumstances in the eviction proceedings, Plaintiff Bernstein respectfully asks for an extension of time commensurate with the time necessary to move a family of five to Florida into a house that will be ready for tenancy on August 15, 2008. The Bernstein's are frantically calling friends from California to Florida to live with them for the next month until August 15, 2008 when they can move into a new home.

4. Time will also be required in addition to the move to get business services up and running again, in order to file pleadings in these matters. Plaintiff Bernstein's address used for the continuation of the Iviewit Companies and the legal and investigative cases that remain ongoing, including this case, no longer exist.

5. Plaintiff Bernstein and his family locked out of home, have no permanent address, no phones, no facsimile machines, no email, no computer systems, and other items necessary to file proper pleadings before the Court or even access case information. The timing of this eviction could not have been worse, or more calculated perhaps, to

interfere with Plaintiffs' filings in these matters, adding much more hardship. Plaintiffs will show this eviction calculated to interfere with these proceedings and the eviction process flawed in a way to make the process highly suspect.

6. Plaintiffs presume it will take between 90-120 days to re-establish business efforts and again file pleadings with this Court. Therefore, we ask these factors described herein favor the later 120 days requested, allowing for further extension based on the new information herein, despite the Court's prior Order docketed June 18, 2008, stating clearly, additional time will not be granted over the 14 days granted but the situation just got a lot worse.

7. As noted in the prior motion for an extension of time, repeatedly and abusively, evictions have been utilized as a tool to force Plaintiff Bernstein and his family into hardship, to make it impossible to for him to file pleadings in previous court cases that were happening at those times. The eviction proceeding of June 18, 2008, was yet another example of the ongoing harassment of the Bernstein family caused by legal proceedings whereby Plaintiff Bernstein and his family are denied due process rights or any ability to assert any rights for that matter in court.

8. This continued pattern of harassment through abusive legal process further support Plaintiffs contentions of a criminal enterprise composed of lawyers that remains underpinning each of these legal actions to cause further and further damage to Plaintiffs to deny them due process rights.

9. The eviction proceeding was held as part of Case #14561 in the Superior Court of California, County of Tehama, Civil Division, hereby incorporated in its entirety by reference. Plaintiff Bernstein and his wife, ten minutes prior to the hearing, approached opposing counsel Dennis Albright ("Albright") and offered a compromise and settlement agreement. Basically, Bernstein's would pay rent from the claimed date rent was due in their pleading of May 22, 2008 to July 22, 2008, and offered Albright two cashiers checks already drawn from the bank and filled out.

10. Albright stated his client, Chris Dittner ("Dittner") would have to approve any settlement upon his return, as Dittner was stopped at the courts metal detector for a concealed weapon, which he had to return to his car. Upon Dittner's return, Albright informed Dittner of a settlement offer and without even hearing the terms, he stated he

wanted to go through with the proceeding. The Bernstein's could have offered a million dollars for two months and Dittner did not even listen to the offer presented. Where there are no known confrontations with Dittner and the Bernstein's in any negative way prior, this seemed remarkable.

11. A few minutes later, the bailiff seated Candice and Eliot Bernstein at the defendants table, while opposing Counsel Albright and plaintiff Dittner, sat at plaintiffs table.

12. After a brief private conversation between Albright and the bailiff, the bailiff approached Plaintiff Bernstein and stated he was not sued, so he would have to move outside the courtroom, stating he could not even be in the courtroom gallery. Plaintiff Bernstein asked if eviction proceedings were somehow now closed proceedings and was told by the bailiff to follow his orders and step outside the courtroom and he need not explain why.

13. After leaving the courtroom, Plaintiff Bernstein stood outside the courtroom waiting to ask the judge, who had not yet entered, why he was removed for no reason. When the proceeding started with only Candice Bernstein, the bailiff came outside the courtroom and ordered Bernstein to move away from where he was standing with a view of the proceedings and directed him out of site of the courtroom proceeding entirely. The bailiff told Plaintiff Bernstein he would be called if necessary and if he returned he would be cited for contempt. There had been absolutely no confrontation with bailiff or other cause for the removal of Plaintiff Bernstein and this remains a mystery.

14. Plaintiff Bernstein and his wife were in disbelief. Candice had planned to have Plaintiff Bernstein handle the matters before the court or at minimum help her; she was now left in the courtroom with no one but Judge John J. Garaventa ("Garaventa"), Dittner, his counsel Albright, the bailiff and the stenographer. Not a single other person from any case was in the court, as there were no other cases waiting prior or after, thus no witnesses to what then transpired.

15. Candice, realizing Plaintiff Bernstein who had most of the information outside the courtroom, immediately asked the judge in light of this, to have one week to secure counsel to represent her as this would cause severe hardship on her children if she

could not succeed to get adequate time to move. When that request was denied, Candice asked for one day when that was denied, she asked for just one hour to secure new counsel and this request was also denied.

16. Payment for rent was tendered according to an oral agreement between Plaintiff Bernstein and Dittner, lasting over two years, which included living under Ginger Stanger's (f.k.a. Ginger Ekstrand) ("Stanger") ongoing written lease. There was never any breach, nor a single formal complaint for over two years, not once a late rent action, not a single violation of the written lease or oral agreement by Plaintiff Bernstein, his family or Stanger.

17. The pleading filed with the court by Albright failed to evict the legal tenant Stanger, who remains holding a valid lease agreement or request her guests vacate or she vacate. Instead, the eviction action was suspiciously filed only against Candice under an oral agreement. Where such oral agreement may not even have been enforceable by the court under "the statute of frauds and contract law", especially where a written agreement was in place to sue under and the oral agreement was for a period of well over a year.

18. Dittner had allowed Plaintiff Bernstein and his family of four to live in the two bedroom unit with both Amanda Leavitt, (Stanger's other daughter) who was also on the written rental agreement with Stanger. Originally, the agreement was to live until such time Bernstein's could recover from being forced from their home in Florida, following a devastating car bombing as described in the AC, and two baseless eviction proceedings that forced the Bernstein's to move almost overnight again, in fear of their lives, moving in with Plaintiff Bernstein's mother-in-law Stanger. Dittner was fully informed of these matters and agreed to allow the Bernstein's to stay for a year or two, until they could recover and find adequate other living quarters, as long as monthly rent was paid.

19. A moment of the Court's time regarding the two baseless evictions forcing the move from Florida to California, as they paint a similar pattern of abuse of eviction processes in those proceedings, showing a pattern of abuse. In the initial filing in Florida, no rent was originally claimed owed or any other reason for the eviction was stated, as with the current case.

20. The first Florida eviction filing was withdrawn by opposing counsel on the day of trial in that court, when Plaintiffs brought in evidence from a witness who worked at the apartment unit suing. That witness stated she was asked to sign a materially false document by the buildings **lawyer** to enforce the eviction whereby the employee felt highly uncomfortable, and told the Bernstein's so and stated she was willing to testify to that court of her knowledge of the misdeeds and how that document was forced upon her to sign. She signed the knowingly fraudulent document at the threat of termination of her employment. Where Bernstein had such falsified document and witness as evidence in hand, ready for trial, yet another trial denial denying due process.

21. Bernstein's, filed a counterclaim that was denied by that judge, who immediately prior to trial in the court stated, the case was over and the other side had just withdrew their own action. She then told Bernstein's to re-file the counterclaim with a different court and dismissed the case without prejudice. The counterclaim stated similar to this case, attorney's were abusing process to force eviction to interfere with ongoing legal proceedings and the document forgery and witness proved this.

22. Whereby the initial filing reeked of abuse of legal process and heard might have proven fraud and attorney misconduct, the second filing immediately after, reeked of further abuse of process. The second filing, almost immediately after the first, was decided on a fraudulent settlement agreement whereby Candice and Plaintiff Bernstein's signatures were transposed onto a settlement document without any authorization by counsel, as reported to the West Palm Beach Police Department and the judge hearing that case. Immediately after ruling on such fraudulent settlement document, Judge Marx recused himself from the matters.

23. Both Florida eviction cases were referenced with case numbers in the prior pleading for extension of time filed with this Court. Both support that abuse of process is driving these eviction actions. Coincidentally or not, these evictions occur whenever critical filing dates in court proceedings related to Iviewit are due.

24. In the instant eviction action, after filing a 30-Day Notice to Quit ("30-Day"), Dittner then legally waived such filing by accepting two cashier checks after the date of the posting, as further described herein, voiding that 30-Day. California law is clear on the voiding of a 30-Day by rent acceptance, "Acceptance of Rent Beyond

Notice Period: If the landlord served a 30-, 60-, or 90-day notice and then accepted rent covering a period beyond the 30, 60, or 90 days he has implicitly withdrawn the notice. (Highland Plastics v. Enders, 109 Cal.App.3d Supp. 1 (1980)).”

25. Rent was due monthly on the first day of the month per the written agreement between Stanger and Dittner and rent had been paid not only in full, but also in advance for the period of May 1, 2008 through June 30, 2008. Payments were made approximately two weeks in advance of their due dates via cashier checks[1] and were accepted after the 30-Day was filed, covering a period of two months. The May rent was paid two weeks in advance in April and the June rent was paid two weeks in advance in May as indicated on the cashiers’ checks.

26. Albright filed the 30-Day on or about April 22, 2008[2] and where under the heading titled “persons served” it was listed as “Candice Bernstein and Elliott” as stated on the exhibited document. The attached envelope[3] made out to “Candice Bernstein and Elliot (last name unknown)” and where Dittner was aware of the Bernstein's marriage and entered into the oral agreement with Eliot and Candice Bernstein, this claim of not knowing Eliot Bernstein’s last name appears to be with intent. It appears calculated to leave Plaintiff Bernstein out of the eviction so it would not show up as harassment to him in any court records.

27. Dittner in fact, had received prior emails from Eliot and Candice regarding personal matters, whereby the Bernstein’s had offered him help in securing live music for his restaurant based on Candice’s connections at that time through her job in the music industry and Plaintiff Bernstein’s connections from a similar job many years ago with a related company.

28. Dittner had drinks with the Bernstein’s several times at his restaurant discussing such and where the Bernstein’s even recently have seen Dittner at karate classes with their children and all appeared to be friendly and no mention made of ongoing eviction proceedings. Both Chris and his wife Corey Dittner know who the Bernstein’s are and their marital relationship and the court should take notice Dittner and

[1] Exhibit 1 – Evidentiary Link 873
[2] Exhibit 1 – Evidentiary Link 874
[3] Exhibit 1– Evidentiary Link 874

his attorney claim suspiciously they do not know who Eliot Bernstein is when filing pleadings for the eviction matters; certainly, this could not have been a mistake.

29. Dittner had accepted **two** rent checks 30 days apart, after posting the 30-Day and this negated his April 22, 2008 notice, as rent paid in full for the entire period after the 30-Day and then 30 days beyond.

30. What is most suspect is, the day after the eviction was filed in court on May 28, 2008, the rent checks Dittner had constructive receipt of for both May and June's rent were returned in an envelope[4] dated by the United States Post Office on May 29, 2008. Dittner held in his possession the May cashier check for approximately 43 days and the June's rent check for approximately 14 days before returning them. No prior correspondence the checks were being returned, for any reason.

31. Bernstein's were then highly suspicious when the two months of cashiers checks for rent were returned by Dittner, mailed the day after filing the eviction, obviously with the intent of sabotaging Bernstein's with this surprise eviction action and leaving them no time to adequately prepare to move or prepare for court.

32. When filing the eviction on May 28, 2008, Dittner knew he had constructive receipt of rent for both May and June but pleaded to the court rent was due starting May 22, 2008, although he had legal tender in hand paying the rent well past that date. This slight of hand constitutes a false pleading to that court, as Dittner had not returned the checks until May 29, 2008 after filing falsely he did not have rent after May 22, 2008 as stated in the pleading.

33. Nowhere in the filing did Dittner or Albright acknowledge they had constructive receipt of rent past the May 22, 2008 period and they were planning to return such rent in favor of the eviction pleading. Perhaps, knowing having accepted rent for two months would have negated their original 30-Day and forced them to file another such 30-Day to enforce any legal claim; they tried to act as if they did not receive rent in their pleading. This cannot go overlooked by the Court as this done obviously with a malicious intent to deceive that court.

34. No legal standing to evict was available without misleading that court to believe rent had not been paid from April 22, 2008 to May 22, 2008, on the date the

[4] Exhibit 1 – Evidentiary Link 874

action was filed. In fact, almost through admission, if Dittner had filed a 30-Day on April 22, 2008 and had not accepted any rent, Albright's filing would have stated rent was owed from April 22, 2008 forward, not May 22, 2008, which proves they had taken May's rent after the 30-Day.

35. It is important to note the Bernstein's had begun plans to move August 1, 2008 and believed no action was being taken after the 30-Day on April 22, 2008. Dittner agreed to accept rent after April 22, 2008 and for the following month, so it was shocking news and left Bernstein's little time to plan a move instantly. A legal trickery now forces Bernstein's to the streets until living and working arrangements can be re-established.

36. If this abusive eviction had not occurred with such timing, Plaintiff Bernstein would not have needed any time extensions from this Court and now must beg for 120-day extension to file responses to the MTD's, due to this extraneous hardship that came about without warning through legal debauchery. Much of the time necessary to focus and respond to the hundreds of pages of the MTD's wasted, forced to deal with moving family, filing two extensions of time due to the eviction and that court proceeding.

37. There is a possible link to explain why Garaventa's actions are suspect here as well. Months prior to the eviction, Garaventa was contacted through a letter sent directly to him by Plaintiff Bernstein on January 30, 2008 and copied to Inspector General of the Department of Justice, Glenn Fine[5] ('Fine"). The letter asked Garaventa for his help in releasing from custody on a traffic infraction, Plaintiff Bernstein's brother-in-law, Lucas Simpson ("Simpson"), who had just been recently stabbed three times in an attempted murder, in a public restaurant with countless eyewitnesses and was now incarcerated with those who had stabbed him by order of Garaventa.

38. Plaintiff Bernstein's letter to Garaventa copied to Fine (contained in the previous exhibit to Fine herein), contained all of the information of how the stabbing could be related to the Iviewit Companies affairs and the proceedings before Your Honor and how Garaventa's ordering Simpson's arrest could be fatal to Simpson.

39. Garaventa certainly knew who Plaintiff Bernstein was in the eviction proceeding, as it is not everyday one gets a letter pleading for the life of a traffic offender

[5] Exhibit 1 – Evidentiary Link = 876

and is informed an attempted murder may be part of the ongoing Iviewit Companies matters.

40. Simpson in the attached letter to Fine's letter, a week prior to his arrest, on January 21, 2008, had written Garaventa, **voluntarily** requesting a meeting or hearing with Garaventa to prevent any possible warrant for his arrest. Simpson offered to pay or work off any fines due, to avoid any chance of arrest and confinement that could endanger his life, as exhibited in the Fine exhibit herein. Simpson had been paying the tickets off and appearing in court with Garaventa over several years. Simpson wrote Garaventa the reason for any delay in payment was he was determined medically disabled, was under doctor's care, due to the stab wounds, and would need some form of relief on the payments until he could recover to resume work.

41. Garaventa, despite this voluntary request and the willingness of Simpson to come in to his court, instead, nine days later, ordered a task force of no less than three squad cars to go to Simpson's home and arrest Simpson for the traffic fines. This action to arrest Simpson disregarding the danger it posed to his life and incarcerate him with people involved in the stabbing, in light of Simpson's willingness to work it out was unbelievable and defied logic.

42. The reason Plaintiff Bernstein then contacted Garaventa on behalf of Simpson was the judge had detained Simpson, in the same jail where several of the suspects involved in the stabbing and their neo-Nazi clan members were locked up. Simpson had stated to Plaintiff Bernstein when he was stabbed he believed he heard the main assailant say something about Iviewit, as he told him not to worry he would be dead soon, or words to that effect. Simpson who almost bled to death could not remember exactly what had been said.

43. Simpson then called Bernstein and pleaded for his life to contact Garaventa to have him released, due to the clear and present danger he was in or offer protective custody at minimum, as he did not want to be killed over a traffic ticket.

44. Finally, on information and belief, months after the attempted murder occurred on September 15, 2007, there is still no investigation or charges filed by the Red Bluff Police Department in the stabbing. No charges by the district attorney's office

against any of the suspects involved and named in the attached Fine letter exhibited herein, despite certain individuals being incarcerated later under various other charges.

45. This link to Garaventa may be of significance as Garaventa has been involved in several cases involving suspect rulings against members of Candice's family who are also patent interest holders. If this Court would like such instances, Plaintiff Bernstein is willing to submit those cases for this Court's review, under seal of this Court, as Plaintiff Bernstein does not want further to cause harm that may come to them, as this could put some of them in more jeopardy. Plaintiff Bernstein believes defendants, knowing Candice and her family members have direct beneficial interest in the technologies may be using legal actions against them and/or interfering in court proceedings involving them, as the Lucas Simpson matters may well exhibit.

46. In the instant eviction, the Bernstein's prepared for court and paid the $180.00 filing fee to respond and were assigned a hearing date of June 18, 2008 not knowing until after the hearing it was Garaventa who was involved. Based on the evidence and information regarding the eviction, the Bernstein's believed the court at minimum would allow Bernstein's to stay until their requested departure day of July 22, 2008. This would have given Plaintiff Bernstein time to finish the responsive pleadings to each MTD, unhurried and with adequate time to move his family safely.

47. Plaintiff Bernstein then called into the proceedings by the bailiff who asked he sit in a witness chair and take oath. Candice was in tears and asked Plaintiff Bernstein to tell the Court why the eviction would cause not only immediate harm to their children but also harm the ability to file responses to this Court in relation to the Iviewit Companies matters. Candice requested a copy of the Extension of Time filed with this Court be submitted to Garaventa and Albright objected and Garaventa refused to look at it.

48. Plaintiff Bernstein began to state the eviction would cause great hardship and interference with the matters before this Court and before the sentence could even be completed or explained, Albright objected and the judge granted the objection stating not relevant.

49. Garaventa then gave the Bernstein's no real chance to state anything else, blocking any further questions by Candice to witness Bernstein and ruled for immediate

eviction to be executed five days after posting by a Marshal on the door. Garaventa stopped Plaintiff Bernstein from attempting to explain the correlation and the harm that could be caused Plaintiff Bernstein by failing to respond to the MTD's. Garaventa stated it was not relevant despite his earlier knowledge of the Iviewit Companies matters before this Court through the Lucas Simpson matter. Garaventa would not even listen to the needs for this short extension based on these federal proceedings, deeming it not relevant, in disrespect to Your Honor.

50. Stunned, Candice then asked Garaventa what this meant and when she had to be out and he told her to work that out with Albright and Dittner or else eviction would be five-days after service by a Marshal of a writ. Candice then approached Albright and Dittner to ask for additional time, due to the hardship this would cause her and her small children and whereby Albright stated "welcome to the streets" and Dittner would allow no more time. Further, he was going immediately to the Marshal to have notice posted immediately. Where Candice further broke down, stunned by the callousness of the remark and could not believe her day in court denied due process and procedure, unable to make her claims to the court.

51. Dittner awarded a $750 dollar judgment where he could have received $1,000 through settlement, without additional legal expenses, which were not awarded, since there was no written binding rental contract allowing for such fees.

52. There was no imminent danger, threat or any other stated reason by Dittner or Albright in the pleadings, for needing an immediate eviction of the Bernstein's. No reason to seek such hardship as immediate (5-day) eviction, especially with small children involved. The court did not even give Bernstein's a chance to explain their side or accept evidence or review the already submitted evidence.

53. The eviction would not have worked its magic well in causing hardship for Plaintiff Bernstein to respond to the MTD's, if Garaventa had allowed the 30-Day to be stricken due to the constructive receipt of rent for two months and forced Albright and Dittner to re-file a new 30-day and 30 days thereafter a new Unlawful Detainer.

54. Therefore, where the law appeared to favor Candice's position, her rights denied and not even considered, so right or wrong, legal or illegal; the eviction would prevail on the dates necessary to interfere.

55. The case in Florida, another fine example, where a witness was ready to testify she was forced, by threat of loss of job by the **attorney** for the landlord in that matter, unless she signed a knowingly fraudulent document to effectuate eviction action, again interfering with court proceedings.

56. All of these cases also have severely hampered the Bernstein's credit to no end, making it harder and harder to find new digs each time, thus forced to live with Plaintiff Bernstein's mother-in-law. These eviction cases have wreaked continuous havoc upon the Bernstein's, as the evictions have occurred for now almost 7 years, since discovering the evidence the Iviewit Companies attorneys were stealing the patents. Now, if this Court does not grant more time, it may act to derail Bernstein's ability to file, severely prejudicing this case and possibly allowing defendants out based on missed filings or other notices from the Court getting lost in transit during the transition over the next 60-days without legal address.

57. Based on the instant eviction, if discovery proves those proceedings as part of the racketeering activities of the defendants, Plaintiffs will seek leave to amend the AC to add the new defendants. Legal abuse of process to force evictions certainly would qualify at minimum as a severe form of harassment.

58. Due to the facts stated herein Plaintiff Bernstein has no legal address until at minimum August 15, 2008, and will have no way to file with the Court properly prepared pleadings, even when considering the extra 14-days allotted already by this Court. Such extraordinary circumstances stand to hamper Plaintiff Bernstein's efforts to file the responsive pleadings with a valid address for the Court or the defendants to respond.

59. This loss of residency will also affect the ability to receive any filings sent to the former address, which may be lost or returned with no legal address to forward them to yet. Once residence is established, it will take even more time to have prior mail redirected across country after filing a change of address with the United States Post Office, which could cause Plaintiff Bernstein to miss vital filings or responses to the Court, including the July 14, 2008 MTD responses. In fact, Plaintiff Bernstein has again put into storage, the entire worldly possessions of their family, including the court

records, court filings and computers with data necessary to complete the responses, until August 15, 2008, when new residence will be ready to occupy.

60. Plaintiff Bernstein is not asking and was not asking for additional time prior to these life altering events being heaped upon him in surprise and with no mercy from the court involved, evidencing possible collusion with these matters, the extension of time is not a request caused by any factors in Bernstein's control. Plaintiff Bernstein therefore does not see this delay as advantageous in any way to himself, other than having enough time to file properly in light of the fact that on 7/1/2008 at 6am his family is homeless for at minimum 60 days.

DISMISS ALL FILED MOTION'S TO DISMISS – INDIVIDUAL RESPONSES INCLUDED

INTRODUCTION

61. Unless the Court chooses it does not need a more formal responsive pleading to dismiss each MTD filed, accepting the following pleadings as satisfactory under the circumstances regarding the eviction and Bernstein's homelessness as of this date. Plaintiffs seek more time to respond formally, this pleading filed under mass duress described above. Plaintiff Bernstein apologizes as, due to the duress and time constraints, the responsive pleadings were rushed. Therefore, they may suffer from hurriedness, as no editing time was available, no equipment or files available, etc.

62. Each defendant's MTD filed far too early in these matters, in light of the information being learned still in *Anderson* and the other related cases. The Court must allow Plaintiffs discovery of the information offered by Anderson's whistleblower claims of public office crimes, to see how and who directed such activity, and how those actions affect Plaintiffs' rights, letting anyone out for any reason prior is premature.

63. .*Anderson* offers enough substantive facts that official processes have conspiratorially deprived due process, to cause investigation of all state agencies included as defendants in the Amended Complaint ("AC"). Plaintiffs had already complained of similar obfuscations of due process, prior to Anderson, yet in similar fashion as Anderson describes at, including but not limited to, the 1st DDC[6], 2nd DDC[7], TFB[8], VSB,[9] and the FSC.[10] The similarities to Anderson's claims of public office crimes are undeniable and similar crimes may have been affecting the other defendant state disciplinary agencies. To make sure other agents in other state disciplinary agencies are not being intimated or abused as Anderson claims she was, discovery and investigation of all disciplinary personnel in all states relating to these matters should be had in order to protect anyone

[6] Exhibit 1 – Evidence Links 460, 461, 433, 430, 429, 407, 398, 396, 395, 394, 391, 387, 386, 385, 384, 466, 470.
[7] Exhibit 1 – Evidence Links 460, 466, 474, 496, 497, 507, 514, 518, 531, 537, 542, 545 & 546.
[8] Exhibit 1 – Evidence Links 293, 294, 300, 306, 309, 331, 335, 339, 340, 341, 344, 351, 389, 393, 400, 402, 404, 405, 411, 416, 417, 420, 421, 431, 435, 439, 440, 442, 446, 452, 458, 488, 491, 529, 666 & 739.
[9] Exhibit 1 – Evidence Links 283, 291, 319, 320, 322, 323, 333, 352, 357 (2,881 pages with patent evidence) 462, 464, 471, 680, 681, 691, 827 & 828.
[10] Exhibit 1 – Evidence Links 389, 402, 411, 416, 419, 421, 423, 424, 425, 426, 427, 428, 431, 435, 439, 440, 442, 443, 444, 446, 449, 452, 454, 455, 457, 458, 475, 476, 477, 478, 480, 481, 484, 488, 491, 494, 500, 503, 504, 507, 512, 519, 521, 524, 525, 526, 529, 534, 548, 551, 555, 563, 577 & 666.

suffering similar treatment. Discovery in *Anderson* may point to various connections amongst defendants and how they operated, if and how the state agencies and their agents acted alone or in collusion, making any MTD at this time moot, until that discovery can be had to explore all the possible tentacles.

64. Each MTD filed, is far to early in light of startling new evidence that a former judge of the New York courts and a sitting justice of the State of New York Supreme Court, have submitted affidavits[11] in the related case (08cv02391) McKeown v. The State of New York, et al. ("*McKeown*"), incorporated in its entirety by reference herein. These two whistleblowers have agreed to come forth with testimony before the Court of widespread systemic corruptions in the New York courts and disciplinary departments, that may have direct bearing on all of the *Anderson* related cases.

65. Until further discovery regarding this new evidence, to see how and who interfered with Plaintiffs due process rights, any claim under a MTD is moot. As this evidence from these witnesses could negate those claims entirely, or even partially, this Court in good conscience cannot allow anyone out of these matters. If after discovery, defendants still feel their rational behind the MTD's applies, they can of course re-file such pleadings based on the information these critical eyewitnesses provide.

66. Any rush to allow a MTD to succeed prior to complete discovery by Plaintiffs of these three whistleblowers could be construed as suppression of material evidence that could have direct impact on the arguments tendered in each MTD, in fact where it could negate them entirely.

67. Arguments by defendants in each MTD, of time barred claims, should not stand in light of Anderson's new claims of public office corruption impeding due process rights. This Court then forced to review the Statutes of Limitations arguments claimed in the MTD's, in light of the fact, Plaintiffs had followed all rules for civil, disciplinary and criminal proceedings, attempting to assert their rights timely in all instances and were denied. Anderson offering solid support of Plaintiffs claims. The question then becomes, does the denials of due process act to restart the tolling of the statutes clock, after the restoration of due process.

[11] Exhibit 1 – Evidence Link 865 – McKeown Order by the Hon. Shira Scheindlin dated June 10, 2008.

68. Anderson offers solid substantive evidence favoritism was causing violations of due process rights, carried out through threat to employees and in Anderson's case even physical abuse by her superiors. Any claim of time barred claims would then have to be analyzed using a similar fact set where denial of due process led to the clock expiring or influenced in any way Plaintiffs ability to receive due process under law, to timely assert their claims.

69. No MTD cites a case reference for such time barred claims dealing with a similar denial of due process claims and how this would affect the statutes clock.

70. All MTD's entirely failed to mention *Anderson*, the reason all defendants are before this Court. The reason not even a whisper of Anderson's name, it would invalidate most of the claims filed in the MTD's.

71. Certain of the MTD's are filed by lawyers who are acting in conflict of interest and whereby this Court in its own Order[12] has stated Plaintiffs have not only substantive issues but also substantive conflict issues it will deal with after each MTD is decided giving credence to the conflict claims. The only decision that can logically be made, if any MTD was filed by conflicted lawyers violating well-established rules of professional conduct and constituting contempt of this Court, would be to throw them in the garbage and rule a default for failing to file a proper answer or MTD. To then sanction both those who knowingly chose representative counsel in conflict and those now acting in conflict before this Court for filing conflicted MTD pleadings.

CONFLICTS AFFECTING EACH MTD

72. The list of conflicts and possible conflicts already discovered in relation to the matters before this Court and which would negate any pleadings filed in conflict are;

a. Proskauer representing Proskauer in conflict before this Court, as evidenced in letters[13] to this Court dated March 05, 2008, whereby many of the violations of the attorney professional code are cited in detail regarding these conflicts. Proskauer's MTD filed in conflict should thus be dismissed entirely and count as a default. No decision in favor of Proskauer's MTD should be made until conflict matters are entirely

[12] Exhibit 1 – Evidence Link 638
[13] Exhibit 1 – Evidence Link 630 & 631

decided by this Court and the 1st DDC, where complaints[14] have now been filed against the Proskauer and Foley attorneys, who acted in conflict before this Court and have now been named defendants in the AC.

b. Foley, found representing Foley in conflict, initially in these matters, acting as counsel in order to gain access to the NYAG's strategies and using such legal position to direct strategies against Plaintiffs original complaint together with Connell. Once learned Foley was self-representing in this case, Plaintiffs immediately contacted Your Honor, in a March 05, 2008 letter to the Court, regarding the conflicts of Foley and Proskauer acting as self-counsel and noticing this Court and those attorneys involved, of the new bar complaints filed.

c. Foley, then rushed to get independent counsel after learning Plaintiffs had filed disciplinary complaints against their partners and associates, who had acted in legal capacity in contacting the NYAG as representative counsel and violated well-established rules, regulations, and procedures of the attorney conduct code in New York,

d. Foley's replacement counsel, Kent Kari Anker ("Anker") then attempted to con the Court to believe upon entering the case that Foley had not acted as counsel since they had not appeared before the Court[15]. Certainly, appearing before a Court is not the only test of if counsel acted in a legal matter. This argument by new counsel for Foley, Anker, appears to be a false pleading to the Court in attempt to exonerate the Foley partners who were filed upon with the 1st DDC, for their conflicted representation as counsel to the NYAG offices. Connell confirms Foley and Proskauer attorneys were acting as counsel for themselves by carbon copying the Proskauer and Foley partners she had interacted with as **"attorney for defendants"** in her letter to this Court dated February 29, 2008[16]. This conflict and the attempted cover-up to the Court by Foley's new counsel, Anker, should negate any pleadings on their behalf until after the conflict issues are fully resolved. Thus negating the prematurely filed MTD by Anker, until such time these matters are explored by Plaintiffs, this Court, and the 1st DDC.

[14] Exhibit 1 – Evidence Link 631 pages 25-27.
[15] Exhibit 1 – Evidence Link 649-650.
[16] Exhibit 1 – Evidence Link 866

e. The VA Commonwealth & VSB may have conflict in that the Virginia Attorney General ("VAAG") represents them. Recently learned, is that the VAAG hired Foley as counsel to their agencies, including the VA Commonwealth and the VSB. Now these agencies are Foley clients, "Foley & Lardner, a law firm headquartered in Washington, D.C., has been appointed by Virginia Attorney General, Jerry W. Kilgore to provide legal services to the Commonwealth of Virginia and its agencies…" (Press release)[17].

f. To find the VAAG now representing these agencies, failing to disclose the fact their offices hired Foley as counsel for these same state agencies who are defendants, again imparts an appearance of impropriety and conflict this Court cannot allow continuing to prevail. Until Plaintiffs have the opportunity to explore how this relationship may have had impact on decisions made at the VSB and decisions currently made by the VAAG.

g. The fact the VAAG hired Foley on behalf of the Virginia Commonwealth and VSB and then failed to disclose this fact to the Court, prior to acting as counsel in these matters, or even seeking approval from the Court to represent, in light of this conflict begets an overwhelming appearance of impropriety. Dick, of Foley, is central to Plaintiffs complaint filed at the VSB, and Foley is counsel to the VSB, making the need for further discovery of if the conflict has interfered with the complaints imperative. Certainly, it precludes any MTD filed by the VAAG from succeeding until this relationship is wholly explored for all possible effects this relationship may have had on Plaintiffs' rights to fair and impartial due process in Dick's complaint. Again, what is learned could negate any arguments made in the Foley MTD, if not negate it entirely, causing another default for tendering knowingly conflicted responses.

h. The New York Attorney General ("NYAG") representing itself now and the thirty-nine state of New York defendants in the AC, appears in conflict of interest now in these matters. The NYAG MTD fails possibly for conflict, as the NYAG astutely notes in their MTD that in the AC, their offices and former NYAG defendant Spitzer, have been added as defendants in these matters for violations of well-established

[17] Sourced from Virginia Business Online: For the Record, January 2004 and located at the url http://www.gatewayva.com/biz/virginiabusiness/magazine/yr2004/feb04/record/record_deals.shtml

rules, regulations and procedures regulating their public office in regards to formal and procedural disposition of complaints.

i. As defendants, the NYAG should have sought non-conflicted counsel to represent themselves in the MTD and should have noticed their defendant clients of their conflict in the matters. Further, that the conflict would no longer allow them to represent the thirty-nine defendants they represent both personally and professionally on public funds. The NYAG has become a defendant for reasons dating back to defendant Spitzer's reign as AG. Spitzer's personal and perhaps professional counsel is --- you guessed it --- Proskauer[18].

j. The NYAG and Spitzer received a complaint regarding defendant Krane, a public official of the 1st DDC and a Proskauer partner[19], who was ordered for investigation for his conflicted role in the 1st DDC disciplinary complaints by the First Department Court.[20] The NYAG instead buries the complaint and never responds formally or procedurally to direct request for their offices involvement in the matter. These actions resulted in the inclusion in the AC of defendant NYAG and defendant Spitzer, not for bad decisions as their MTD pleads but rather from a total dereliction of duties and failure to make any decision or even tender a response to formal written complaints.

k. In light of the claims of *Anderson,* until such time Anderson is fully explored to learn how the public office corruptions were being achieved by the various department officials and counsel for the complained of attorneys, one can only presume any counsel involved in the 1st DDC complaints may be involved in the crimes alleged in *Anderson.* Thus, it appears improper for defendant Joao to have secured counsel that represented him at the 1st DDC and who may become a defendant in these matters. The Court already noted in response to Plaintiffs letter to the Court regarding the conflicts of Joao's counsel, "If at a later point in the proceedings it appears that Fried [John W. Fried ("Fried")] is not able to represent his client fairly, the Court will address

[18] From the Wallstreet Journal on April 27, 2007, 6:28 pm ~ "Former NY Deputy AG Moves to Proskauer" ~ Posted by Amir Efrati – "Dieter Snell, a former deputy attorney general under former AG Eliot Spitzer, now the governor of New York, has joined the New York office of law firm Proskauer Rose as a partner in its white-collar defense and internal-investigations group."
[19] Exhibit 1 – Evidence Link 70, 867, 611, 614, 615, 635
[20] Exhibit 1 – Evidence Link 460, 430, 433, 466, 470, 475

the conflict at that time."[21] Fried's representation without formal affirmation or denial of conflict is presumed by Plaintiffs to be conflicted. This Court cannot dismiss Joao at this time based on the MTD filed by Fried, as it appears tendered in conflict. Again, this Court should move to dismiss the prematurely filed MTD and investigate the Fried relations at the 1st DDC for conflict before allowing the MTD to prevail or move this Court with prejudice against Plaintiffs.

l. Greenberg Traurig representing The Florida Bar defendants when Greenberg Traurig was former counsel for Plaintiff Bernstein as fully described in a motion to this Court dated April 1, 2008[22 and 23]. This matter is fully described in the AC and the incorporated exhibits and again incorporated herein.

OTHER CONFLICTS DISCOVERED IN THE MATTERS BEFORE THIS COURT

a. Kelly Overstreet Johnson, former President of the TFB and her conflict with James Wheeler, brother to Christopher Wheeler, one of the main defendants from, you guessed it, Proskauer, as defined thoroughly in the AC. While failing to disclose a working relation with Wheeler's brother, Johnson received complaints pertaining to Wheeler's TFB complaint and failed to perform her duties to investigate claims contained in the documents she received or return the items knowing she was conflicted. This matter fully described in the AC and the incorporated exhibits and again incorporated herein[24].

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[21] Exhibit 1 – Evidence Link 633 page 2.

[22] Plaintiffs Motion in Opposition to the Motion to Dismiss filed by Greenberg clearly shows these conflicts of Greenberg's representation of the TFB defendants. Recently, this Court, returned the document several months later stating it had no been signed. Where Plaintiff Bernstein not only sent in the pleading with original signatures but with original fingerprinting, those copies returned by the Pro Se desk appear to be copies without original signature and without original fingerprints, indicating again that mail tampering may be occurring between Plaintiff Bernstein's home and this Court to interfere with these proceedings. Recent conversations with the Pro Se desk have resulted in Plaintiff Bernstein told to seek formal investigation from federal authorities regarding the mail-tampering problems. Plaintiffs have already filed two mail complaints, noted to this Court in previous pleadings, which remain under ongoing investigations, regarding the Original Complaint filed with this Court. Whereby the complaints sent to this Court for service, left Red Bluff, CA. weighing 22 pounds and approximately 20 pounds was missing from the package upon receipt by the US Marshal or the Pro Se desk. Per the US Marshal, the complaints were mainly missing which weighed approximately 20 pds. Thus, some defendants served improperly from this, as mentioned in several of the MTD's, others not served at all, and some just recently served last week. It remains unclear what anyone received.

[23] Exhibit 1 – Evidence Link 641 & 643.

[24] Exhibit 1 – Evidence Links 417, 440, 452, 488, 666 & 719.

b. Krane in representing his Proskauer partners, his firm Proskauer and himself in disciplinary complaints while having irrefutable vested interest in the outcome of the matters and in violation of clearly established rules, regulations and procedures regarding public office positions he held prohibiting and precluding his representations. This matter fully described in the AC and the incorporated exhibits and again exhibited herein[25].

c. Triggs in representing his Proskauer partners and his firm Proskauer, in a disciplinary complaint, while having irrefutable vested interest in the outcome of the matters, violated clearly established rules, regulations, and procedures of his public office position with TFB, which specifically forebode his representations of any person for a period of one year after his service. This matter fully described in the AC and the incorporated exhibits and again exhibited herein[26].

d. Triggs, in representing his Proskauer partners and his firm in the Proskauer Civil Billing Lawsuit again violates his public office position precluding cross representation of civil proceedings when handling bar complaints with similar parties, as fully described in the AC and the incorporated exhibits.

RESPONSE TO MTD CLAIMS

73. Any MTD claim that there was a failure to state clearly a claim or defendants need further specificity of who did what crime appears an amendable defect. If the Court rules in favor of defendants in any of those regards in any MTD, Plaintiffs then request time to seek leave to amend the AC to correct any such defects. It appears defendants have chosen not to look at the thousands of pages of ancillary evidence incorporated in the AC through exhibits. In the event the Court feels Plaintiffs need more fully incorporate such evidence directly into the AC, Plaintiffs request time as it is several thousand pages of complaints, mostly made of supporting evidence, including witness statements, depositions, patent documents, etc.

[25] Exhibit 1 – Evidence Links 225, 384, 391, 394, 396, 397, 398, 407, 408, 415, 430, 433, 447, 460, 466, 468, 474, 487, 496, 517, 518, 537, 543, 545, 557, 725, 726, 727, 728 & 752.
[26] Exhibit 1 – Evidence Links 221, 228, 230, 233, 235, 405, 411, 428, 431, 439, 440, 441, 446, 452, 458, 471, 476, 534, 719 & 739.

12(b) (1) - Lack of subject matter jurisdiction

74. Any MTD claiming a lack of subject matter jurisdiction through a 12(b)(1) motion, Plaintiffs claim there are numerous claims wholly recoverable under federal laws (which may or may not be pled properly due to Pro Se status but could be corrected in an amended AC, hopefully with some Pro Bono counsel) and thus their arguments fails.

75. In light of the *Anderson* case and the judges coming forward in *McKeown,* no defendant can claim a factual argument stating the claims are frivolous. Unless of course, they close their eyes to *Anderson* and *McKeown,* and, the additional mounds of evidence presented in the AC and the incorporated exhibits.

76. The exhibits in the AC include several thousand pages of factual complaints with factual evidence and witnesses incorporated, every premature MTD filed failed to address the facts in the AC. For example, not one MTD deals with the patent suspensions issued by the USPTO[27] or the ongoing federal and international investigations, including investigations of the IP lawyers under USPTO OED investigation.

77. Proskauer, in their MTD, even claims Plaintiffs did not state the outcome of the 1st DDC complaints in the AC, certainly they ignored the evidence of the First Department Court orders for investigation of Krane, Rubenstein, Joao, Proskauer and MLGWS[28] and the ensuing evidence of how those investigations were derailed. All of this factual evidence warrants a hearing before this Court.

12(b) (2) - Lack of jurisdiction over the person

78. Any lack of jurisdiction over a person claimed in a 12(b)(2) motion filed by any defendant claiming the Court does not have jurisdiction over one or more of the parties in the suit is unfounded. The parties are in a multitude of states and several trillion dollars in damages are being claimed. There are several federal questions, all making jurisdiction in this Court correct.

79. This Court should not grant immunity at this time until the discovery of the three whistleblowers' takes place to determine if immunity should be granted in any

[27] Exhibit 1 – Evidence Links 472, 486, 522, 515, 365, 369, 370, 1, 179, 282, 343, 350, 359, 362, 371, 383, 445, 528, 552, 556, 559, 560, 569, 588, 805 & 807.
[28] Exhibit 1 – Evidence Link 460

regard, again making the MTD premature. At maximum, since the AC asks for monetary damages against the officials, if the Court feels this is unfounded, then Plaintiffs will continue to plead for the injunctive reliefs requested to force corrections in the departments and relegate discipline to those who have failed in their duties through violating the well-established rules, regulations, and procedures of the governing agencies.

80. The real argument of any immunity is first a policy argument, where immunity is not intended to give blanket protection to those who are using judicial, legal, or public office powers to commit illegal acts for personal pecuniary gains. The source, amount and who received what interests in the acts to deny due process will be further learned through discovery.

81. Learned in a related case, (08cv02391) McKeown v The State of New York, et al. ("McKeown"), there are at minimum two witnesses, a retired judge and a state of New York sitting Supreme Court Justice, that have eyewitness accounts of widespread systemic corruptions at the First Department Court. This Court has allowed the affirmations submitted under seal. Again, this acts as further possible factual evidence supporting Plaintiffs' claims of corruption in the handling of their complaints at the 1st DDC and until fully explored, no immunity should be granted under any claim.

82. The second argument against immunity, if the policy level objection above is overcome, is immunity should only be for monetary reliefs against the state municipalities. Plaintiffs really do not care about monetary relief from state agencies or their agents for that matter. Plaintiffs care the Court mandate the state agencies do their duties according to well-established rules, regulations, and procedures and those that violated such be prosecuted if found guilty. This process is also necessary to weed out the corruption ruining the New York courts and making it a safe harbor for criminals, as it appears criminals may have infiltrated the courts for their own pecuniary gains.

83. If the Eleventh Amendment Immunity were to bar the Plaintiffs' claims against the state defendants by this Court, then Plaintiffs will have to seek a Congressional abrogation of the immunity. It is clear if the state defendants are blocking due process, in any way causing a loss of rights to patentable matter, than Congress whose ultimate duty under the Constitution is to protect the rights' of inventors, to ensure

free commerce, will have to remove such protections from any state defendant. This would stop the blocking of due process and begin to peel the onion to return the inventions to their rightful owners, as successful prosecution of the dirty attorneys and those aiding and abetting them is fundamental to returning the IP.

12(b) (3) - Improper venue

84. Any improper venue claimed under a 12(b) (3) motion fails, as this Court is a proper venue for all defendants.

12(b) (4) - Insufficiency of process

85. Any insufficiency of process claimed in a 12(b)(4) motion filed in any MTD deemed by this Court to be successful would cause Plaintiffs to seek leave to amend the AC to correct any defect of process. Certainly, as the crimes and civil violations are of the highest degree, no one should be let out entirely on a mere correctable defect.

12(b) (5) - Insufficiency of service of process

86. Any insufficiency of service of process claims in a 12(b)(5) motion filed in any MTD deemed by this Court to be successful would cause Plaintiffs to seek leave to amend the AC to correct any defect. If service were improper, the US Marshal would presumably be allowed to correct such and certainly, where mail tampering may already have interfered, this Court may have to correct such to prevent any error from allowing any defendant out.

12(b) (6) - Failure to state a claim upon which relief can be granted

87. "A complaint to dismiss under Rule 12 (b) (6) may be granted only of it appears beyond doubt that the plaintiff can prove no set of fact in support of her claim which would entitle her to relief" Thomas v. The City of New York, 143 F. 3d 31, 37 (2d Cir. 1998) (internal quotation marks omitted). "The Court must take the facts alleged in the complaint as true and draw all reasonable inferences in favor of the Plaintiff", See id.

88. "When resolving a Motion to Dismiss under Rule 12(b) (6), a Court must accept the factual allegations contained in the complaint as true, and draw all reasonable

inferences in favor of the non-moving party. Still v. De Buono, 101 F. 3d 888, 891 (2d Cir. 1996); In order to survive a Motion to Dismiss a Plaintiff must assert cognizable claim and allege facts that if true would support such a claim. See Boddie v. Schneider, 105 F. 3d 857, 860 (2d Cir. 1997). Ultimately, in the context of such a motion, "[t]he issue is not whether a Plaintiff will or might ultimately prevail on her claim, but whether she is entitled to offer evidence in support of the allegations in the Complaint." Hamilton Chapter of Alpha Delta Phi, Inc. v. Hamilton Coll., 128 F. 3d 59, 62 (2d Cir. 1997) (citation omitted) "Recovery may not appear and unlikely on the mere face of the pleading, but that is not the real test for dismissal." Gant v. Wallington Bd. Of Educ, 69 F. 3d 669, 673 (2d cir 1995) (citing Scheuer, supra, 416 U. S. at 236). Furthermore, the "standard is applied with even greater force when the plaintiff alleges civil rights violations.." Id. (quoting Hernandez, supra, 18 F. 3d at 136)." "Additionally, we must construe Plaintiff's argument liberally because she is pro-se." Haines v. Kerner, 404 U. S. 519, 520 (1972).

89. For any failure to state a claim upon which relief can be granted in a 12(b)(6) motion filed in any MTD and deemed by this Court to be successful, Plaintiffs would seek leave to amend the AC and correct any such defects this Court finds. Plaintiffs state *Anderson* and the new justice whistleblowers in *McKeown* are certainly on their face prima facie evidence of wrongdoing directly affecting Plaintiffs and warranting remedy under law.

90. Plaintiffs also claim the other evidence and witness statements contained in the AC, and its exhibits, is additional evidence warranting remedies under law and presentable at trial. Based on these facts, evidence, and witness statements already cited in the AC, any reasonable judge or jury, in a conflict free court affording due process and procedure to the parties, could rule for Plaintiff based on the facts presented in the AC. A court and jury will eventually have to hear the entire patent matters, to ensure inventors' rights to inventions have not been denied precluding them from their inventions from this macabre blasphemy of justice and correct the defects in justice to return the IP to the rightful owners.

91. Despite efforts to convince the Court by several attorneys in these matters the AC is prolix, is merely to proffer smoke up ones proverbial arse, to act as a smoke

screen to the facts before the Court. The AC does not suffer from prolixity, as the length of the AC is a function of the number of crimes committed and ethical violations that continue to flourish, which call for a lengthy and highly intelligible account of the matters in the AC. No examples of this prolixity claim are ever presented in support, not a single example from the AC or OC, so Plaintiffs cannot respond to it intelligibly as it is merely an opinion, mostly tendered in conflict and not an argument.

92. Some of the MTD's are calling for even more detail to be added to the AC to further define the criminal and civil violation of rights, expanding the who did what, where and when of each violation with specificity, which will certainly force the AC to become lengthier. In fact, to list each act with specificity will add hundreds of pages but only as a necessity to describe one of the largest bungled crimes ever attempted in the United States, against the United States government and its agencies, foreign IP agencies, the courts, their corrupt self-regulatory disciplinary agencies and finally Plaintiffs.

93. Plaintiffs AC is brief for the number of crimes and civil violations of law committed, giving the adverse parties ample notice of the allegations supported by facts and witnesses in the AC. If the argument to dismiss were to succeed on length, as an out for any defendant, the logical conclusion would be crime pays when one commits so many injurious acts to another a complaint would become lengthy describing them all.

94. This is more ridiculous and unsubstantiated circular logic, begging the question as not an instance of repetitive language or Jabberwocky cited in support of such nonsense defense, the defense is merely more smoke and mirrors. This cherry picking of baseless arguments in favor of dealing with the factual evidence is an attempt to suppress the very real evidence supporting the factual allegations against the defendants incorporated in the AC and is again a mere smoke screen to hide from the facts.

95. Circular reasoning is apparent in the MTD's, in the false premise that Plaintiffs have no protectable property or liberty interest in the handling of complaints. This argument is not true, in that, Plaintiffs, through Bernstein's IP, have constitutionally protected interests and rights in their IP, guaranteed in Article 1, Section 8, Clause 8, and that the denial of due process acts to prevent recovery of the constitutionally protected inventions. The denial of due process claimed through the violations of clearly established rules, regulations and procedures governing the state defendants in their

official capacities, clearly interferes with Plaintiffs rights to life, liberty, and property, all absolute rights guaranteed under the Constitution. The Plaintiffs thus have substantial interests in the outcome of their complaints and more importantly had due process fairly been administered, Plaintiff Bernstein may have already prevailed in returning the inventions to the true and proper inventors.

96. Concerning interfering with the right to life, it may be evidenced the dereliction of duties claimed in the AC by public officials have allowed someone to plant a bomb in inventor Bernstein's family minivan,[29] in attempts presumably to murder his family. Such dereliction of duties may have aided and abetted that crime, as if they had executed their duties, the crime may have been prevented.

97. The claims in *Anderson* have definite impact on the Iviewit Companies matters, as Anderson names Iviewit in her original complaint[30] as one of the causes for her termination. This validates with substantive evidence the violations of the Fourteenth Amendment to the Constitution, showing the states, through the direct actions or inactions of their agencies and actors, in violation of the rules, have already deprived Plaintiffs of rights, by failing to afford due process and in fact misusing their public offices to do so. Obviously, Anderson's claims show the processes afforded Plaintiffs were less than due and have criminal overtones to the civil violations. Every premature MTD is devoid these substantive facts in efforts to assert a failure to state a claim by avoidance of key facts, and evidence.

98. In addition, this aversion is telling. For example, the NYAG, in efforts to derail substantive information from coming into this Court, from the testimony of the justices mentioned in the *McKeown* case, whose affirmations have been submitted under seal, is found attempting to derail the affirmations by submitting such request[31] to this Court. This appears an attempt to suppress information, reeking of further public office corruption taking place even now.

99. If the NYAG, who is now representing the NYAG and the state defendants in this case, is seen blocking damning evidence against public officials by inside whistleblowers, information that would typically gleefully enjoin the NYAG to

[29] Exhibit 1 – Evidence Link 538 & 540
[30] Exhibit 1 – Evidence Link 616, specifically pages 24-25.
[31] Exhibit 1 – Evidence Link 868

investigate such public officials based on whistleblowers' testimonies, it seems strange how they now try to suppress such evidence. Evidence that would be damning against the clients they now represent, including themselves and it appears this action may be an attempt to suppress evidence that could harm those defendants and interfere with the NYAG's choice to prosecute their clients.

100. Anderson's claims show the processes afforded Plaintiffs were less than due, maybe criminal and certainly would provide valid claims for relief. Violations such as Anderson's claims of file thinning, document thinning, fraudulent document tampering, public office favoritism, the threat to comply or else, and, other insidious behavior affecting attorney disciplinary complaints, acts as prima facie evidence denial of due process occurred and may have affected Plaintiffs rights' to recover their IP through civil actions.

QUALIFIED IMMUNITY

101. The defendants cannot argue they are entitled to Qualified Immunity for any action they may have taken in connection with these alleged crimes. "Government Officials may enjoy a privilege of Qualified Immunity from liability for damages arising out of their performance of discretionary official functions so long as their conduct does not violate clearly established statutory or Constitutional Rights of which a reasonable person would have known." Doe v. Phillips, 81 F. 2d 1204, 1211 (2d Cir. 1996). The Doctrine of Qualified Immunity "shields government officials from liability for damages on account of their performance of discretionary official functions…insofar as their conduct does not violate clearly established statutory rights." Plaintiffs claim certain state defendants have violated clearly established statutory and Constitutional Rights that any reasonable person would know and could determine partially on the evidence supplied in the AC.

102. The Doctrine of Qualified Immunity entitles public officials to freedom from suit for acts undertaken in their official capacity if "(1) their conduct does not violate clearly established constitutional rights, or (2) it was objectively reasonable for them to believe their acts did not violate those rights." Weyant v. Okst, 101 F. 3d 845, 857 (2d Cir.1996). "Private entities can be sued under 1983 when they have jointly engaged" Freedman v. Coppola 206 A. D. 2d 893, Dennis v. Sparks "Entitled to Punitive

Damages, must show the Defendants conduct to be motivated by evil motive or intent or reckless or callous indifference to a federally protected right." Smith v. Wade Newport v. Fact.

103. Plaintiffs show herein that the motives were evil; Anderson offers a glimpse at such evil and with scienter and callous indifference to Plaintiffs federally protected rights.

FOURTEENTH AMENDMENT

104. "The Fourteenth Amendment Clause applies only to state action not to the federal government. However, if the federal government enacts laws or commits acts that are discriminatory and those laws or acts have the effect of denying equal protection, the Court has held this to be a Deprivation of "Liberty" within the meaning of the Equal Protection component of the Fifth Amendment Due Process. Equal Protection analysis is under the Fifth Amendment area is the same under the Fourteenth Amendment" United States v. Paradise, 480 U. S. 149, 166 n. 16 (1987)" Schlesinger v. Ballard, 419 U. S. 498, 500, n. 3 (1975)."

ELEVENTH AMENDMENT IMMUNITY BARS PLAINTIFF'S CLAIMS AGAINST THE STATE DEFENDANTS:

105. "The Eleventh Amendment to the United States Constitution bars suit in federal court for relief against a State by a private citizen absent the State's consent or specific Congressional abrogation of the immunity." "This immunity extends to state agencies and also bars actions for damages against state officials in their official capacities where the state is the real party in interest."

106. Plaintiffs point to suits filed against state officials under the "stripping doctrine." The "stripping doctrine" permits a state official who used his or her position to act illegally to be sued in his or her individual capacity. In other words, once a public official has acted illegally, they are theoretically stripped of their position's power and are eligible to be sued as individuals. The Court has openly called this "stripping doctrine" a legal fiction. Therefore, a citizen may sue an official under this "stripping doctrine" and get around any sovereign immunity that that official might have held within his or her position within a state. "When a citizen uses this exception, they can't include the state in the suit: they have to list specifically the official's name. They also can't seek damages

from the state, because they can't list the state as a party. However, the citizen can seek prospective, or future, relief by asking the court to direct the future behavior of the official."

107. "For example, Ex parte Young allows federal courts to enjoin the enforcement of unconstitutional state (or federal) statutes on the theory that "immunity does not extend to a person who acts for the state, but [who] acts unconstitutionally, because the state is powerless to authorize the person to act in violation of the Constitution." Althouse, Tapping the State Court Resource, 44 Vand. L. Rev. 953, 973 (1991). Pennhurst State School and Hospital v. Halderman (465 U.S).

QUASI-JUDICIAL AND QUALIFIED IMMUNITY BAR PLAINTIFFS CLAIMS AGAINST THE INDIVIDUAL STATE DEFENDANTS.

QUALIFIED IMMUNITY

108. "In the alternative, the defendants can argue that they are entitled to Qualified Immunity for any action they may or may not have taken in connection with these alleged crimes." "Government Officials may enjoy a privilege of Qualified Immunity from liability for damages arising out of their performance of discretionary official functions so long as their conduct "does not violate clearly established statutory or Constitutional Rights of which a reasonable person would have known." Doe v. Philips, 81 F. 2d 1204, 1211 (2d Cir. 1996).

109. "The Doctrine of Qualified Immunity "entitles public officials to freedom from suit for acts undertaken in their official capacity if "(1) their conduct does not violate clearly established constitutional rights, or "(2) it was objectively reasonable for them to believe their acts did not violate those rights." Weyant v. Okst, 101 F. 3d 845, 857 (2d Cir.1996).

QUASI- JUDICIAL IMMUNITY

110. "(2) Quasi judicial immunity, this, unlike judicial immunity, extended only to government servants, protecting their "quasi judicial" acts that is, official acts involving policy discretion but not consisting of adjudication. Quasi judicial immunity, however, was qualified, i.e., could be defeated by a showing of malice. See, e.g., Billings v. Lafferty, 31 Ill. 318, 322 (1863) (clerk of court); Reed v. Conway, 20 Mo. 22, 44 52

(1854) (surveyor general); Weeks, supra, at 210 and n. 8; J. Bishop, Commentaries on Non Contract Law § 786, pp. 365 366, and n. 1 (1889); Cooley, supra, at 411 413.

12(b) (7) - Failure to join a party

111. Any claim of a failure to join a party through a 12(b) (7) motion filed in any MTD, may be true, as Pro Se Plaintiffs may have to amend the AC to include several hundred or perhap thousands of defendants that violated agreements and contracts. Plaintiffs have already noticed the Court these additional defendants maybe added and will seek leave to amend the defect if this Court deems it necessary at this time. Certainly enough parties have been sued to garner a fair resolution, although those left off would make such resolution fairer (as many are Non Disclosure Agreement violators and other deep pocket license violators[32] & [33]) and thus Plaintiffs beg the Court to leave open the option to add additional necessary parties as the matters proceed.

112. The herein defined conflict issues would invalidate any MTD filed, filed in known violation of professional conduct codes, making a default ruling almost a must. If conflicts prevail, the Court would then need to deal with the many other problems with the MTD pleadings, including but not limited to; (i) their being wholly premature in light of the witnesses and evidence that could quash any claims presented (ii) the failure to deal with *Anderson* by even whisper, in every MTD, attempting to hide it from the Court, as it would make their arguments fail in each MTD (iii) the MTD's being wholly void of any true legal basis for the assertions, and, (iv) the fact defendants are frivolously trying to hide from trial through such false pleadings, intentionally concealing the factual matters before this Court. All in hopes of a miracle injustice in their favor by this Court by seeking dismissal amongst the parties on every known ground to dismiss whether it has reason or facts, a Hail Mary defense.

[32] Exhibit 1 – Evidence Links 21, 42, 46, 102, 146-149 & 747.
[33] Exhibit – Extended List of Defendants @ http://www.iviewit.tv/CompanyDocs/Appendix%20A/index.htm#MPEGLALIST

42 U. S. C. § 1983 – DEPRIVATION OF RIGHTS AND CONSPIRACY TO DEPRIVE RIGHTS UNDER THE FIRST AND FOURTEENTH AMENDMENTS TO THE UNITED STATES CONSTITUTION

113. A 42 U.S.C. § 1983 claim will be added to any amended AC to cure any defects in the AC regarding deprivation of rights and conspiracy to deprive rights under the First and Fourteenth Amendment to the Constitution, whereby at the Court's approval the AC will be amended to include such language as cited herein.

114. The state actors and municipalities cited as defendants in the AC, are all subject to prosecution in this suit as, "Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory . . .subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured" See Parratt v. Taylor, 451 U. S. 527, 535 (1984). Anderson confirms such state actors acting in a way to deprive rights.

115. In order to hold a municipality liable as a "person" within the meaning of § 1983, the Plaintiff must establish the municipality was at fault for the constitutional injury he or she suffered, See Oklahoma City v. Tuttle, 471 U.S. 808, 810 (1985); Monell v. New York City Dep't of Social Serv., 436 U.S. 658, 690-91 (1978), in that the violation of the Plaintiff's constitutional rights resulted from a municipality policy, custom or practice, See Monell, 436 U. S. at 694; Vann v. City of New York 72 F. 3d 1040 (2d Cir. 1995). "A Plaintiff may satisfy the "policy, custom or practice" requirement in one of four ways. See Moray v. City of Yonkers, 924 F. Supp. 8, 12 (S.D.N.Y. 1996). "The Plaintiff may allege the existence of (1) a formal policy officially endorsed by the municipality, See Monell, 436 U. S. at 690; (2) actions taken by government officials responsible for establishing the municipal policies that caused the particular deprivation in question," see Pembaur v. City of Cincinatti; 475 U. S. 459, 483-84 (1986) (plurality opinion); Walker v. City of New York, 974 F. 2d 293, 296 (2d. Cir. 1992); (3) a practice so consistent and widespread that it constitutes a custom or usage sufficient to impute constructive knowledge of the practice to policy making officials, see Monell, 436 U. S. at 690-191; or (4) a failure by policymakers to train or supervise subordinates to such an extent that it amounts to deliberate indifference to the rights of

those who come into contact with municipal employees." See City of Canton v. Harris, 489 U.S 378, 388 (1989).

116. Plaintiffs allege, and Anderson provides solid support that due process rights were denied to complaints in lieu of political cronyism. Cronyism appears to rule the disciplinary process in New York's court system, to make it appear corruption is the typical and customary policy endorsed by the municipalities, making them more an attorney protection agency instead of their New York State constitutionally mandated objective to protect the public from rotten legal apples. These corrupt actions committed by government officials responsible for establishing the "unofficial" official policy described by Anderson, have caused the denial of due process claimed by Plaintiffs acting to aid and abet the theft of the IP, and other crimes, combining to deprive Plaintiff Bernstein and the other inventors of their constitutionally guaranteed IP rights and due process rights. The only failure to Anderson's training was her integrity was not in step with her supervisors' deliberate indifference to the rights of those who come into contact with municipal employees, Anderson not bending her will even under threat, physical abuse, and intimidation.

COLOR OF LAW RIGHTS

117. "It is a crime for one or more persons acting under the color of law willfully to deprive or conspire another person of any right protected by the Constitution or laws of the United States." "Color of Law" simply means that the person doing the act is using power given to him or her by the government agency (local, state or federal).

118. "Civil Rights Act of 1871 is found in Title 42 § 1983 of the United States Code, and is so commonly referred to as section 1983. It provides that anyone who, under color of State or local law, causes a person to be deprived of rights guaranteed by the U.S. Constitution, or federal law is liable to that person." Monroe v. Pape, 365 U. S. 167 (1961)

119. The Plaintiffs will amend the AC to include specific 42 U. S. C. § 1983 language which will read along the following lines:

i. Plaintiffs repeat and reallege each allegation contained in paragraphs 1 through ___ as though fully set forth herein.

ii. The 1st DDC is a division of the First Department Court, and is therefore part of the New York State court system. As part of the New York State court system, the DDC is obligated to administer justice in a fair and honest manner.

iii. The 2nd DDC is a division of the Second Department Court, and is therefore part of the New York State court system. As part of the New York State court system, the 2nd DDC is obligated to administer justice in a fair and honest manner.

iv. The First Department Court is part of the New York State court system. As part of the New York State court system, the First Department Court is obligated to administer justice in a fair and honest manner.

v. The Second Department Court is part of the New York State court system. As part of the New York State court system, the Second Department Court is obligated to administer justice in a fair and honest manner.

vi. The TFB is a division of the FSC, and is therefore part of the Florida State court system. As part of the Florida State court system, the TFB is obligated to administer justice in a fair and honest manner.

vii. The FSC is part of the Florida State court system. As part of the Florida State court system, the FSC is obligated to administer justice in a fair and honest manner.

viii. The VSB is a division of the Virginia Supreme Court, and is therefore part of the Virginia State court system. As part of the Virginia State court system, the VSB is obligated to administer justice in a fair and honest manner.

ix. The FSC is part of the Florida State court system. As part of the Florida State court system, the FSC is obligated to administer justice in a fair and honest manner.

x. The Virginia Supreme Court is part of the Virginia State court system. As part of the Florida State court system, the FSC is obligated to administer justice in a fair and honest manner.

xi. The 1st DDC, 2nd DDC, First Department Court, Second Department Court, TFB, FSC, VSB, The Virginia Supreme Court are arms of the their respective States and thus "state actors" within the meaning of §1983.

xii. Plaintiffs have a Constitutional right to a fair and impartial, honest judicial system, free from corruption and bias, with impartial arbiters of the law. Through the conduct set forth herein and described in *Anderson,* including but not limited to, the

conduct in denying Plaintiffs access to fair and honest court proceedings, all defendants collectively and each one of them individually, have engaged in actions and abuses which violate Plaintiffs' constitutional rights. Including rights to due process and equal protection of the law, as provided under the Fourteenth Amendment of the United States Constitution.

xiii. Through the conduct set forth herein, including but not limited to their conduct to deny Plaintiffs access to fair and honest proceedings, and by colluding in bad faith through various acts, all state defendants, collectively and each one them individually, through the use of State court agencies, engaged in actions and abuses which violate and deny Plaintiffs' their constitutional rights. Including the right to petition the government under the First Amendment to the Constitution of the United States and violations of rights to inventions as guaranteed in the Constitution.

xiv. As a direct and proximate result of said acts, Plaintiffs have suffered and continue to suffer extreme financial loss, extreme loss of security in the legal system and judicial processes, emotional pain and suffering and loss of enjoyment of life.

xv. Because of defendants denying Plaintiffs' rights, Plaintiffs are now and will continue to suffer irreparable injury and monetary damages, including loss of IP rights in violation of the Constitution, as well as damages for mental anguish and humiliation. Plaintiffs are entitled to damages to the amount of sustained to date and continuing in excess of at least ONE TRILLION DOLLARS ($1,000,000,000,000) as well as punitive damages, costs and attorney's fees.

xvi. Immunity for any state actors and agencies should not be granted, in any capacity, as they acted directly through their organizations to commit the acts stated herein for personal pecuniary gains. Using the agencies letterheads to deny due process through violations of official duties they officially and individually acted to deny due process through the misuse of the official organizations and the organizations should be accountable in order to prevent them from harming others. If money damages are not allowed by this Court against any state defendant, injunctive reliefs are also being sought against the state defendants by Plaintiffs, far more important than any money to be gained and thus they must remain in the suit for those reliefs to be enforced.

xvii. State agencies should not be dismissed, nor their actors, as if this were the case, it would allow state actors to use state agencies to commit crimes with no risk of prosecution. All the state actors would do every time they committed crimes through misuse of the state agencies, in any action against them, would be to claim personal, absolute and Eleventh Amendment immunity. The agencies would then similarly claim immunity, creating a vortex for crime where the criminals and their organizations become immune from prosecution, in violation of the intent of the Constitution that maintains no one or entity is above the law, including those beholden to uphold the law. In fact, the Constitution warns us of this corruptible nature of government and assigns the citizens the right to tear down the wall whenever political corruption rears its ugly head to deny the People their rights.

INDIVIDUAL RESPONSES

PROSKAUER

Response to Preliminary Statement & Statement of Facts

120. Plaintiffs ask for default ruling on all Proskauer partners in the AC who were not represented by counsel in Proskauer's MTD. It is apparent Proskauer attorneys now representing themselves Pro Se, Greg Mashberg, and Joanna Smith, decided to represent themselves noting their inclusion as defendants in the AC and representing themselves further in conflict. Yet all of the following failed to secure counsel individually or professionally and this should result in a default against those individuals and the firm Proskauer, for failure to timely respond to the OC and/or AC.

121. Proskauer, the firm and many partners not listed as represented in the Proskauer MTD have all defaulted in this case as suit was filed against them and they failed to respond with Answer or MTD. Proskauer in their MTD only represents several Proskauer defendants and not even many of the sued Proskauer attorneys, according to their MTD heading, which reads the filed MTD is only for, "Attorneys Pro Se [Mashberg & Smith] and attorneys for Kenneth Rubenstein, Steven Krane, and the estate of Stephen Rackow Kaye." Therefore, a default judgment should be ruled for all of the following for failing to file a timely Answer or MTD; (i) the firm Proskauer is not listed as being represented (ii) the partners, associates, of counsel that were not listed by name or association as being represented in the MTD, and, (iii) certain of those partners,

associates, of counsel listed by name in the AC and where the MTD does not represent a response for them personally and professionally, including but not limited to, ALAN S. JAFFE, ROBERT J. KAFIN, CHRISTOPHER C. WHEELER, MATTHEW M. TRIGGS in his individual, professional and official capacities (officially for The Florida Bar who also fail to represent him), ALBERT T. GORTZ, CHRISTOPHER PRUZASKI, MARA LERNER ROBBINS, DONALD "ROCKY" THOMPSON, GAYLE COLEMAN, DAVID GEORGE, GEORGE A. PINCUS, LEON GOLD, MARCY HAHN-SAPERSTEIN, KEVIN J. HEALY, STUART KAPP, RONALD F. STORETTE, CHRISTOPHER, JILL ZAMMAS, JON A. BAUMGARTEN, SCOTT P. COOPER, BRENDAN J. O'ROURKE, LAWRENCE I. WEINSTEIN, WILLIAM M. HART, DARYN A. GROSSMAN, JOSEPH A. CAPRARO JR., and, JAMES H. SHALEK.

122. Further, for the defendants that are represented, no MTD of Proskauer's should be decided or heard until the matters of conflict are addressed before the Court and/or the 1st DDC, to conclude if Proskauer has acted again in violation of well-established rules, regulations and procedures of the professional code of conduct in New York. If they did act in conflict, this would preclude and negate any pleadings before the Court invoking reason for sanctions. The response beyond this point is merely an exercise in pointless waste of time if conflict exists in the tendering of the Proskauer MTD, negating the filing entirely.

123. Proskauer counts for the Court the volume of pages of the AC but most revealing is their accounting fails to account for the evidence and exhibits incorporated and incorporated by reference in the AC, totaling thousands of pages, taped calls, witness statements, etc. The exhibits are chalk full of evidence against them in support of the claims of the OC and AC and clearly stating with specificity the allegations against Proskauer and its partners, associates and of counsel and what rules, regulations and procedures they violated.

124. This attempt to deny those facts and the exhibits and sell this Court "we will not challenge Plaintiffs' factual allegations or otherwise be drawn into their bizarre and confused claims of conspiracy and criminality" attempts to deny the facts in favor of hoping this Court will believe their claims Plaintiffs are "confused" conspiracy theorists. Factually, Proskauer offers no proof or evidence to such conspiracy against them or that

Plaintiffs are confused in a strange way, just more hot air as it fails to exhibit any support to the claims for proper argumentation and response.

125. In fact, Proskauer claims no motive for this many year assault on them and these powerful law firms, lawyers, public officials, state bar associations, disciplinary agencies, large corporations and supreme courts they claim Plaintiffs are after. Is the motive of Plaintiffs merely to harass these folks for fun, not worrying about the legal ramifications that could result against Plaintiffs for attacking major legal and judicial players in the United States legal system? Their conspiracy theory that Plaintiffs are harassing them does not even make rational sense and lacking any motive, makes no sense at all.

126. Proskauer fails in their MTD to deal with any of the facts of the case as cited in the OC and AC and the incorporated exhibits, herein again attached in Exhibit 1, due to their wish to avoid the facts in these matters, in favor of delusional conspiracy theories of harassment by lunatics. Exhibit 1 contain volumes of related complaint data, with exhibits contain separate detailed claims against defendant Proskauer, for almost all of the crimes committed by their firm, partners, associates and of counsel. All the evidence contradicts their misleading and defamatory statements this is a conspiracy of two lunatics against them, who have no evidence, despite, the overwhelming evidence and witness against them.

127. This attempt to slip out of the complaint on a technicality versus taking their case to Court and winning against Plaintiffs or suing with a counterclaim for the alleged harassment by Plaintiffs shows they fear the Court and the evidence against them.

128. In fact, Plaintiffs will show Proskauer is defaming and harassing them instead, with their baseless claims of a conspiracy against Proskauer by Plaintiffs and have put forth no evidence or witnesses to support what they claim a “fantastic conspiracy” charge. Plaintiffs claim this is not a phantasmagorical conspiracy and instead a very real legal conspiracy, supported with evidence and witness.

129. What proof of such harassment does Proskauer put forth in support of this crazed claim, not one single piece of proof to support their contentions? This is truly defamation and harassment of Plaintiffs, created by Proskauer’s baseless assault, which forces Plaintiffs, in any second amended AC, by motion or new lawsuit, to include the

charges of defamation of character, and harassment. The claims will seek the Court to have Proskauer cease and desist their campaign of defamation of Plaintiffs, attempting to paint them as crazed, that is wholly unfounded or offer up some proof.

130. Plaintiffs will show even in their MTD, tendered in a very real conflict of interest,[34] Proskauer continues in a campaign of defamation and harassment no else will support, evidenced by the fact they can find no attorney to represent their ludicrous and unsupported defense in the face of the evidence, fact and witnesses against them. Instead, we again find Proskauer representing their own hallucinatory allegations, acting as their own counsel, a fools counsel, especially where one is a large law firm.

131. Proskauer states Plaintiffs claim the "technology allegedly invented by Bernstein." There is overwhelming evidence Proskauer Rose opined to shareholders[35], their clients[36] and certain patent interest holders[37] Bernstein had invented the technologies. Eliot & Simon Bernstein originally retained Proskauer to protect the technologies, and then Proskauer formed approximately 13 companies to protect such inventions, it is ridiculous to hear them now claim the technology Bernstein invented is merely alleged. Yet it is telling, in showing Proskauer is trying to distance themselves from their knowledge or involvement with the inventions, despite overwhelming evidence to the contrary showing their direct involvement in all phases of the IP and their directing co-counsel MLGWS and Foley.[38]

132. Further, in support of the contention Proskauer is attempting to mislead this Court regarding their involvement in the IP, Kenneth Rubenstein claimed to have no information regarding inventor Bernstein, the Iviewit Companies, or the inventions, in both a deposition[39] and an affirmed statement in the Proskauer Civil Billing Lawsuit[40] to defendant Labarga. These claims were wholly disproved in Rubenstein's own deposition by both contradictory evidence and his own perjurious statements refuting his original

[34] Where attorney misconduct actions have been filed at the 1st DDC and are pending formal docketing and disposition and Iviewit waits Monica Connell's letters regarding these matters.
[35] Exhibit 1 – Evidence Links 22, 23, 25, 28, 33, 37, 44, 45, 47, 75, 167, 207, 732, 733, 834
[36] Exhibit 1 – Evidence Links 75 & 837.
[37] Exhibit 1 – Evidence Link 784
[38] Exhibit 1 – Evidence Links 128, 131, 133, 136, 137, 138, 761, 762, 770, 6, 12, 52, 97
[39] Exhibit 1 – Evidence Link 198
[40] Exhibit 1 – Evidence Link – 196.

claims.[41] In fact, Rubenstein through his conflicted mouthpiece Triggs had prior written to defendant Labarga that Rubenstein was the target of harassment, sound familiar, claiming he knew nothing about Iviewit and was requesting not to be deposed in Proskauer's own billing lawsuit, where Rubenstein is mentioned throughout several years of the billings, also contradicting his statements.

133. Labarga ordered Rubenstein to deposition despite his pinning and Rubenstein in deposition wholly contradicted his prior affirmed statement to Labarga and in deposition contradicts his own deposition statements. Rubenstein at his deposition is confronted with contradictory evidence to his statements at which point he leaves his deposition, refusing to answer questions and demanding Iviewit Companies take the matter of forcing his continued deposition up with Labarga for his failure to answer direct questions of the deposer, in violation of Florida law. Iviewit Companies did petition the judge[42] and Rubenstein was ordered to return to answer the questions he refused at his first deposition. The continuation of the deposition never occurred because the case was thrown by Labarga prior to Iviewit Companies being able to complete the deposition as described in the AC or cross-examine Rubenstein at the trial, which was thrown and never occurred despite this factual information presented to Labarga.

134. Labarga, despite having contradictory evidence and wholly perjurious statements of Rubenstein, did nothing with such evidence of false statements and documents to his court in an official court proceeding. False statements made while under oath in deposition and in a sworn written statement both constituting absolute perjury. What we find instead is Labarga quickly moving to remove Iviewit Companies counsel (two firms at the time) and throw the case for Bernstein's failure to find replacement counsel, further discussed in the AC, leading to his involvement as a defendant, as Proskauer astutely points out in their MTD.

135. Proskauer states Plaintiffs claim "Plaintiff Iviewit companies" own the technologies where this statement is wholly untrue. Plaintiffs claim the inventions owned

[41] Exhibit 1 – Evidence Link 166 - Warner Bros. technology letter stating Rubenstein was called and opined favorably. This secured Warner Bros. entering a technology licensing deal with Iviewit. Later Rubenstein when requested to reconfirm his prior opinion by Warner Bros. and Iviewit executives, Rubenstein refused claiming he now had a conflict of interest talking to his client Warner Bros.? This caused the Warner Bros. deal to collapse along with other issues discussed in the AC.

[42] Exhibit 1 – Evidence Link 767 & 768

first by Plaintiff Bernstein and other inventors, were then at the direction of Proskauer illegally transferred into fraudulent companies opened by Proskauer, whereby assignment of the inventions to these Proskauer formed companies was opposite of what shareholders were told was happening. Plaintiffs according to USPTO do not own some inventions at all! Proskauer must have missed all these claims and the supporting exhibits in the AC. Proskauer and their referred co-counselors controlled all facets of the corporate formations and IP assignments, which Plaintiffs claim clearly in the AC was not done according to what shareholders and certain patent interest owners were told was going to happen. Leaving everyone confused as to who owns the technologies and companies.

136. In the event the corporate scheme invalidates the shareholders interest or the companies collapse, the technologies would presumably transfer back to the inventors, to redistribute accordingly. The former Iviewit Companies shareholders will be able to take individual or joint shareholder actions against their former counsel to recover damages as well. This action has been taken on the shareholders behalf as it was unknown how legally how their rights could be asserted in such bizarre instances, the reason the known Iviewit Companies are also defendants in this case.

137. If the Court refuses such additional Plaintiffs, those additional Plaintiffs will perhaps file their own suits in relation or some other way. The case would remain under Plaintiff Bernstein's rights to his inventions individually and as a shareholder of whatever Iviewit Companies he may own and where his rights to those shares have been lost due to the attorney crimes and civil violations of his rights. In fact, this is why Plaintiff Bernstein has sued personally, if the Court does not feel Plaintiffs have the right to sue on behalf of other shareholders, Plaintiff Bernstein seeks leave to amend leaving Plaintiff Bernstein's rights to sue intact and removing the others.

138. The Plaintiffs, inventors, and shareholders now forced to seek to get information on patents that are not theirs through such measures as an Act of Congress per the advice of Moatz. Moatz's officers assigned to the case could not release information on IP Proskauer had stated was the inventors and shareholders.[43] Plaintiffs make no claims as to who actually owns the IP at this point in Proskauer's corporate

[43] Exhibit 1 – Evidentiary Links 359

scheme but claims ultimately, Plaintiff Bernstein and the other inventors, the legitimate ones, will own the IP as was intended.

139. What is known about the IP owners is the USPTO has stated the information Proskauer, Foley, MLGWS, and BSTZ told shareholders and investors, is false and misleading. Certain of the IP listed owned by Iviewit Companies, not owned by Iviewit Companies.[44] In some instances, IP is found in fraudulent Iviewit companies, in other instances the IP has been put in fraudulent inventors' names, as is the case with defendants Joao and Utley, where shareholders and investors were never told of these fraudulent IP applications.

140. Plaintiffs beg this Court to have Proskauer clearly show this Court, as they were unable too for an Arthur Andersen audit[45] or under specific requests from the shareholders[46], who owns what companies and where the IP is in relation to that corporate scheme. Where Wheeler in his deposition is unclear as to his own recommended corporate scheme and for the amount of billing he did for them, he should be fully cognizant but states he will have to come back for further deposition after reviewing his notes and then attempts to not come back.

141. Further, the Court should order Proskauer to provide documentation they transferred shares of all the companies to all the appropriate shareholders and notified them of all such transactions affecting their interests, as well as, provide the patent assignment documentation they directed and controlled either directly or through co-counsel they brought to the companies.

142. Due to apparent fraud in the Proskauer directed and controlled corporate formations and IP assignments, upon reviewing such documents, Moatz, Director, USPTO OED, has now begun formal investigations of Rubenstein, Proskauer and the other IP attorneys named as defendants in the AC, which remain ongoing. Proskauer fails to mention this fact in their MTD, as it is a fact that damns their delusional conspiracy theory with stark reality. Is Moatz also part of the Bernstein and Lamont crazed conspiracy theorist group now, are his investigations real or imaginary?

[44] Exhibit 1 – Evidence Links 1, 363, 369, 346, 349, 350, 359
[45] Exhibit 1 – Evidence Links 668, 108, 112 & 114.
[46] Exhibit 1 – Evidence Links 392, 380, 383

Proskauer has chosen to avoid this reality, as it would negate most of their delusional claims they are victims of harassment from conspiracy theorists.

143. Moatz, upon commencing his investigations, further directed Plaintiff Bernstein to, (i) file formal written request to the USPTO to remove all prior patent counsel from the applications (ii) file inventor change forms (iii) reply to any outstanding actions (iv) revive abandoned patent applications and correct any other defects (iv) deal with a specialized team at the USPTO Moatz formed to aid Plaintiff Bernstein in getting the IP revived to be suspended by the Commissioner of Patents (v) petition the Commissioner of Patents to suspend the IP, referring the Commissioner directly back to Moatz at his bequest, in support of the claim of fraud upon the USPTO, Plaintiffs and the Iviewit Companies shareholders, and, (vi) ask suspensions be granted while the investigations remain ongoing. These **facts**, clearly defined in the AC with supporting evidentiary exhibits, again refute claims by Proskauer Plaintiffs are baselessly harassing them in a wild conspiracy theory without fact, is Proskauer claiming the Commissioner of Patents is also in on the conspiracy against them for suspending the IP based on the evidence submitted?

144. Plaintiffs do allege Rubenstein was retained Iviewit Companies and Plaintiff Bernstein's patent counsel whom directed the filings of the patents now suspended and in some instances perhaps permanently lost. Further, Proskauer then brought in as co-counsel defendants Meltzer & Foley to handle various aspects of the IP filings under Rubenstein's direction, as described in the Wachovia Private Placement.[47] In fact, Rubenstein is on an Advisory Board of Directors for the Iviewit Companies that controlled the IP direction and is almost in every business plan ever generated by Iviewit Companies and co-authored, reviewed and disseminated by Proskauer. Again, a fact that damns their delusional conspiracy theory with stark reality. This fact also damns Rubenstein's delusions he knows nothing about the Iviewit Companies, inventors, or inventions and being harassed.

145. Plaintiffs do not allege "that every lawyer, law firms, court and government entity Plaintiffs have approached for help has instead joined the conspiracy" and this statement again tries to pull the wool over this courts eyes with further false

[47] Insert link to Rubenstein in Wachovia PPM

premises intended solely as defamatory and harassing claims. Such slanderous mischaracterizations are attempts to make Plaintiffs appear crazed conspiracy theorists.

146. Plaintiffs claim only **certain** lawyers, law firms, courts and government entities have joined the Proskauer conspiracy, most of those known at the state level. For example, there are many ongoing investigations by many government organizations; both in the United States and abroad, including the USPTO OED and the USPTO which have led to the IP of Plaintiff Bernstein being suspended pending conclusions of these formal investigations. Where Moatz and the Commissioner of Patents do not appear as defendants, as it appears they have been following well-established rules, regulations and procedures of the USPTO and where there are no well-established rules they are taking actions to aid the Plaintiffs efforts to recover and protect their IP.

147. Plaintiffs complain there are additional conspirators and this typically is where Proskauer or their co-conspirators are influencing complaints in violation of well-established rules, regulations, procedures, and public office duties, resulting in the need to involve only very specific government agencies, courts and their actors as defendants. In the matters of defendants' Triggs and Krane, both Proskauer partners found violating public offices rules, regulations, and procedures in their official capacities, in both cases they acted in a manner leading to further cover-up crimes once they were caught violating their office positions. Cover-ups' at higher and higher levels in the chain of command and all the folks involved with these matters are the bulk of the state defendants. All these defendants can thank Proskauer for their involvement in their crazed scheme to steal inventions their partners deemed Holy Grail inventions.

148. Another fact exhibited in the AC and ignored, are the Unpublished Orders of the First Department Court whereby Proskauer partners found in conflict ordered for investigation for the appearance of impropriety. The complaints were transferred by the First Department Court for investigation, to the 2nd DDC, where further Proskauer conflicted parties were found handling those matters acting under official color of law.[48] This resulted in further complaints filed and the need for further cover-ups, as further defined in the AC regarding the 2nd DDC, resulting in the need for a host of new

[48] Exhibit 1 – Evidence Links 460, 466, 474, 496, 501, 514, 518, 531, 537, 542, 545 & 546.

complaints. These defendants can all thank Proskauer for involving them in their bungled schemes.

149. Proskauer's argument Plaintiffs complain of, "every lawyer, law firm…Plaintiffs have approached for help has instead joined the conspiracy" is misleading and unsupported by any fact, mere hot air. Many of the Plaintiffs represented on their behalf by Lamont and Bernstein, are also lawyers and law firms, including many of the Iviewit Companies shareholders and patent interest holders. In fact, Plaintiffs will call as witness many law firms and lawyers on their behalf. These legal witnesses have intimate information regarding the matters before the Court, which disprove Proskauer's harassment conspiracy theory, including but not limited to; (i) Caroline Prochotska Rogers, Esquire[49](ii) Steven Selz, Esq. (iii) Marc R. Garber, Esquire [50] (iv) Michele Marlene Mulrooney Jackoway, Esquire[51and52] (v) Alan J. Epstein, Esquire[53], (vi) James R.

[49] Rogers is a friend of Plaintiff Bernstein's for over 25 years. She hired counsel Selz to represent Iviewit Companies before Labarga, hired counsel for the Involuntary Bankruptcy, hired Greenberg Traurig to review the patents for Bernstein and the Iviewit Companies, structured the Schiffrin & Barroway LOU, and is a patent interest holder. Rogers has eyewitness account for much of the Iviewit Companies matters, after discovery of the initial patent thefts going forward and Plaintiffs will call her as credible witness in matters she has knowledge of, to corroborate certain allegations.

[50] Garber has acted in the Iviewit Companies matters for approximately 4 years and continues to advise Bernstein personally. Garber's firm, Flaster Greenberg P.C. represented Plaintiff Bernstein personally in the Schiffrin & Barroway Letter of Understanding and again in the failed Proskauer Rose proposed settlement. Mitchell Welsch, an Iviewit Companies shareholder, a 30-year friend of Plaintiff Bernstein, an insurance client of Plaintiff Bernstein's former insurance business and a former investment banker for the Iviewit Companies, introduced Garber to the Iviewit Companies and Plaintiffs. Garber has eyewitness account for much of the Iviewit Companies matters, after discovery of the initial patent thefts going forward and Plaintiffs will call him as credible witness in matters he has knowledge of, to corroborate certain allegations.

Welsch has information from initial discovery of the patents until 4 years ago.

[51] Mulrooney is a friend of Bernstein for approximately 15 years, her firm, the premier entertainment law firm in Los Angeles, represented the interests of Plaintiff Bernstein under retainer in the matters of the patents. The firm Jackoway Tyerman Wertheimer Austen Mandelbaum Morris & Klein, A Professional Corporation is Bernstein's client for almost twenty years. The firm, formerly known as, Armstrong Hirsh Jackoway Tyerman & Wertheimer LLP, and through a separate company they formed, is a founding shareholder of the Iviewit Companies. Mulrooney also acted as personal counselor to Bernstein and an estate advisor for the patent interest of the Bernstein family. Many of the firm partners are clients of Bernstein's former insurance business for over twenty years. The firm also introduced the Iviewit Companies to some of their finest client relations to form several of the business arrangements that Proskauer handled, including leading major motion picture studios and other multimedia companies. Mulrooney has eyewitness account for much of the Iviewit Companies matters, since day of invention and Plaintiffs will call her as credible witness in matters she has knowledge of, to corroborate certain allegations.

[52] Mulrooney recommendation for law school of Bernstein @ http://www.iviewit.tv/inventor/mulrooney%20recommendation.htm

Jackoway, Esquire[54] (vii) Armstrong Hirsch Jackoway Tyerman & Wertheimer, P.C. (viii) Richard R. Rosman, Esquire[55] (ix) Anthony Lewinter, Esquire (x) Irell and Manella[56] (xi) Kenneth Anderson[57], (xii) Mark W. Gaffney, Esq., who acted on behalf of Plaintiff Bernstein, Lamont and Iviewit Companies in certain of the matters before the Court and is also a former Department of Justice Antitrust Division attorney[58], (xiii) Antonio "Tony" Castro, Esq.[59] and (xiv) Schiffrin & Barroway. Yes, defendants Schiffrin and Barroway whom are defendants now but who once believed strongly in the Iviewit Companies claims, after thorough due diligence into the evidence and witnesses against defendants. So much so, as to sign a binding Letter of Understanding[60] to represent Plaintiffs and Iviewit Companies against many of the defendants in even this

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[53] Epstein is a personal friend of Bernstein's for approximately 15 years and was an Iviewit Companies advisor, personal counsel to Bernstein relating to his personal interest in the patents via his firms retainer agreement and instrumental in first hand meetings of the companies and board meetings. Epstein is also with Jackoway Tyerman Wertheimer Austen Mandelbaum Morris & Klein, A Professional Corporation. Epstein has eyewitness account for much of the Iviewit Companies matters, after discovery of the inventions going forward and Plaintiffs will call him as credible witness in matters he has knowledge of, to corroborate certain allegations. Epstein was an instrumental personal advisor to Bernstein, in regard to the Iviewit Companies matters.

[54] Jackoway is a friend of Bernstein's for approximately 12 years, a senior partner in the firm, Jackoway Tyerman Wertheimer Austen Mandelbaum Morris & Klein, A Professional Corporation. He has extensive knowledge of the events described herein, has eyewitness account for much of the Iviewit Companies matters, since day of invention and Plaintiffs will call him as credible witness in matters he has knowledge of, to corroborate certain allegations.

[55] Rosman is a personal friend of Bernstein's for over twenty years and represented his clients in Iviewit Companies matters and has extensive knowledge of the events described herein and has eyewitness account for much of the Iviewit Companies matters, from the day of discovery going forward and will be called as witness to corroborate the matters he has knowledge of.

[56] Bernstein has a twenty-year relation with Irell & Manella and many partners were personal clients of Bernstein's former insurance business. Irell & Manella was hired via retainer, by Crossbow Ventures on behalf of Iviewit Companies following the loss of Proskauer and their co-counsel Foley, due to the discovery of the patent malfeasances and in efforts to save ongoing licensing deals at the time. Irell prepared licensing agreements after Proskauer failed to complete those deals, including AOL/WB for licensing and servicing. Irell referred BSTZ to Plaintiff Bernstein and Crossbow Ventures to evaluate the evidence of the stolen patents when it was discovered by Iviewit & Crossbow. Certain of the Irell partners have knowledge of certain of the events described herein and will be called as witness to corroborate the matters they have knowledge of.

[57] Anderson, formally a leading partner with Arthur Andersen's Personal Financial Planning Group in Los Angeles, is a friend of Bernstein for over 12 years. Anderson is a founding Iviewit Companies shareholder and has knowledge of certain of the events described herein and will be called as witness to corroborate the matters he has knowledge of.

[58] Gaffney is a friend of Lamont, advised Lamont and Bernstein on several key meetings and attended a meeting personally in West Palm Beach, FL with Special Agent Stephen Luchessi on behalf of Plaintiffs. Gaffney is a patent interest holder. Gaffney has knowledge of certain of the events described herein and will be called as witness to corroborate the matters he has knowledge of.

[59] A friend of Lamont and a patent interest holder.

[60] Exhibit 1 – Evidence Link 251, 250, 252, 259, 262, 264, 265, 267, 269, 272, 273, 315 & 829

present case. Is Proskauer going to claim all these legal witnesses for Plaintiffs are part of their grand delusion of a conspiracy of undefined motive of Bernstein and Lamont against Proskauer and the other defendants?

150. Why are there not complaints against these lawyers by Plaintiffs, as Proskauer's statement claims all are sued, and why is Proskauer the only law firm with founding shares in the Iviewit Companies that does not want to know the answer to what has happened to their shares or the inventions? Proskauer's state Plaintiffs include everyone in the conspiracy, a false premise many arguments rely upon thereafter hoping to build on the unsubstantiated crazed claim, a delusional opinion, factually deficient, thus no conclusory statements relying upon the premises can be held true.

151. With due process blocked at the highest levels by Proskauer and other conspirators, who needs friends to try to help by beating their heads upon a wall in futility and exposing themselves to harm? When the blocking includes claims like physical threat, intimidation and other harassments endured by *Anderson*, to keep the lid on it or else, people, including good honest lawyers, become fearful of trying to help in fear of similar retaliations. Whistleblowers even become fearful and thus hero's are hard to find even where one wants to help.

152. A car bombing adds yet another level of intimidation to those wanting to help and since such time, Plaintiffs have refused help from anyone else, as until Plaintiffs are assured of fair and impartial due process, free of conflict of interest, to ask a good honest lawyer or friend to help is to jeopardize her/his life, future and family.

153. Plaintiff Bernstein, Pro Se'r feels confident with the evidence and witnesses against the defendants, in a fair playing field he can succeed without anyone stepping into the line of fire, yet.

154. Then there was *Anderson*, whom Proskauer must also claim is in on the conspiracy to harass them, who confirms the 1st DDC was corruptly handling complaints. Supporting almost identical claims Plaintiffs made prior to ever hearing of *Anderson's* insider claims, regarding the conduct of the 1st DDC. Identical to Plaintiffs' complaints in regard to Proskauer partner Krane using cronyism to influence complaints, that Krane at that time asserted in defense of Rubenstein was due to Plaintiffs being a failed dot com looking for someone to blame, as the rationale to their crazed harassment claim.

155. This is the very 1st DDC we find Proskauer involved in conflicted self-representation in proceedings in violation of public office rules, supporting Anderson's contentions of public office violations, which impart the appearance of impropriety. Ethics violations committed by none other than Krane, Proskauer's lead ethics partner and gaming expert[61], a strange combination indeed. Krane use his public office influence directly to influence the complaint process, attempting in his responses, to paint Plaintiffs as crazed, to vindicate Rubenstein, Proskauer and himself in the 1st DDC complaints[62].

156. Krane fails to mention prior to his representation he might have conflicts due to his vested interest in the complaint matters as a Proskauer partner with everything to lose, including his interest as an Iviewit Company shareholder through the Proskauer founding shares, and, his conflicting public office positions prohibiting such conflicted representations.

157. Taking *Anderson* to represent only a fraction of the corruptions going on in the state agencies, Plaintiffs can only conclude until further discovery, similar blocks were instituted in Florida, where yet again, Proskauer partners are found acting in conflict of interest and violating public offices of TFB, in an almost identical pattern to New York. Discovery of *Anderson's* claims are necessary to explore who issued the orders and how they may have transcended between the various players in various state agencies.

158. By the look of the letters tendered in response to the complaints by Krane[63] and Triggs[64] and their almost identical nature, presumably they coordinated such activities at minimum through their official capacities at the 1st DDC in New York and TFB in Florida, to create an almost identical series of events. Where the state defendants are claiming there was no collusion amongst state actors, perhaps it is because they fail to recognize or defend Krane and Triggs, as officers in their official capacities with those organizations, again very telling.

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[61] Exhibit 1 – Evidence Links 384, 70, 225, 386, 387, 391, 394, 396, 397, 407, 408, 415, 430, 433, 447, 460, 466, 468, 470, 471, 474,
[62] Exhibit 1 – Evidence Links 215, 225, 247, 279, 286, 324, 384, 391, 407, 430, 460, 466, 471, 474, 487, 496, 518, 679, 744, 752, 761, 777, 778, 779, 782, 783, 798, 852 & 855
[63] Exhibit 1 – Evidence Link 226
[64] Exhibit 1 – Evidence Link 235

159. Then there is Monte Friedkin, is he too a conspiracy theorist out to harass and harangue Proskauer? Are his claims to Rogers and Bernstein that Utley, Wheeler and Dick, attempted to lift his company's IP immediately prior to them meeting Bernstein and in almost identical fashion, that of a madman? The Friedkin allegations are further confirmed in part under deposition by Utley and Wheeler[65] by their admissions contradicting the fraudulent resume they presented to the Iviewit Companies and shareholders, misrepresenting their past at Friedkin's and what happened, whereby their own depositions contradict the statements of the resume! Plaintiffs believe, after review of the testimony of the outstanding philanthropist Monte Friedkin of Florida, he too will be found to be credible witness by this Court and will be willing to expose such facts as he did for both Rogers, via a phone conversation and with Bernstein personally, regarding how he fired Utley and closed the company immediately after. Fired for Utley's attempt to steal his company's IP, by writing patents in Utley's name with the aid of defendant Dick and then sent to Utley's home and in violation of his fiduciary duties to Friedkin. Friedkin has agreed under subpoena to testify to his knowledge in these matters, yet another reason for further discovery necessary to learn more about the history of the criminal enterprise operations.

160. Also learned from Friedkin was how Wheeler was connected to Utley in the attempted IP theft, as Friedkin knew both Utley and Wheeler well from the board of Florida Atlantic University ("FAU"). After the scandals that rocked FAU, which Wheeler was involved in[66], Plaintiffs are unclear if Wheeler remained on that board. Utley fled Florida and resigned his post at FAU, as scandals broke at the departments he and Wheeler were directly involved with.

161. Wheeler, Proskauer's star witness to their conspiracy theory, after the Fuzion and FAU scandals, then arrested for Felony Drunk Driving with Injury and later convicted for that offense.[67] Wheeler's credibility shattered by these events.

162. Even more astonishing, Plaintiffs then find Wheeler defended by defendant Turner from TFB, who misleads the press Wheeler's DUI is a misdemeanor

[65] Exhibit 1 – Evidence Links 823, 190, 191, 320, 321, 323, 679, 680, 681, 809, 810, 811, 813, 815, 817, 818, 821, 822, 832, 54, 130, 185, 187, 188, 190, 191, 206, 219, 220, 229, 233,
[66] Exhibit 1 – Evidence Links 275 & 830.
[67] Exhibit 1 – Evidence Links 512, 525, 526, 835, 830 & 275.

not punishable by TFB, failing truthfully to report to the press Wheeler's arrest, where the police report clearly shows at the time a felony charge. Perhaps, Turner (as illustrated in the incorporated Exhibit 1 – Evidence Link 526) involved in the Wheeler bar complaint, did not want things to get out of control for Wheeler to protect now his own personal interest in the matters and again used the TFB offices to circulate false information to the press to defend Proskauer's Wheeler.

163. Proskauer's argument Plaintiffs have included as conspirators "every…court and government entity Plaintiffs have approached for help has instead joined the conspiracy" is misleading in that the following government agencies investigating these matters, mostly federal and international, have not been included as conspirators, nor become defendants and remain investigating: (i) United States District Court - Southern District of New York (ii) House Judiciary Committee[68] (iii) The Honorable Senator Dianne Feinstein (iv) Department of Justice – Office of Inspector General, Glenn Fine (v) Federal Bureau of Investigation – Office of Professional Responsibility (vi) Federal Bureau of Investigation West Palm Beach Florida (although this office is currently under investigation for missing Iviewit case files and investigators into both the Iviewit matters and the car bombing) (vii) Boynton Beach Fire Department & Florida Fire Marshal (viii) United States Attorney General Southern District Florida (although this office is currently under investigation for missing Iviewit case files and investigators into both the Iviewit matters and the car bombing) (ix) United States Patent & Trademark Office (x) United States Patent & Trademark Office ~ Office of Enrollment & Discipline (xi) the Federally Backed United States Small Business Administration, Office of Inspector General (xii) United States Supreme Court, (xiii) Securities & Exchange Commission (xiv) Florida Judicial Qualifications Commission (xv) Institute of Professional Representatives Before the European Patent Office, and, (xvi) the Japanese Patent Office.

164. Proskauer is correct the following officials have been included in complaints but it is interesting to note in almost all of them, Proskauer or Foley is found to be involved and the cause of the additional complaints and defendants being included:

[68] Exhibit 1 – Evidence Links 566, 581, 584, 585 & 586.

a. Eliot Spitzer, New York Attorney General – Counsel to Spitzer is Proskauer.[69] Spitzer receives complaints against public officials but buries them and never even responds formally or procedurally to direct requests for his involvement in the matters, perhaps to busy in aiding young woman into prostitution and transporting them across state lines to be concerned with public office corruptions against his law firm. On information and belief, Dietrich L. Snell of Proskauer Rose is representing Spitzer in the criminal matters forcing his resignation including the "Troopergate" scandal. From the Wallstreet Journal on April 27, 2007, 6:28 pm ~ Former NY Deputy AG Moves to Proskauer ~ Posted by Amir Efrati, "Dieter Snell, a former deputy attorney general under former AG Eliot Spitzer, now the governor of New York, has joined the New York office of law firm Proskauer Rose as a partner in its white-collar defense and internal-investigations group." Ah, "birds of a feather..." Snell further is supervised at Proskauer's "Bob Cleary, who supervised Snell at the U.S. Attorney's Office and now heads Proskauer's white-collar defense practice."

b. Proskauer partner, Steven C. Krane, who was found directly handling disciplinary complaints against Proskauer, Rubenstein and himself, while having a vested interest in the matter as a Proskauer IP partner, simultaneously a senior official in the 1st DDC and other conflicting public office positions involving the NY disciplinary system, as already defined herein.

c. Defendant Kearse of the 2nd DDC has admitted conflict with Proskauer partner Krane and fails to remove herself from the complaint process or answer formal written request demanding further information. Kearse also refuses to docket complaints sent formally to the 2nd DDC against her and defendant DiGiovanna.

d. TFB official Matthew Triggs, a Proskauer partner, is found directly handling disciplinary complaints against Proskauer and Wheeler, while having a vested interest in the matter as a Proskauer partner and violating his public office rule precluding representation in a blackout period of anyone before TFB in a bar complaint.[70]

e. Fifteenth Judicial District, Florida where Proskauer partner Triggs is found again violating attorney conduct codes and violating his TFB public office rules

[69] Exhibit 1 – Evidence Links 869, 870 & 871.
[70] Exhibit 1 – Evidence Links 235, 221, 228, 233, 405, 411, 426, 428, 431, 439, 440, 441, 446, 452, 458, 471, 476, 519, 534 & 719.

when found representing the Proskauer Civil Billing Lawsuit before defendant Labarga, while handling the bar complaints simultaneously against his firm and partners. Again, this is a direct violation of the Rules Regulating the Florida Bar. Triggs was found to have a mass of ethical violations in his representations and complaints were therefore filed against Triggs but they were blocked from even being docketed or disposed of according to well-established procedure and were instead trashed as Anderson claims was the norm in New York.

f. Labarga added as defendant for knowingly allowing Triggs to act in violation of his public offices and for his dismissing the lawsuit when he had irrefutable evidence of perjury and false statements in official proceedings committed in his court, in violation of the judicial code of conduct. Further, for failing to take action or report such crimes and violations by attorneys practicing before him. Finally, for Labarga's dismissing counsel Selz, and, Schiffrin and Barroway, immediately prior to trial, leaving Plaintiffs without counsel and then awarding a default for their failure to find instant replacement counsel, in violation of the judicial code of conduct, Labarga has earned his stripes in these matters[71]. The Labarga case files for the Proskauer Civil Billing Case are incorporated by reference in their entirety, and where such files appear to have been removed from that court already, by an unknown party, according to the final docket entries. This Court may be able to obtain copies from such source.

g. Kelly Overstreet Johnson is included for having direct involvement for months regarding the Proskauer, Wheeler and Triggs bar complaints,[72] while working directly under James Wheeler, believed related to Proskauer partner Christopher Wheeler at the law firm of Broad & Cassell and for failing to disclose that conflict. After discovering the conflict, Johnson had TFB counsel Boggs call Plaintiff Bernstein, stating not to send Johnson further information and she could not be involved any longer.[73]

h. Recently learned information also shows the former Solicitor General of the FSC, during Plaintiffs case in that court, was upon retirement made a partner of Foley, with a special position within the Florida's Governor Offices. This

[71] Exhibit 1 – Evidence Links 195, 196, 212, 218, 244, 259, 262, 263, 281, 293, 295 & 304.
[72] Exhibit 1 – Evidence Links 417, 440, 452, 488, 666 & 719.
[73] Exhibit 1 – Evidence Link 666

connection may have aided and abetted the denial of due process in that court, further discovery will be necessary.

i. VSB added as a defendant for their violations of their well-established rules, regulations and procedures as already discussed herein. Only recently learned, that the Commonwealth of Virginia and its agencies have retained Foley as their own counsel[74] posing problems to conflict free representation of their law firm. This information needs further discovery. This conflict should have excluded the VAAG whose office hired Foley to represent VSB, to recuse their offices from representation of these matters directly involving Foley partner William J. Dick, who may be part of those representing VSB. On information and belief, the warm cozy relationship here is in the specialized field of patent matters, which Foley now represents as counsel the Virginia Commonwealth and VSB on patent matters. The VAAG also contacted Plaintiffs prior to even joining as counsel through the proper Court procedures. In what was supposed to be a call to confirm a document transfer via facsimile, which turned into a threatening phone call as noted to the Court via letter[75] in which the VAAG stated he could vouch for the defendants personally demanding their release from the complaint, again imparting possible conflict.

j. More defendants added for the antics at this United States District Court for the Southern District of New York, where Proskauer, Foley, and several others, again found acting in conflict of interest in matters they have vested interests in the outcome of in violation of conflict rules. These conflicts constitute new acts committed by the criminal enterprise with absolute disregard for this Court's rules, making mockery of yet another Court in efforts to cover-up for the criminals and further acting to prevent Plaintiff Bernstein from getting due process, conflict free which acts as barrier to his recovering his IP. These conflicts are necessary by defendants in order to protect their criminal enterprise cloaked as legitimate law firms from exposure to due process and from having to seek counsel that is not conflicted, directly or indirectly. Non-conflicted counsel would not put up false defenses to protect the guilty before this Court, as they

[74] Exhibit 1 – Evidence Link 872
[75] Exhibit 1 – Evidence Link 646

would have no interest. They would do proper due diligence of the facts, inevitably forcing disclosure of the crimes by defendants to their new counsel.

k. Chief Judge of the Court of Appeals, Judith S. Kaye, married to recently deceased Proskauer partner, Stephen R. Kaye, and whose former law clerk Krane of Proskauer may be the one of the largest blocks to due process of the Plaintiffs and Iviewit Companies complaints in New York. The obvious conflicts of Kaye and Krane may have far-reaching impact in the denial of due process, due to their undeniable influence over both the Courts and the various disciplinary departments in New York. With the influence of Krane and Kaye over the disciplinary and NY courts and their intimate involvement with the main accused, they should be nowhere near the complaints and yet have had direct involvement.

165. Every person at Proskauer and Foley is at a high degree of risk, from at minimum job loss if Plaintiffs are successful, to being found accomplice and losing all assets from being tied through their partnerships, to being found guilty in the construction or execution of the legal conspiracy and racketeering enterprise and facing federal time. These risks preclude self-representation, yet Proskauer and Foley fear no ethics violations or laws, fearing not whom they take down with them. Acting in utter contempt of legal ethics and their sworn oaths to uphold law and the attorney conduct codes, as "desperate times call for desperate measures."

166. Another false statement in the Proskauer MTD is the claim MPEGLA did not do anything. Plaintiffs allege MPEGLA took actions through the direction of Rubenstein, a founder of the patent pool, chief counsel to the pool and sole reviewer and gatekeeper of the patents that become included or as in this case, excluded from the pool but still used by the pool.

167. Wheeler initially represented Rubenstein and Joao as part of a New York IP department of Proskauer[76] to Plaintiff Bernstein and the early investors. Rubenstein and Joao then acted under false pretenses in claiming they were part of a Proskauer IP department[77] at the time of taking the invention disclosures.

[76] Exhibit 1 – Evidence Links 3, 4, 6, 9, 12, 13 & 18.
[77] Prior to Rubenstein joining Proskauer, Proskauer was a real estate law firm with no IP department whatsoever; learned much later by Iviewit Companies. It is interesting to note that immediately after Bernstein's inventions Proskauer staffed up and IP department by acquiring Rubenstein and other of his

168. Shortly thereafter, early investors discovered Rubenstein and Joao were with MLGWS. Confronted with this discrepancy, Wheeler claimed they were acquiring Rubenstein, who controlled the MPEGLA patent pool and they would get the IP included in the pool this way. Prior to Rubenstein, Proskauer did not have an IP department for approximately 200 years.

169. With the acquisition of Rubenstein, Proskauer acquired direct control and interest in MPEGLA. Proskauer now uses MPEGLA as one of the main storefronts for laundering the stolen royalties from Plaintiff Bernstein's inventions, creating a monopolistic power in violation of antitrust laws around the stolen technologies. As claimed in the AC, MPEGLA is now one of the largest infringers of the scaling video and imaging techniques, which prior to Plaintiff Bernstein's inventions they did not posses.

170. Proskauer is alleging Bernstein is only allegedly an inventor of the technologies and will now claim Rubenstein, Joao (where Joao holds 90 patents including infringing patents on the inventions) and Utley (who holds two core patent applications in his name) are the real inventors. During patent prosecution, they failed to review their own patents as prior art, they forgot to state they invented them when filing Plaintiff Bernstein's IP or billing the Iviewit Companies approximately one million dollars (including their billing lawsuit judgment) to protect the IP. Who knows, in greed driven psychosis, stranger things can happen.

171. Plaintiffs claim through Rubenstein's position as counsel for MPEGLA and simultaneous counsel for Iviewit Companies and then through Proskauer's position as counsel for MPEGLA while counsel for Iviewit Companies, both Rubenstein and Proskauer have illegally directed the technologies to MPEGLA. MPEGLA then tied and bundled into their anticompetitive licensing scheme Plaintiff Bernstein's inventions.

172. Proskauer and Rubenstein inure direct benefit from MPEGLA and it is alleged MPEGLA acts as one of the main sources of income to fuel the criminal enterprise, from the proliferation of Plaintiffs' technologies.

173. Plaintiffs allege Proskauer formed the Proskauer IP department headed by Rubenstein, who replaced no one, as there was no prior IP department and Rubenstein

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associates from Meltzer and became the leading law firm in technology centered upon Bernstein's inventions. This is as interesting as Proskauer's sudden appetite for NYAG employees, to staff their with white-collar defense practice.

brought in his other co-counsel from MLGWS when he transferred. This formed what then became the Proskauer IP department, a department built on the stolen inventions and continuing illegally to monetize the technologies. Proskauer again was a NY real estate firm for a few hundred years with no IP department, Proskauer does not deny this claim in their MTD, and this Court should take note of that.

174. The Court should note several factors in considering the statements made by Proskauer in the MTD regarding a retainer agreement with Iviewit Companies and Plaintiff Bernstein, as Proskauer appears to make the Court think Plaintiffs have failed to exhibit such and are hiding such. Plaintiffs claim the only legal retainer like document recovered[78], due to a mass document destruction that occurred when the Iviewit Companies were initially alerted to the crimes being committed, is a quasi retainer that appears fraudulent. This quasi retainer document comes almost a year after Proskauer began services for Eliot and Simon Bernstein, and, where a retainer agreement appears to be missing for that period. Perhaps Proskauer can explain where it is or why they failed to put it forward for their billing lawsuit or in this case.

175. It appears Proskauer is claiming they do not have copies of the retainer agreements, so they claim that it is an alleged claim they were retained both by Plaintiff Bernstein individually and the Iviewit Companies, not a factual event. Is Proskauer stating they represent clients with no retainer agreements, take invention disclosures without retainer, bill for services without a retainer, and sue for bills for legal services they preformed without retainer?

176. Utley and Wheeler created the quasi retainer letter exhibited above without Board of Director approval and after learning Wheeler had submitted a knowingly fraudulent resume for Utley, no document these two created can be trusted. Especially when reviewed under the very real claims, of the very real Monte Friedkin, showing these two have a prior history of fraud together.

177. The Court should finally note Proskauer has agreement in the fraudulent retainer submitted with the Proskauer Civil Billing Lawsuit, with only Iviewit LLC. Yet, Proskauer sues companies they have no agreements with in the billing case, failing to sue the Iviewit company that retained them. Proskauer states superseding agreements exist

[78] Exhibit 1 – Evidence Link 50 – Note this is only with Iviewit LLC

with all the companies they sued in their initial pleading but fail to include them in that lawsuit or to this Court, how very telling when viewed in the light of the very real information learned later that patents were in wrong companies. Proskauer sued IVIEWIT.COM, INC., a Delaware corporation, IVIEWIT HOLDINGS, INC., a Delaware corporation and IVIEWIT TECHNOLOGIES, INC. in their billing lawsuit and not Iviewit LLC[79] whom supposedly signed the bogus retainer.

178. In fact, Proskauer bills a variety of companies they appear to have no retainer with for services[80] and fails to sue some of these companies while asserting bills for them in their billing lawsuit. This is not a coincidence or error, and the Court must remember the initial filing was initiated in secrecy, with counsel Iviewit Companies did not retain or hire that was perhaps hired by Proskauer, further discovery is necessary. This billing lawsuit was only exposed through Warner Bros. due diligence regarding a twenty million dollar plus investment they were preparing to make, in accordance with the Wachovia Private Placement Memorandum and later the suit was confirmed by Rogers.

179. The entire Proskauer Civil Billing Lawsuit case, for which records for the original filing now appear missing, now must be explored further through discovery, to ascertain exactly how this legal hoax was originated and how the various legal players came together in secrecy to commit this crime. Discovery essential to explore how they misused legal processes to attempt to steal the IP and how the Proskauer Civil Billing Lawsuit in conjunction with the felonious Federal bankruptcy filing[81], both actions on bogus companies with stolen IP, acted as part of a coordinated scheme to walk the IP out the door.

180. The Federal bankruptcy action also was done in secrecy until discovered by Warner Bros. in their due diligence and later confirmed by Rogers. The bankruptcy filed on a company none of the plaintiffs in that matter had any contracts with and on a company that was not supposed to have IP in it, according to the information tendered by MLGWS, Foley & Proskauer to Plaintiff Bernstein, the Iviewit Companies and investors.

[79] Exhibit 1 – Evidence Links – 764 & 768.
[80] Exhibit 1 – Evidence Links – 7, 41, 759, 761, 762, 769, 770, 50
[81] Exhibit 1 – Evidence Link 669

181. Plaintiffs have reported and documented all of these crimes and civil violations to federal and state authorities and investigations in some instances remain ongoing.

182. Another document incorporated by reference in the AC serving to show a legal relationship existed between Proskauer and Bernstein and is not merely alleged, can be found at, http://iviewit.tv/CompanyDocs/1999%2002%2018%20Wheeler%20letter%20regarding%20Rubenstein% . This letter shows Rubenstein is reviewing the patents for patentability, yes the very Rubenstein who claims he never heard of Iviewit Companies, Plaintiff Bernstein or the inventions under sworn deposition testimony and in a sworn statement in an official proceeding. This letter again is factual evidence Rubenstein under deposition was delusional when claiming he never heard of Bernstein, the Iviewit Companies and the technologies.

183. The letter discusses fees and billings for the patent work, which Wheeler and Rubenstein claim to have had no part in the Iviewit IP, despite the IP billings already exhibited herein. Where Rubenstein's IP department and the IP partners he manages bill throughout the relationship with Plaintiff Bernstein and the Iviewit Companies for various IP work, including copyrights (never filed although billed for), trademarks, patents, trade secrets, and even client and investor patent meetings and now Proskauer claims they have no retainer for this critical period of invention work they performed?

184. This retainer shtick reeks as bad as the deposition of Rubenstein and Wheeler regarding Proskauer and their failure to run a conflicts check,[82] a check which would have certainly found conflict with Rubenstein and MPEGLA. Such conflict check would have forced Proskauer to protect Plaintiff Bernstein and the Iviewit Companies from such conflict but this was never done, violating well-established rules, regulations and procedures governing attorney and law firm client conduct.

185. The exhibited Wheeler and Rubenstein deposition statements regarding conflicts and retainers, state Proskauer, after the Iviewit Companies, tightened procedures regarding retainers and conflicts. From their self-representation in this case, it appears instead to be a loosening and certainly this Court should demand Proskauer and their Pro

[82] Exhibit 1 – Evidence Links 199 & 203.

Se partners who represent themselves and the firm to tally up the conflicts check run before they began representing themselves in these matters before this Court.

186. An attorney or law firm violating conflicts at will, exhibits obvious intent to commit prohibited acts and this case proves the reason conflict must be avoided in any attorney/client privileged situation, or the attorney's interests, including thinking their clients patents are their own,[83] are directly against their clients.

187. Document fraud is claimed in many complaints filed with state, federal, and international agencies who are still conducting ongoing formal investigations of these allegations, further supported by Anderson's claims of document tampering. Plaintiffs request the Court to have Proskauer and all defendants, immediately procure their original records and any copies of all their documents relating to these matters to the Court, to compare to any copies Plaintiffs maintain, for further fraud inspection.

188. There are documents relating to patent documents, currently under investigation that Plaintiffs will feel more comfortable submitting to the Court under seal with protections but prefer not to exhibit them here publically. Proskauer notes Plaintiffs have not included the information or patent documents in their MTD and contained in many of the exhibits in Exhibit 1 are patent documents that support the claims of the AC.

189. The Court should demand all documents relating to the IP be immediately tendered to the Court by all defendants and order them protected and under seal, until investigations are completed in those matters before the USPTO, the USPTO OED, the Japanese Patent Office, the soon to be added Korean Patent Office, the FBI, the DOJ OIG and the Institute of Professional Representatives before the European Patent Office

190. Proskauer states Plaintiffs allege a fraudulent bankruptcy but do not offer any affirmation or denial such claim is not true and the Court should note this. The bankruptcy documents already have been exhibited herein and offer factual information in support of Plaintiffs claims in the AC regarding the fraudulent nature of the bankruptcy filing by Proskauer planted management in the Iviewit Companies and Proskauer's referred strategic alliance partner to Iviewit Companies, Real 3D, Inc., composed of defendants Intel, Silicon Graphics, Inc., Lockheed Martin and RYJO.

[83] Exhibit 1 – Evidence Link 47

191. Proskauer cites the counterclaim filed by competent counsel attorney Selz with the aid of competent counsel Rogers[84] in the Proskauer Civil Billing Lawsuit as evidence in some way of vindication of the allegations contained therein. Yet Proskauer fails to mention the counterclaim filed with defendant Labarga, who claimed he was limiting the case to billing matters only, was never heard and the evidence and witnesses behind it was suppressed.

192. Labarga instead told Iviewit to seek redress against the attorney's in the state bar associations as it was not relevant to the billing case. Without the counterclaim heard, there is no victory for Proskauer in those charges and one wonders what the inference they are trying to draw from such action.

193. Perhaps, in combination with the bar review letters they exhibit in their favor in the MTD, dismissed on review, with no formal investigation in any[85] and where conflicts later are discovered, Proskauer is somehow attempting to claim these matters investigated and tried, opposite reality. In reality, all these short-lived victories are now subject to new investigations based on Anderson's claims that corruption plagued the internal procedures that created certain of the letters.

194. If Proskauer or any defendant could proffer the results of even one untainted investigation where due process and procedure was had to vindicate them, why did they not state so in their MTD? Why did Proskauer not choose to focus, in fact wholly ignoring, the ongoing investigations cited in the AC by federal and international authorities? Why are they trying to evade this Court through a ridiculous and unfounded MTD, if they have a solid case to present in Court? Why no counterclaim to stop the "harassment" of the conspiracy they claim against them by Plaintiffs?

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[84] Both Selz and Rogers must be conspiracy theorists as well and in on the conspiracy by Plaintiffs' Bernstein and Lamont to harass Proskauer as they claim in their MTD, for no stated reason, as Selz filed the counterclaim after reviewing the evidence and witness against Proskauer at that time. It should cause one to wonder if Proskauer is being harassed here and in the billing lawsuit as they claim, why there is no Rule 11 filing here for frivolous filings and seeking sanctions against Plaintiffs?

[85] Plaintiffs are aware that certain of the disciplinary letters achieved through conflict and violation of public offices, attempt to claim **preliminary** investigation was preformed and it is clearly the intent of Plaintiffs to challenge such assertions in this case. No formal and procedural investigations conducted, in favor of letters of dismissal on review and we will challenge any state investigator or agency that claims formal and procedural investigation was done in accordance with the governing rules. In fact, no complaint responses by the state agencies can be included in any further review, until the conflict matters are first dealt with. Striking the conflict-tendered responses by attorneys, Triggs and Krane, and anything based upon them thereafter. As any letter based upon them remain the result of conflicted responses and violations of public offices in Florida and New York influencing them and cannot be relied upon.

195. Proskauer claims Utley was CEO in their MTD, Utley was never the CEO of any Iviewit company the shareholders are aware of and all documents the companies maintain refute this claim. Utley may have been CEO in the Proskauer fraudulent companies, the companies which have fraudulent patent applications in them, filed by Foley in Utley's name, where Utley was also the sole inventor of "zoom and pan on a digital camera" and the image applet technology.[86]

196. Utley was factually the President and COO of any companies the investors were told of, which Proskauer should know, as they did Utley's employment agreement and represented Utley and the Iviewit Companies in that matter, further evidence of conflicts.

197. Proskauer claims after the counterclaim in their billing case and after the bar actions, Plaintiffs have basically done nothing to assert their rights, which even if true, which of course it is mere delusion, *Anderson* would allow Plaintiffs to reassert ALL of their prior claims in Court, despite any Statutes of Limitations prior.

198. Proskauer's claim that after the legal actions civilly were denied and the bars complaints dismissed on review, amidst countless conflicts and violations of public offices discovered, Plaintiffs just walked away from their claims until *Anderson*. Of course, this is wholly delusional too and anyone looking at the facts realistically can see once denied due process, Plaintiffs began a systematic elevation of the complaints in attempts to get due process or discover how high up the blocking emanated from.

199. The conflicts already exhibited herein and in the AC at the state bars took years to uncover, the extent of the cover-up conspiracy learned even now, as new evidence is uncovered. With each new discovery of corruption, the complaints have been elevated timely and where this process took additional years of filing additional complaints, wherever conflicts or violations were found blocking due process.

200. It is important for the Court to note during this time Proskauer claims nothing was done, great stress was also heaped upon the Bernstein family, including but not limited to;

[86] Exhibit 1 – Evidence Link 664, 56, 57, 80, 82, 98, 103-107, 118, 119, 122, 125, 141, 151, 158, 160, 164, 171, 183-192, 206, 219, 308, 320-323, 333, 358, 359, 601, 661, 662, 663, 672, 675, 679-681, 687, 707, 717, 805, 809-826, 832 and there are several additional patent boxes with information pertaining to the patents to be presented to the Court, upon the Court's decision if they should be submitted under seal.

a. death threats by defendant Utley on behalf of himself, Proskauer and Foley which forced the immediate move of Bernstein's from their Florida home overnight to California with virtually no personal or business possessions,

b. a car bombing which again caused the Bernstein's to run for their lives for the second time leaving behind their possessions,

c. four baseless evictions were levied against them, where alleged legal abuse of process was involved by the attorneys in those matters, making Plaintiffs filings in these various court proceedings nearly impossible when simultaneously being forced out of home and business, as is the case with the instant eviction action interfering with this filing,

d. the Bernstein's being forced on state welfare for their family due to the SB breach of their LOU[87] and where Plaintiffs had forsaken other deals in lieu of the LOU. Immediately after the Labarga debacle, SB failed to fund their LOU other than a few thousand dollars, they effectively, and allegedly in conspiracy with Proskauer, crippled Plaintiffs financially at the time, leaving them no legal defense as agreed, no funds as agreed and set them back financially in addition to the damages already levied by Proskauer et al.

e. theft of perhaps millions of dollars[88] causing catastrophic instant damage to Plaintiffs and investors,

f. Plaintiff Lamont's loss of his wife immediately following the birth of their son, P. Stephen Lamont Jr., to a devastating bout of cancer, and,

g. Plaintiff Lamont evicted in another eviction appearing to be legal process abuse perfectly timed to interfere with court proceedings, whereby Lamont had to fight his complaint in the New York court system.

201. Yet, in the face of these obstacles, Plaintiffs have been ever consistent attempting to pave the way to have the matters heard in a fair and impartial venue free of conflict and return the inventions to the true and proper inventors.

[87] Exhibit 1 – Evidence Link 250 & 251.
[88] Exhibit 1 – Evidence Link 276, 277, 475,

202. Plaintiff Bernstein, every day and night since the car bombing, has worked almost 20 hour days to retain the patent rights by filing all of the following actions, all wholly ignored by Proskauer in their MTD, included wholly by reference herein;

a. filing after filing to get the patents suspended by the Commissioner with Moatz's USPTO team forming the basis for ongoing investigation into fraud on the USPTO, as exhibit already herein, these submissions constituting several thousand more pages of documentary evidence,

b. filing of complaints against defendants WHAD, Molyneaux and Harrison Goddard and Foote at the EPO and EPI, forming the basis of the ongoing EPI investigations by the President of the EPI, Mercer,

c. filing of Federal patent bar complaints against multiple law firms and their partners which have led to formal investigation by Moatz and form the basis of IP suspensions and ongoing investigations, exhibited already herein,

d. filing numerous complaints with the EPO to attempt to get those patents in suspension similar to the action taken at the USPTO but so far at the EPO unsuccessfully, constituting a loss of inventions in violation of the constitutional call for Congress to protect the inventor. Where the international IP crimes originated in the US, as part of a violation of the Patent Cooperation Treaty and where this now may be another area where Congress will be called upon to issue precedent setting law to return the inventions to the rightful inventors as mandated constitutionally under Article 1, Section 8, Clause 8,

e. filing with The Florida Bar, Florida Supreme Court and then United States Supreme Court, filings with thousands of pages of evidentiary materials which were never heard by the Courts, filed on bicycle due to the loss of vehicle and while suffering further from evictions during critical filing periods at the United States Supreme Court, identical to the current eviction in strategy,

f. filing enormous volumes of evidence, in volumes of CD's and original documentation, with Special Agent Stephen Lucchesi of the Federal Bureau of Investigation for their ongoing investigation, now mysteriously missing the case files and the investigators, that has yielded no determination yet, caught in a never ending

investigation. Attending multiple meetings with Luchessi, in investigations at the FBI's West Palm Beach office,[89]

g. filing enormous volumes of evidence for ongoing investigations at the Small Business Administration after learning Crossbow's funds where two-thirds funds of the SBA,

h. filing enormous volumes of evidence, including over two thousand pages of complaint with evidence, fact and witness to the 1st DDC and First Department Court after learning of Proskauer and Krane's conflicts and public office violations, as exhibited already herein in the Rubenstein Joao[90] and Cahill[91] exhibits,

i. filing enormous volumes of evidence, including over two thousand pages of complaints with evidence, fact and witness to the 2nd DDC and Second Department Court after learning of Proskauer and Krane's conflicts of interests and violations of public office as exhibited already,

j. filing enormous volumes of evidence, including over two thousand pages of complaints with evidence, fact and witnesses at VSB for the Dick complaint[92],

k. filing complaints with Boca Raton Police Department and then additional complaints for failure to follow proper procedure, leading to internal affairs investigations that remain ongoing in never ending investigation with no determination,

l. filing complaints with evidence at the Pennsylvania Bar against defendants SB, Barroway and Narine[93], and,

m. filing a complaint with the Judicial Qualifications Commission against defendant Labarga.

203. Proskauer states Iviewit's counsel withdrew after denial of the counterclaim, a materially false premise invalidating the conclusions based upon it. In fact, the counterclaim, filed by attorney Selz much earlier, had nothing to do with the withdrawal of counsel. In fact, SB was retained as co-counsel for trial and factually

[89] Exhibit 1 – Evidence Link 645
[90] Exhibit 1 – Evidence Links 214, 223, 227, 238, 278, 430, 460, 466, 498 & 508.
[91] Exhibit 1 – Evidence Links 70, 324, 385, 396, 407, 408, 409, 410, 429, 433, 447, 466, 470, 487, 606, 607, 608, 611, 614, 617, 619 and incorporated by reference in their entirety, *Anderson* and all related cases naming Cahill as a defendant.
[92] Exhibit 1 – Evidence Links 357 (chalk full of information on the IP crimes with USPTO exhibits, etc.), 283, 291, 298, 319, 320, 321, 322, 323, 333, 352, 462, 464, 471,
[93] Exhibit 1 – Evidence Link 272, 315,

joined counsel Selz far after the counterclaim was denied, after SB signed the binding LOU to represent Iviewit in the Proskauer Civil Billing Lawsuit and many other suits.

204. Counsel withdrew months later when Labarga mysteriously canceled the original trial date without notice, SB then had Selz submit a withdrawal as counsel as at the rehearing scheduling, stating they were taking over the case per the LOU. Selz submitted such notice, stating SB was taking over and the judge granted Selz's request.

205. Then, on the same day, SB submitted a surprise motion to withdraw as counsel, stating Selz was handling the matters, after having directed Selz to withdraw. Labarga granted SB their withdrawal moments later leaving Iviewit Companies without representation and then delayed rescheduling the trial until Iviewit Companies had new counsel.

206. Labarga demanded Iviewit Companies find immediate replacement counsel, leading to an almost instant default judgment against Plaintiffs for failure to find replacement counsel for trial. This usurping of Iviewit Companies right to counsel and trial is in violation of judicial conduct codes, further supporting Plaintiffs' contentions of attorney and judicial misconduct[94] acting to deny due process preventing Plaintiff Bernstein from recovering his constitutionally protected IP.

207. Plaintiffs note to the Court that again in diametric opposition to Proskauer's ludicrous claim, this is a baseless conspiracy theory to harass Proskauer and other defendants by Bernstein and Lamont, the counterclaim not filed by crazed Plaintiffs but by competent, at the time, counsel Selz, who had reviewed enormous evidence with Rogers who remains very competent counsel. Were Selz and Rogers in on the conspiracy against Proskauer to harass them and thus filing false pleadings merely to harass Proskauer? If this were so, why has the almighty Proskauer failed to file actions against them for false pleadings to a Court?

208. SB committed to millions of dollars of funding in their binding LOU for the Iviewit Companies, Plaintiffs and certain patent interest owners, to fund representation of all the matters here before this Court against many of the same defendants. They did not sign such LOU on their law firms letterhead without a thorough review of all the evidence, speaking to many of the eyewitnesses involved or rush into

[94] Exhibit 1 – Evidence Link 212, 259, 262, 263, 264, 281, 295 & 304.

signing away their lives without proper due diligence. Does Proskauer claim SB is part of the harassment and conspiracy claim against them? Plaintiffs do complain to the Court for yet undiscovered reasons, SB went to the "dark side," breaching their LOU, and further discovery is necessary to ferret out how they converted into the conspiracy against Plaintiffs.

209. Proskauer states Plaintiffs failed to state the outcome of the disciplinary complaints in NY at the 1st DDC. Exhibited already herein and within the AC are many of the documents showing the outcome which was a unanimous decision by five Justices of the First Department Court to move the complaints for immediate "investigation" for conflict and the appearance of impropriety. Perhaps Proskauer choose to ignore these factual exhibits relating to the outcome of the disciplinary matters in the AC. The fact after reviewing the motion filed by Plaintiffs to the First Department Court, the First Department Court ordered (not crazed Bernstein and Lamont) formal investigations of Rubenstein, Proskauer, Joao, MLGWS and Krane. Perhaps the First Department Court is also in on the conspiracy to harass Proskauer.

210. On the other hand, as the justices are defendants, they may have been in on the conspiracy to deny Plaintiffs due process rights and other constitutionally protected rights with Proskauer. Anderson certainly bolsters the claim the corruption was deep and emanated far and wide through political and professional favoritism, again further discovery will aid in pinpointing further how the very legal cover-up conspiracy she describes in her complaint was executed and who was involved.

211. Another factual outcome of the disciplinary complaints Proskauer chooses to ignore to assert their false premise Plaintiffs failed to discuss in the AC the outcome of the matters at the 1st DDC, is the factual Cahill complaint moved to Martin Gold where it remains endlessly ongoing.

212. Proskauer is correct in their assessment of Krane's conflicts described by Plaintiffs and Proskauer does not notably deny such conflicts in their MTD.

213. Proskauer claims the immediate action before this Court comes five years later and it is good to see that in their delusional state they can count time, yet based on *Anderson* and the new links into the conspiracy the case exposes, constituting new

evidence, the immediate could have come 20 years later, if that is when Anderson had come forward.

214. Plaintiffs, until the heroic efforts of Anderson, had other plans for a different courtroom showdown, as new evidence is continuously being learned through investigations and the IP matters worldwide are still unresolved, it simply was not considered the right time to file yet. New York certainly was not the intended venue for our forthcoming complaint but supporting Anderson is a moral and ethical issue leaving one little choice but to join her efforts, contributing our knowledge of the public office corruptions to support her claims, in efforts to eradicate the corruption plaguing the New York court system she exposes.

RESPONSE TO ARGUMENT

I. Plaintiffs Claims Against Proskauer Defendants Are Time Barred.

215. Proskauer claims Plaintiffs have not asserted their claims timely and in so calculating the time clock they have forgot to account for the denial of due process caused by their continued conflicts of interest and violations of public offices, which have acted as a subterfuge to Plaintiffs' efforts to get civil, disciplinary, or criminal relief.

216. Further, Proskauer forgot to mention how *Anderson* affects the clock and as it is new evidence of the conspiracy to deny rights, it starts the statutes clock all over. Further, Anderson will force new complaints and requests for reinvestigations to occur, on every filed complaint and legal action taken prior derailed or found in suspended animation.

217. For this Court to allow time barring based on the overwhelming preliminary evidence of *Anderson,* showing due process has been comprised by criminal acts, at minimum at the 1st DDC, to deprive Plaintiffs and others due process rights, would impart an appearance of impropriety. Plaintiffs did everything in their power to bring forth timely claims through civil remedies and criminal remedies but were derailed successfully through a continuing trail of conflicts and violations of public offices, spearheaded by Proskauer and Foley, designed to prevent prosecution of their actions by keeping the matters out of court or any proceedings. Again, these hidden conflicts, well not so hidden any more, delayed Plaintiffs' rights for years while they remained undiscovered and blocked due process, should this time be included in the Statutes of Limitation calculations cited by Proskauer.

218. The cases cited regarding statute clocks by Proskauer representing Proskauer in their MTD, do not involve an instance of denial of due process and violations of public offices similar to this case, that derailed a Plaintiff trying to assert their civil rights and thus should be disregarded as non-related cases for calculating any statute clock in these matters. Proskauer would have to find instances of cases where the Statutes of Limitations was started when there was a total denial of due process due to legal process abuse, for a similarity to be drawn, in fact, this case may set precedence in this and many other regards.

A. Sherman Act

219. Again, no claim can be time barred where Plaintiffs attempted to bring forth the claims following legal procedures and with competent counsel. Iviewit and Plaintiffs brought claims that were derailed and denied due process as will be proven in this case and supported by *Anderson* in the broad stroke and again by the two justices.

220. The alleged conspiracy started as alleged in the AC, immediately before Proskauer met Plaintiff Bernstein with defendants Utley, Wheeler, Proskauer and Dick of Foley, when they tried to convert Monte Friedkin's technologies as already evidenced herein. This shows this may be a long-standing, legal conspiratorial enterprise operating before Plaintiff Bernstein and his inventions, certainly the key defendants operated prior in similar fashion to deprive inventors of their constitutionally protected rights' to their inventions through these patent schemes.

221. Plaintiffs allege the legal conspiracy and criminal enterprise being explored before this Court and in worldwide investigations, continues to operate daily to deprive Plaintiffs' of rights to their inventions and has operated in a continuous pattern of new acts defying law and ethics, as exhibited in the conflicts before this Court now, to continue to illegally monetized the IP. Through the racketeering behavior defined herein, they continue to derive illegal profit from the inventions, which remain in limbo due to their actions, making any Statute of Limitations clocks perpetually restart for each new act discovered in the conspiracy.

B. RICO

222. For the same reasons relating to denial of due process as supported in *Anderson*, no time bar can be established until fair and impartial due process under law is had and the blocks removed in a conflict free court. Again, Proskauer cites useless cases,

which fail to deal with the reality of the denial of due process caused by their partners' violations of public offices stopping any typical tolling of the Statutes of Limitations, especially with RICO claims, which has broader tolling to account for the nature of conspiracy. *Anderson* restarts the RICO Statute of Limitations clock and certainly shows a conspiracy to deprive rights through favoritism and actual crimes in violation of public offices. *Anderson* adding substantive value to Plaintiffs' claims of a legal conspiracy involving a frequent RICO predicate act, political corruption used to derail investigations against the criminal enterprise using threat, intimidation exactly as depicted in *Anderson*.

223. Proskauer attempts to mislead the Court by falling back on the counterclaim filed in the Proskauer Civil Billing Lawsuit, which was denied even to be heard at that time. Based on the felonious activities discovered after the default judgment in the billing matter, where Proskauer sued companies shareholders have no shares in or any other interest in, that harbor stolen and fraudulent IP, all under ongoing investigations, all actions cause for appeal of the billing case, after ongoing investigations are completed.

224. In fact, based on recent information learned from the ongoing investigations of corporate and patent fraud, the RICO clock cannot even begin to toll. The juicy RICO public corruption crimes create new civil violations and protect the racketeering organization through abuse of process or payola we now may learn through *Anderson.* Next, the two justices who have information relating to widespread systemic corruption, further needing discovery to see if this information supports claims of RICO activity.

225. Proskauer's recent acts of conflict before this Court, in attempts of influence this Court through conflicted representation violates well-established rules of this Court. By proffering fanciful claims they are being harassed, Proskauer spits in the face of Your Honor and continues their pattern of abusive pleadings intended to harass and slander Plaintiffs, again in typical RICO fashion where criminal enterprises are usually found harassing witnesses and victims to evade prosecution. The continuing violations of these well-established rules, regulations and procedures may very well restart the RICO clock and the new bar complaints filed against the attorneys who acted

in this Court in conflict, are just the beginning of new complaints based on new activities of the enterprise.

226. Conspiracies as complex as this and not involving people who are supposed to be using the Art of Law for societal good, can take years to be unraveled, even when prosecuted by the best prosecutors and committed by the best mobsters. In this instance, the alleged conspirators are mainly legal fellows who have infiltrated public offices with ease, using their legal clout to influence investigations illegally, as described by *Anderson* and just like mobsters.

227. This adds a further complexity to unraveling this conspiracy that is not a typical Mafia RICO case, which usually involves a dirty cop or some dirty politicians, found solicited by the criminal organization for remuneration to aid and abet the organization from prosecution. These defendants differ from your typical gangster as they posses legal clout and so between the thousands of partners they can penetrate almost any area of justice or the courts, whereas most mobsters who are not lawyers or law firms cannot penetrate at will the legal system.

228. If successful on the Statute of Limitations claims, this would make the defendants free from accountability for their actions forever, setting up a legal scheme to evade prosecution successfully blocking inventors from their inventions when lawyers play beat the statutes clock through illegally beating due process long enough.

229. Plaintiffs brought the claims of both the crimes and now public office corruptions to block due process to federal authorities immediately after learning of them and these remain the subject of ongoing investigations. If you block due process long enough, through violations of due process laws, all you need to do to commit crime free of prosecution, is use one's legal degree to infiltrate various disciplinary agencies, violate public office rules, influence peddle and bribe public officials to deny due process long enough to claim a violation of the Statutes of Limitations. This would be a certain recipe for using law to commit crime and then using law to evade prosecution.

C. Plaintiffs' Tort Claims

230. The same argument to defeat the Statutes of Limitations above, applies here as well. All cases cited fail to take into account the ongoing investigations, new

information such as *Anderson* and that due process was denied through dubious legal trickery when Plaintiffs asserted their timely civil claims.

1. Malpractice etc.

231. The same argument to defeat the Statutes of Limitations above, applies here as well. All cases cited fail to take into account the ongoing investigations, new information such as *Anderson* and that due process has been denied when Plaintiffs asserted their timely civil claims.

232. Contrary to Proskauer's argument that Plaintiffs Tortious Interference claim is based on an AOL and Warner Bros. deal, Plaintiffs first believe there is no company named "Warner Brothers" but Proskauer should know this based on their intimate client relation with Warner Bros. as explained in Rubenstein's deposition, exhibited already herein. Factually, the Tortious Interference claim will be made on literally hundreds of companies to be named in any amended AC filed, companies that signed NDA's and other strategic agreements that all were interfered with due to Proskauer and their cohorts in crime.

233. Interference even more tortious, occurs through MPEGLA licensors and licensees numbering now in the thousands, after Plaintiff Bernstein's inventions were tied and bundled to MPEGLA's licensing "standards" scheme. Preventing Bernstein from those relations he would have had, if Rubenstein and Proskauer had approved the IP for inclusion into the pools, or if the pools were not blocking entry to market by illegal bundling and tying.

234. Instead, through Rubenstein and Proskauer's position as gatekeeper to the pools they are able to block Plaintiffs from the relevant markets while simultaneously sabotaging the IP. Plaintiffs will prove this exhibit's for the Court, the essence of antitrust behavior caused by illegal monopolistic patent pooling schemes, which historically the DOJ has broke up for similar anticompetitive behavior.

235. Throughout their MTD, Proskauer refers to **Iviewit** as a general term and fails to claim exactly what entity with specificity they are referring to in each use in the MTD. Since there is no known "Iviewit" company, unless it is yet another company Proskauer illegally formed, Plaintiffs complain the entire MTD is confused. For example, any ruling on a malpractice count, by the Court would have to be made

knowing what each reference to Iviewit refers to, which of the twelve known entities Proskauer attempts to lump into one they are speaking about committed or did not commit malpractice. Proskauer avoids making such revelations to the Court, as it would quickly lead to a mass of questions about the companies and questions to where the retainers and contracts are defining their relationships with the entities, for determining malpractice.

236. Proskauer, if allowed to re-file another MTD to correct this or any other pleading forward must be forced to state with specificity which Iviewit company they refer to in each and every claim, in order for Plaintiffs to properly respond. Due to this error, the MTD cannot stand as is, as it is impossible to decipher which Iviewit entities their claims are directed at and what claims relating to which Iviewit entity they are making.

237. Proskauer is confused again in their MTD with what Plaintiffs are claiming regarding Rubenstein and falls back to information known at the time of the counterclaim. To be clear, Rubenstein in a Wachovia Securities Private Placement is depicted truthfully, as was told to investors from the start by Wheeler and others, "In addition, the Company has **retained** [emphasis added] Kenneth Rubenstein of Proskauer Rose, LLP to oversee its entire patent portfolio. Mr. Rubenstein is head of the MPEG-2 patent pool" and "iviewit's Board of Directors and Advisors consist of several well-established individuals from the technology, entertainment and financial community. Directors have extensive backgrounds with top-tier firms such as Goldman Sachs, Kidder Peabody and McKinsey & Co…technology and entertainment guidance comes from…Kenneth Rubenstein, the head of the MPEG-2 patent pool." Finally, from his biography in the Wachovia PPM, written with Wheeler and Utley aiding the folks at Wachovia, "Mr. Rubenstein is a partner at Proskauer Rose, LLP law firm **and is the patent attorney for iviewit** [emphasis added]."[95]

238. The Wachovia PPM was constructed by Proskauer partner Wheeler, with his cohort Utley, and, disseminated to prospective investors by Proskauer directly and where they billed thrice for such services. This securities document completely defeats

[95] Exhibit 1 – Evidence Links 761, 762, 777, 778, 779, 782, 783, 798, 97, 128, 131, 133, 135, 136, 138, 167, 184, 196, 200, 207, 679, 731, 744, 820, 841, 843, 852, 855, 769 & 770.

Proskauer's half-truth the charges emanate solely from Rubenstein's role on the Board of Directors. Truth is they emanate from his and Proskauer's legal representation as retained intellectual property counsel, not from merely his fiduciary duties to shareholders as an Advisory Board member to the company, an Advisory Board controlling all facets of the IP.

239. It should also be of note to the Court that Rubenstein denies he was patent counsel to Iviewit in his rebuttal to his 1st DDC complaint. The rebuttal tendered in conflict by Krane, already exhibited herein, claiming he did not know Iviewit at all and knew nothing of the inventions or companies. The only way to sell that argument of lies at the 1st DDC, was to have the fix already place, Krane, allowing such say anything response whether it had any basis in truth. In fact, Krane launched a blistering assault on Bernstein and Lamont as crazed failed dot.com executives looking for someone to blame. Claiming, poor Rubenstein was harassed, he knew nothing of Plaintiff Bernstein, never heard of Iviewit Companies, and a victim.

240. In order to cover-up Rubenstein's patent involvement in the Iviewit Companies and attempt to conceal the conflicts, Krane played the crazed conspiracy theory card again played to this Court, again by a conflicted Proskauer lawyer, again stating Proskauer and Rubenstein the victims of harassment, again with no facts behind the premises. By proving Rubenstein was patent counsel and he perjured himself under oath, this whole theory and logic forever fails.

241. Since the fix was in already at the 1st DDC with Cahill, Proskauer, and Krane, it did not matter if Krane lied. No matter the defense prepared by Plaintiffs, with endless fact and witnesses regarding the patent crimes and the direct perjuries of Rubenstein to the 1st DDC, all wholly ignored, *Anderson* offering the only logical explanation of how that was achieved. Here before this Court, we see the same crazy card played and wait to see how this Court responds to the facts versus the 1st DDC response where the fix was in and the concealed and dirty "ace in the hole" conflict made them bulletproof.

242. The same theory Bernstein and Lamont were crazed was advanced almost identically by Triggs at TFB, claiming this time Wheeler and Proskauer were victims of baseless harassment, Rubenstein was not involved in the Iviewit Companies, and

Proskauer did no patent work. As with the 1st DDC, the conflict of Triggs in his violating his public office position with TFB worked its magic, even after being exposed and the evidence submitted to TFB, showing Rubenstein and Wheeler lied and directly perjured themselves to authorities, again wholly ignored.

243. In fact, TFB made statements in favor of the position Proskauer did not do patent work, in violation of well-established rules, regulations and procedures prohibiting the agencies from advancing opinion on matters for either side without formal investigation and despite the overwhelming evidence submitted.

2. Fraud

244. The same arguments to defeat the Statutes of Limitations argument above applies here. All cases cited fail to take into account the ongoing investigations, new information such as *Anderson* and that due process has been denied when Plaintiffs asserted their timely criminal and civil claims.

245. Plaintiffs are still waiting for federal, state, and international fraud investigations to conclude and those derailed, to be reheard in light of *Anderson* to file new complaints if necessary based on the new information learned.

246. Plaintiffs point Proskauer to the factual evidence of the letters incorporated by reference in the AC, exhibited already herein, pointing to Moatz directing Plaintiffs to file claims of fraud on the USPTO in seeking patent suspensions from the Commissioner of Patents.

247. Statements signed jointly by both Plaintiff Bernstein and defendant Stephen J. Warner, former CEO, and current Managing Director of Crossbow Ventures, the largest investor in the technologies, representing the SBA monies invested. Is Proskauer now claiming investor Crossbow Ventures and defendant Warner are "conspiracy theorists," in on the plot to harass them for no stated reason?

248. Alternatively, is this just another piece of evidence they wish wholly to ignore, as it again solidifies the "legal conspiracy" before this Court of fraud, steeped in very real evidence and corroborating witnesses such as Warner and Crossbow, supporting the claims at the USPTO of Plaintiffs. Warner and Crossbow sign alongside Plaintiff Bernstein in the USPTO request for suspensions and inventor changes. Affirming they too were victims of the conspiracy and fraud of, including but not limited to, Proskauer,

MLGWS, and Foley. Shattering Proskauer's baseless and defamatory defenses in the MTD this is a conspiracy of Plaintiffs against them and fraud pled improperly without factual basis.

249. Moatz directed Plaintiff Bernstein and Warner (as an assignee) to file the document alleging fraud on the USPTO, while referring the Commissioner of Patents back to Moatz regarding the fraud on the United States (one wonders what the statutes are on fraud on the United States), at Moatz's request. The letters seeking suspensions and inventor changes, based on fraud on the United States, fraud on Plaintiffs and fraud on the Iviewit Companies, led to ongoing suspensions and investigations. Again, patents remain in a legal limbo, outside well-established procedural laws and certainly causing the Statutes of Limitations to freeze at minimum until all investigations complete to determine the entirety of the frauds committed.

250. Inventor change forms were submitted with the filings of fraud on the United States and inventors, at the direction of Moatz's team, in order to change the fraudulent inventors back to the true and proper inventors. Those change forms appear held up beyond law, pending the ongoing investigations at the USPTO and USPTO OED, again Proskauer fails to acknowledge these facts, in fact, utterly ignoring these facts and praying their baseless harassment conspiracy theory will hold as it did with the 1st DDC and TFB where their conflicts and violations of public office allowed for such. Plaintiffs pray this Court will not be influenced by such delusional claims that no factual evidence was presented to support the AC's claims and will simply look at the evidence contained in Exhibit 1, exhibited in the AC, and again herein, completely refuting these pipedream assertions of Proskauer.

251. The fraud continues daily, as the IP has not been returned to the true and proper inventors and continues to be licensed illegally by MPEGLA, with every new license and royalty collected illegally; the criminal enterprise continues to flourish on such fraudulent acts. Thus, the statutes clock for fraud starts anew almost daily.

II. Plaintiffs Have Failed to State a Claim Against the Proskauer Defendants Upon Which Relief Can Be Granted.

Response to Introduction

252. Proskauer's argument the AC fails to state a claim is again more a function of psychotic delusional behavior versus fact. Proskauer appears to claim the AC

is lacking facts, when combined with the evidence exhibited in Exhibit 1 and found on the Iviewit Homepage at www.iviewit.tv , the AC is steeped in fact and well-stated claims.

253. The first fact stated clearly and steeped in factual evidence is *Anderson*. Of course, in order for Proskauer to assert an argument that Plaintiffs have failed to state a claim relief can be awarded on, Proskauer must avoid the fact Anderson even exists. Therefore, Proskauer attempts to fool the Court *Anderson* does not exist by failing to mention the name in the MTD and failing to acknowledge the very real stated claims of violations of due process rights, supported by *Anderson.* Here is a claim relief can be granted on by this Court for and again Proskauer's premise none exist is mere hot air, as claims do exist, are clearly stated and supported by facts, making their argument here and the conclusion frivolous.

254. Factually, the USPTO suspended IP appearing to be fraudulent and additionally this acts as evidence of a fraud against the USPTO, the Iviewit Companies, and Plaintiffs. This very real claim of the AC is replete with factual documentation from the USPTO regarding the crimes and civil damages they caused and where relief can be granted by this Court to correct the IP issues both monetarily and through the injunctive reliefs sought.

255. Factually, the USPTO OED has reviewed IP applications Proskauer and Rubenstein controlled through counsel they brought and recommended to the Iviewit Companies and Plaintiff Bernstein, co-counsel Meltzer and Foley, who are all factually now under investigation by the USPTO OED. Simultaneous with the suspensions, formal investigations of all attorneys involved in these matters licensed with the OED began. There are many claims for relief from these acts alone leading to a denial of rights and property guaranteed under the Constitution and Plaintiffs have the right to seek relief from this Court.

256. For another example of stated claims with evidence included in the AC and its supporting documents, we will next focus on the claim of perjury and false statements under oath and in legal proceedings. Proskauer brought to Iviewit Companies, on their recommendation, both Meltzer and Foley, to aid Rubenstein who had the main oversight role of the IP of the Iviewit Companies and Plaintiff Bernstein. As stated in the

Wachovia PPM, "The Company has retained Foley & Lardner to shepherd its patent development and procurement. In addition the Company has **RETAINED** [emphasis added] Kenneth Rubenstein of Proskauer Rose, LLP to oversee its entire patent portfolio. Mr. Rubenstein is the head of the MPEG-2 patent pool." Also in the Wachovia PPM, we find Rubenstein on the Board of Directors on a Technology Advisory Board, where it is stated, "Mr. Rubenstein is a partner at Proskauer Rose LLP law firm and is the **PATENT ATTORNEY FOR IVIEWIT** [emphasis added]."

257. It already has been evidenced herein Rubenstein perjured himself in official proceedings, at the 1st DDC and in the Proskauer Civil Billing Case[96], directly affecting Plaintiffs civil rights of to their property, with the intent of derailing proceedings to deny due process. Is Proskauer now accusing Wachovia Securities of fraud for claiming Rubenstein was patent counsel or are they too in on the plot to harass and defame Proskauer?

258. Are the Wachovia Securities people conspiracy theorists or does this stand as further evidence again, Proskauer is not cognizant of the facts supporting the AC's claims, and therefore they act in delusion to deny claims are stated clearly and succinctly against them, deserving relief from the Court?

259. It is apparent Rubenstein represented the Iviewit Companies and was retained patent counsel based on the factual evidence. Unless you are as delusional as Proskauer partner Triggs, who signed a sworn statement to defendant Labarga claiming, in the face of mounds of contradictory evidence, "Defendants are now putting forth and eleventh hour attempt to turn this matter into a malpractice claim…and are attempting to harass a Proskauer attorney (who lives in New Jersey and works in New York) who never billed any time to the Iviewit matter." Alternatively, the fix was in with Labarga, thus, say anything defenses could prevail.

260. Further, the Triggs letter states perjuriously to that court, "The Motion is misleading and misrepresents the discovery in this matter. Citing no particular deposition testimony, defendants' motion at paragraph 1 states that prior testimony of deponents in

[96] Such perjured statements in official proceedings will be cause for those proceedings to be appealed once a fair and impartial court is found, free of the conflicts that influenced the proceedings, to rehear the matters free of the prejudice against Plaintiffs.

this matter has revealed that Rubenstein was involved directly in the providing of services to the defendants…Nothing could be further from the truth."

261. Yet, from a Warner Bros. letter already exhibited in the AC, and again herein, we find further evidence Rubenstein and Proskauer are putting false defenses forward in legal proceedings. The Warner Bros. letter states, in diametric opposition to Triggs' letter to Labarga, "We checked with Ken Rubenstein and others who provided some solid support for Iviewit, and Chris Cookson asked Greg and I to continue to work with Iviewit in an R&D capacity." Now to show how delusional Rubenstein is, one only need look at his perjurious deposition where he claims:

> Q. Do you know of any patenting of inventions for IViewIt?
>
> A. Like I say, I was not involved as their patent counsel, other people served as their patent counsel.
>
> Q. Are you aware of any particulars of any of those patents?
>
> A. I was not.

262. One look at a letter from Proskauer partner Wheeler, to Proskauer partner Rubenstein, contradicts Rubenstein's statement entirely, further constituting perjury. In letter dated August 25th, 2000, turned over by Proskauer to Selz **after** Rubenstein's deposition states, Wheeler states to Rubenstein, "Enclosed is a copy of iviewit's Patent Portfolio."[97] Whereby we then see in Rubenstein's deposition more perjury as he denies he has any patent files of Iviewit's:

> Q. Do you maintain any files or any documents pertaining to IViewIt?
>
> Mr. Pruzaski [Rubenstein's conflicted Proskauer lawyer]: Him personally?
>
> Mr. Selz: In his business records or in his records for Proskauer Rose at the offices in New York?
>
> A. Not that I know of. No.

[97] http://www.iviewit.tv/CompanyDocs/2000%2008%2025%20Wheeler%20to%20Rubenstein%20PATENT%20BINDER.pdf

263. Finally, Utley under deposition claimed in support of his friends at Proskauer's delusional claims:

> Q. Was he [Rubenstein] ever part of an advisory board or was he an advisory board member to Iviewit? And we are talking about Mr. Rubenstein.
>
> A. I have never used him as an advisory board member.

Utley's statements are proved wholly perjurious when one looks at the minutes of an April 14, 2001 minutes of the board, written by Utley to the Board of Directors, whereby he claims, "Ken Rubenstein as our advisor was also copied." [98]

264. Then there are Wheeler's claims under deposition:

> Q. Did you ever have a discussion with Mr. Bernstein about Proskauer Rose providing an opinion with regard to the patentability of any of these processes?
>
> A. No.

Then from a letter dated April 26, 1999 from Wheeler, on Proskauer letterhead, to attorney Richard Rosman on behalf of his EarthLink client, Sky Dylan Dayton and their investment advisor Hassan Miah, we find direct evidence Wheeler has perjured himself:

> "As you know we [Proskauer] have undertaken the representation of Iviewit, Inc.[99] ("iviewit") and are helping them coordinate their corporate and intellectual property matters. In that regard, we [Proskauer] have reviewed their technology and procured patent counsel for them. We [Proskauer] believe the Iviewit technology is far superior to anything presently available with which we [Proskauer] are familiar. We [Proskauer] are advised by patent counsel [Rubenstein] that the process appears novel and may be protected by the patent laws. While in all matters of this

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98 http://www.iviewit.tv/CompanyDocs/2001%2004%2018%20Utley%20Wheeler%20checked%20with%20Rubenstein%20advisor%20to%20b.pdf

99 Note that Proskauer claims here they have undertaken representation of Iviewit Inc. a company they failed to sue in their civil billing case and one failed to be mentioned in their pleadings in the case at all, despite their claims that they have undertaken representation of this entity.

> sort, it is far too early to make any final pronouncements, we [Proskauer] do believe that there is an extremely good prospect that Iviewit will protect their process, which is novel and superior to any other format which we [Proskauer] have seen.[100]

265. These perjuries act as evidence in support of the underlying counts and claims for which relief is sought in the AC and are wholly evidenced in the many exhibits incorporated into the AC and again evidenced herein in Exhibit 1. The factual perjuries cannot be denied and acted to interfere with Plaintiffs due process rights and further prevent recovery of the constitutionally protected inventions.

266. What these perjuries also evidence is a pattern of lying to courts, lying in official proceedings and lying under sworn deposition in efforts to hide from their crimes through these lies. In these instances cited of perjury, the intent was to distance Rubenstein and Proskauer from the fact they were patent counsel who was responsible for directing the patent frauds against the Iviewit Companies, Plaintiff Bernstein, the USPTO and foreign patent offices.

267. Plaintiffs support the stated claims of perjury in the AC, in exhibits attached with evidence and facts. Proskauer states however that the claims are not stated logically or clearly in the AC, when the perjury for example is plain as day and deserving of relief from this Court. Proskauer again makes this claim of illogical and hard to read nonsense but offers not a single instance to support their claim.

A. Response to Sherman Act

268. Plaintiffs do allege; (1) a combination and conspiracy in the AC between Proskauer and MPEGLA, Proskauer and their referred co-counsel, Proskauer and certain NDA violators, and, Proskauer and certain strategic alliance partners, to illegally proliferate the technologies through violations of attorney/client protections and contractual obligations, (2) the willful conspiracy to sabotage the IP of Plaintiffs, while bundling and tying it in a variety of illegal ways to preclude them from relevant markets, resulting in a restraint on interstate and foreign commerce, and, (3) this has caused injury

to Plaintiffs business and property, including the constitutionally guaranteed rights to the IP and even the right to life which was almost lost in the car bombing attempt.

269. Through the intentional damaging of the IP, directed and controlled by Proskauer with their partners in crime, the IP rights have been lost entirely (as at the EPO) or suspended (as at the USPTO), and this acts to further to restrain trade by precluding Plaintiffs from receiving their IP from worldwide patent authorities. This illegal compact between Proskauer and their co-conspirators to unjustly restrict competition and monopolize Plaintiffs IP by controlling the production, distribution, and price through unlawful means that when combined, act to block Plaintiffs from the relevant markets, are certainly deserving of relief by this Court under the Sherman and Clayton Acts.

270. The AC is replete with claims and evidence of injury to business and property, including the IP being suspended and rendered useless, acting to block Plaintiffs from enjoying the royalties of their inventions by keeping them from having a marketable patent.

271. The AC alleges the possession of monopoly power in the relevant markets at 234, 278, 726-731 and in the RICO statement form contained therein.

272. Proskauer attempts to claim since they are a law firm, they do not participate in the market for "'video imaging encoding, compression, transmission and decoding,'" the "'relevant market'." This may appear on the surface true but after knowing Proskauer, through Rubenstein, controls the relevant markets through the monopolistic patent pooling schemes Rubenstein developed and maintains legal control over, it becomes apparent they are far more involved in the markets than they claim to this Court.

273. The following statements from their own website confirms their control of the markets, "The [IP] practice works with a diverse group of industries, with special emphasis in consumer electronics, video processing, DVD and CD technology, circuit design, semiconductor processing technology, computer hardware and software, telecommunications… Further, "Some examples of litigation that Patent Law Practice has worked on: • Representation of Columbia University, Motorola, Philips, Matsushita, Mitsubishi, France Telecom, and Japan Victor Corporation in a 26-patent lawsuit against

Compaq for infringing patents related to MPEG technology." Finally, regarding licensing work they claim, "**We** [Proskauer] [emphasis added] have **worked on the formation** [emphasis added] of a pioneering patent pool for MPEG-2 technology, first on behalf of CableLabs, the research and development consortium of the cable TV industry, and now on behalf of MPEG LA LLC, an entity set up to license MPEG-2 essential patents. MPEG-2 is an important digital video compression standard with applications in cable TV, satellite TV and packaged media. **We** [Proskauer] [emphasis added] were instrumental in selecting those patents which are "essential" to the MPEG-2 standard and therefore suitable for inclusion in the pool. **We** worked with major consumer electronics companies and set top box makers in doing this job. Under this arrangement, the MPEG-2 "essential" patents of a number of major companies are being made available in a single license. The pool has been operational since July 1997 and now has over two hundred and fifty licensees. **We** [Proskauer] [emphasis added] are presently working with major consumer electronics and entertainment companies on patent pools relating to DVD technology. **We** [Proskauer] [emphasis added] have also been retained to apply this pioneering approach to licensing to the IEEE 1394 standard related to the Firewire system and to DVB-T (Digital Video Broadcast - Terrestrial)." Finally, Ken [Kenneth Rubenstein] has worked on the formation of a patent pool for MPEG-2 technology, first on behalf of CableLabs, the research and development consortium of the cable TV industry, and now on behalf of MPEG LA LLC, an entity set up to license MPEG-2 essential patents. In particular, **Ken worked on selecting those patents which are "essential" to the MPEG-2 standard and therefore suitable for inclusion in the pool** [emphasis added] worked with major consumer electronics companies and set top makers in doing this job. Under this arrangement, the MPEG-2 essential patents of a number of major companies are being made available in a single license. The pool has been operational since July 1997 and now has over one hundred and fifty licensees and royalty revenues in nine figures. This pioneering approach to licensing has been utilized in other contexts. Ken and his associates are now working on another patent pool involving large consumer electronics and entertainment companies concerning DVD technology[101]. Ken's

[101] The inventions of Plaintiff Bernstein have directly affected the creation of DVD's and without the inventions the DVD patent pool would suffer from a lack of competitive technology to those Plaintiff

group is also working on evaluating patents for a pool for the IEEE 1394 standard which is related to interconnecting PCs and various peripherals and a pool for the HAVi standard which is related to interconnection of home audio/video devices. Ken counsels his clients with respect to the validity and infringement of competitors' patents. Such clients include Standard Microsystems, an IC and local area network component company; C-Cube Microsystems, a developer of video encoder and decoder chips; Divicom, a developer of video encoders and decoders; Starlight Networks, a developer of video server software; and Maker Communications, Inc., a developer of telecommunications integrated circuits. In the area of cryptography, Ken represents Telcordia and CableLabs. He has in the past also represented Tele-TV, a joint venture of NYNEX, Bell Atlantic and Pacific Telesis. Ken is also heavily involved in licensing, technology transfer and joint development. Ken has successfully concluded a number of license and technology transfer agreements for his clients with companies such as Lucent and Intel."

274. These self-proclaimed claims of Proskauer, show far more participation in the relevant market than their claim to this Court that they are not in relevant markets as stated in their MTD. In fact, we find through their own admission Proskauer controlling the IP in multiple pools through their continued legal control of the anticompetitive monopolistic pools they have created to monetize stolen inventions in the relevant markets of Plaintiffs' inventions. Their denial they are in the relevant markets claiming they are a law firm instead, again is evidence of delusional behavior, and constitutes false pleadings to this Court when viewed against their own claims of domination and control of the markets.

275. Further discovery is necessary to determine the complex arrangements between Proskauer and MPEGLA. Rubenstein refused to answer questions regarding his relationship with MPEGLA under deposition, other than to tell the deposer to go to a website www.mpegla.com, as they tell this Court to do in their MTD. Despite deposition questions directed at Rubenstein regarding his relationship to MPEGLA, which is nowhere on such website he refers too, Rubenstein refused to answer direct deposition questions in violation of Florida law. In the exhibited deposition of Rubenstein, attorney

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Bernstein would license his inventions too, again motive for blocking Bernstein from market.

Selz advises Rubenstein's Proskauer attorney his refusal to answer violates Florida law and where Rubenstein snaps back to take it up with the Judge (as if he was already in pocket). Selz did take it up with the Judge and Rubenstein was ordered by Labarga to return to answer those questions, which never happened due to the thrown billing case and where certainly this Court wants to hear those answers from Rubenstein before relieving Proskauer on any of their baseless MTD claims.

276. Plaintiffs claim Proskauer spearheaded the sabotage of the IP, in order to misappropriate the inventions. Plaintiffs clearly show in the AC Proskauer and their co-conspirators were misappropriating the inventions in a variety of ways in order to control the markets for the IP. Their illegal monopolistic patent pooling schemes and other illegal schemes used to gain market domination with their alleged coconspirators, a market they now control, opposite of their false pleading to this Court they are law firm and thus not involved in the relevant markets. Falsely pled pleadings pled in conflict, most likely because in the face of the facts Proskauer is unable to find non-conflicted counsel to put forth such a pipedream defense to Your Honor in the face of reality, facts, and witnesses against them.

277. Proskauer claims Plaintiffs do not allege an injury to competition, yet the injuries are obvious, to anyone but the delusional, where it is apparent without their IP damaged by the actions of Proskauer and their accomplices, Plaintiffs are unable to compete at all. Patent suspensions also provide evidence of the claims in the AC and already exhibited herein.

278. Proskauer's claim of a poorly written AC support the Pro Se request to have Pro Bono counsel, to prevent any defendants or the AC from dismissal on a technicality competent counsel could prevent. The chances of successful prosecution in these highly complex and specialized areas of law, such as intellectual property law, almost certainly would be far more likely to succeed based on competent counsel preparing the documents, including this respons.

B. RICO

279. In regard to Proskauer's claim the predicate acts to the RICO claim are not intimately defined in the AC, which if the Court agrees such specificity is necessary at this point, Plaintiffs request time to amend the AC. In light of the fact to plead these acts

with particularity in a complaint Proskauer already has trouble reading due to its length, would make the document hundreds of pages longer just in attempting to cite the hundreds of violations of mail and wire fraud that occurred with specificity.

280. It should be clear to the Court that Proskauer in transferring fraudulent IP documents between them and their co counsel Foley and Meltzer via mail and fax, which then went to the USPTO and foreign offices further by fax or mail, constitute hundreds of fraudulent documents being transferred through mail and wire to perfect the fraud.

281. Further, in transferring fraudulent IP statements to investors, transferring fraudulent documents to state departments for bogus corporations to be incorporated and transferring fraudulent information to securities firms, Proskauer again violated hundreds of mail and wire fraud transactions. To list all the crimes with specificity in the AC or RICO statement would take considerable effort and time. Plaintiffs will core down in these matters over the course of the case or if this Court orders it must be done now, to survive these MTD's, Plaintiffs beg the Court to reserve the right to amend the AC and RICO statement to fully list the thousands of events and who did what and when.

282. Proskauer claims Plaintiffs simply cited code of law, failing to state the RICO predicate acts, yet another false premise rendering the conclusions useless. The RICO predicate acts are stated in the AC, under the RICO section, and do relate directly to the crimes alleged. In most instances, the predicate acts are specific to the known defendants committing the acts. When it is unclear at this time who exactly committed the predicate act, Plaintiffs stated the act and left open the party responsible, which is why Plaintiffs have sued John Doe defendants, to fill in the blanks as the new information and evidence learned through discovery and ongoing investigations, is assimilated into the complaint. For example, the predicate act of planting a bomb in ones car with murderous intent remains a mystery needing further discovery to discover who ordered the act and who committed it, pending conclusion of ongoing investigations into the bombing.

283. Proskauer fails to acknowledge as predicate acts, the car bombing, robbery, or extortion claims (via the threats of Utley on Proskauer's behalf) and points instead to a citing of contempt Plaintiffs may or may not have pled correctly. The AC points to the RICO predicate acts at no. 732-755, where despite Proskauer's claim

Plaintiffs just recited boilerplate law, what is recited in the AC describes the predicate acts with as much specificity as is known at this time for each predicate act. Proskauer gives no example of the recitation of boilerplate law they claim Plaintiffs do, so again, it is a hot air argument where premises lack factual support, rendering the conclusions useless. In fact, Plaintiffs again cannot respond to these baseless accusations as no examples are given.

284. Proskauer states evidence was not present to support the claims in the AC and Plaintiffs argue the AC and the incorporated exhibits, Proskauer wholly ignores, more than adequately point to factual data, evidence, and witnesses to support the claims. Perhaps Proskauer did not see the Iviewit homepage exhibited in the AC, with its over eight hundred evidentiary exhibits, including images of the car bombing, as evidence to support the RICO claims and predicate acts.

285. Proskauer claims Plaintiffs statements confuse them, when Plaintiffs point to certain defendants as having committed the predicate acts because Plaintiffs then say the allegation may not be limited to only those defendants. As with all legal conspiracies, many issues are not learned fully until the discovery phase reveals more of who actually did what.

286. The claim of not knowing who did what by Proskauer does not stand, as they are one of few defendants, with Foley and MLGWS, being accused of every single civil and criminal violation of rights alleged in the AC, whether directly or indirectly, as the central players in the overall conspiracy. Thus, they should consider themselves accused of everything in the AC whether clearly stated or not, which should remove any confusion of which allegations apply to them.

287. Proskauer alleges Plaintiffs did not claim criminal investigations obstructed and where Plaintiffs cited criminal investigations at the Boca PD obstructed in order to bury those criminal investigations. Plaintiffs believe these are still under investigation by the Internal Affairs Division of the Boca PD and the Chief of that department. No conclusions reached in those never-ending ongoing investigations, as of this date.

288. Plaintiffs are also claiming Proskauer may have interfered in investigations with the NYAG offices through former defendant Spitzer. Spitzer when

confronted with investigating the public office corruptions, in a formal complaint filed by Plaintiffs, failed to ever respond, failing to even notify Plaintiffs he and his offices may have been conflicted in the matters by his personal and possible professional relationship with Proskauer who acts as his private counsel and perhaps NYAG counsel.

289. Another criminal investigation that appears interfered with is the ongoing FBI investigation, which is now under internal affairs review with both DOJ OIG Fine's office and the FBI OPR.

290. Pro Se Plaintiffs may have also cited this statute with the misunderstanding the First Department Court orders for investigation of Proskauer and their partners was an investigation of the criminal activities alleged in the violations of public offices at the 1st DDC, which may constitute instead a USC §1503 Obstruction of Justice. Anderson claims justice was obstructed through public office violations in official proceedings, Plaintiffs seek leave to amend if the matter is pled inaccurately.

291. Proskauer claims Plaintiffs failed to allege properly any acts of racketeering activity and claim two related acts in a ten-year period and we failed to state the criminal enterprise they maintain poses a threat to continued criminal activities. To even a novice legal reader, Plaintiffs alleged many racketeering activities in the AC with supporting evidence and claimed they posed a threat to continued criminal activities in the RICO section and elsewhere, many within the ten-year period necessary.

292. It is interesting to note how Proskauer focuses mainly on mail and wire fraud to support their claim that Plaintiffs did not plead their racketeering case well. Instead of dealing with the far more serious stated racketeering activities claimed, such as; (i) the arson related terroristic styled car bombing of the Bernstein's family minivan (ii) the death threats by Utley to Bernstein on behalf of Proskauer and Foley constituting extortion (iii) the robbery and embezzlement of equipment and funds from the Iviewit Companies shareholders by Utley and Reale[102], (iv) the transportation of those stolen goods over state lines (v) the corporate securities frauds, and, (vi) the patent frauds. Many of those predicate acts also involve mail and wire fraud for example, by sending fraudulent information to investors.

[102] Exhibit 1 – Evidentiary Link 144

293. Plaintiffs factually claim the prior existence of a criminal group attempting to steal others IP, supported by the Friedkin affairs, and further continued at their next victim Plaintiff Bernstein. The continuation of the group's activity comes immediately after the failed attempt to abscond with Friedkin's IP. This group now has direct involvement in the MPEGLA illegal monopolistic patent pool, designed according to Plaintiffs to deny inventors' rights to their inventions. Plaintiffs have shown this Court the continuing activities of the criminal enterprise represent an ongoing threat to worldwide inventors and the anticompetitive patent pools, for their practices in violation of law, should be abolished. Practices that enable monopoly power through standards setting practices, working to disable the rights of the ma and pa inventors the Constitution seeks to protect, through a tying and bundling licensing scheme.

294. Proskauer claims Plaintiffs recited a "laundry list" of predicate acts in the AC, which may appear true, as there are so many crimes committed listing them all gives that impression. Plaintiffs carefully went through the various federal, state and international laws, judicial cannon and attorney ethics rules and created a precise list of crimes backed up with factual evidence by picking those predicate acts closely matching the crimes committed. Being Pro Se it was a best effort attempt considering the amount of crimes and codes of law reviewed; especially where many of the crimes are complex legal crimes requiring specialized legal degrees to even understand them. Where Plaintiffs have erred in an amendable way in defining the crime to the code, we seek leave to amend any such errors in the AC.

295. The crimes on the list were crimes causing civil violations against Plaintiffs and therefore were alleged predicate act of the RICO claim but only if those crimes were also included in the RICO statutes own laundry list of crimes constituting RICO predicate acts.

296. Proskauer fails to take notice that in addition to sending fraudulent patent applications to the USPTO, which they claim does not constitute mail and wire fraud, there are many other instances of crimes cited at no. 733 A in the AC that they also fail to address in the MTD.

297. Proskauer claims Plaintiffs have only shown a single scheme to deprive them of their technologies, which again is a claim steeped in delusion. Friedkin, as

described in the AC shows a prior scheme, evidencing a conspiratorial scheme to deprive others of their inventions. The scheme to defraud the investors is yet another scheme or artifice to defraud. The scheme to fraud Wachovia Securities is yet another scheme. The scheme to create fraudulent corporations is yet another scheme. The scheme to abscond with stolen funds from the company, including the SBA funds, is yet another scheme. The continuing operation and control of MPEGLA through illegal antitrust actions is yet another scheme to defraud inventors, which may force further investigations to explore if other inventors are harmed prior to or after Plaintiff Bernstein and Friedkin. *Anderson*'s claims point to yet another scheme involving public office corruptions to interfere with official proceedings showing again there is ongoing criminal activity continuing even today by the criminal enterprise to deny rights.

C. Fraud

298. Proskauer claims the fraud was not defined clearly alleging who committed what acts and when, due to the sheer number of crimes committed by the numerous defendants, the AC may not have covered each act in thorough detail as it would have added yet another several hundred pages to the complaint as already stated. If the Court wishes to have this exercise done now, prior to further discovery, Plaintiffs request additional time to submit an AC whereby Plaintiffs will do exactly that, ad nauseam.

299. Proskauer's claim Plaintiffs have failed to clearly define who did what crime and when and as this is a legal conspiracy, not conspiracy theory, much of this will become further learned through discovery as with most criminal conspiracies. Since Proskauer directed and controlled every crime alleged, acting as the ringleader of the bungled crimes they can consider themselves included in every allegation. For example, Proskauer is claimed in the AC to control Plaintiff Bernstein's and the Iviewit Companies IP portfolio and through their commands[103] to their referred co-counsel Foley and Meltzer, directed the fraud on the USPTO, Plaintiffs and the Iviewit Companies shareholders, with Rubenstein directing the IP crimes through his group and Wheeler directing the corporate crimes through his group. Despite other defendants they may

[103] For example, Rubenstein's direct control of the IP crimes, like directing his underling and referred former associate Joao in the filing of fraudulent applications, is similar to Charlie Manson's control of his underlings and commissioning of their crimes, which similarly should lead to Rubenstein's accountability and culpability, like Manson, for the crimes committed at his direction and control.

have recruited to execute parts of the crimes, Proskauer controlled the crimes, all benefiting the criminal enterprise and thus they are associated with every act.

300. Plaintiffs agree with Proskauer that they remain confused as to when the IP applications were filed for various of IP applications, confused if they were even filed at all, confused as to who filed them, who owns them, who they are assigned to and even who is listed as the inventors on them. Confused more by the fact the USPTO refuses to give information on certain applications listed as the property of Iviewit Companies by Proskauer and their co-counsels in IP dockets distributed to investors. IP applications Proskauer directed their referred co-counsel to file but the information they gave Plaintiffs, including securities firms, the SBA and others, is false according to the USPTO, leaving everyone a bit confused, perhaps the Court can demand they clear the confusion with factual evidence to support what they have done and who owns the IP, etc.

301. According to Moatz of the USPTO OED, Plaintiffs now need an "Act of Congress" to get certain information, as Plaintiffs, Iviewit Companies and the inventors are not listed as owner, assignee or inventors of certain IP applications Proskauer and their referred co-counsel filed on behalf of them, already described and evidenced in exhibit herein.

302. Plaintiffs immediately appealed for the help of The Honorable United States Senator Dianne Feinstein who has begun investigation into these matters. Moatz, at this point also recommended Plaintiff Bernstein to seek legal counsel to aid in these matters but understands the hesitancy of Plaintiffs to get counsel, after the last firms (such as Schiffrin and Barroway, BSTZ and Selz) who came to supposedly help, have become involved in the unfolding conspiracy and remain under investigation for their actions.

303. Regarding footnote 11, Proskauer claims regarding the fraudulent illegal legal actions representing further abuse of process, in both the Federal Bankruptcy Fraud and the Proskauer Civil Billing Lawsuit, Plaintiffs failed to clearly show the who, how and what of the allegations. True if you do not look at the supporting evidence exhibited in the AC and already exhibited again herein, pointing to who, what, where and when were involved in both actions.

304. Of course, information is still being learned from the ongoing USPTO and USPTO OED cases and certain information is still necessary to fully complete the who, what and where of these crimes. Based on information already learned from Moatz at the USPTO that patents were in the companies illegally sued by Proskauer in the billing case, illegally formed by Proskauer with illegal asset transfers of IP made to several of the companies, without authorization, as defined in the AC and exhibited therein and herein again.

305. Regarding the fraudulent bankruptcy filed by Proskauer referred management Utley and Reale, and, Proskauer referred strategic alliance partner Real 3D, Inc., the parties to the bankruptcy were listed clearly in the AC contrary to the claim they were not. The parties who filed the involuntary bankruptcy had no claims against the company they filed the involuntary bankruptcy against, making it a fraudulent filing. At first this was thought to be a stupid mistake, only later was it learned it was calculated when IP was found by Moatz's team at the USPTO to be in the operating company sued. Technology fraudulently transferred to this company, without board or shareholder knowledge.

306. Neither Proskauer in the billing case or those who sued in the fraudulent involuntary Federal bankruptcy action had any agreements or claims against the companies they took these legal actions against, as already exhibited in the AC and again herein. Further discovery in the matters is necessary and Plaintiffs certainly plan appeals of the prior actions as new evidence and information is learned through investigations.

D. Breach of Contract

307. Proskauer assumes New York law should prevail in their response, where although the IP work was done in NY, the remaining work, including any retainers or oral agreements was conducted in Florida. The Proskauer claim regarding what state laws apply to the retainer, should be analyzed in terms of any retainer agreements Proskauer tenders to this Court for their relationship with whatever Iviewit company. Certainly, Proskauer has retainer agreements and those agreements have defining terms within it. This Court needs to have Proskauer resubmit their MTD, if necessary, to distinguish between the twelve or more companies Plaintiffs have uncovered in these matters, with particularity to their referenced agreements and what state laws apply to

each agreement they refer to and why. The companies domiciled in various states and operated in many others making it critical to know with specificity what companies and what companies' contracts they refer to, in order to respond properly.

308. Since Plaintiffs claim due to the corporate fraud alleged, they are uncertain of "whose on first"[104] in regards to what companies are owned by shareholders and what rights shareholders may or may not have in the myriad of companies Proskauer formed. Until further discovery and the completion of all investigations, Plaintiffs refrain from making claims of what happened to shareholders stock and what companies they own and who owns what. Part of the complaint filed before this Court is that we are not certain of patent or corporate ownership, especially where patent interests' shareholders invested in, are not correctly assigned to the companies investors have stock in.

309. Proskauer footnote 12 uses Florida law to interpret contract law, although they claim to be using NY law prior, again which company do they refer to in choosing the varied state law, what do the contracts say, as some companies are domiciled in Florida and others in Delaware, Proskauer needs to clarify with particularity before Plaintiff can respond properly.

310. Plaintiffs accuse Proskauer of causing the breach of hundreds of NDA's, strategic alliances and other binding contracts they contracted legally for Plaintiff Bernstein and the Iviewit Companies. Many early NDA's were executed between the NDA signor and Simon and Eliot Bernstein through Proskauer, as no companies were formed at the original time of engagement and Proskauer was representing Bernstein's patent interests individually.

311. Proskauer directed and controlled the NDA's and other contracts, maintains the originals, created the corporate agreements, introduced many of the clients in these agreements to Iviewit Companies and billed for all such services and then with scienter failed to enforce violations of them, violations they were fully cognizant of. One need only review the various agreements[105] and look within the Wachovia PPM to see how many contracts existed prior to discovering the patent problems and where Plaintiffs

[104] Bud Abbott and Lou Costello 1945 film "The Naughty Nineties" http://www.youtube.com/watch?v=sShMA85pv8M

[105] Exhibit 1 – Evidence Link 853, 854, 856, 857, 837, 667, 746, 747, 748, 756, 772, 773, 780, 781, 784, 23-33, 37, 39, 42-49, 52, 55-66, 69, 75, 82-96, 99-115, 126, 131,

claim once patent crimes were initially discovered, every contract and potential contract died on the table.

312. Again, there are several hundred agreements with various entities, whereby Plaintiffs are requesting the Court leave open the right to amend the AC if necessary, to include all the various contract violators as new defendants. Through MPEGLA's licensing scheme, through the breaches of the NDA contracts and breaches of attorney/client privileges, Proskauer illegally proliferating the technologies to thousand of infringers. These infringers may be included as additional defendants, for example, through the inclusion of both licensors and licensees of the MPEGLA pool licenses, added thousands to this lawsuit. Plaintiffs beg the Court to leave open to amend the AC to add these additional defendants if necessary, as they may in fact be necessary to enforce injunctive relief and maintain the "deep pockets" necessary to sue for the infringements.

313. Proskauer proffers the following delusional statement, "A breach of contract claim against an attorney based on a retainer agreement may be sustained only where the attorney makes an express promise in the agreement to obtain a specific result and fails to do so." Plaintiffs do not argue a breach based on an express promise, they make a claim of total failure under the terms of the attorney client privileges in any legal relationship, that any retainer, written or oral, would provide. Failure to provide the services, duties and obligations to represent their client's interests zealously in favor of working to convert their clients inventions as their own and creating a monopoly power from such stolen inventions to block their client from relevant markets.

314. In retaining Proskauer, either orally or in retainer, as reflected in the already exhibited herein Proskauer billing statements, it can be seen Proskauer was engaged and retained to do IP work, corporate work, immigration work, estate work, etc. which was supposedly preformed and billed for. It is obvious already that under some terms, Plaintiffs retained Proskauer to obtain and secure the IP for Plaintiff Bernstein and the Iviewit Companies. Proskauer was not hired to; (i) convert the technology as their own (ii) direct the patenting of the technologies in their referred co-counsels name, Joao (iii) patent in their referred manager Utley's name, by directing their coconspirator Foley to do so (iv) create corporations for others and not the shareholders (whom almost all

shareholders do not have the shares in companies promised them by Proskauer), and, (v) form other corporations whereby the records are wholly missing from the corporate record yet have patents assigned to them. Whether an oral or written agreement Proskauer promised to secure IP for Plaintiff Bernstein and the Iviewit Companies and instead embarked on a large conspiracy to convert the technologies through violations of various forms of contracts they controlled.

315. Proskauer states the Court should dismiss the malpractice claim, as it is repetitive to the breach claim when in fact the breach of contract issues are for the other breaches of contracts Proskauer formed and controlled on behalf of Plaintiffs. These are two separate claims for the reason the malpractice claim refers to their retained services billed for, then intentionally failed to be preformed under with scienter, resulting in violations of Plaintiffs' rights to the IP and shareholdings and the breach of contract issues refer to many other contracts Proskauer interfered with to ruin with scienter. They are not duplicative and not arising from the same set of facts or giving rise to the same damages, this argument thus fails.

316. Proskauer fails to direct in the MTD the malpractice count and slip out of addressing the overwhelming and perhaps precedent-setting malpractice claims. Proskauer certainly reported this malpractice claim to their carrier, who has allowed them to represent themselves versus fund qualified counsel and the carrier has choose to keep their attorneys of a trillion dollar claim out of sight. It certainly makes no sense, other than a failure to report the liability to the carrier, which may indicate possible insurance fraud.

E. Tortious Interference

317. Plaintiffs do allege there were numerous contracts between Iviewit Companies, Plaintiff Bernstein and third parties, and, Proskauer intentionally interfered with such contracts as part of their attempt to convert Plaintiffs technology and simultaneously preclude them from market. All of the contracts would be monetized and adhered to, if it had not been for the intentional, and with scienter, actions of defendants to sabotage the IP and other contracts, coordinated by Proskauer. These actions to interfere in the business relationships led to catastrophic loss of business caused by the loss of the IP and therefore loss of enforceable business contracts. Without proper IP, in

fact suspended IP, Plaintiffs cannot advance claims to protect their IP, monetize it, or even raise capital, as we are having trouble even getting information on them yet. Are the patent applications' contracts with the USPTO, if so, another avenue of relief for interfering with those contracts would be in order.

318. Regarding footnote 14, Proskauer uses Florida law instead of New York law this time. Previously in the MTD, they chose New York law and again Proskauer will need to specify for the various contracts they formed with the various companies they formed, which laws they are referring to for each. Plaintiffs claim the existence of many business relationships that not only did the Proskauer defendants have knowledge of but also formed the business relationships in most instances, including with many of their clients and friends. Many of those who signed NDA's with Iviewit Companies use the technologies in violation of those agreements Proskauer had them sign.

319. Proskauer defendants intentionally and unjustifiably interfered with all the relations either directly or by destroying the IP of the company; making it impossible to raise capital, enter licensing agreements or compete in the relevant markets for their inventions. The damages claimed is high as it represents the loss of constitutionally protected IP of the inventors and the loss of royalty from such IP, which has been estimated to be a trillion dollars plus over the twenty-year life of the IP.

320. If the Court feels we have pled this count improperly, please allow Plaintiffs to seek leave to amend.

III. Plaintiffs Lack Standing to Bring this Action

321. Plaintiff Bernstein intends to bring this action on behalf of his personal IP interests in the matters. Plaintiff Bernstein represents his personal interests as an inventor of the technologies and thus asserts his rights to his inventions through Article 1, Section 8, Clause 8, which gives Congress the power to protect the rights of the inventor to the highest degree, in order to secure free commerce.

322. This lawsuit brought individually by Bernstein, and, by Bernstein and Lamont, on behalf of the Iviewit Companies former shareholders, whoever they may be[106] and current patent interest holders. The Iviewit Companies Board of Directors,

[106] By an order from this Court, Proskauer ordered to evidence who the shareholders of each entity are, when they delivered the shares to the shareholders, for all entities they formed. This will allow shareholders finally to determine what company name their shares are in and whom they are to sue.

disbanded without proper procedure according to law, caused by the actions of Proskauer and Proskauer even failed to issue shares of the Iviewit Companies properly to the investors. The Iviewit Companies fell into a legal limbo preventing shareholders from asserting rights properly; Lamont and Bernstein are attempting to enjoin their rights.

323. However, it is not essential to this lawsuit that any other persons but Plaintiff Bernstein individually, in regard to his IP interests be protected in this action. Plaintiffs do agree they may not have rights to sue on others behalf and Plaintiff Bernstein would like to remove himself from representing on others behalf, unless the Court has rationale to allow this and still then, Bernstein would want to evaluate that claim.

324. As long as inventor Bernstein's rights to his IP remain through this action individually, Bernstein can later divvy his interests to the others and when this action is resolved and it is determined what rights those shareholders have to sue those responsible under, they can sue individually or jointly or enjoin this action. Many do not even have information learned by Plaintiffs over the last several years and upon notice of this lawsuit may join or file their own separate actions.

325. In no way can Bernstein and Lamont bring a shareholder suit while the shareholders of the entities are in question and Proskauer has the controlling documentation of those transactions with the former accountant, Gerald R. Lewin, former accountant to Iviewit Companies and listed as an interested party in the AC.

326. Plaintiffs were similarly advised by several lawyers during the failed Proskauer settlement agreement in the Proskauer Civil Billing Lawsuit, failed because counsel for Bernstein individually, Marc R. Garber and other attorneys, stated signing any corporate document in any capacity would be illegal. Especially, a settlement with a notorious clause attempting to waive any legal rights of the shareholders if the patents failed for any reason, including if it were the fault of Proskauer and their accomplices, how telling. By signing the settlement document Proskauer proffered and controlled

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Shareholders have requested this information but as of this date, Proskauer refuses to disclose this to the shareholders. In fact, Wheeler, who billed several hundred thousand dollars for his corporate scheme to protect, or not protect, the IP, is unclear under deposition of his own corporate structure and repeatedly claims he would have to go back to find the information and have it for the continuation of the deposition. That deposition continuation, which he tried to evade, that Labarga ordered him back for more despite his attempt to get out of further deposition (at his lawsuit) and where the case and trial were then derailed by the actions of defendant Labarga.

every facet of its creation, allowing no sharing or editing with Plaintiff Bernstein's personal counsel or Iviewit Companies attorneys, Schiffrin and Barroway, the signor of the agreement would have then become responsible for the loss of IP, great offer.

327. As the settlement calls for all parties to be represented by counsel, Bernstein was advised to retain individual counsel, as the document called for him to sign personally too and Schiffrin & Barroway was already representing their own interests in the settlement now being large owners of Iviewit Companies under their signed LOU. Schiffrin and Barroway was also representing Iviewit Companies in the settlement, acting under the LOU's retainer like provisions and they were negotiating all those various interests, perhaps conflicted interests.

328. Bernstein would not accept the offer from Schiffrin and Barroway for their representation of his personal interests as well. Schiffrin & Barroway agreed and retained Flaster Greenberg for Bernstein as individual counsel. Many other problems with the document were found by Bernstein's individual counsel and deemed to pose serious risk to both shareholders and Plaintiffs. The idea to release Proskauer came from Schiffrin & Barroway, as they claimed the patents could be fixed according to their patent counsel, Christopher & Weisberg and from conversations with BSTZ and they wanted to move on and not get caught up in litigation, yeah right.

329. Without full legal resolution of the former companies to bring them first to legal compliance, it was preposterous to even propose this settlement and have a signor commit crimes. Thus, the deal not signed following retained counsel's advice. Counsel involved will called as witness to these claims in any forthcoming trial.

IV. Plaintiffs Remaining Claims Cannot Stand

330. Proskauer defendants state they cannot be held liable for the alleged Constitutional violations, as they are not state actors. This too is false when viewed through Proskauer partners Triggs and Krane who both acted as state officials, acting in violation of public office to deny due process and thus further aid in the violation of Plaintiff Bernstein's constitutionally protected rights to his inventions. Since Triggs did not respond to the AC it is presumed he choose to default in response to the charges, as well as Proskauer, the firm and all those others who failed to respond.

331. If the Court finds Plaintiffs failed to allege conduct violating Title VII, than Plaintiffs request the right to include such in an amended AC for what they claim is such violation, or to find other suitable legal redress to match the crimes committed, more specifically the civil violations and the proper redress.

332. If the Court finds Count 11 is deficient to claim all applicable state law and grant civil relief to Plaintiffs for the countless state laws violated against them, Plaintiffs seek amend the AC to correct such defect or any other defects.

333. Proskauer maintains Plaintiffs failed to make any other claim against Krane other than he represented himself, his firm and Proskauer partners. Delusional it appears as they forgot to state Plaintiffs claim Krane made those representations in conflict and violation of clearly established attorney disciplinary codes and rules regulating his public office positions, already exhibited herein.

334. Plaintiffs state the AC and its incorporated exhibits, again exhibited herein, are replete with evidence, witness, and stated claims against Krane. The AC sections specifically with Krane and pointing of to thousands of pages of evidence incorporated and incorporated by reference in those sections are no.'s 610-679, 681, 682, 684, 686, 687, 689, 691, 694, 704 and 733.

335. Proskauer again attempts to mislead the Court such evidence and claims are missing and not included against Krane, in utter hallucinatory behavior, evidencing Proskauer is truly the delusional party unable to face the very real criminal and ethical claims against Krane. Instead, they again ignore the factual exhibits with factual evidence, claiming it does not exist, so no need to address them.

336. What about the investigation of Cahill, that remains ongoing and wholly involves Krane's conspiratorial activity in misusing public offices. What about the Cahill cover-up for Krane directly leading to a complaint against Cahill, still under never ending ongoing investigation that aids as barrier to due process and recovery of the IP rights? The information in the AC with regard to Krane and Cahill's violations of public offices, in violation of law and legal ethics, resulting in investigations, including the First Department Court order for investigation of Krane, ignored, as if non-existent. All ignored so that Proskauer could assert this ridiculous MTD claim, in an attempt to sneak

out the backdoor in a puff of smoke on a technicality before the Court could see the evidence.

337. Proskauer's footnote Krane would be immune from his actions as a public servant for immunity sake is ludicrous and Krane would not be immune under any capacity for his actions and thus sued herein in his official, professional, and personal capacities.

338. Anderson is yet another claim involving Krane possibly and until full discovery of Anderson's claims by Plaintiffs and this Court, this Court should grant no immunity to any party, in any capacity, until the inner workings of the favoritism and public office violations are explored, to see whom they ensnare in the web.

339. Proskauer's baseless claim Plaintiffs are randomly suing people through frivolous suit is again mere smoke and mirrors. Neither Proskauer defendant, the estate of Stephen Kaye, nor defendant Judith Kaye, file a lawsuit or counterclaim to condemn their inclusion in the OC and AC or assert a claim for court sanctions. Instead, Proskauer merely claims, not seeks, Plaintiffs should be condemned for such so-called, frivolous filings, against people who they must believe cannot defend themselves. Proskauer fails to even ask the Court for such relief for their client, themselves, not even the Pro Se represented Proskauer partners ask for such, as it is a baseless claim that Plaintiffs have included anybody who was not deserving of being filed upon.

340. Proskauer would have to prove this claim of frivolous filings true to request relief and if Proskauer could support this ridiculous claim, they would certainly assert their rights. So why do they not sue? Because that would put them in the uncanny place they are trying to avoid, the courtroom, as the MTD indicates. In a courtroom where they would have to admit or deny the evidence against them, or show the evidence they have against Plaintiffs, which is none, in support their frivolous claim of frivolous filings. Instead, we see veiled threats, stating Plaintiffs' filings are "ill-fated."

341. Proskauer states there are scores of examples of falsely filed upon defendants but fails to list one, again mere puffing of the chest, as if there were such, those parties would also be asserting legal rights to stop their inclusion but there are none at this point. In fact, where is Proskauer's action in their own behalf and would they represent themselves in that too? Is Proskauer attempting here to defend defendants they

are not counsel for, what if one of the defendants in the AC wants to file an answer admitting the charges, what right does Proskauer have to ask this Court to dismiss the case against defendants they do not represent.

342. Proskauer claims Stephen Kaye of Proskauer was not an IP partner but on information and belief, he was, although it did not make much sense. Either way, as a Proskauer partner, Kaye had stock interest in the Iviewit Companies presumably transferred through his estate to his wife Judith Kaye. Further discovery on this matter is necessary to determine how Proskauer handled the Iviewit Companies stock internally between the various partners.

V. CONCLUSION DISCUSSION

343. Proskauer's MTD was filed in grand delusion and in conflict, in violation of ethics rules, in violation of law, in contempt of this Court and should not be considered other than to stand as further evidence against them. Showing up at an ethics hearing violating fundamental ethics rules, well, how Proskauer.

344. Proskauer's MTD cannot claim any law to aid their cause, unless of course factored first to account for all the laws violated to enable the IP crimes and all the laws violated to disable due process rights of Plaintiffs, time after time usurped by defendants. All denial of due process rights spearheaded by Proskauer acting in utter disregard for law and public offices to turn the scales of justice upside down on Plaintiffs and afford them no legal recourse, setting blocks to them even retaining counsel. In fact, running a criminal organization cloaked as law firm to violate laws for gains to the criminal enterprise. For Proskauer now to look to the law for protection and escape trial through a MTD using standard case law is humorous if nothing else, as this case now so steeped in the misuse of law, as to render normal legal processes and case law obsolete in deciding it.

345. It would seem the only way for Proskauer to now ask for legal relief based on legal grounds, is after all the matters of denial of due process are heard before a conflict free court, assessing the impact the loss of due process rights has on the Plaintiffs legal rights civilly and how that relates to their rights going forward.

346. Proskauer's arguments so weak it appears the firm Proskauer, its associates, and of counsel, did not want to join the MTD, such failure to respond to the AC is cause for a DEFAULT for failure to respond.

347. The Court should sanction this conflict tendered MTD and the counsel who prepared it and the lawyers hiring them, sanctioning them all, and ruling for a Default Judgment in favor of Plaintiffs for such contemptuous behavior.

348. This Court's rulings on motions tendered by conflicted parties already boggles the mind, in fact, Proskauer's plea for a stay on the AC should have been cited as contemptuous and denied as it was tendered in conflict, yet it had appealable impact if tendered in conflict. For that matter, any Proskauer plea while in conflict, should be cited as contemptuous and in violation of attorney conduct codes and should serve as nothing more than proof of those claims.

349. To hear the plea from a non-conflicted lawyer is the only way to hear the plea at all whether it is correct or not. Again, for the Court to allow such conflicted pleadings to influence the case gives an uncomfortable feeling of the appearance of impropriety and conveys this Court, MAY become only further evidence of top down control to eliminate rights of Plaintiffs through legal proceedings steeped in unregulated conflict. Plaintiffs do not yet believe this claim true and it will be more telling once all MTD's are ruled on by Your Honor, to see how the conflicts and pleadings in conflict will be dealt with and what effect they have on Plaintiffs' rights. Plaintiffs have faith in Your Honor but are so disillusioned by the justice and court systems from the past miscarriages of justices described herein and in the AC, they now tread cautiously in trusting even this Court until having proof one-way or the other through resolution of these matters this Court is on the up and up.

350. Plaintiffs apologize to this Court for even having to paint such picture but with the claims of *Anderson,* of high level politicization and favoritism of a Supreme Court of NY agency, one cannot trust any court in New York. Where these matters already include a car bombing attempt on Plaintiff Bernstein's family, it is obvious "better safe..." is our motto and while this Court in no way has made rulings to deprive, at this point, the rights of Plaintiffs, it has not resolved protecting those rights yet either. Plaintiffs have been victim to almost every form of legal process abuse and it would not

surprise us this Court was set up for such, to try and give a win through some technicality to defendants for them to attempt to hang their hat on with federal investigators and impart some form of vindication. Similar to what happened in the bar complaints. Again, this concern negated, as the need to support the efforts of a valiant whistleblower attempting to protect the citizens of New York from court corruption, outweighed the risks of a setup.

RESPONSE TO EXHIBITS PRESENTED BY PROSKAUER

EXHIBIT A

351. Proskauer sets forth their billing case court filing which claims there is an engagement with Iviewit LLC., listed as Exhibit A but mysteriously no Exhibit A, attached for this Court. Proskauer then states in the complaint Iviewit companies, three of them, then entered into other retainer agreements with the same terms as the Iviewit LLC. retainer, yet again Proskauer fails to exhibit any such retainers to that court or this Court. Plaintiffs cannot respond to this incomplete exhibit and request the Court demand Proskauer put forth all four supposed retainer agreements with the entities they claim in their filing.

352. The retainer[107] Proskauer refers to appears to be a fraudulent retainer document signed by Utley, prepared by Wheeler, and unauthorized by the Board of Directors. Where Utley and Wheeler have created false resume for Utley[108] as exhibited herein and Utley has created fraudulent patent applications with Foley and where Utley, Wheeler and Dick were involved in a prior attempted theft of IP from Friedkin as defined herein, no document put forth signed by Utley and prepared by Wheeler can be trusted. The evidence of document fraud in mass already presented to investigators and remaining under ongoing investigations, in fact, all documents exhibited by Plaintiffs created by Proskauer, MLGWS, and Foley are not to be trusted and there is plentiful evidence of such document fraud throughout the evidentiary links in Exhibit 1.

353. Proskauer claims their retainer was signed in October 8, 1999 and one must wonder what agreement was in place prior, since they started representing Plaintiff Bernstein and Iviewit companies almost a year prior according to their billing statements.

[107] Exhibit 1 – Evidence Link 50
[108] Exhibit 1 – Evidence Link 823, 54, 130, 187, 190, 809,

354. Paragraph 12 of the complaint is a lie, as Proskauer had been providing legal services for almost a year prior to the date they claim, as their billing statements exhibited by them in the billing case and exhibited again in Exhibit 1 clearly show, all the way back to 1998.

355. Paragraph 27 of the complaint states the amount owed Proskauer was due since April 16, 2001 and Proskauer filed suit on May 1, 2001 a whopping two weeks later. Their suit coincides with the same period we found Utley with a second set of patents. The same time the Board of Directors called both Proskauer and Foley[109] to explain what these other patents in Utley's name were and why the assignments of the IP, as stated to investors, was not done. Further, as exhibited herein, Arthur Andersen found companies apparently unauthorized and began asking for documents, stock certificates, and board minutes, to prove who owned the companies and if they were owned by the legitimate shareholders. The former CFO of the Iviewit Companies, in fact writes a letter to Andersen that Erika Lewin, the Iviewit Companies in-house bookkeeper was "miffed" Andersen thought she had misrepresented the corporate structure, which turns out to be true.

356. With the heat of the Utley patents and the corporate fraud unfolding, Proskauer files a lawsuit claiming bills owed? Further, Proskauer files suit and no one at Iviewit Companies at the time receives the suit or retains legal counsel, yet legal counsel mysteriously represents these Iviewit Companies sued in the bogus billing lawsuit Proskauer does not have retainers or bills for. The suit against companies later learned to harbor illegally transferred IP, which at the time of the suit nobody knew about, this provides the true motive for the billing action.

357. How was counsel retained and who retained it, where are those retainer agreements for the Iviewit Companies lawyers? Further discovery will be necessary of those defendant lawyers but nonetheless Plaintiff Bernstein and the management at the time had no idea they were represented in a suit they never knew existed, until exposed by Warner Bros. and confirmed by Rogers.

358. Plaintiff Bernstein was confused how Proskauer sued companies without anyone's knowledge and hired Rogers to investigate. Plaintiffs to call Rogers as a

[109] Exhibit 1 – Evidence Link 112, 110, 108, 111, 114, 116-122, 125, 138-145, 150 & 80-96

material witness in these matters to testify to what she found, as will Plaintiffs call the Warner Bros. employees as witness.

359. In fact, Proskauer billed hundreds of thousands of dollars to set up a company to hold the patents and another company for operations, to supposedly separate the liabilities and protect the patents from suit. We then find them suing holding companies and operating companies they have no agreements with, to attempt to gain the IP illegally transferred into them, perhaps the corporation setup was from day one to enable the theft of the IP, not to protect the IP. Further information from the ongoing investigations should provide more information regarding this scheme.

360. It should again reek to this Court that Proskauer sues approximately two weeks after they claim their bill is due on what they claim to various authorities is a failed dot.com looking for someone to blame. Why would one not write off such bills and instead go after, for several years a failed dot.com? Proskauer also fails in that suit to fully apprise the Court they were being investigated in an audit by Arthur Andersen and were already terminated by Iviewit Companies with cause, along with all of their co-counsel and management plants, all occurring on or about April 2001. In May 2001 they file the bogus lawsuit to bury the evidence of the fraudulent companies and quickly abscond with the IP fraudulently conveyed to them in hopes no one would ever find these companies.

361. Further stench comes from the fact Proskauer does not even sue Iviewit LLC., the company they claim a retainer with and fail to put forth any retainer agreements for their claim new retainers were taken with the companies they sued. The bills they submit are for a variety of companies, many they did not sue or claim a retainer with; this is not an error by a large firm, just more evidence of intentional fraud.

362. In paragraph 8 of the complaint, Proskauer claims there is an "Agreement" made up of three retainers for the companies they sue. Plaintiffs request this Court to have Proskauer put forth the supposed Agreement and the four retainers claimed to exist to that court, in order properly to respond to the MTD. Where no retainers are known to exist for these other companies by Plaintiffs, if Proskauer fails to show them to this Court, this can then be taken as a false pleading in that case and another example of legal process abuse through false and fraudulent pleadings to commit crime.

EXHIBIT B & C

363. Proskauer asserts the counterclaim filed in the Proskauer Civil Billing Case as support for their case and as a vindication of some sort of their position. The fact not a single claim in the counterclaim was heard by that court, as Labarga denied it as not relevant to the billing matters, confuses Plaintiffs as to why Proskauer uses it as an exhibit. As a starting point to toll statutes, it fails, as due process violations blocked it from the light of day originally and any calculation would have to factor this into the equation. Had Labarga accepted the counterclaim and heard the matters none of us would be here before Your Honor, as the accused would already be serving their sentences, the IP returned to the true and proper inventors and many defendants would never been dragged into Proskauer's mess.

364. The counterclaim does illustrate **competent counsel**, after reviewing the thousands of pages of evidence and talking to eyewitnesses filed the counterclaim, not alleged crazed conspiracy theorists and harassers of Proskauer, Bernstein, and Lamont. Since competent counsel filed the counterclaim, one wonders why Labarga did not take action at least to notice authorities a counterclaim was filed by competent counsel asserting an alleged a conspiracy against the USPTO, the SBA and Plaintiff Bernstein. Filed not by crazed Bernstein but by counsel Selz, working with other lawyers reviewing the materials at that time, and this should have caused Labarga at minimum to notify authorities.

365. If Proskauer thought the filing was frivolous, they could have filed against Selz for sanctions and prevailed if they were right. Labarga, having information of crimes against the United States being committed by lawyers before his court, should have notified authorities, as the counterclaim was filed by a licensed attorney who had reviewed the information. Labarga's actions and inactions violate well-established rules, regulations, and procedures of judicial conduct and a request to reopen the complaint lodged against him with the Judicial Qualifications Commission based on new information regarding the fraudulent nature of the case is forthcoming.

366. Selz in filing the counterclaim states additional evidence found in the files of Proskauer, recently discovered by him in the case, justified his filing the counterclaim. Plaintiffs will call Selz to testify as to his knowledge of the events.

EXHIBIT C

367. This exhibit simply shows defendant Labarga denied the motion and thus the counterclaim never heard.

EXHIBIT D

368. As this document is a 1st DDC letter, Plaintiffs request verification of its authenticity based on Anderson's claims document tampering and file thinning may have affected cases and their documents. Plaintiffs thus request a copy of the original document filed with the 1st DDC to compare this document to. The document states it was transmitted via fax, yet this copy has no received or send, fax headers, making it suspect.

EXHIBIT E

369. Plaintiffs will also request copies of the original TFB complaints, although it is alleged the TFB and FSC, destroyed the complaint documents of Wheeler, prior to well-established record retention laws, in order to cover-up for the public office violations of their officers and thus partially the reason for their inclusion as defendants in these matters.

NYAG STATE DEFENDANTS AND NYAG

Introduction

370. No MTD of the NYAG should be decided or heard until Monica Connell and the NYAG address the matters of conflict before the Court. The response beyond this point is merely an exercise in pointless waste of time, if conflicts exist in the tendering of the MTD that negate it entirely.

371. The NYAG was requested in writing[110] to re-open Plaintiffs requests for the NYAG to investigate certain defendants they now represent in these matters based on the whistleblower complaint filed in *Anderson* is replete with charges of criminal activities at the 1st DDC against defendants they represent as counsel.

372. Plaintiffs also requested that the NYAG handle getting docket numbers for the formal complaints filed against, Gregg Mashberg, Joanna Smith, Proskauer, Foley, Todd Norbitz, and Anne Sekel. All attorneys found acting as counsel in these matters in

[110] Exhibit 1 – Evidence Link 635, 614 & 615

conflict of interest, as the 1st DDC is her client in these matters and Plaintiffs did not feel comfortable contacting parties they are suing.[111]

373. Connell, instead of acting on the requests of Plaintiffs to re-open investigations based on Anderson's claims of criminal misconduct of public officials, has instead delayed responses to these matters. Rushing to file a MTD on behalf of the state defendants, she represents, while delaying to respond to the request for formal complaint docketing at the 1st DDC against her clients.

374. Based on *Anderson* the NYAG should be investigating these defendants and instead we find the NYAG defending them on public dollars both professionally and personally? Plaintiffs assert the conflicts inherent in the NYAG representation are influencing their decisions to investigate those that are their clients and the fact the NYAG and former AG Spitzer are defendants may have some bearing on their decision to fail to respond to these formal requests at all.

375. The NYAG based on their failure to respond timely and adequately to provide due process to the request for investigation of these officials has completely obfuscated their duties to the public again. Instead creating with those defendants hiring them a conflict, the state defendants knowing if they had the NYAG defending them, it would influence the NYAG's ability to be unbiased and create a conflict preventing their performing their duties in the matters of investigating public office corruptions unbiased on behalf of the public funding them.

376. The NYAG is now a defendant in the AC, representing their interests in conflict and representing former NYAG Spitzer. The NYAG is in need of counsel to represent them and must withdraw their highly conflicted representation of the public officers they represent as clients, as these representations now pose severe conflicts and impart an overwhelming appearance of impropriety. The NYAG's actions now construed to be continuing to act as a block to due process and procedure against these public officials and further damaging Plaintiffs rights to due process and procedure under the New York Constitution and the United States Constitution.

377. With almost all the defendants choosing as counsel either themselves in conflict or public defenders to put them in conflict with their duties to investigate them,

[111] Exhibit 1 – Evidence Link 631 pages 25-27.

we have the guilty representing the guilty before this Court. Since Plaintiffs plan on showing the Attorney General's in several states may have acted in concert together and with other state actors to block complaints and investigations, to deny due process. It appears the guilty may be representing the guilty in an incestuously conflicted conspiracy. The easy solution for this Court would be to first sanction those conflicted and then force all defendants to get non-conflicted counsel and certainly not counsel that may have to investigate the defendants based on the findings in *Anderson* and the related cases.

378. As supported in the Articles of Impeachment filed against George W. Bush and Richard B. Cheney by The Honorable Congressman Dennis Kucinich (D-OH)[112], presumably the United States Attorney General's office has become politicized top down and may be involved in criminal activity. Further, certain favoritism may have blocked due process in a number of serious legal concerns and whereby such illegal activities may have affected due process in these matters as well, as conveyed to investigators at the USDOJ OIG and the USDOJ FBI OPR and whereby those matters remain unresolved and part of ongoing investigations.

379. Where it is clear from the Articles of Impeachment private United States citizens rights' have been violated through illegal issuing of National Security Letters, as confirmed by the USDOJ OIG, Glenn Fine's offices. Whereby Plaintiffs will need further discovery and perhaps freedom of information requests to ascertain if NSL's may have given senior officials access to records of Plaintiffs, including telephone records and copies of the actual voice transmissions, emails and United States mail. Also to ascertain if NSL's were requested by anyone regarding any of those individuals involved in aiding Iviewit Companies efforts to gain due process and creating unfair advantage over Plaintiffs to circumvent and subterfuge the due process of Plaintiffs, with scienter, and against the civil rights of Plaintiffs, emanating from the highest levels of public officials.

[112] Impeachment Articles of George W. Bush, filed by Dennis Kucinich and reported by THE ASSOCIATED PRESS Published: June 12, 2008, "The House has voted 251 to 166 to send articles of impeachment against President Bush to the Judiciary Committee." The full text of the Articles can be found at http://c-span.org/pdf/bush_impeach.pdf and http://chun.afterdowningstreet.org/amomentoftruth.pdf

380. Plaintiffs learned in a recent House Judiciary Committee hearing,[113] that DOJ employees involved the United States Department of Justice in derailing due process rights of detainees, in conjunction with Whitehouse lawyers and then attempted to cover-up through changing law through opinion to claim the actors were above the law. Note dirty **lawyers** are under investigation in this hearing by the Judiciary Committee, for charges of War Crimes under Jus Cogens prohibitions, including "conspiracy"[114] to commit torture. An expert witness called by the Judiciary Committee calls for investigation of the **lawyers**, justice department officials and senior executive branch officials, including the President and the Vice President, for War Crimes claims they are not immune from prosecution, even though they tried to change policy at the DOJ to insulate themselves from prosecution. The request for immediate investigation to Congress by this expert witness, states specifically the DOJ **cannot** conduct the investigations, alleged to be involved in the actual aiding and abetting of the crimes for their efforts to shield the accused from prosecution versus prosecuting them. Sounds similar to the claims in the matters before this Court regarding the NYAG representing the guilty versus prosecuting them.

381. Watching this Judiciary Committee hearing was the saddest day of Plaintiff Bernstein's life, to learn our leading government officials have conspired and will be tried for war crimes and violations of human rights through torture is unbearable. Crimes committed it appears, at the direction of dirty lawyers violating public offices and desecrating those offices most sacred to our nation. Faith in America, our leaders, and our system of jurisprudence shattered far more than by even the heinous crimes alleged herein of robbing the USPTO and inventors, these crimes involved maiming, torturing, and killing, in violation of law. Faith not restored until these dirty lawyers and officials

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[113] House Judiciary Subcmte. Hearing on Guantanamo Bay Interrogation Rules (June 26, 2008) @ rtsp://video1.c-span.org/project/ter/ter062608_gitmo.rm

[114] http://www.youtube.com/watch?v=m-prj24Qp_k - Marjorie Cohn unequivocally calls for investigation of war crimes at the House Judiciary Committee hearing of White House and Vice President Counsel. She is a law professor from Thomas Jefferson School of Law and is President of the National Lawyers Guild. She explains the violation of supreme US law by the Bush Administration before the House Judiciary Constitution, Civil Rights & Civil Liberties Subcmte. PDF of testimony @ http://judiciary.house.gov/media/pdfs

who have destroyed our country, through such legal process abuse, prosecuted for these crimes against humanity first, possibly for these crimes next.

382. The office of the USDOJ Attorney General already damaged from the Alberto Gonzales mess of politicizing the Department of Justice, now damaged perhaps forever with their involvement in aiding and abetting War Crimes and torture crimes now under investigations in Congress. Again, all of these crimes emanating from actions of dirty lawyers, including those within the Department of Justice and almost anything believed as to the corruption plaguing our nations system of checks and balances.

383. These new facts support Plaintiffs' claims the law firms and lawyers[115] accused herein of the IP crimes and other crimes, may have seized the government in the Bush v. Gore race to prevent prosecution of the patent crimes they were caught red handed in. Seized the government in efforts to deny due process to Plaintiffs in any legal venue they attempted to assert their rights in and block any investigations. Blocked from a top down controlling position, starting at the top of the Department of Justice and extending to other necessary government agencies necessary to achieve total denial of due process.

384. This claim of a siege on our government is far more substantiated and far less conspiracy theory oriented, in light of these damning facts concerning our leaders in the executive and judicial branch of government, conspiring to use the DOJ to cover-up crimes against humanity. Directing the DOJ to criminalize itself to protect the guilty from prosecution by writing baseless legal opinions to attempt to evade prosecution. Worse yet, writing legal opinions leading to the torture and death of detainees based on frivolous sections of health care laws and in violation of Jus Cogens prohibitions. Writing this is painful, explaining it to our children nearly impossible.

[115] Particularly defendant Grebe may have been involved with such political overthrow of the government in his role as Republican National Committee legal counsel and the largest supporter of the Bush regime. Many American's now believe Bush put into power through election fraud, elected through a legal process versus a true voting process of the People. No matter how achieved, it has now led the fox into the henhouse and once in, crime has run rampant, especially legal crimes, all the way to war crimes and crimes against humanity. Once in, this regime has planted officials in various legal roles to execute their coup on the government and this is obvious in almost every scandal unfolding where lawyers and DOJ officials are involved and found working against protecting the Peoples rights under the Constitution, i.e. the removal of habeas corpus and then the return of habeas, etc.

385. Bernstein asks this Court to immediately issue whatever orders in Your Honor's power to immediately determine what the DOJ and FBI OPR are doing with the ongoing investigations of the Iviewit Companies and the car bombing of Plaintiff Bernstein's minivan, as they claim to have now lost the files and the investigators.

386. If this claim is proven true about a siege on our government to protect dirty lawyers caught red handed in a fraud on the United States Patent & Trademark Office and inventors, then Plaintiff Bernstein feels wholly responsible for letting the fox in the henhouse. This would have opened the doors for a criminal enterprise of dirty lawyers to infiltrate our government. Turning government, once infiltrated, into a monstrous beast capable of violations of Jus Cogens prohibitions against wars of aggression (based on falsified information), torture, violating the code of secrecy protecting spies for our nation as in the Valerie Plame affairs indicate. Many other High Crimes and Misdemeanors are included against the administration in the Bush impeachment articles referenced herein, including perhaps a conspiracy to rob the USPTO and inventors of the jewel of free commerce. All these insidious crimes appear directed and controlled by lawyers, sorry lawyers, we meant criminals disguised as lawyers.

387. No laughing matter to Plaintiff Bernstein, who had thought the DOJ and US Attorney General's offices were investigating these crimes and those defendants alleged to have committed them on his behalf, crimes having life and death seriousness to him. The Congressional hearing may show there is top down corruption plaguing the USDOJ and the acts of losing files and delaying investigations maybe intentional crimes to block due process of Plaintiff Bernstein's claims.

388. These claims of government corruption emanating from the top not made yet in the complaint, until after discovery of how corruptions like those described in *Anderson* and the information of the judges under seal, showing the tentacles up and down the chain of command and further information from investigations learned regarding the hierarchy. Whereby after discovery, a similar pattern of top down misuse of the Department of Justice and certain state Attorney General's offices in the various states complained of maybe found and with Spitzer's desecration of the NYAG and

Governor's offices as a brothel, anything is believable in the corruption arena with these offices.

389. Plaintiffs believe federal investigations remain ongoing, as this is what was conveyed to them by DOJ officials who are supposedly investigating these matters and who took enormous evidence in formal meetings, yet it is suspect no determination has ever been made. Now the investigators and the files are missing per the FBI offices and the United States Attorney General's Florida office. Both offices directing the mess and missing cases to the highest level of the USDOJ, the DOJ OIG office under the command of Glenn Fine, whose office then enjoined the FBI OPR and now both are conducting investigations into the matters[116].

390. In fact, the last known act of Luchessi, the main FBI investigator, per Luchessi, after being given the go ahead supposedly by the US AG of Florida, was he was leaving Florida to go work with Moatz who he had spoken to regarding the crimes of false patent filings and the fraud on the United States Patent & Trademark Offices. Plaintiff Bernstein then contacted Moatz who confirmed he had spoken to Luchessi regarding the crimes leading to the IP suspensions. Plaintiffs will call as witness in the matters Moatz and if found, Luchessi, as per the last contact with the USDOJ OIG field officer in Miami, Lonnie Davis, Bernstein was asked if he knew where Luchessi was. The West Palm Beach FBI refusing to give information regarding the investigators or the investigations to Plaintiffs and referring the matters to the top of the DOJ internal affairs division, the DOJ OIG, for further review.

391. It appears crimes in the DOJ emanate from a top down chain of command. This adds preliminary support to Plaintiffs' contentions various agents of the DOJ, and other judicial agencies, both federal and state, may have been infiltrated by a core group of corrupt individuals who conspired to deny due process of Plaintiffs through violations of public offices. Further support through discovery of the matters before Congress regarding torture, War Crimes and crimes against humanity may show the inner workings of the conspiracy, revealing possibly links to the crimes alleged by Plaintiffs, all committed by; you guessed it, criminals disguised as lawyers and public officials.

[116] Exhibit 1 – Evidence Link 597, 600, 644, 645, 540, 550, 552,

392. This widespread systemic coup on the executive, judicial and legislative branches of our government from the top officials down, who are found violating due process rights and even according to the Congressional testimony at the torture hearings, conspiring with DOJ attorneys to evade prosecution by attempting to change law to fit the crime. The DOJ after writing opinions to shield the guilty from prosecution, opinions having no legal basis to justify the opinions, then withdrew them, revealing a pattern of how law is desecrated attempting to allow lawlessness.

393. Revealed is a pattern evidencing the corruption has spread everywhere in this country and affected all kinds of civil rights of citizens, as the Congressional hearing show. Depravation of rights may have even deprived life, violating long standing and absolute war and torture statutes and thus Plaintiffs' claims herein of a larger conspiracy spearheaded by dirty lawyers robbing the USPTO does not seem so far fetched, when compared to how dirty lawyers plotted to violate law for their personal enjoyment of torturing people. Everyone knows, only sadistic people torture others, as valid intelligence gained through making the enemy your friend, through compassion, not through beating one silly.

394. Although Plaintiffs have not made this claim to this Court yet, the top of government is behind the crimes of denying due process, further discovery may reveal astonishing links and Plaintiffs would seek to amend the complaint as this new whistleblower information is researched and new facts regarding the conspiracies are learned.

395. Understanding the widespread and systemic corruption plaguing justice and the courts is fundamental to understanding the similar claims herein.

Response to Preliminary Statement

396. The NYAG appropriately notes their offices and the former AG Spitzer are named defendants and where this should cause them to retain independent counsel, no need, as conflicts are rampant in this case so why not represent oneself in conflict, while representing others in conflict impairing your ability to make impartial decisions to prosecute or not?

397. Even when the call for investigation is from inside whistleblowers who are claiming the corruption against defendants the NYAG is representing such as Cahill, not

claims of mad conspiracy theorists but public officials and eyewitness, we find the NYAG avoiding investigating and instead defending the accused.

398. This sets the stage for the guilty representing the guilty possibly, further using public funds, without guilt from the conflicts inherent in such twisted representations; the crux of the problems before this Court as it relates to state actors (i.e. Proskauer's Krane and Triggs) and the state agencies accused in these matters. Cannot one defendant thus far get not conflicted counsel or conflict counsel that should be investigating them by hiring them?

399. The NYAG defendants incorrectly categorize Plaintiffs as complaining of bad decisions made in the handling of their complaints and this is main premise of their MTD. In fact, it is *Anderson* who claims a conspiracy existed of "whitewashing," file tampering, threats and other crimes by public officials with scienter to deny the public fair and impartial due process. The NYAG however conveniently fails to mention the case of *Anderson,* again, as if avoiding it makes it not exist.

400. Plaintiffs do not complain of bad decisions and instead allege a mass of violations of specific well-established rules, regulations, and procedures of both attorney conduct codes and public office rules regulating the various state defendants, including the NYAG and former AG Spitzer. All allegations and exhibits relating to such violations, are clearly stated in the AC and its incorporated references, included as exhibits again herein in the Proskauer MTD response, exhibited again as the exhibits and the evidence contained in them are all wholly ignored by the NYAG who acts delusional like Proskauer when stating baseless claims.

401. Since the main premise of their argument is false, all conclusions based on the assumption complaints are from bad decisions, are false.

402. Plaintiffs seek this Court to allow us to amend the AC if necessary, including the new language of 42 USC 1983, already stated herein, which should resolve some of the issues raised in the MTD's. If this Court finds the MTD's, have any validity at all. If the pleadings are inadequate in amendable ways in the complex case of RICO and the case under the Sherman Act, Plaintiffs seek leave to amend and correct the AC. In the event Pro Se Plaintiffs have failed to plead correctly, this further supports the case for Pro Bono counsel that will be again requested after Your Honor rules on the MTD's,

per the Court's previous Order. Although Plaintiffs feel the order should be to first rule on the conflicts, before allowing a knowingly conflicted party to move the Court and prejudice Plaintiffs case.

403. To let government officials violating public offices off on a technicality would impart the appearance of impropriety, if having the aid of counsel could have aided in the filings and prevented any travesty of justice. With legal aid, the chances of a gross injustice occurring to let anyone out of these matters, with or without prejudice, before a hearing of the matters in a conflict free forum, are far more likely to succeed.

Response to Statement of Relevant Allegations

Response to the Alleged Conspiracy Involving the Theft of Patent Technology

404. The NYAG asserts various attorneys were "consulted" to secure IP for Plaintiffs. Plaintiffs assert the attorneys were not consulted, rather legally retained to procure IP for Plaintiff Bernstein and the Iviewit Companies. As the premise for this argument is based upon a misrepresentation, the conclusions are premised upon it also fail.

Response to Plaintiffs Complaints to State Agencies

405. The term "whitewash" comes from Anderson's allegations and where the NYAG again fails to even whisper the name or case, it appears to be an attempt to intentionally mislead the Court Plaintiffs actions are wholly predicated on Plaintiffs complaints alone, failing to address the related cases at all. Plaintiffs further complain the state actors and agencies acted in violations of conflict of interest rules and violations of various departments' rules, regulations, procedures, and laws to deny due process rights. Denial of due process then interferes directly with Plaintiffs' rights to recover the constitutionally protected IP.

406. Another pointless point by NYAG where the premise is again false and the argument fails, is that Plaintiffs do not complain of a delay of the transfers of 1st DDC to 2nd DDC complaints against Proskauer, Rubenstein, Krane, MLGWS and Joao as the basis of the complaints filed. In fact, the First Department Court transferred the complaints for immediate investigations, not by Plaintiffs, in Unpublished Orders by the unanimous consent of five justices after thorough review of the matters and evidence submitted them. Another fact the NYAG conveniently attempts to hide from the Court as

if it just did not exist. The exhibits for this are already exhibited herein in the Proskauer MTD response and in Exhibit 1 herein.

407. Plaintiffs again do not complain of a delay in transfer in the Special Inquiry cited in the AC against state defendant Cahill, again exhibited herein for those that missed it the first time in the AC in the Proskauer MTD response. In fact, that complaint transferred by the Chairman of the 1st DDC for investigation, and not Plaintiffs. Instead, Plaintiffs complained of the continued delay of the investigation with no conclusion by the investigator Martin Gold, as if in limbo for several years.

408. Plaintiffs again do not complain in a delay of transfer in the 2nd DDC's failure to investigate the complaints transferred to them for investigation, in accordance with the First Department Court Orders. Plaintiffs instead complain defendant Kearse of the 2nd DDC admitted conflict with Krane and then failed to disclose her conflicts in writing, where she insisted Plaintiffs put their request in writing for her to respond too.

409. Kearse then failed to disclose such conflicts by failing to respond to request for disclosure, as exhibited already herein in the Proskauer MTD response. Plaintiffs complain Kearse violated a court order stating she was not under any obligation to follow the court order, again exhibited in the AC and its incorporated references and again herein in the Proskauer MTD response, as the defendants apparently do not read exhibits incorporated in the filings.

410. Plaintiffs again did not complain of a transfer of cases at all when filing complaints against Kearse and DiGiovanna for failing to docket and dispose of formal complaints against themselves. Disposing them in the garbage, it appears, similar to Anderson's claims of file tampering and in violation of well-established rules, regulations, and procedures of the 2nd DDC. This caused Plaintiffs to lose rights to fair and impartial due process and procedure in the handling of the investigations of attorneys ordered for investigation by the First Department Court and acts to aid and abet the violation of Bernstein's rights to his inventions.

411. Plaintiffs again did not complain of a delay in transfer when complaining Cahill and Krane both lied about Krane's conflicts at the 1st DDC and the First Department Court.

412. Plaintiffs again did not complain of a delay in transfer when complaining defendants from the Second Department Court, Peltzer, and Prudenti, acted outside well-defined disciplinary processes in attempts to dismiss the complaints ordered by the First Department Court for investigation. Dismissed on review and thus failing to complete the court order for formal and procedural investigations, again denying due process and procedure.

413. Plaintiffs again did not complain of a transfer problem when stating the Second Department Court and 2nd DDC tried to change the dismissal on review letter by Kearse stating NO investigation had been done, then changing it with no additional investigation or review by the 2nd DDC, to appear investigation was done. Pelzer and Prudenti tried to make it look like the investigation ordered by the First Department Court had been completed by simply changing the definition of investigation, although nothing after Kearse's review was ever done.

414. Plaintiffs again did not complain of a transfer problem when alleging the Second Department Court, after having not done a formal investigation, violated well-established rules, regulations, and procedures, by proffering conclusions favorable to the attorneys. In fact, the Second Department Court attempted to claim Proskauer did not do IP work for Plaintiffs and by now, Plaintiffs are confident through the attached Exhibit 1 exhibits, this Court sees clearly Proskauer was retained patent counsel. All of the exhibits for these allegations already incorporated herein under the Proskauer MTD response.

415. Opposite the NYAG premise Plaintiffs complain of delays, Plaintiffs did not complain of a delay in transfer of complaints at all. It is apparent instead of dealing with the countless substantive issues of public office violations of well-established rules, regulations, and procedures committed by the defendants represented by the NYAG, to deny Plaintiffs due process and aid and abet in the deprivation of constitutionally protected rights to inventions, the NYAG chose to avoid the facts. Instead, proffering baseless arguments with false premise not supported with a single fact or even example from the AC as to what delays they refer to making it impossible for Plaintiffs properly to respond.

416. Yet, like Proskauer, the NYAG attempts to skirt the facts and evidence, in favor of baseless mischaracterizations of the AC and Plaintiffs' complaints at the state offices. *Anderson* reveals even mishandling and bad decisions may have come from physical abuse of department employees at the threat of their superiors. Further *Anderson* evidences far more than mere bad decisions when stating the officials were involved in document tampering, interfering with official proceedings through intimidation of government agents, intimidation that found Anderson hiding in her offices afraid of these monsters of injustice.

417. Then the NYAG attempts to base much of the rest of the baseless MTD on this factually incorrect premise. Note the lack of any quotes from the AC to support their contentions and no quotes from any of the exhibits chalk full of evidence and witness statements and perfectly stated claims regarding the violations complained of and not an instance of claims of delays.

418. The only claim of improper transfer was against Cahill after he received his complaint in his continuation to act in the matters knowing he was in conflict. Cahill sent a cover letter with the First Department Court orders materially misstating why the complaints transferred by order of the First Department Court for investigation. In fact, Cahill imparts they are being transferred for the 2nd Department to do as they please. More importantly, with complaint already filed against Cahill, Cahill should have recused himself from the matters for conflict. Cahill was now directly involved in the matters but to hell with conflicts or the rules, Cahill continues to act in the matters to proffer false and misleading information to the Second Department Court as already exhibited herein in the Proskauer MTD response.

Response to The Instant Action

419.

Response to ARGUMENT

420.

I. POINT ONE – PLAINTIFFS LACK STANDING TO PURSUE THEIR CLAIMS AGAINST STATE DEFENDANTS

421. Plaintiffs claim they have standing and have satisfied the three elements required already in the AC.

i. Plaintiffs have a concrete legal right to fair and impartial due process under law and to have public service agents perform their duties according to well-established rules and regulations and to be protected from attorney misconduct clearly breaching those ethical rules also clearly established.

ii. Plaintiffs do show an actual connection between the injury and the alleged conduct of the state defendants. Violations of the rules and regulations, cited in the AC and herein, by the state defendants, act to block due process and block prosecution of those found violating the state agencies well-established rules and regulations in the handling of complaints, the result has blocked Plaintiffs efforts to regain their constitutionally protected IP through legal processes.

iii. Plaintiffs show redressing the wrongs in this Court would lead to favorable outcome for Plaintiffs in achieving the return of their IP by prosecuting those that violated well-established rules and regulations that aided and abetted the effort to deny Plaintiffs their rights to the IP.

iv. If Plaintiffs have no interest in the outcome of the complaint processes, which appears an insane argument, why have a complaint process at all. It appears to the common person a complaint process where attorneys relegate justice against their peers is wholly a failure and thus is worse than not having one at all. When our leaders and public officers try to insulate themselves through law for crime, claiming they are above personal and professional liability and thus above law, the Constitution calls for change.

422. The NYAG arguments fail again in that the premises do not equal a logical and reasonable conclusion. Again, they begin with false premises and thus the conclusions are fallacious and cannot lead to logical conclusions. This breakdown in logical reasoning starts with the false premises claimed by the NYAG that Plaintiffs complained of bad decisions, ignoring the many violations of well-established law, rules, regulations, and procedures evidenced in the exhibited complaints. The rest of the MTD snowballs into more and more fallacious arguments in support of the deficient and falsely pled MTD.

423. The NYAG promulgates a false premise in that Plaintiffs are not demanding investigation of their former counsel, as claimed by the NYAG on behalf of

the NY state defendants. Plaintiffs are demanding First Department Court ordered investigations be conducted according to official policy and procedure by non-conflicted investigators.

424. This failure to enforce the First Department Court orders had absolute harmful affect on Plaintiffs. If the investigations had been formally conducted, instead of passed to persons further in conflict, who further aided and abetted the defendants in their scheme to deprive due process through failure to perform their duties, Plaintiffs would have had successful outcome to their complaints long ago and most likely discipline would have led to other investigations. The peeling of the onion would have had a snowball effect.

425. The argument Plaintiffs have no right or interest in the attorney complaints process is ludicrous; Plaintiffs have the right that complaints are legally and procedurally handled within the clearly established rules and procedures of those state agencies. Those that violate the clearly established rules, regulations, and procedures are accountable under the rules, regulations, and procedures, especially if for pecuniary gains.

426. The cases cited by the NYAG in this section in support of their preposterous position presume Plaintiffs are demanding the 1st DDC and 2nd DDC to investigate the complaints, when there are court orders ordering the investigations in some instances. The NYAG fails to address five justices ordered such investigations, not Plaintiffs. The cases cited fail to have in them the component of public office violations affecting the complaint processes and decisions, thereby negating as ineffective the cited cases decided in fair and impartial proceedings without conflicts, violations of public offices and the grand appearance of impropriety. The cases thus are wholly irrelevant in these matters.

427. Laughable is the claim by the NYAG that Plaintiffs have failed to demonstrate the injuries are redressable through decisions by this Court. This Court has the power to order full and formal investigations of the complaints and the subsequent complaints for violations of public offices by senior public officials, such as Cahill, Kearse and Krane through injunction or other remedy of Your Honor. This Court can then oversight that process so this time it is handled according to well-established rules, regulations, and procedures.

428. For example, the Court could request immediate resolution to the Cahill Inquiry, which appears to be in a never-ending investigation of Cahill and Krane's violations of public office. Whereby through this Court's orders, hopefully this time around, if conflicts are ferreted out before they infect the proceedings, due process will result in the named attorneys complained of being disbarred, which would start a snowball effect of legal actions presumably leading to the return of the stolen IP, if it is recoverable. If it is not recoverable at this point, Plaintiffs will need further congressional intervention and perhaps new legislation to fix the problems preventing it from being patentable according to Article 1, Section 8, Clause 8 and return it under its constitutional directive.

II. POINT TWO – PLAINTIFFS PROLIX, CONCLUSORY AND IMPLAUSIBLE CLAIMS ARE SUBJECT TO DISMISSAL PURSUANT TO FED R. CIV. P.8 AND 12 (B) (6).

429. Despite efforts to convince the Court by several attorneys in these matters the AC is prolix, conclusory or implausible is, merely another smoke screen and again not a single example of Jabberwocky put forth in support of the claim for Plaintiffs to respond. The AC does not suffer from prolixity, instead, it is the number of state, federal, and international crimes committed in combination with endless ethical and public office violations calling for a lengthy and highly intelligible account of the matters described in the AC to this Court as presented by Plaintiffs.

430. Other attorneys are calling for even more detail to be added to the AC, to further define the criminal who, what, and where, with even greater specificity for each crime, which will cause the AC to become even more expansive and more mentally challenging for those already having trouble with the length.

431. Plaintiffs AC is short and gives the adverse party notice of the asserted claims when viewed in light of the massive amount of crimes and cover-up crimes it deals with. If the NYAG argument to dismiss on length succeeds as an out for any defendants, the logical conclusion would be crime pays when one commits so many injurious acts to another, a complaint would become lengthy describing them all. This is more ridiculous and unsubstantiated circular logic begging the question and where the state actors cite not one instance of repetitive language or jabberwocky to support such nonsense defenses, it falls short of actually being a defense.

432. Where the AC is deficient, if it is deemed by this Court to be such, Plaintiffs seek leave to amend the AC to be more particular in who did what with greater specificity thereby increasing the length necessary to describe the voluminous crimes and cover-up crimes with particularity for all 180+ defendants. It should be noted there will also be attached to any amended AC, thousands of other exhibits further supporting the claims levied.

433. Plaintiffs' claims are neither conclusory nor vague and supported by factual violations of rules, regulations, and ethics of those involved. In fact, in the incorporated exhibits in the AC, almost all of the alleged violations of the rules, regulations, and ethics of those involved are elaborated in detail with factual evidence and witness.

434. Plaintiffs' claims of conspiratorial activity with the various state actors, the state agencies and the defendants who committed the original crimes is not based on statements of legal conclusions but instead based on factual evidence rules, regulations and violations of public offices have been committed. *Anderson* again offering solid substantive factual and prima facie evidence the state actors and agencies were wholly acting in conspiratorial fashion. The NYAG avoids the factual evidence of *Anderson*, as it would make this defense in the MTD moot.

435. *Anderson* makes Plaintiffs claims of corruptions by public officials directly involved in the Plaintiffs matters not only plausible but also confirmed by an insider. With the judges affirmations under seal by the Court there are now three insiders with information of public office corruptions that should be plausible and credible witnesses for the NYAG, if their offices were not working to block them from testifying in these matters. Further discovery will aid Plaintiffs in showing the defendants better the who, what, where and when of their conspiratorial scheme to deny due process precluding inventor Bernstein from reclaiming the inventions they stole and sabotaged.

436. In fact, being an Attorney General, Connell should know much of the information learned of a legal conspiracy is through discovery and if her defendants did nothing wrong than she should welcome discovery, not try to evade it through a frivolous and baseless MTD.

437. The conspiratorial conclusions thus are not only plausible but also backed with a plethora of factual evidence, eyewitness whistleblowers, and witnesses. Again, in attempting to portray Plaintiffs as making wild claims with no support, the NYAG again fails to look at the facts and paints a picture fraught with misinformation in moving to dismiss on these ridiculous presumptions based on failed logic, premised on false statements and wholly untruthful.

438. The NYAG, who should be well versed in large conspiracies, how they operate and their complexity, now attempts to state because this is a large crime, involving public officials, and a theft in the trillions of dollars involving infiltrating the USPTO, it is not to be believed. The NYAG argument again fails to state any supporting evidence for the, to large to be believed conspiracy theory, such as the lack of existence of evidence to support the claims of a large-scale conspiracy. So now the NYAG uses more failed logic in the Ad Hominem argument Plaintiffs are crazy and the crime is to big to have been committed and thus Plaintiffs claims are false.

439. This ill-fated logic of crazed Plaintiffs argument comes wholly unsupported by any evidence, fact, or witness. Such claims would be hard to believe by any sane person, knowing that; (i) *Anderson* exists factually (ii) the number of related cases with similar claims of public office corruption (iii) the USPTO suspending the IP of the inventors (iv) the number of ongoing federal investigations, including the USPTO OED, DOJ OIG, FBI and SBA, and, (v) the two judges who have information about widespread systemic corruption are waiting in the wings to testify.

440. One wonders who is crazed and if such arguments borders on false pleadings to this Court by the NYAG and further harassment of Plaintiffs through slanderous and unfounded assaults on Plaintiffs. The NYAG and Proskauer worked together on their legal strategies, as recanted by Connell to Plaintiffs and noted to the Court in Connell's letter. Proskauer partners are former NYAG agents and now counsel to former Governor and AG, defendant Spitzer; perhaps they continue to conspire to use such baseless crazed claims in their efforts to derail due process against them. The strategy appears to have two or more people claim a falsity; it will appear truer and will influence the Court, despite the lack of any evidence supporting the claims. Again, why

has the NYAG and their defendants not filed a counterclaim or asked for sanctions if they feel they are being victimized by crazed Plaintiffs?

441. Knowing as demonstrated by their MTD, the state actors cannot address the factual assertions in court and thus continue to hope and pray this Court will not look at the evidence or hear the witnesses before being dismissed, or will be bribed, or if that fails, threatened to submission, as was almost the case with our hero *Anderson*. Plaintiffs have faith the Court will not be influenced by these tools the criminal organization has repeatedly used in the past to evade prosecution of their crimes.

III. POINT THREE – ELEVENTH AMENDMENT IMMUNITY BARS PLAINTIFFS' CLAIMS AGAINST THE STATE DEFENDANTS.

442. If the Eleventh Amendment Immunity were to bar the Plaintiffs' claims against the state defendants by this Court, then Plaintiffs will have to seek a Congressional abrogation of the immunity. If the state defendants are blocking due process, that aids and abets a loss of rights to patentable matter by an inventor and the inventor is unable to secure legal redress to recover the rights, then Congress will have to enact legislation to force a return of the IP. Congress removing any immunity enabling the criminals to evade prosecution by perfecting a crime misusing law to steal patents from inventors and then misusing law to evade prosecution, opposite the Constitution's intent. Prosecution of the crimes and criminals is necessary to resolve the IP crimes and return the inventions to their rightful owners. Congress' ultimate duty under the Constitution is to protect the rights' of inventors to their inventions, with the full weight of congressional power to ensure free commerce versus dictatorial ownership. Congress will have to remove protections allowing criminals to function with immunity as public officials where it creates a block to due process precluding inventors from enforcing their rights to their IP.

443. The real argument here is first a policy argument; the intention of immunity was not to give blanket protection to those who are using judicial or public office powers to commit illegal acts for personal pecuniary gain. The source, amount and who received what interests in the acts to deny due process will be further learned through discovery, Anderson gives a glimpse into the fact much of it may have even come by brute force and intimidation of public officials, not merely payola or attorneys infiltrating the agencies to protect themselves.

444. It has been learned in a related case, (08cv02391) McKeown v The State of New York, et al ("*McKeown*") there are at minimum two witnesses, a retired judge and a state of New York sitting Supreme Court Justice both having eyewitness accounts of wide spread systemic corruptions at the First Department Court[117]. This Court has allowed the affirmations of these whistleblower judges submitted under seal, and it acts as further factual evidence supporting Plaintiffs' claims of corruption in the handling of complaints at the 1st DDC. Until Plaintiffs have fully explored the judges and Anderson information through discovery, immunity should not be granted to any state actor, as the witnesses may prove to have information that would exclude any immunity claims.

445. The second argument against immunity, if the policy level objections overcome is that immunity should strictly be for monetary relief. Monetary damages are only one aspect of the relief Plaintiffs request; and no immunity other than monetary granted, if the Court finds monetary immunity even applies. Plaintiffs do not care about monetary relief from state agencies or their agents. Plaintiffs care the Court mandate the state agencies and actors do their duties according to well-established rules, regulations, and procedures. Further, Plaintiffs seek to have those who violated their rules, regulations and procedures be prosecuted if found guilty, to weed out the corruption ruining the New York courts making a mockery to the public of their grifting ways, giving the appearance criminals are running the courts and the judicial departments. See *Anderson*.

IV. POINT FOUR – ABSOLUTE JUDICIAL, QUASI JUDICIAL AND QUALIFIED IMMUNITY BAR PLAINTIFFS' CLAIMS AGAINST THE INDIVIDUAL STATE DEFENDANTS.

446. Plaintiffs agree when judges or other public officials act within their predefined rules and regulations and are doing their best to provide justice with integrity; they are protected from suit for bad decisions. It is ridiculous to presume they are above the law when they act outside the scope of the rules, for personal pecuniary gains, infiltrating government posts or court positions, to deny due process against themselves or their friends. Again, Plaintiffs do not complain about bad decisions but complain

[117] Exhibit Link to McKeown Order of this Court sealing whistleblower judges affirmations @ http://www.iviewit.tv/CompanyDocs/United%20States%20District%20Court%20Southern%20District%20NY/McKeown/20080612%20McKeown%20Order%20to%20submit%20Judge%20affirmations%20under%20seal.pdf

about violations of well-established rules, regulations, procedures, and judicial conduct codes violated to advance criminal activities by protecting the criminals from prosecution. Certainly, it is not the intent of immunity to protect these actions or else according to the NYAG's argument; these officials are above the law, free from prosecution, personally and professionally, even when they violate the duties of their official positions.

A. Plaintiffs Claims against State Judges are Barred by Absolute Judicial Immunity

447. Again, Plaintiffs presume judges are immune from suit from acts performed in their judicial capacity and if they make a bad call, this seems fair. Again, the question remains if their acts violate their judicial cannons or other law or rules and regulations should they remain free of prosecution and liability like making a bad call. Where Plaintiffs claim the judicial orders for investigation of Proskauer, Krane, Rubenstein, Meltzer and Joao on the surface appeared to be decisions favoring Plaintiffs, as it should have begun a formal and procedural investigation of the attorney complaints, it did not, as the investigations were interfered with by Krane's conflicts and violations of public offices. For failing to enforce their order to investigate and allowing conflicts to interfere, the judges failed to follow well-established rules, regulations, laws, and judicial cannons regulating their behavior. In fact, they have a duty to notify authorities of public officials found violating their public offices and other serious crimes, for example becoming aware attorneys are robbing the USPTO and misusing public offices in conflict to deny due process, as illustrated by Krane and supported in part by Anderson. They could have notified state and federal authorities of what they learned, that caused them to order the three investigations, and they instead derailed it by sending it to further conflicted parties with the guilty versus truly forcing formal investigations. Then they stuck their heads deep in the sand, so deep as to hope they would never hear of the matters again, never caring to find out what happened to the investigations they ordered.

448. Plaintiffs state the judges order for investigation in reality became a mere way to diffuse the situation where Krane and Cahill were caught violating public offices, while appearing to make the right judicial choice based on the overwhelming evidence of Krane and Cahill's violations and placate everyone who witnessed the events. This appears to have been to buy time and further aid and abet the guilty, through an

investigation handled by people admittedly conflicted with those they were charged to investigate.

449. The complaints presumably transferred with the intent of derailing them through further conflicts of interest and violations of well-established rules, regulations, and procedures at the Second Department Court and 2nd DDC. Why did the judges not call in criminal authorities and instead turn it over solely to a disciplinary agency, when many of the crimes were just that, crimes, needing criminal investigators not attorney disciplinary agencies, in fact, a good place to start would have been at the NYAG Public Office Corruptions unit.

450. Plaintiffs state Prudenti and Pelzer acted outside the scope of their duties, in tendering letters in disciplinary proceedings attempting to exonerate those involved at the 2nd DDC and dismiss the complaints against the attorneys ordered for investigation. It should be interesting for this Court to note, when going through the exhibits relating to the 2nd DDC and Second Department Court; they prepare the defenses for those ordered for investigation. Writing letter after letter explaining why investigations were not complete to Plaintiffs, failing to comply with the orders of the First Department Court. Notably they never had Rubenstein, Krane, Joao, Proskauer, or MLGWS even tender a response for themselves. The Court will not find one document at either the 2nd DDC or the Second Department Court from the attorneys that were to be investigated, certainly none of the witnesses listed in the complaints or Motion to the First Department Court were called, nor any of the evidence tested through proper procedure. The file filled with letters from the Second Department Court and 2nd DDC, claiming on official letterhead things like Proskauer did not do patent work for Plaintiff Bernstein or the Iviewit Companies, this after Kearse claimed no investigation was done and where no investigation is done, the rules prohibit advancing a position by the disciplinary agencies. Why did Proskauer partners Krane and Rubenstein not put arguments forth for themselves to the 2nd DDC or Second Department Court? In fact, why did Proskauer partner Krane not have to say one word in his defense, to his friend Kearse handling the matters for him? Why did Kearse represent Krane's defense and then Peltzer and Prudenti, talk about favoritism, the investigators defend you on official letterhead in

violation of their rules? Sounds like what Anderson describes at the 1st DDC has spread to the 2nd DDC.

451. Plaintiffs claim because these justices from the First Department Court and Second Department Court acted outside the scope of their judicial duties to further advance the subterfuge of due process rights of Plaintiffs, in order to cover-up for their members' violations of the well-established rules, regulations and procedures. Using official letters from the departments they represented to advance such subterfuge, no immunity whatsoever can apply.

452. Plaintiffs presume this Court will not align itself with the NYAG's ridiculous assertion judges are above the law, or immune from personal and professional prosecution and free from liability when their actions are aiding and abetting criminal activities of their friends, for remunerations. Anderson offers all the reasons necessary here for further discovery.

453. There is factual evidence justices are willing to come forth to testify to the Court of widespread systemic corruptions in the New York courts where they served. Testimony supporting the factual allegations in the AC, and, where letting anyone with judicial robes escape on immunity, prior to Plaintiffs examining these witnesses, would reek of further subterfuge of Plaintiffs' rights to due process. This would further the appearance of impropriety that the courts continue to protect their colleagues, despite factual evidence of violations of public offices from inside eyewitness whistleblowers that are judges to boot and would embark a suppression of relevant factual evidence and witness.

B. Quasi- Judicial Immunity Bars Plaintiffs' Claims

454.

C. Qualified Immunity Bars Plaintiffs' Claims against the Individual State Defendants

455. Opposite the NYAG contentions, Plaintiffs are suing judges for violations of their public office responsibilities for violating rules, regulations, and procedures governing their official conduct, in order to deny due process to Plaintiffs. Further, the judges' actions alleged to be in conspiratorial efforts with those who committed the original crimes of patent theft and those that covered it up originally. Where there are now three public officials with first hand eyewitness accounts of such violations, it

becomes incumbent on the Court to proceed to allow Plaintiffs full rights to discovery while allowing no one out until these witnesses are examined by Plaintiffs.

456. Filing baseless MTD's as if *Anderson,* the related cases, and the whistleblower justices do not exist as prima facie evidence of public officials violating the law is contemptuous of the Court and an obvious effort to evade trial. *Anderson* stands to mandate that the state actors and other defendants stand trial in this Court and through trial gain vindication if possible, not on legal debauchery such as a technicality. This kind of MTD defense, with damning evidence and witnesses on the doorstep, appears an attempt to evade trial prior to hearing the evidence of these eyewitnesses. The NYAG must be oblivious to the rules of this Court, as filing a baseless MTD that is a waste of time for all, to try to evade prosecution, is cause for sanction by the Court.

457. Such pleadings cross the border of ridiculous, supporting the Plaintiffs contention the guilty are representing the guilty in these matters before this Court, using say anything defenses, in a world of conflicts, again violating well-established rules, regulations, attorney conduct codes and public office rules governing their behavior.

458. If they are not continuing this legal debauchery before this Court, one must question why the defendants are representing themselves or represented by conflicted parties, including the NYAG. Why is there even the appearance of impropriety in their representations, when certainly having such a good case and proud of their work product, the state defendants could hire non-conflicted counsel both personally and professionally to represent their cases? Why cannot one defendant in these matters find qualified non-conflicted counsel?

459. The NYAG claims "Plaintiffs have failed to set forth allegations that the conduct of each individual defendant violated clearly established law. Plaintiffs allege the State defendants failed to properly handle or respond to their various complaints of misconduct." The NYAG should have shown for every defendant the failures of the Plaintiffs to show clearly established laws were violated by the defendants, with no support for their premises they are not sound and nor are the conclusions. Once again, these claims come with no facts for Plaintiffs to respond to, just wide sweeping statements.

460. The NYAG asserts an example to illustrate Plaintiffs failed to show a defendant violated law, they use their offices as example, forgetting such example shows the NYAG self-representing in conflict and violating clearly established rules, regulations, procedures, and attorney conduct codes. Plaintiffs would argue this violation of conflict laws clearly shows the NYAG violating codified attorney conduct codes and violating the rules regulating their office. This would amount to new crimes orchestrated by the criminal enterprise even as of today, causing interference in due process rights and further disabling Plaintiff Bernstein's civil rights to his constitutionally protected inventions.

461. The NYAG has failed to state a cause for any other state defendants to be dismissed on the ground Plaintiff failed to state a violation of law and thus it is presumed the rest of the defendants could not be let out based on the single example presented. The AC is replete with factual evidence of wrongdoing for all the defendants, including the NYAG, showing the violations of well-established rules, regulations and procedures and now supported in part by witnesses such as *Anderson* and the two justices.

462. Finally, Plaintiffs allege the defendant NYAG, under defendant Eliot Spitzer's reign, did not even respond to formal written requests for investigation where Plaintiffs were directed by other officials to that office to file such request for investigation. It was not bad decisions not to investigate that Plaintiffs complain of, in fact, any decision would have been nice, it was a failure to respond at all outside well-established rules of that agency. A failure that maybe proven with further discovery to have been influenced by the fact Spitzer's private and perhaps professional counsel while the NYAG, was Proskauer, even more conflict for the NYAG and Spitzer in these matters.

463. Connell, to the Court should have addressed the relationship when Plaintiffs first approached Your Honor with the information of the NYAG's possible conflicts. Instead, this Court addressed the conflict issue for her by ordering we wait to determine conflict by hoping Connell, if conflict existed, would self-induce an admission the NYAG is conflicted in the matters. Plaintiffs are unclear why the Court did not ask Connell to put forth a response if there was conflict with their representation instead answering for the NYAG.

464. After the NYAG debacle whereby Spitzer has ruined the image of the NYAG's office for years to come, his counsel even in his ProstitutionGate is a former NYAG office official, who transferred from the NYAG to Proskauer. Where it begets one to wonder who is running the NYAG office, Proskauer or the NYAG and if this cozy relationship has allowed Proskauer access through their representation, to the files of Plaintiffs and again allowing for interference with due process through violations of well-established laws, rules, regulations and procedures of public offices.

465. Spitzer's office should have responded with at minimum with a statement they might have conflict with investigating their counsel Proskauer that could influence their decisions to investigate or not. Nope, not a single word about the relation, in fact not a single word back at all, not a call returned, just a complete failure to respond, violating Plaintiffs rights to be assured fair and impartial due process in the handling of complaints and the right to have complaints at minimum formally docketed and disposed of with some decision. Again, these actions are outside clearly established laws, rules and regulations covering those offices actions and the handling of complaints.

V. POINT FIVE – PLAINTIFFS FAIL TO STATE A CLAIM FOR VIOLATION OF THEIR DUE PROCESS RIGHTS

A. Plaintiffs Have No Due Process Right to a Particular Outcome in an Attorney Grievance Proceeding.

466. Circular reasoning is apparent here as the argument again based on the false premise Plaintiffs are complaining about "mishandled" complaints where this is wholly untrue as Plaintiffs are complaining about violations of specific rules, regulations and ethical violations governing the state defendants at their various agencies. Again, the NYAG in self-representation and representation of the state defendants fails to acknowledge, although replete in the AC and the incorporated exhibits contained therein and again herein, the facts in the matter.

467. Another false premise is Plaintiffs have no protectable property or liberty interests in the handling of complaints. This is untrue. Plaintiff Bernstein has interests in the constitutionally protected IP, as guaranteed in Article 1, Section 8, Clause 8 and the denial of due process at the grievance committee's clearly interferes with Plaintiffs rights to recover his IP through civil remedies, including attorney grievance proceedings. At maximum, disciplinary actions could cause disbarment of the attorneys involved and

begin actions leading to the recovery of the IP. Plaintiffs also have rights to fair and impartial handling of the complaints filed following the well-established rules, regulations, and procedures governing those agencies.

468. Plaintiffs have rights that grievance proceedings will not harm them, by aiding and abetting the actions of the attorneys complained of, the attorneys they are supposed to be investigating. Concerning the right to life, it maybe evidenced the dereliction of duties claimed in the AC, by the disciplinary agencies, has enabled someone to plant a bomb in inventor Bernstein's family minivan in attempts to murder them. The dereliction of duties aided and abetted even that crime, as if they had done their duties timely and within the rules, the bombing may never have occurred.

469. The claims of *Anderson* in and of themselves are claims asserted having definite impact on the Iviewit Companies and Plaintiffs matters before the Court. Anderson names Iviewit in her complaint and shows violations to the Fourteenth Amendment to the United States Constitution. The states through direct actions or inactions of their agencies and their actors, acting outside the well-established rules, regulations, and procedures, have deprived Plaintiffs of due process, which has prevented recovery of property, including IP protected under the Constitution, misusing their public offices to do so. Obviously, Anderson's claims show the processes afforded Plaintiffs was far less than due and in fact, it may have criminal overtones that are the basis for loss of Plaintiffs' rights civilly. Again, the NYAG wholly avoids the substantive fact of *Anderson* in efforts to assert a failure to state a claim argument.

470. The NYAG, in efforts to derail substantive information from the eyewitness justices mentioned herein[118], is now found attempting to derail the two justices from testifying in these matters and preclude them from these matters by submitting a request to this Court to have them kicked out, gives a overwhelming appearance of impropriety and possible further public office corruption.

471. Connell is representing the NYAG, NYAG former employees and the New York state defendants in these matters, and now found requesting this Court to

[118] Where this information should be unsealed for perusal in this related case, as it may have information that is impetrative to the life of Plaintiff Bernstein and may prevent yet a second terroristic styled attack on he and his family as exhibited in the AC at the incorporated by reference website's homepage @ www.iviewit.tv .

block damning evidence against public officials from whistleblowers. Evidence if true, that would obligate her offices to investigate the public officials exposed by the eyewitness judges and Anderson, perhaps some of the ones she now represents, certainly Cahill needs immediate investigation by the NYAG as Anderson mandates that already in her claims of criminal activity at the 1st DDC.

472. Connell appears to be attempting on the other hand to suppress evidence though that could harm her defendants and simultaneously violating her obligation to the public that employs her, not the defendants, to seek out the two judges and Anderson's testimony and prosecute any wrongdoings found.

473. The appearance of impropriety this portrays is outrageous and when such defense by Connell of defendants comes on public funds, funds to eradicate public office corruptions, her actions are unbelievable. Connell's rush to dismiss the justices testimony and statements, instead of embrace them for the juicy truth of public corruptions it exposes, corruptions the NYAG should be frothing to prosecute, reveals far more than merely trying to fairly represent those she should now be compelled to investigate.

474. The claims of *Anderson,* factual claims asserted by an eyewitness insider, have definite impact on the Iviewit Companies matters. Anderson names Iviewit in her original complaint and evidences that in violation to the Fourteenth Amendment to the United States Constitution, the states through direct actions or inactions of their agencies and their actors, acting outside well-established rules, regulations and procedures, have deprived Plaintiffs of due process. The failure to provide due process interferes with Plaintiffs ability to recover their property, including IP protected under the Constitution.

475. Obviously, Anderson's claims show the processes afforded Plaintiffs were far less than due and in fact, may have criminal overtones to the acts causing civil violations of Plaintiffs' rights. Again, the NYAG wholly avoids this substantive fact in efforts to assert a failure to state a claim.

B. To the extent that Plaintiffs Assert a Due Process Claim Through a § 1983 Claim, Their Claims Are Defective.

476.

1. Many of Plaintiffs Claims Are Time Barred

477. Time barred arguments also rely on defective arguments attempting to deny the facts in this matter. To establish a time clock to start the Statutes of Limitations tolling, would require no instances of denial of due process preventing Plaintiffs from asserting their rights in civil, criminal, and disciplinary proceedings timely. No interference in their rights to fair and impartial investigations of the criminal, civil, or disciplinary complaints and suppression of evidence presented to investigators directly led to the expiration of their rights due to a Statute of Limitations claim. Where the well-established rules, laws, procedures, ethical conduct codes, judicial cannons, and duties to public office have been broken, it is strange to hear them all argue for the enforcement of well-established rules and regulations against to further suppress Plaintiffs' rights and evade prosecution, never ending legal debauchery to avoid court. It is pathetic all these legal actors attempt to evade court instead of put up defense to their wonderful work paid for by hard working citizens, like the Wizard of Oz, hiding from the public behind smoke screens of power and cowering the minute their delusional grandeur challenged.

478. This statute argument presumes if one can deny a person due process rights through violations of clearly established rules, laws, procedures, regulations and conduct codes, long enough to beat the statues of limitations clock they win forever and cannot be held accountable for their crimes. They can next claim although the person attempted to get justice timely yet repeatedly denied due process illegally, it does not matter as the clock has runneth out, thus leading to the obvious conclusion; crime pays, especially when committed by those entrusted with the rule of law who misuse those laws to commit crimes and evade prosecution. The publics confidence in the courts and the legal system would be shattered, especially where those involved in upholding justice may hold instead a piece of the illegally gained pie.

479. If this Court finds an amendable error in how these claims were stated or needs them to be further defined by specifically stating every known act to every know actor and law violated, Plaintiffs seek leave to amend and correct such defect. In such time, Plaintiffs will fully state claims with adequate evidence to support all crimes alleged, although when looking at most of the complaints exhibited in the AC and herein again, in Exhibit 1, it appears an exercise in redundancy.

2. Plaintiffs Fail to State a Claim Under § 1983 Against the State and Its Agencies

480. Although Plaintiffs feel they have plead properly in regard to stating claims, if this Court does find an amendable error in how these claims were stated against individuals and agencies or needs it to be further defined by act to actor or law violated to exact person, Plaintiffs seek leave to amend and correct such defect.

3. Plaintiffs Fail to State a Claim Under § 1983 Against the Individual State Defendants Based Upon the Lack of Allegations of Their Personal Involvement in the Purported Constitutional Violations

481. Plaintiffs feel they have plead properly concerning stating claims against the individual state defendants, factually alleging their personal involvement in aiding and abetting violations of Plaintiffs federally protected rights through misuse of their public offices. Where one wishes to avoid the facts in the AC and the incorporated exhibits against the state defendants, through closed eyes, one can then deny they exist and state they fail to state claims showing and factually supporting through exhibits, the individuals violations.

482. If this Court does find an amendable error in how these claims were stated against individuals and agencies, or needs it to be further defined by act to actor or law violated to exact person, Plaintiffs seek leave to amend and correct such defect.

VI. POINT VI – PLAINTIFFS FAIL TO STATE A CIVIL RICO CLAIM

483. Plaintiffs feel they have pled properly regarding stating a Civil RICO claim. If this Court does find an amendable error in how these claims were stated against individuals and agencies and needs it to be further defined and modified by act to actor, law violated to exact person, etc., Plaintiffs seek leave to amend and correct such defect.

484. Plaintiffs RICO claim in the AC and the incorporated exhibits addresses the state defendants' participation in the conspiracy, in both their official and individual capacities and how they misused public offices to enable the criminal enterprise to evade prosecution in official proceedings.

VII. Point VII – Plaintiffs Fail to State a Claim for a Sherman Act Violation

485. Plaintiffs feel they have pled properly regarding stating claims concerning the Sherman Act. If this Court does find an amendable error in how these claims were stated against individuals and agencies and needs it to be further defined and modified by

act to actor, law violated to exact person, etc., Plaintiffs seek leave to amend and correct such defect.

VIII. Point VIII – No Private Right of Action Exists for Alleged Violations of Federal or State Criminal Laws

486. The state and possibly federal officials have failed their public office duties as alleged in the AC and Plaintiffs have tried here to bring the crimes committed against Plaintiffs criminally to the Court's attention only. In RICO cases, it is imperative to show the violations of law criminally in seeking civil remedies for such crimes; we are not intentionally asking the Court to hear criminal matters other than how they affected Plaintiffs' rights civilly. Where those who are supposed to represent the publics' interests, especially for crimes against government agencies like the 1st DDC, the USPTO and the SBA, are now instead found representing the accused or aiding and abetting the suppression of the publics' interests, it is even more important to bring this to the Court's attention.

487. Although Plaintiffs know, they cannot prosecute criminally and only have civil remedy, when there is a catastrophic failure in justice due to the aiding and abetting factor, we thought it important to lay out for the Courts the criminal law in the AC, as it results in the civil damages. If the investigators and the investigations are also being blocked to deny due process in violation of well-established rules, regulations and procedures of then nobody is investigating these crimes against the United States, foreign nations, Plaintiffs, the Iviewit Companies shareholders, as the fox is in the henhouse

488. The NYAG, for example, is conflicted in their representation of those they should be investigating by their offices on *Anderson's* claims alone. *Anderson* should have forced the NYAG to uphold their duty to represent the public's interest and defend the heroic whistleblower efforts of *Anderson* by investigating their client defendants, not defending them against the whistleblower, something is wrong. We instead find the NYAG acting instead to suppress evidence in matters regarding the affirmations of the two justices of the New York Courts, trying to protect the guilty. Instead of fulfilling their obligations to the public and the taxpayers' paying them to investigate, for example, Cahill, instead spending the public's money defending Cahill versus prosecuting him and trying to hide relevant eyewitness testimony against him.

489. Where the system of jurisprudence and justice fails, it becomes incumbent on the citizen to state the criminal acts that are failing investigation with due process, and seek the Court through injunctive reliefs to have those criminal acts investigated with fair and impartial due process, upholding the clearly established laws, rules, regulations and procedures of official investigations. We do not seek to prosecute the guilty for their criminal acts in this Court; we seek to force injunctive relief to remove blocks caused by conflicts and obfuscations of duties preventing criminal prosecutions, which prevent Plaintiff Bernstein from recovering his IP through civil remedies as well, in violation of the Constitution's intent to protect those rights. Plaintiffs are asking the Court to have honest prosecutors with no interests, review the criminal acts, and prosecute where necessary, *Anderson* provides solid rationale for these reliefs by this Court.

490. In a meeting with Plaintiffs and FBI agents, including one who specialized in crimes committed by law firms, Special Agent Stephen Luchessi and his partner, after reviewing the work done by Plaintiffs applauded their investigative work product. That work, almost identical to the work of the AC and incorporated RICO statement. Lucchesi stating after reviewing the evidence matching the crimes with the players, including the criminal enterprise crime charts, that Plaintiffs were dead on in their representations of the crimes, all several hundred of them and how the conspiracy was operating. Plaintiffs put all of this information it into an interactive multidisc multimedia library given to the FBI with supporting original documents containing most of the work investigators typically do regarding conducting investigations, testing evidence, formulating claims, etc. He then applauded the efforts for accuracy[119].

491. Although there were a few crimes Plaintiffs may have included that were irrelevant, due to lack of specialized legal degree, Luchessi and his partner after hours of review of the evidence felt overall we had hit the nail on the head and took the matters to United States Attorney for the Southern District of Florida purportedly. Luchessi cautioned only one thing, to focus on the fraud against the United States Patent &

[119] Plaintiff Bernstein has a Bachelor of Science Degree from the University of Wisconsin in Psychology and worked at the Waupun Penitentiary, a maximum-security facility, interviewing prisoners for psychological statistical data computation used to aid investigators in assessing criminal minds. This work involved reading entire criminal profiles of some of Wisconsin's best criminals at the time, reading through their court case histories, and preparing assessments for the Professors he worked under as part of his accredited studies. This work is similar to the work that went into the highly intelligible AC based on the evidence and witness regarding the crimes described therein.

Trademark Office and Plaintiffs through fraudulent declarations of oath, as it was irrefutable evidence and not to let the hundreds of others crimes, although valid, make it too complex to explain on one side of a napkin or words to that effect. It is a shame the NYAG, instead views the excellent and hard work Plaintiffs have done in absence of investigators fulfilling their duties as evidenced in *Anderson*, by Pro Se litigants, as deficient. While the attempt to describe these hundreds of state, federal and international crimes perhaps suffers from a lack of full and formal understanding of law, if investigators such as the NYAG were doing their prosecutorial duties versus defending those they should prosecute, Plaintiffs would not have to do this exercise and it would be more clearly stated by professional prosecutors.

Response to CONCLUSION

492.

Plaintiffs' Conclusions

493. Any attempt to dismiss the AC on any grounds, appears far too early when viewed in light of *Anderson* and the two justices who have affirmed statements and are willing to provide eyewitness testimony of widespread systemic corruptions in public offices, unless the Court is willing to suppress such evidence as the NYAG begs the Court.

494. The attempt to move to dismiss by failing to assert truthful and factual pleadings, is a sign of weakness of the state defendants. Plaintiffs have merely been trying to get these matters heard with fair and impartial due process, free of conflicts; it makes one wonder why the defendants are afraid of such courtroom resolution, if they are comfortable, they have not violated clearly established rules, regulations, procedures, and public office duties. Again, they should be proud of their work and want their casework displayed as defense of their actions. This way their decisions evaluated by a jury could ratify their actions but their claims for immunity on a technical default, mask fear, fear their actions violated the rules.

495. Fear of the courtroom and its rules and regulations, fear of judges and juries, by members of the legal community against Pro Se Plaintiffs something is amiss. It should be a slam-dunk in the legal David v. Goliath of our times but we find conflicted

counsel representing false pleadings before the Court in efforts to hide from the very real factual evidence against them, to hide from a fair and impartial hearing of the facts.

496. The NYAG should be ashamed of this pleading and then sanctioned for such frivolous filing by this Court.

497. The NYAG should cease using public funds to represent in conflict their defendants, including themselves and all those involved in this farce at the NYAG, those conflicts and violations of this Court's rules met with the full injunctive force of this Court. Anyone found in conflict removed from their public office and sent for formal investigations and prosecution for this sham on this great Court.

RESPONSE TO FOLEY

RESPONSE TO - PRELIMINARY STATEMENT

498. Plaintiffs did filed on May 12, 2008 the AC as May 10, 2008 was Saturday per the Court's Pro Se office this was proper.

499. Plaintiffs OC does have specific factual allegations and where intentionally short in describing the total conspiracy, as a function of being in a hurry to support our hero *Anderson,* and Plaintiffs notified this Court from the start of the intent to further expand the OC and the RICO element it contained, through amending the OC.

500. The OC did include factual allegations and gave ample evidence of certain elements of the conspiracy, mostly relating to the public office corruptions supporting Anderson's micro-conspiracy, versus the overall conspiracy. Nonetheless, the factual allegations that conspiratorial public office corruption existed in the various state disciplinary agencies, including the VSB which handled Foley's Dick complaint, was not only alleged but supported factually by an inside whistleblower at the 1st DDC and now perhaps in the related *McKeown* case two more judges.

501. Foley's premise the OC was "patently" deficient and "contained no specific factual allegations, is a false premise and this claim is wholly devoid of specific examples for Plaintiffs to respond to, another wide sweeping statement with no facts to support the premises and shoddy conclusions.

502. Foley, as with the other defendants' MTD's, counts the size of the complaint wrong, as they count the paragraphs and fail to deal with the hundreds of paragraphs contained in the exhibits in the OC and AC. Exhibits containing factual

evidence and well stated claims to the crimes Foley have committed to deny Plaintiffs their rights to their constitutionally protected IP, exhibited with great specificity. Complaints exhibited, such as Plaintiffs response to Dick's VSB rebuttal is over 2000 pages, exhibited already herein in the Proskauer MTD and in the AC, yet Foley suffers the same lack of ability to look at the factual claims exhibited as if they did not exist.

503. Add those exhibits applying to Dick and you have several thousand more paragraphs in the AC, filled with evidence and specificity supporting the allegations in the AC.

504. The argument that because the AC "adds many new defendants and includes hundred of paragraphs of statutes allegedly violated," the Court should dismiss the entire complaint, as nothing more than "verbiage," is a ridiculous claim. Foley fails to give one reason for exclusion of the new defendants or one example they did not commit the crimes alleged against them in the hundreds of paragraphs of alleged violations, making it a factually a worthless statement Plaintiffs cannot logically respond to, as it has no premises and thus no conclusions, mere verbiage.

505. Foley states the AC does not state plausible causes of actions and again gives not one example to hang their hat on. Foley claims it does not give particularity for "all" the claims and yet fails to cite an instance for Plaintiffs to respond to, no facts, no quotes to show the jabberwocky they claim is supported, more hot air.

506. Foley states the AC does not differentiate who did what crimes but again does not cite a single instance to hang their argument on. In fact, they state the AC "rarely" shows correlation, so what about the rare times when it did, why not answer to those instances. Either way, if the Court finds it necessary, Plaintiffs will amend the AC further, to specify the Foley actors more specifically with the Foley crimes.

507. Foley, as with Proskauer, accused of being main ringleaders of this criminal enterprise and through their orders, crimes were committed directly by their members or in concert with other defendants but as original conspirators, they are accountable for all crimes committed, directly or indirectly. For instance, they may plead they had no involvement with the corporate setup which is true but when viewed knowing the corporate setup was to enable Foley to illegally transfer IP assets into, they become guilty of both acts as they are dependent on each other to effectuate the IP theft.

508. The same argument stated in the Proskauer and NYAG MTD's regarding time barring not being applicable in instances where Plaintiffs, again denied due process through violations of well-established rules, regulations, and procedures, is again made here. Where Plaintiffs timely attempted to protect their civil claims in the Proskauer Civil Billing Suit, the disciplinary complaints and the investigations at the state and federal level but again and again denied due process. Until due process restored, the tolling cannot begin.

509. Plaintiffs feel they pled the RICO and fraud counts with enough particularity and detail as possible at this time, as many elements of the conspiracy remain unknown, including how the criminal enterprise operates entirely. *Anderson* provides the first glimpse from an insider of how due process was evaded by public officers conspiring together to violate public offices to enable the criminal enterprise to evade prosecution.

510. Plaintiffs feel they pled in the AC and again herein, how the conspiracy operated with Dick, Utley, and Wheeler, immediately before they encountered Plaintiff Bernstein. Operating a similar IP scheme at Utley's former employer Diamond Turf Equipment, Inc., the AC is replete with factual evidence to support this claim. Of course, you would have to open the exhibits and examine the evidence to see these claims. This prior history establishes the fundamental premise of any good criminal organization, that there are various players coming together repeatedly to perform specific criminal activities, in this instance, to deprive inventors of their constitutionally protected IP through committing fraud on the USPTO and foreign patent offices.

511. The exhibits show, and for ease of reference one need start with Exhibit 1-Evidence ~ Link 357, which has evidence clearly showing under Dick and Utley's direction, Boehm and Becker filed patently fraudulent patents in the United States and abroad. This 2,881 page exhibit, exhibited in the AC and again already herein, is a perfect example of just how damning the incorporated exhibits are and why defendants cannot bear to open them or respond to them. The rebuttal to Dick's response to the original VSB complaint is less than 10 pages of complaint and then 2,871 pages of exhibits supporting many of the same allegations alleged herein with factual evidence. Evidence such as, patent documents (contradicting Foley's MTD claim no IP documents

were exhibited), including the fraudulent patent documents filed with the USPTO and EPO, transcripts of Foley partners admitting errors in patents, stating patents supposed to have been assigned were not and factual statements from witnesses to support the Plaintiffs contentions. As with all the prior complaints exhibited herein and in the AC, those complaints were pled fine and filled with evidence which because they were never investigated by the VSB, a preliminary investigation claimed, they remain unchallenged and remain as solid evidence of our claims.

512. In fact, Plaintiffs believe in a fair and impartial venue, affording unmolested due process versus the conflict-riddled reviews done by the state agencies, the evidence in those complaints remains irrefutable evidence of the crimes, and damages caused Plaintiffs, based on the available knowledge at the time. We challenge anyone to argue those facts and evidence, such as the USPTO suspension letters issued pending investigation of the fraudulent patent applications filed by Foley and MLGWS, all presented in the exhibited rebuttal by Plaintiffs to Dick's VSB bar complaint response.

513. After review of the exhibit by non-conflicted parties, assuming unmolested due process and procedure, one cannot claim there is not enough substantive cause supported by evidence for Foley and Dick to be at minimum tried in this Court. If they have nothing to worry about, they will not need to worry if Statutes of Limitations have run out or Plaintiffs pled properly, they will feel confident explaining why the patents are suspended and why Dick is under federal patent bar investigation by Moatz, etc. Again, closing ones eyes to factual evidence and proffering hot air arguments with no facts backing them appears to be their only hope.

514. As Foley astutely notes to the Court they violated much of the United States Criminal Code and three or four states criminal codes, resulting in a hundreds of laws being broken and yet they do not state why such allegations are not true or which crimes they claim not to have committed. Those hundreds of crimes also constitute causes for civil remedies all very "plausible" for Plaintiffs to recover through this Court, whether stated accurately or not at this time due to Plaintiffs limited legal knowledge and most likely amendable to be better pled in any amended AC.

515. Plaintiffs claim they have defined the relevant market in the AC and specifically in the RICO section and clearly state the injury to competition this patent

racket causes to the injured inventors who form the basis of competition in the technology IP market.

516. Foley claims Bernstein and Lamont cannot represent the former shareholders and Plaintiffs are not sure what precedent rules under the circumstances of the corporate frauds alleged committed. Plaintiffs will let the Court determine what happens to shareholders rights in these instances and their rights to the patents they were investing in, when these complex corporate and patent frauds are committed. Either way, Bernstein's individual claims to the IP should suffice for the suit, where such patent rights will revert to him individually with the other inventors, as the corporate scheme is unraveled, and those assignments terminated due to the illegal ways gained.

517. What does this leave the former shareholders, most likely, large lawsuits against their former counsel and a commensurate portion of the recoveries and many who are aware of what is going on are awaiting the various results of the investigations, including at the USPTO and federal level to form the basis of their complaints, as information is still being learned?

518. When the patents are returned to their rightful owners, the inventors, those former shareholders who were not involved in the artifices to defraud, will then have a claim with inventor Bernstein for commensurate interests in the patents recovered to what they had in the corporate scheme

519. Either way, Plaintiff Bernstein sued on behalf of personal stock interests if possible but more importantly on his personal interest in the inventions. The actions of the attorney's by Proskauer and Foley are the cause of loss of rights to his inventions, currently suspended in some instance, in others perhaps forever lost until an act of Congress intervenes and thus has every right to sue for everything they are worth, which is mostly from his inventions anyway.

520. Foley concludes this banter in typical bizarre logic whereby they whine to the Court to "end the misguided campaign against the Foley Defendants" yet are trying to run out on a falsely pled MTD. Why ask the Court to end the "misguided campaign" instead of ending it through legal remedy? Foley notably stops short of even asking the Court to issue sanctions formally against Plaintiff Bernstein, as this would mean they

would have to prove to the Court that the claims in the AC are not instead a well-guided, heat-seeking missile, between the eyes of Foley.

521. Again, defamatory statements to cast a spell Plaintiffs are deranged, yet no counterclaim, no suit for harassment, no supporting evidence, or even a quote to support their claims of "reckless accusations" and "misguided campaigns." Based on this baseless banter of false premises, with no motive or rational to support the illogicality of the conclusion, the claims constitute further harassment and character assassination of Bernstein (Lamont not accused of such in this MTD), whereby they then brazenly ask to be dismissed from the complaint.

522. Plaintiffs, unlike defendants, do ask the Court, as with Proskauer, to cite the Foley defendants and their counsel for making these slanderous statements and contentions in frivolous filings, without a single shred of evidence to support their claims and too afraid to file legal action, against little ol' Pro Se inventor Bernstein to stop such purported attack on them. Powerful, "premiere" law firm, the only thing missing is some teardrops on the MTD filing.

RESPONSE TO - STATEMENT OF FACTS

523. Grebe is a defendant as he did interface with Plaintiffs by referring them to his underlings, defendant Ralf Boer and Jim Clark, when Plaintiffs came to Foley not knowing they were intimately involved with Proskauer, to offer them an out, in exchange for testimony against Proskauer.

524. Grebe was the Chairman & CEO of Foley at the time the crimes were committed, should not mind being a defendant; if the ship sinks, he was the person who drove head on into the visible iceberg and then jumped ship to head the The Lynde and Harry Bradley Foundation, a strange move.

525. Learning of the Proskauer and Foley relation, that starts to the best of our knowledge now with Friedkin, as exhibited already herein, one sees Foley was most likely in on the crimes with Proskauer from the start and therefore responsible directly or indirectly for all crimes .

526. Imagine Grebe, learning through his underlings of the potential liability to the firm and Plaintiffs came to make an offer to pin the crimes on Dick, Utley, and Proskauer, letting Foley off the hook, and instead of taking that offer, the firm turned

their back and Grebe went running out the door of the firm. Running and probably attempting fraudulently to convey his assets, in the event Plaintiffs succeed in pressing our claims.

527. Presumably, as captain of the ship, once he was cognizant of the crimes alleged at the time against Dick and the irrefutable evidence against him, he then spearheaded the campaign to deny due process to evade prosecution, as he had everything to lose. Perhaps he used his Republican National Committee ("RNC") role, as general counsel, to influence and recruit players to aid in the denial of due process, further discovery to explore this claim is necessary.

528. It is interesting Grebe was one of, if not the largest backer of the Bush regime. In one of the most damaging crimes levied against the Bush administration, the Valerie Plame affair; it is found the RNC was running a backchannel email service to the Whitehouse to commit crimes and keep the information from Presidential record retention laws and prying eyes. An email server with only certain republicans using it to circumvent the eyes of the public, used for small little crimes like exposing a spy whose husband did not agree to promulgate false information to the public to thrust the country into a war of aggression against Iraq, another violation of Jus Cogens prohibitions.

529. The RNC then under congressional investigatory request appears to have lost an estimated five million emails, of national importance and then claimed to have overwritten their backups. Was Grebe using the RNC to backchannel orders to his cronies at the Whitehouse and perhaps at the DOJ, regarding suppressing due process regarding Iviewit Companies? Further discovery is necessary to explore these possible inroads as to who gave the orders within the various departments that denied due process rights to Plaintiffs.

530. Foley astutely notes the Plaintiffs failed to state who the owners, assignees, and even the inventors of the IP are. Yet fail to see that the deficiency, as stated in the AC and supported with factual evidence, is due to Foley's criminal follies keeping the information a mystery from Plaintiffs, Iviewit Companies shareholders, investors like the SBA. Mysteries in certain instances, per Moatz, that will take an act of Congress to find out who owns them, even who invented them, as none of the information regarding those applications' owners, inventors, or assignees are those listed

on the IP dockets of any of the IP firms that represented Iviewit Companies and Plaintiff Bernstein. Mysteries precluding Plaintiff Bernstein from monetizing his IP by precluding him from entry to relevant markets through a host of crimes Foley is central too, in fact several hundred paragraphs of them that have the IP suspended and in others names.

531. Again, in the 2,881-page rebuttal to the Dick response, Plaintiffs actually show the Court and defendants who Foley stated were owners, assignees, inventors, per the IP dockets of Foley. Then Plaintiffs compare it to the owners, assignees, inventors listed according to the USPTO and the variance is massive.

532. The rebuttal compares and contrasts the two sets of patent applications in detail, contrary again to Foley's claims. The rebuttal exhibited in the AC has evidence showing (i) the bad math in the filings (ii) exhibits of the applications filed intentionally with wrong inventors (iii) has taped transcripts of Foley defendants' admissions false statements were made to Wachovia Securities and investors regarding assignments, and, (iv) has evidence of Dick perjuring himself and putting forth fraudulent documents in an official proceeding. Again, one would have had to simply open the exhibit, look at the exhibits incorporated and yes, it is all there, right under their nose and blind to their eyes.

533. It is interesting to note Proskauer claims they ceased representation in 2001 and two weeks later sued for bills but Foley's claims contradict that carefully crafted lie with a more accurate depiction, "the Iviewit Companies terminated their relationship with Proskauer and Foley." Plaintiffs will let the Court determine if the law firms were terminated, per Foley's account or ceased representation for outstanding bills, per Proskauer's account, as these law firms appear to be unable to keep their lies straight. With allegations flying at the time of termination regarding the patent problems, the two sets of patents, the patents in Utley's name directed to his home, the Arthur Andersen audit asking questions about companies no shareholders could be found having interest in; it becomes almost too obvious that they were terminated for good cause.

RESPONSE TO – ARGUMENT

534. Plaintiffs claim plenty of facts to support the crimes in the AC and the exhibits incorporated therein, comprising thousands of pages of additional evidence, including patent documents, depositions, taped transcripts, tapes, former shareholders and patent interest holder statements, police reports, etc. all will further substantiate the

claims. In no way did Plaintiffs merely recite law, they studied it and where they found a particular crime fit a particular code, they cited the crime, the law, the civil relief if available and in most instances, where known, the players.

535. Plaintiffs claim they pled the RICO claim with great particularity and supported by solid evidence, exhibited in the AC, including the 870+ evidentiary links to various evidence contained in Exhibit 1. Plaintiffs feel since due process has been interfered with, denying the complaints a fair chance, much of the information and evidence in the complaints is still valid and if investigated properly will yield charges on most of the causes of actions, if not all.

536. For Foley to seek a dismissal on the ground evidence and claims are non-existent is ridiculous, especially with Anderson and the two justices supporting claims there is internal corruption in the complaint process that precludes due process even now. Oh yes, Foley has failed to mention the name Anderson in their MTD too. The information regarding *Anderson* clearly stated in the AC. The state agencies appear to have worked in coordinated effort, there are now certain new evidentiary materials showing Foley, in their relation as counsel to VSB, the Commonwealth of Virginia, and the VAAG may have influenced the complaint process of Dick.

537. This relationship appears similar to the Proskauer links at the 1st DDC via Proskauer's relation, as counsel, to former NYAG Spitzer while he controlled the NYAG. It appears possible, and further discovery is necessary into the relations between the state attorney disciplinary agencies and the state Attorney Generals, blocking due process can achieved to insulate from prosecution state agencies and actors with a few infiltrations and relations in the right places.

538. Interesting how Proskauer, a former real estate firm, after becoming a dominant IP firm after learning of the inventions, then buffed up their white-collar defense department and staffed it with many former NYAG senior officials. Then while preparing their defenses for this suit, Proskauer and Foley just picked up the phone and acted as self-counsel in conflict to the NYAG Connell, and per Connell they spoke of formulating defenses against Plaintiffs together with Foley. Wow, Plaintiffs cannot even get Connell to respond to formal written requests to investigate her defendant's, at minimum Cahill, based on Anderson's claims. Nor can Plaintiffs get a return response as

to the docketing of the recent disciplinary complaints filed with the 1st DDC against Foley and Proskauer attorneys in these matters, yet Foley and Proskauer seem to have a bat line.

539. RESPONSE TO - ALL OF PLAINTIFFS' CAUSES OF ACTION AGAINST THE FOLEY DEFENDANTS WHETHER UNDER FEDERAL OR STATE LAW, ARE TIME BARRED

540. The argument of time barring has been discussed already herein in the response to the Proskauer and NYAG MTD's, the same arguments apply to Foley's MTD.

A. <u>Response To – Plaintiffs Federal Claims Are Time-Barred</u>

541. The Iviewit Companies and Plaintiff Bernstein have been trying to assert their civil rights and have the criminal matters investigated, dating back to the initial discovery of the crimes, in 2001. We have made efforts to have the claims heard civilly and criminally since 2001 and with every new crime committed since; we have diligently notified the authorities. With ongoing investigations started timely to comply with the statutes clock now claimed to have expired when those investigations continue, what if it took 10 years for investigators to bring forth charges due to the magnanimity of the crimes, would they be time-barred. Perhaps part of the illegal legal strategy is to deny due process in efforts to beat the statute clock and then claim they are forever free from prosecution.

542. Certain patents suspended in the US remain in limbo, outside of the code of law regulating patents, pending investigations precluding Plaintiff Bernstein's rights to monetize the IP or even have it returned to the correct inventors. How can the statutes clock apply in these matters when the patent investigations continue and again these complaints filed timely, must be finished for Plaintiffs even to assert their rights to the constitutionally protected IP? For example, until the mystery of who owns the inventions and who the inventors of certain IP are, how can Plaintiffs assert their rights to IP not owned by them, they did not invent according to the filings and not assigned to them? If the Court time barred the federal claims, Plaintiffs rights to the IP could not be corrected and may be lost, with no civil remedy and wholly opposite the Constitution's intent

regarding inventors and wholly opposite the Constitution's intent regarding due process rights' in relation to Statute of Limitations claims.

543. Plaintiffs complain of many other crimes and civil violations occurring since 2001, which also act to interfere with Plaintiffs' efforts to secure timely civil relief. The following have all impacted Plaintiffs ability to assert rights timely; car bombing forcing a move, death threats forcing a move, multiple abuse of process evictions forcing four moves, stolen corporate funds and records and home break-ins. During this helter-skelter living, there were hundreds of hours of work preparing and filing complaints. For example, at the 1st DDC, First Department Court, 2nd DDC & Second Department Court, where we beat our heads on the wall, responding with thousands of pages of evidence to prove the charges to these agencies but had no chance per Anderson's revelations; all these events impacting the ability to protect ones rights timely, while fleeing for ones life, etc.

544. Plaintiffs state the Sherman Act claims, as of this date are still being learned, the injuries are still not wholly defined, as there is no answer from the USPTO as to the fate of the suspended IP, which acts to continuously injure Plaintiffs in violation of the Sherman and Clayton Acts. The inability of Plaintiffs to market their IP successfully in the relevant markets, due to the actions of the criminal enterprise to sabotage the IP and convert it as their own, is obvious anticompetitive behavior. When law firms like Foley combine with Rubenstein of Proskauer, all are experts in IP law; normally this combination is to protect their client inventors from illegal monopolistic and anticompetitive antitrust schemes. When these IP experts on the other hand, use that knowledge to destroy their client's interests, convert them as their own and block them from market, it appears almost textbook antitrust. The proof is in the pudding here with patents suspended and the inventor beaten to hell by the market leaders, their law firms, who stole the inventions through breach of the most sacred legal principle, attorney/client privilege.

545. Plaintiffs do allege a continuing conspiracy and Foley's role is critical, as they are the ones who filed the suspended IP. Until the suspensions are fully resolved at the USPTO, Foley remains central to the ongoing investigations. Surely, they saw in the AC exhibits with their firm name all over patent filings now suspended at the USPTO

and under investigation at the EPI.[120] Recently discovered information from the EPI investigation shows fraudulent documents are on file with the EPO.

546. The time barring of the constitutional claims is flawed, as it does not take into account a top down denial of due process to relief sought timely.

B. Response To – Plaintiffs' State Claims Are Time-Barred

547. Plaintiffs state the State Claims are not time barred for the same reason as previously stated herein and the cases cited fail to take into account a massive effort to deny due process through what appears a continuing series of crimes and civil violations against Plaintiffs to deny due process and Anderson further supports this.

548. Domiciled in Delaware and Florida the Iviewit Companies were located in New York, New Jersey, Florida, Chicago, and California.

549. Plaintiffs filed many actions from 2001 to 2007, in state supreme courts, in state civil courts, the United States Supreme Court, and with many other criminal investigatory agencies worldwide, not as they would have the Court believe that Plaintiffs walked away from attempting to get due process afforded to their timely filed complaints.

II. RESPONSE TO – PLAINTIFFS HAVE FAILED TO STATE A CLAIM UPON WHICH RELIEF MAY BE GRANTED AGAINST THE FOLEY DEFENDANTS

550. Plaintiffs' arguments to the failure to state a claim defense tackled already herein under the Proskauer and NYAG MTD's, fully exhibited with fully stated claims, with particularity to the crimes alleged against Foley, backed with solid evidence. It is obvious from the continued recantation of the number of pages and paragraphs in the AC, failing to point to any factual flaws, merely accounting, Foley missed the exhibits in the AC with thousands of pages of additional allegations and evidence to support the claims against them.

A. Response To – Plaintiffs' RICO Allegations Fail to Meet the Predicate Acts Requirement, Show a Pattern of Racketeering, or State a RICO Enterprise

551. Frivolous RICO claims, why Anderson shows a small part of the alleged conspiracy and an insider perspective to how certain elements of the organization function to derail due process "by hook or by crook." The element of public office corruption a key element to how RICO organizations operate to derail efforts at

[120] Exhibit 1 – Evidence Links 599, 591, 592, 593, 596, 576, 575, 570, 578, 550, 562, 311, 312

prosecuting them, normally through bribery, infiltration or threat and intimidation as Anderson exhibits.

552. As defendants begin to acknowledge the many evidentiary exhibits in the AC, they will find there is plenty of evidence to support the claims against them covering each of the 300 or so laws broken through violations of federal, state, and international statutes. They will also find specific well-stated claims for all of their violations of almost the entire code of professional conduct in the various states and countries complained in, the federal patent bar and the EPI. All that is necessary is a conflict free review of the materials, as the complaints remain solid factually and ready for trial before this Court.

553. It is interesting to note how Foley failed to note one of the pieces of evidence is the patent suspensions, which are pending investigation of, you guessed it, Foley and Dick. Their work partially led to the suspensions and investigations into pending charges with the Commissioner of Patents, of Fraud upon the United States, the Iviewit Companies and the inventors. Here too it is better not to mention these facts of the conspiracy to the Court when making nonsense pleadings. Again, although Foley continuously states mass verbiage and not well stated claims they fail to show a single example to hang their hat on.

1. **Response To - Plaintiffs Have not Alleged Any Predicate Acts Qualifying as Racketeering Activity**

554. Plaintiffs have clearly pled what they know of the conspiracy at this time, about the RICO organization and the predicate acts committed. Plaintiffs have exhibited much of the evidence given to investigators regarding the predicate acts in many of Evidentiary Links in Exhibit 1 and some remains with investigators further supporting the various acts such as the car bombing of Plaintiff Bernstein's family minivan as it relates to arson.

555. In relation to mail and wire fraud Foley cites, note they pick a very small crime in comparison to what is alleged. The mail and wire fraud count is wholly supported by documents contained in the exhibited herein complaints of the various defendants, showing how mail and wire transfers occurred between the various

defendants, then circulated to the shareholders, then circulated to state, federal and international agencies using mail and wire services.

556. Many of these documents for example, exhibited to the USPTO in the request for suspension, already exhibited herein in Exhibit 1. The request for suspension document, signed by Crossbow Ventures Chairman and CEO at the time, defendant Warner and Plaintiff Bernstein, was enough evidence for the USPTO to suspend certain IP and begin investigations at the USPTO OED and USPTO that remain ongoing. These facts should be factual evidence enough to conquer all MTD's claims the AC is factually deficient and the claims are being levied by Plaintiffs alone, as Crossbow filed with Plaintiff Bernstein fraud was committed and they have the largest investment in the companies, including the SBA monies making up two-thirds of their investments.

2. **Response To – Plaintiffs Have not Alleged a Pattern of Racketeering Activity**

557. The pattern of racketeering consists of more than two acts, which constitute a pattern of racketeering. The Friedkin evidence and the Iviewit Companies matters, with the same players, show a continuity of the criminal enterprise. Directly and/or indirectly the conspirators maintain interest in (more discovery will aid in finding how the interests where wholly divided amongst the defendants) the IP they have stolen or the marketplace for the inventors inventions they monetize while blocking them from market. Examples of such interests would be the Joao IP consisting of the 90+ patents in his name monetized daily or the criminal enterprises control and participation in MPEGLA LLC and other pools using Plaintiffs' technologies. These activities affect both interstate and foreign commerce enabling a pattern of fraud on inventors, commissioned through further crimes of fraud directly upon the USPTO and foreign IP authorities to control markets and block the inventors from relevant markets.

558. The injury to Iviewit Companies businesses and contracts already defined herein in the Proskauer and NYAG responses.

559. There are far more schemes involved than Foley attempts to convince this Court of. In addition to the schemes to defraud inventors of their IP through schemes to fraud the USPTO and foreign IP offices, there are also; (i) the corporate schemes to defraud investors of the patents through fraudulent incorporations with state agencies, (ii)

the fraudulent legal scheme on the US Bankruptcy Court, (iii) the fraudulent legal scheme in the civil court in the Proskauer billing suit, (iv) the fraud on the SBA through theft of funds, and, (v) the fraud on securities firms like Wachovia Securities. All these schemes exhibited in Exhibit 1 in the complaints filed with investigators. Foley's intentional part in the schemes known in some instances, in others, their part still under investigations and new information learned continuously.

560. Plaintiffs claim Foley's part in the scheme to fraud the inventors is clearly stated and prima facie evidence presented to Moatz and the Commissioner of Patents led to the suspensions. The suspensions based upon complaints filed at the USPTO, already exhibited herein, containing evidence to the support the claims asserted in those complaints, enough to satisfy anyone of sound mind as to Foley's direct part in the scheme. Those exhibits show factual evidence Foley put patents in Utley's sole (soulless) name and they failed to assign the patents as they claimed to the shareholders and inventors, including Wachovia[121] for their due diligence report[122], again exhibited herein already.

561. Evidence exhibited herein and in the AC already, show the patents are not all assigned according to what Foley told shareholders, inventors, and investors. Foley's claims to shareholders, inventors and investors is contradicted by evidence, including tapes and transcripts of meetings with Foley where they admit the patents are not assigned as they had told Wachovia Securities during their due-diligence, sending shock waves through the investors and inventors at the time. Again, the 2,881-page rebuttal by Plaintiffs to Dick's VSB bar complaint response by Plaintiffs is loaded with just such evidence.

562. Foley's interests not yet fully known by Plaintiffs, but what is known already will predicate discovery, which should tidy up those information gaps in the conspiracy. Again, conspiracies are difficult fully to understand how the inner mechanics work until later phases of a suit such as discovery, and certainly, there is enough prima facie substantive evidence to move this case to the discovery phase.

[121] Exhibit 1 – Evidentiary Link 63
[122] Exhibit 1 – Evidentiary Link 99

563. Foley may not have set up the illegitimate companies but they certainly set up the IP they filed fraudulently to go into them to defraud the inventors and shareholders.

564. Plaintiffs through the past failed patent theft on Friedkin, to the current case, show predicate acts with related players and similar in nature historically. The history of the criminal enterprise represents an ongoing threat to inventors, the USPTO, and foreign IP agencies. Plaintiffs show open-ended continuity as the crimes continued from Friedkin to Plaintiff Bernstein and perhaps many other inventors and continue today to harm Bernstein and deny him rights to his IP. Further discovery may reveal how far back in time the criminal group extends. *Anderson* shows the conspiratorial pattern of racketeering extending into public offices and it continues today to influence Plaintiffs due process efforts through even physical abuse and other crimes to suppress prosecution of the criminal enterprise.

565. The car bombing, still under federal investigation presumably, is more evidence of an ongoing conspiracy including possible attempted murder through arson and terroristic type activities common in mob RICO cases.

566. Although still not fully known who directed all the criminal activities, it is clear those involved in Friedkin are the same ones directing initially and later recruiting all the players to commit the various acts against Plaintiff Bernstein and the Iviewit Companies. Further discovery will aid in determining these issues combined with the conclusions of investigations, including those at the USPTO and USPTO OED.

567. Patent pooling schemes seem the preferred method of these attorneys to operate their illegal activities through storefronts such as MPEGLA LLC, as fully explained in the AC, and the USDOJ has historically absolved patent pools as illegal schemes to defraud inventors and control markets in violation of antitrust laws.

568. Another fraudulent scheme illustrated in the AC is the writing of IP into others names. This is illustrated in the Joao and Rubenstein complaints and rebuttals to their disciplinary complaint responses at the 1st DDC in regards to Joao's 90+ patents in his name infringing upon Plaintiff Bernstein's inventions and in the Dick VSB complaint and rebuttal responses exhibited where patents are found in Utley's name with no authorization. Further discovery may show Foley and Proskauer have been patenting

inventions infringing upon Plaintiffs discoveries for others all along, similar to what Joao did personally, only discovery can further reveal.

569. It is interesting to note Foley is unclear if they filed one or several patents, and where their billing records should show how many they filed, yet it is telling how they will not commit to the number filed; perhaps we did not find all the illegally filed IP yet. Further discovery is necessary and this Court should force Foley to put forth all documents and records relating to the number of patents they filed in regard to Iviewit Companies, who they were filed for, who they are assigned to, who owns them, etc.

570. In response to footnote 5, Plaintiffs again point to the 2,881-page rebuttal response to Dick's response to his VSB bar complaint, whereby the details of the applications filed by Dick on behalf of Utley and others, fully explained and exhibited in that rebuttal response.

571. In fact, further proof of patent foul play comes from Dick's response to the bar complaint contradicting Utley's deposition statements. In deposition, Utley claims patents were never filed at Friedkin's company Diamond Turf Equipment, Inc. and this is contradicted by Dick's sworn statements to the VSB patents were filed.[123] Perhaps at trial we can ascertain who is lying.

572. Add in the fact Wheeler and Utley cannot keep straight under deposition if a company was opened by Wheeler for Utley and although Utley says no, Wheeler states yes, again, all exhibited in the AC and its incorporated exhibits and again herein for those who missed them.

3. **Response To - Plaintiffs Have Not Alleged a RICO Enterprise**

573. Contrary to Foley's claim, Plaintiffs have alleged a criminal enterprise showing how it acts even today to deprive Plaintiffs of their constitutionally protected rights' to their inventions. In the criminal enterprise organizational charts embedded in the AC, the relations of those who committed the crimes clearly illustrated, showing how each person was introduced to the companies and by whom. The common course the defendants took is obvious when we see Foley filed invitations to correct the IP work of Joao and then failed to correct the work, instead furthering the scheme an artifice to

[123] Exhibit 1 – Evidence Links 681, 185, 186, 187, 188, 189, 190, 191, 206, 219, 320, 321, 322, 323, 333, 334, 343, 346, 352, 355, 356, 357, 679, 680, 681, 809, 810, 811, 813, 815, 817, 821, 822, 824, 827,828, 832, 283, 291, 319, 462, 464, 471,

defraud[124]. Specific evidence for this already exhibited in the AC, in many of the complaints filed with IP authorities and again in the 2.881 page Dick rebuttal response by Plaintiffs, all already exhibited herein.

574. Foley claims the ordinary course of their business is patent filings and after the Iviewit Companies fiasco of crime, it is apparent Foley has some actors who file felonious patents currently under ongoing federal and international investigations and whereby Foley wholly again fails to address these factual allegations, supported by facts, supported by patent suspensions, etc. Exhibit 1 has additional patent exhibits helping one clearly see the patent crimes and the evidentiary materials waiting for trial supporting the claims in the AC[125].

B. <u>Response To – Plaintiffs' Remaining Federal Claims Are Also Deficient and Must be Dismissed</u>

575. If Pro Se Plaintiffs have made claims under the Patent Act, the Fifth and Fourteenth Amendments, the Sherman Act and Title VII of the Civil Rights Act of 1964 that the Court agrees have no private right to action, than Plaintiffs seek leave to amend to correct the defects. If defects exist in what causes of actions civilly can be claimed, resulting from the criminal acts, Plaintiffs seek leave to amend and add counts more precisely claiming the causes of actions relief can be sought from. This shortcoming is due perhaps to Plaintiffs limited understanding and knowledge of law and would be less likely to have such shortcoming if Pro Bono counsel were to aid in any amended AC.

576. Plaintiffs are seeking to add a U.S.C §1983 claim as already referenced herein with sample language that should cure defects, if they exist in regard to the claims of denial of due process through public officials and agencies.

577. Foley attempts to cherry pick what acts they are responsible for and fail to understand they, like Porksauer are being accused of every single crime since day one, due to the links from Friedkin establishing Dick as central to the two attempts to steal IP with Proskauer. Foley considered an original conspirator most likely was working in the background with Proskauer, Wheeler, and Utley at first and forced into the light when

[124] Exhibit 1 – Evidence Links 59, 60, 62, 68 & 69.
[125] Exhibit 1 – Evidence Links 1, 56, 59, 57, 60, 61, 62, 63, 68, 69, 71, 76, 77, 80, 81, 82, 83, 85, 87, 88, 89, 90, 91, 93, 94, 95, 99, 103, 105, 106, 116, 117, 118, 119, 120, 121, 125, 142, 151, 158, 316, 343, 348, 367, 366, 363, 399, 574, 601, 673, 691, 740, 741, 742, 193, 180, 181 (an early favorite showing the crimes exhibited to the USPTO as a patent for a "System and Method for Fraud on The USPTO)

Iviewit Companies learned Joao was possibly patenting inventions in his own name leading to his termination for cause. Wheeler and Utley recommended their good friend Dick to replace Joao and prosecute him if it were true he was patenting inventions of the companies into his own name or had missed filing for certain inventions or he had delayed filings or if he failed to name all the true and proper inventors, etc.

578. Plaintiffs feel enough prima facie evidence exists of a conspiracy under the Sherman Act to make those claims and Plaintiffs provide evidence of the links between the conspirators, for example, via Rubenstein and Proskauer's links to MPEGLA or Proskauer's links to Real 3D, Inc., later acquired by Intel along with Plaintiff Bernstein's inventions. In fact, Rubenstein's deposition provides valuable information and non-information regarding his personal and Proskauer's professional relationship to MPEGLA. The link between Proskauer and MPEGLA further supported by Proskauer's own website information already evidenced herein, in the response to the Proskauer MTD whereby Proskauer admits their control of the relevant markets of Plaintiff Bernstein's inventions. This evidence substantiates how MPEGLA gained the IP disclosures through violations of attorney/client privilege leading them to become one of the largest infringers of Plaintiffs IP.

579. The evidence linking the conspirators shows how illegal monopoly power gained was directly through anticompetitive practices. Foley's part in intentionally and with scienter sabotaging certain of the IP to fail, putting in others names illegally, certainly evidences they were working alongside Proskauer to achieve this end and where the separate acts of the main conspirators are combined they preclude Plaintiff Bernstein from his IP, in violation of the constitutional protections of inventors' rights.

580. The MPEGLA patent pooling license scheme poses significant market threat to inventors from the bundling and tying schemes used against Plaintiffs and discovery will prove if other inventors have suffered similarly. Patent pooling schemes considered illegal historically by the DOJ when they employ tactics effecting market competition as a whole and in the Iviewit Companies case, these tactics prevent Plaintiffs from the relevant markets of their inventions and their inventions entirely, allowing MPEGLA to control the pricing of the inventions by annihilating the competition. MPEGLA has effectively built an entire legitimate business illegally marketing the IP of

Plaintiffs and created an illegal monopoly power, this affects all others who use video and imaging processes that use Plaintiff Bernstein's inventions forcing them to take license from MPEGLA who fixes the price or similar to MPEGLA to infringe upon the inventions, to compete.

581. MPEGLA creates a "standard" bundling and tying numerous products together, that if an inventor is not included in the pool, makes marketing their invention as a stand-alone product nearly impossible. If the pools chose to incorporate an invention submitted for review to the pool, and then cut out that inventor from the pool, precluding his ability to market his invention as a stand-alone, the pool can quickly force inventors out of business while benefiting from the invention. With Rubenstein and Proskauer the gatekeepers and reviewers of the patents for inclusion in these pools, inventors beware!

582. Foley attempts to cherry pick from the crimes, stating they are not involved in this or that aspect of the conspiracy, so for this or that crime they are not guilty. This pseudo logic fails to note that in a conspiracy, various actors commit different criminal acts, which together combine to enable the criminal enterprise to commit the larger crimes. The separate acts combine to benefit the criminal enterprise, so while the direct involvement of Foley in the cover-up crimes remains partially unknown; it is the IP crimes they have executed leading the criminal organization to need to cover-up those crimes. As stated earlier, since Foley is an original conspirator through the connection of Dick with the Friedkin affair, Foley thus accused directly or indirectly of every single crime alleged, no matter who committed the individual acts.

C. <u>Response To – All of Plaintiffs' State Law Claims are Deficient and Must be Dismissed</u>

583. Plaintiffs will allow this Court to decide which state laws apply to the various crimes that were run through numerous states and countries, including but not limited to, Florida, New York, California, Delaware, Wisconsin, Virginia, Europe, Japan and Korea. We are not sure what entities Foley refers to when speaking about the crimes they claim New York law should apply to, and as with Proskauer, we ask the Court to demand all Foley pleadings, when referring to the Iviewit Companies, be precise as to which entity they refer too. In fact, this Court should demand, if necessary, Foley resubmit their baseless MTD with particularity to the entities they refer to in each

statement. When referring to the crimes, we also request Foley be particular to which crime they speak to for every claim in the MTD, for a proper response by Plaintiffs' to issues such as what laws apply to each crime and why.

1. **Response To – Plaintiffs Fail to State a Claim for Common Law Fraud As They Neither Allege Scienter Nor Plead the Elements of Fraud with Particularity**

584. Plaintiffs find this argument of particularity moot, as Plaintiffs have pled their fraud cases with particularity to whom committed the crimes and why certain crimes constitute fraud. Foley would need to review the countless exhibits evidenced herein and in the AC, to see the facts supporting the fraud claims with particularity where known. Throughout their MTD, Foley makes claims Plaintiffs did not properly plead the crimes properly, with particularity or with supporting evidence, yet fail to show this Court or Plaintiffs where it is deficient with particularity, hardly even a quote from the AC to support these baseless hot air arguments, making it impossible for Plaintiffs to respond.

585. The claim Plaintiffs have not alleged facts giving rise to a strong inference of fraudulent intent, knocked out with the fact the USPTO and USPTO OED have been presented enough facts to investigate Foley and suspend certain of the IP. A fact they fail to acknowledge while blowing smoke up this Court's arse and making false pleadings in attempts to con the Court not to look at the factual evidence.

586. The question of if Plaintiffs can represent the interests of former shareholders has already been discussed and as we claimed, we did this because the state of the affairs of the companies and the stock of the shareholders is unknown. What is known, is once the schemes are prosecuted under law, the companies will be abolished and merely stand for legal actions of the shareholders against those causing their losses of daily royalties in the IP they invested in. Many shareholders are unaware of what is going on with their investments at this time, awaiting the results of the ongoing investigations.

587. The motive is clear for Foley's part in the conspiracy, trillion dollar technologies. Friedkin shows this criminal enterprise will take any IP of value and these actions of Foley thus should not to be misconstrued as simple mistakes or errors. Instead, Foley's actions carefully planned and executed in conspiracy with the work of Proskauer,

to execute the schemes defined herein to convert their client technologies to the criminal enterprise.

2. **Response To – Plaintiffs Fail to State Claims for Negligence/Malpractice or Breach of Contract Because They Do Not Allege Privity of Contract**

588. The legal contracts and retainers with the defendant law firms, lawyers and the Iviewit Companies construed to be with Plaintiff Bernstein if the corporations proven part of a larger scheme and artifice to defraud Bernstein of the inventions. The recommendation to move the IP to a corporation from the inventors was mainly the work of Proskauer, who claimed, despite objections by most of the Board of Directors, their scheme offered a better level of protection in their opinion, than leaving them in the inventors' names.

589. It is strange Foley did not exhibit their retainer agreement with the Iviewit Companies or for that matter any other documents to support their arguments in the MTD of Privity of Contract. Bernstein may have third-party rights to those contracts, as the benefit they inure intended to protect his constitutionally protected interests in his inventions and his interests as a shareholder both affected by every contract. In fact, Proskauer claimed to the board of directors, if anything happened to the companies, for example a bankruptcy, the IP would revert to the inventors. Yet, the involuntary bankruptcy reveals that may have been a scam on the shareholders, intentional and with scienter to give bad legal advice designed to expose the IP versus protect it from a bankruptcy.

590. In light of their claims of malpractice not being evident or a lack of duty of care or breach of duty of care, well the patent suspensions again stand as solid substantive evidence to support total breakdown of duty of care. The filing intentional and with scienter; patent applications with fraudulent inventors' names (a federal crime against the USPTO and civilly damaging Plaintiffs' rights to invention), the intentional math errors, the non-existent assignments contradicting what was told to investors and investment bankers, stand as good cause for malpractice.

591. Plaintiffs have failed to allege which Iviewit Companies retained Foley, using again, the "whose on first" analogy we are unclear about much of the corporate

schemes, including who owns many of the companies, what IP is in them and who signed the many contract including retainers. This begets the question of why Foley is confused, do they not know who retained them, was Iviewit.com or Iviewit LLC or Iviewit, Inc. or Iviewit Technologies, Inc. or for other reasons they do not want to put forth the documents showing which company. This Court should be weary of why Foley does not exhibit such fundamental document to their MTD and force by order of the Court to procure the relevant documents and contracts necessary to support their claims.

592. More discovery a must to answer many of these contract questions and final investigatory conclusions may further enlighten both Plaintiffs and this Court as to which companies signed what documents. An Act of Congress now is necessary to get information regarding Foley filed IP supposedly filed into the inventors' names but was not. We must wait and see what happens in this Court and at the USPTO, to get this information released as part of these proceedings and there are already formal written requests for congressional intervention made to the House Judiciary Committee and The Honorable United States Senator Dianne Feinstein regarding these matters[126].

593. Foley's argument that Plaintiffs do not show cause that the patents would be patented is ludicrous, as the mere fact they were filing the IP and had conducted studies into the IP relating to prior art and regarding the efficacy of the inventions with professors they hired[127], is more revealing of the truth. The fact they did all this patenting in the wrong inventors' names illegally and all the other IP crimes alleged, in efforts to convert the patents, speak volumes as to the real patentability.

594. Plaintiffs' breach of contract and malpractice claims are not similar, as discussed in detail in the Proskauer MTD response.

3. **Response To – Plaintiffs' Remaining State Law Claims are Similarly Deficient and Must be Dismissed**

595. Foley has interfered with contracts for the same reason as Proskauer, as if it were not for their criminal actions of destroying the integrity of the IP, Plaintiff Bernstein would be able to monetize the inventions and all contracts and investments in the company ceased upon learning of the patent crimes would have been in effect today.

[126] Exhibit 1 – Evidentiary Links 588, 585, 571, 730, 566, 579, 581 & 584.
[127] Exhibit 1 – Evidence Links 66, 67 & 78

This argument regarding the various contracts described already in the Proskauer MTD, applies to Foley as well.

596. Breach of their fiduciary duties is due to their involvement on a technology advisory board controlling the direction of the IP, as illustrated in the Wachovia PPM Board of Directors section, which clearly shows their involvement in the corporate structure, similar again to the Proskauer partners that were part of the Board of Directors Advisory.

597. As all allegations are against Foley as a main conspirator, similar to Proskauer in the conspiracy hierarchy, Plaintiffs allege they too are involved in every aspect of the crimes and cover-ups, directly or indirectly through directing crimes.

RESPONSE TO – VSB EXHIBIT

598. The first question one must ask, is whether the VSB actually read the complaint or if they just looked at the size and tossed it in the garbage, as we challenge anyone to investigate the complaint, including this Court, test the evidence, talk to the witnesses and investigators and come to the conclusion the VSB did. In fact, Moatz when called upon to investigate the same allegations on a federal patent bar level did exactly the opposite of the VSB and ordered investigation.

599. This letter is not vindication through investigation; this letter is an attempt to impart opinion in favor of a party without formal investigation and attempting to throw the word investigation into the mix to give the appearance procedural investigation took place to form the opinion.

600. The response claims Dick did not file the actual applications, his underlings Boehm and Becker did thus he was not responsible. Yet it was Dick, who supervised their every action, asserting the Charlie Manson defense; I just ordered the crimes. Next, we will hear Boehm and Becker use the Nuremberg Defense, just following orders. But the legal doctrine of Respondent Superior would prevail and the actions of Boehm and Becker would fall to Dick who enrolled them in the criminal enterprise, ordered and oversaw their every action, similar to how Lieutenants in the Mafia are recruited to pull the trigger, ordered by a boss or in this case, perhaps a Consigliore.

601. The VSB letter is interesting in it relies on letters submitted by Utley, Boehm, and Becker in support of Dick to form their opinion. This is interesting in that those accused with Dick of the crimes to VSB by Plaintiffs, VSB then relied on as witnesses to vindicate Dick, and thus the guilty vouching for the guilty. What is further fascinating is actual evidence submitted to VSB shows Utley and Dick's statements under oath, in official proceedings, contradictory and constituting perjury by the parties, including statements to VSB, acting as absolute causes for investigation of Dick.

602. Another piece of evidence Dick submitted in his defense to VSB, was a patent portfolio sheet created by Foley. This portfolio is one of the key pieces of evidence Moatz reviewed and found the information was almost entirely fraudulent and when VSB learned of this information and the request to contact Moatz, the VSB began a pattern of evasion to Plaintiffs calls and letters.

603. The VSB proffers patent opinion stating, "Mr. Dick did not prepare or submit INVIEWIT's [Iviewit was meant] patent applications and those who did so did not do so in such a manner as to deprive INVIEWIT of any rights to which it was entitled." The reason the VSB is a named defendant in the complaint is that after learning of the actions of Moatz, they would hear no further information in support of the Iviewit Companies contentions and angrily dismissed our calls and letters. They refused to even accept the new information formally and stated their was no higher appeal of their decision, refusing to retract their patent opinion, that is patently false, as Moatz's actions leading to suspension certainly act to deprive Plaintiff Bernstein of his IP rights while they are suspended contradicting their opinion based on review.

604. Hopefully at trial, Ms. Sengel and the other VSB members involved will be able to show how on preliminary investigation they drew these patent conclusions and opinions and why she would not open the case for investigation after learning of perjury by Dick and Dick submitting patent portfolios with materially false information the patent office had confirmed. They would not hear of it and became angry and unresponsive instead. Supporting evidence for the claims in the AC against VSB

regarding their violations of well-established rules, regulations and procedures presentable at trial are available in Exhibit 1[128].

605. The relation as counsel by Foley for the VSB, the Virginia Commonwealth and VAAG already discussed herein, may provide invaluable insight into how such conclusions were reached and maintained. On information and belief, Foley acts as **patent** counsel to the Commonwealth of Virginia, the VAAG, and the VSB and again this looks like how they have infiltrated this state agency to get such patently false patent conclusions, further discovery is necessary.

RESPONSE TO – CONCLUSIONS

606. For all reasons clearly stated and exhibited herein, the Foley defendants must not be dismissed, instead they should be sanctioned by the Court for putting forth a factually false and deficient MTD in efforts to evade prosecution. Plaintiffs request sanctions against Foley and their attorneys for putting forth this MTD and wasting everyone's time.

607. Plaintiffs seek from the Court attorneys fees for the waste of our time and we should be rewarded at least twice what Foley charged Plaintiffs per hour for 30 days of work responding at 20-24 hours a day times two Plaintiffs.

MLGWS

Response to AFFIDAVIT

Introduction

608. Plaintiffs are not sure this is a MTD or some form of it but will respond in kind to the Affidavit as if it were a MTD. If the Court finds it is not a formal MTD, then Plaintiffs seek the Court to award a default judgment against all MLGWS defendants for failure to respond timely to the AC.

609. Again, we find MLGWS cannot find an attorney not conflicted with the matters to make their pleadings, so conflict rules thrust aside and violated, MLGWS represents themselves through a member of the firm, who should note his liability in the suit as a defendant under MLGWS. Formal disciplinary complaints forthcoming in NY or NJ, depending on where counselor Howard is licensed and against the firm for their

[128] Exhibit 1 – Evidence Links 188, 810, 283, 291, 319, 320, 321, 322, 323, 333, 334, 352, 357, 462, 464, 471, 680, 691, 824, 827 & 828.

actions before this Court and we seek sanctions from this Court for such disrespect to Your Honor.

Response to 1

610. Again, we have the guilty writing affirmations in defense of the guilty. MLGWS appears not to have found non-conflicted counsel and chose instead foolishly to self-represent in conflict, how novel. This Court should wonder how their malpractice carrier allows this self-representation, and where the carriers counsel is, perhaps telling of insurance fraud. Insurance fraud may also be new crimes committed for the criminal organization to attempt to hide their dirt from exposure by failing to notify the carriers of the impending trillion-dollar liability they have. The Court should trash the response as tendered in conflict and not a valid pleading.

Response to 2

611. It appears MLGWS by joining the others MTD's and not giving any defense for the allegations against them directly has defaulted on all claims against them not included in others responses and offer no evidence or exhibit to support any claims for their Affidavit.

Response to 3

612. Since MLGWS rely on others MTD's, the same arguments would apply to this Affidavit submitted, if it counts as an MTD.

Response to 4

613. Plaintiffs have discussed the Constitutional merits of their claim and if deemed improperly pled by the Court we seek leave to amend the AC and correct any defects.

Response to 5

614. MLGWS continues in the spirit of hot air arguments of the MTD's by claiming the antitrust claims are unintelligible and insufficiently pled yet offer the Court no evidence of unintelligible claims or insufficient pleadings, not one. This argument fails, as it is not an argument it is statement without premise based in fact.

615. The attempt to make this Court think the AC is unintelligible and insufficient furthers Plaintiffs contention that without support for their claims, in any MTD, presumably, if enough of the guilty say it is so, Your Honor will have to believe it.

Another baseless pleading Plaintiffs cannot intelligibly respond to, as there is nothing to respond to, and thus should constitute nothing more than evidence for sanctions by the Court.

Response to 6

616. This argument fails from the same fate as #5 above, as again it is a hot air argument offering no support for the conclusions, thus mere verbiage. Again, not one instance to support their claims, not one instance Plaintiffs can rebut intelligently.

Response to 7

617. Jurisdictional issues already addressed herein and in the AC, and Plaintiffs feel this Court is appropriate.

Response to Wherefore

618. Plaintiffs believe the failure to address the AC and the claims against them specifically, trying to piggyback on the other deficient MTD's, should constitute a default of MLGWS. The Court should see through this attempt to dodge the bullet coming squarely between their eyes, by claiming responding would be burdensome to this Court because others responded, yet, no one responded in even a mention to the claims against MLGWS.

619. Plaintiffs ask the Court to rule if this conflict tendered response constitutes a legal pleading other than to issue the requested sanctions in support of the coming of disciplinary complaints forthcoming against MLGWS and defendant Howard for violating well-established rules, regulations and procedures of the code of professional conduct regulating them as attorneys in the state of New York.

RESPONSE TO THE FLORIDA BAR

RESPONSE TO - OPENING STATEMENT

620. As already stated to the Court, counsel Greenberg is conflicted with the Plaintiffs. They were patent counsel to Plaintiff Bernstein after taking power of attorney from him to get information on the IP for investigative purposes for Rogers. Hired to compare and contrast the information tendered to stockholders by former counsel MLGWS, Proskauer and Foley, regarding the owners, inventors, assignees and evaluate

if that information was correct. Greenberg retained by Rogers on behalf of Plaintiff Bernstein and the Iviewit Companies who inured debt to Rogers for her expenses.[129]

621. In response to footnote 1, Plaintiffs are unsure why the United States Marshal has not served the OC upon the defendants Turner, Bartmon, Beer, and Johnson but calls to the Marshal's office confirm they are working on serving those that seemed to have slipped through the crack, including the TFB and FSC actors. It is unclear if Greenberg Traurig is representing TFB defendants both individually and officially but Plaintiffs seek clarification to better respond to the MTD.

622. In response to footnote 2, again, a hot air argument as TFB defendants have failed to cite a single instance of why the AC is neither "short" or "plain." Again, had the number of crimes not been never ending and comprising violations of hundreds of federal, state(s) and international laws, in addition to violations of federal and state(s) codes of attorney and official conduct, including violations of public offices, the complaint would have been a shorter. Fed.R.Civ.P. 8(a) certainly did not mean to imply length and plainness should not be directly correlated to the number of crimes and the complexity of those crimes when counting page numbers, paragraphs, etc. In fact, RICO complaints appear lengthy and complex due to the pleading requirements and the complexity of the criminal organizations structure, etc.

623. An interesting claim by TFB is "it remains clear [not sure according to whom prior they refer to] from the face of the Amended Complaint that this action must be dismissed." This implies they want dismissal, like all defendants, on the face of the complaint; perhaps the cover page is what they refer to when seeking this relief. It will become apparent the TFB MTD, like its predecessors, does not address anything beyond the face of the complaint, like the countless exhibits evidenced, containing countless evidentiary materials regarding the actions of TFB defendants and the specific well-established rules, regulations and procedures they violated, in great detail and specificity.

624. Again, the con on the Court comes right away with the claim Plaintiffs are complaining of "decisions not to discipline certain attorneys." Again, Plaintiffs are

[129] Exhibit 1 – Evidence Link 641. This document was received back from the Court by Plaintiffs several weeks after its filing but remains an excellent exhibit of the conflicts of Greenberg.

complaining of violations of well-established rules, regulations, procedures that are part of a conspiracy to steal IP and then cover-up for those crimes.

RESPONSE TO - INTRODUCTION & BACKGROUND

625. In response to footnote 3 & 4, it is refreshing to note one of the defendants in filing these "Hail Mary" MTD's acknowledges exhibits in the AC and their location. More interesting is they cherry pick two of their own letters to address in the MTD and the other exhibits many directly involving their defendants they wholly ignore.

Response to – Bullet 1

626. Plaintiffs filed multiple complaints with TFB, including two on Wheeler and Proskauer, one on Triggs, an officer of TFB[130] (refused to docket the complaint) and one against Turner. Hoffman dismissed one complaint on review.

Response to – Bullet 2

627. Interesting spin on the Hoffman letter by TFB, in that Hoffman was made aware that contrary to Rules Regulating the Florida Bar, complaints are not to be delayed due to civil processes whether they are similar or not. Hoffman aware the Proskauer Civil Billing Lawsuit was just that, a billing lawsuit did not care that the two legal actions were in fact dissimilar and having no overlapping claims. She was aware Labarga denied hearing the counterclaim and none of the matters before her, regarding the patent issues and countless other crimes heard in that court, yet she ignored these facts and held fast to her position, delaying due process endlessly[131].

628. Plaintiffs never asked TFB to intervene in a civil matter, the complaints against Wheeler were for his violations of clearly established rules, regulations, and procedures of Florida attorney conduct codes as cited throughout the complaints against Wheeler already exhibited herein.

Response to – Bullet 3

629. Again, Plaintiffs did not seek from Turner, Hoffman or TFB to have civil matters resolved or malpractice claims enforced or any of these other nonsense claims they make their determinations based on. Plaintiffs simply wanted Wheeler disbarred for

[130] Where it is unclear who is representing Triggs in his official capacity.
[131] Exhibit 1 – Evidence Links 217, 219, 222 (tendered by Triggs in violation of the Rules Regulating TFB), 229 (1,102 pages of evidence, facts and witness), 230, 234, 235 (tendered by Triggs in violation of the Rules Regulating TFB), 241, 246, 287-289, 293, 300, 306 & 309.

his violations of the Florida Code of Attorney Conduct and very specific rule violations cited to TFB in the complaints, with clearly stated claims supplemented with ample evidence and witness.

630. Of course, Plaintiffs did not know at the time Triggs had public office, which precluded him from representing anyone before TFB for a period of one year after service.

631. It is an absolute fact Triggs violated his office prohibition on representation and his response was therefore legally invalid, as well as, wholly wrong and worthy of a bar complaint filed against him. Upon reading the attorney conduct code and the Rules Regulating TFB, it was apparent Triggs was conflicted in several ways, including his personal interests in Proskauer, his personal interest in Iviewit Companies, his simultaneous representation in the Proskauer Civil Lawsuit and many more. All stated in the AC and its accompanying exhibits in grave detail[132].

632. Moatz investigates and the state disciplinary agencies write letters of vindication, even after knowing of the Moatz actions, given Moatz's number to contact him at his request, each state disciplinary agency, including TFB refused. The state disciplinary agencies appear infected with corruption in comparison to Moatz on a federal level who could not believe they were looking at the same evidence he was. Where Moatz rushed to protect the IP, correct problems, revive applications, get the IP suspended, the state disciplinary agencies began to refuse contact Plaintiffs. In the wake of the federal bar actions, the state agencies held fast and wrote letters exonerating the defendants and made claims of who did what patent work, all off a sniff with no formal investigation.

633. Perhaps TFB chief counsel, defendant Boggs, was to busy writing defenses for Triggs and trying to change law to fit the crimes he committed. Sounds almost like the Guantanamo mentality, where torture absolutely prohibited by Jus Cogens prohibitions is violated by the dirty lawyers who then try and rewrite the laws to fit their crimes. Unbelievable you say, well the letter Boggs tenders is based on proposed verbiage, not actual code, very telling when you read the "shoulda coulda woulda"

[132] Exhibit 1 – Evidence Link 441, 431, 221, 405, 411, 426, 428, 439, 440,

letter[133] Boggs drafts on behalf of Triggs, stating although conflicted, based on the rules, he was fine, failing to state that the rule he exhibits was only proposed language, not codified. Note, Triggs does not do his own defense ever, Boggs does it for him, perhaps like *Anderson* he too was beat up to keep the lid on it, falsify reports, forge documents or perhaps he has a nice sailboat, either way, his letter is far outside the well-established rules, regulations, procedures of The Rules Regulating The Florida Bar.

634. All the reviews by TFB continued in the same manner refusing to investigate despite the new evidence and confirmed violations of the rules by its members, leading the attorney complaints to the FSC and United States Supreme Court, who both decided not to hear the matters, again no victory for the other side, the matters not tried. This provided a subterfuge of the attorney misconduct complaints having no higher appeal and preventing complaints like the new one regarding the Triggs violations to avoid formal and procedural docketing and disposition, again forming a block to due process. This prevented Plaintiffs from filing actions against government officials found violating their public offices in opposite of the Constitutions intent of the right to petition our government and its agents. This denial of due process acting in combination with the other denials prevents Plaintiff Bernstein from recovering the IP.[134]

635. Turner's letters quoted in the MTD appear to claim Plaintiffs charged Wheeler and Triggs with malpractice and civil actions, yet this is not true. The complaints are for violations of well-established rules, regulations and procedures of Florida attorney conduct codes and well-established rules, regulations and procedures of the Rules Regulating TFB. Once the Triggs violation of public offices occurred, all prior reviews of TFB on the Wheeler complaints based on the malicious and slanderous claims of Triggs defending Wheeler in conflict and operating in violation of public office, should have been forced for review. Triggs and Wheeler should have been charged and

[133] Exhibit 1 – Evidence Link 446, 431, 452

[134] Exhibit 1 – Evidence Links 331 (Turner opines on who did patents but no investigation was done, in violation of Rules Regulating TFB), 335, 339, 340, 344, 351, 393, 400, 402, 404, 405, 411, 416,417, 418, 419, 421, 423, 424, 426,427, 428, 431, 435, 439, 440,441, 443, 446, 449, 452, 454, 456, 457, 458, 475, 476, 477, 478, 480, 483, 488, 492, 495, 500, 507, 519, 520, 524, 526 (Turner claiming Wheeler DUI is misdemeanor), 529, 534, 555, 563, 577, http://www.iviewit.tv/supreme%20court , http://www.iviewit.tv/CompanyDocs/oneofthesedays/index.htm , http://www.iviewit.tv/supremecourtexhibitgallery & http://www.iviewit.tv/CompanyDocs/rico/CRIME%20ORG%20CHARTS%201.htm

disciplined, according to well-established rules, regulations and procedures of the Rules Regulating TFB but the TFB worked more like an attorney protection agency than an attorney misconduct agency.

Response to – Bullet 4

636. True.

Response to – Bullet 5

637. True.

Response to – Bullet 6

638. TFB stood by its determinations despite the fact TFB members Triggs, Turner and other reviewers violated the Rules Regulating TFB when they failed to follow their own rules.

639. TFB stood by its determination despite the fact Wheeler and Triggs had violated the Rules of Professional conduct thereby further violating the Rules Regulating TFB.

Response to – Bullet 7

640. This bullet is true but again through not following the rules as exhibited herein already.

Response to – Bullet 8

641. TFB calls the formal and procedural docketing of complaints according to the Florida Constitution as "special" when in fact they are codified rules governing the handling of complaints.

642. Plaintiffs do not challenge the TFB's decision not to discipline Wheeler, Turner, Boggs, Marvin, Johnson, and/or Triggs. We are not asking this Court to do anything but force the rules to be followed, remove all conflicts of past and prosecute those that violated them according to well-established rules, regulations, and procedures, clearing the way for due process to begin which may lead to the return of the inventions to the true and proper inventors.

643. The decision to discipline or not should be determined according to the well-established rules, regulations and procedures both of the attorney conduct code and the Rules Regulating TFB. Plaintiffs are certain with non-conflicted counsel representing the complainants, free of influence peddling; rules would have been adhered to leading to

successful prosecution from the evidence, facts, and witnesses presented. The TFB has things just a bit wrong in proclaiming they are free to make decision at will and unchallenged, as G0dlike entities. In reality, TFB is not free to do, as they will with no oversight, they must follow their own rules or face discipline and other sanctions accordingly. Had TFB done their job according to the rules, this would have had a snowball effect and actions like disbarment would have led to other investigations and the possible return of the IP. The actions of TFB denied due process and procedure through violations of well-established rules, regulations, and procedures aiding and abetting the IP crimes against Plaintiffs by precluding civil relief that would have aided Plaintiffs recovery.

644. TFB and their actors' failure to follow their own rules should not allow the Court to dismiss them from the action. The actors have individual and professional liability and although they may not be financially liable, they must be held accountable for failing to follow the well-established rules, regulations, and procedures and through injunctive reliefs, at minimum, the state agencies ordered to follow their rules and give due process to the complaints, free of conflicts.

RESPONSE TO - ARGUMENT

RESPONSE TO – POINT I

THIS COURT LACKS SUBJECT MATTER JURISDICTION BECAUSE THE FLORIDA BAR DEFENDANTS ARE ENTITLED TO ABSOLUTE IMMUNITY

645. Certainly while performing their typical duties, TFB members may enjoy immunity for bad decisions both personally and professionally. Plaintiffs do not complain of bad decisions though and complain of violations of the rules that influenced the outcome of the complaints filed. These actions went outside the typical functions of members and where *Anderson* gives an insider view into how this top down control ran in the 1st DDC, to produce favorable results for the attorneys, it appears TFB was operating almost identically.

646. The cases in Florida follow almost identical pattern to New York, in the derailing of complaints, finding conflicted Proskauer partners again violating public

offices, and a cover-up from bottom to top. Coincidence you say but where identical results appear at TFB similar to Anderson's claims of obstruction in New York this provides enough circumstantial evidence of correlation to warrant further discovery.

647. TFB cites many cases in support of officers of the courts and disciplinary being immune when performing their typical job functions but none of the cases speaks to intentional bad actions outside the rules, for personal pecuniary gains and how immunity applies in those instances. Since their argument centers on a false premise, the AC complains of merely bad decisions, instead of, the factual violations of the Rules Regulating TFB and the rules of professional conduct, the rest of their arguments and cases cited based on this premise, fail.

RESPONSE TO – POINT II

THIS COURT LACKS SUBJECT MATTER JURISDICTION BECAUSE THE ACTION IS BARRED BY ELEVENTH AMENDMENT IMMUNITY

648. Immunity financially may still apply but Plaintiffs are not really seeking monetary damages from the state or state agencies at this time. Plaintiffs seek to have this Court mandate complaints influenced by Triggs acting in violation of the Rules Regulating TFB, forcing them reinvestigation with third party non-conflicted parties and given a chance without the illegal influence of the conflict and violations of public office.

649. Eleventh Amendment immunity already addressed in the NYAG response herein and Plaintiffs same arguments apply to TFB.

RESPONSE TO – POINT III

THIS COURT LACKS IN PERSONAM JURISDICTION

650. When looking at the letter responses of Triggs[135] and Krane[136] for Wheeler and Rubenstein, we find almost identical letters tendered in New York and Florida. The chance of coincidence is nil, it appears New York, and Florida officials worked the same scheme in both states through possible collusion, further discovery necessary to explore these links. This shows more than enough substantive contact between the two states, to form the basis this was coordinated and with scienter, conspiratorial activity.

[135] Exhibit 1 - Evidentiary Link 221
[136] Exhibit 1 – Evidentiary Link 225

651. The collusion between public officers Krane and Triggs, to tender slanderous assaults on Plaintiffs as a smear campaign, then used to put together a quasi-defense to appear vindication had occurred through due process. Through further misusing public offices they then gained favorable rulings based on their conflicted actions and public office violations, which further violated those public offices, certainly fair play went out the window. The letters were then used in combination to springboard defenses relying on the illicitly gained bar letters, such as Dick used to respond to the VSB, asserting the matters were heard and tried in the Proskauer Civil Billing Lawsuit, the 1st DDC, the 2nd DDC and TFB. This evidences possible collusion of the state agencies, again cause for further discovery.

RESPONSE TO – POINT IV

THE AMENDED COMPLAINT FAILS TO STATE A CLAIM

Response to Count 1

652. If Plaintiffs have failed properly to plead their rights under Article 1, Section 8, Clause 8, then Plaintiffs seek leave to amend the complaint to better claim their rights to the inventions. Rights which the Constitution intends to protect with its full force through law and when law fails to protect the inventor, the Constitution provides for congressional intervention, to write new legislation to protect it, even in instances were smart lawyers try to beat all the rules to convert it as their own. The TFB defendants have acted to aid and abet, through due process violations, those that stole the IP and thus deprived Plaintiffs of their constitutionally protected rights to their inventions.

Response to Count 2

653. If Plaintiffs have failed to properly plead their rights under 15 U.S.C. § 1, then Plaintiffs seek leave to amend the complaint to better claim their rights. Plaintiffs have pled TFB participated in a conspiracy to violate due process to deny Plaintiffs' rights to their inventions and this formed a monopoly power operating in violation of antitrust laws and combinations in restraint of trade. Had TFB members performed their duties according to well-established rules, regulations and procedures, the result would have been the tip of the iceberg in breaking up such illegal activity by attorneys under their jurisdiction.

654. TFB members' failures to follow their rules compounded Plaintiffs' injuries continuing to do so by preventing recovery of the IP through civil process. This Court must mandate that the complaints containing conflicted responses by officers violating public office rules, again be evaluated minus the conflicted responses and undue influences and given fair and impartial due process and procedure under law. Complaints not docketed or disposed of according to the rules, the Court must now order formal and procedural docketing and disposition of, according to law and the rules governing the agency.

655. If Plaintiffs have failed to properly plead their rights under 15 U.S.C. § 2, then Plaintiffs seek leave to amend the complaint to better claim their rights. Plaintiffs have claimed that TFB members by violating their public office rules allowed the criminal enterprise to operate without repercussion that would normally act as a barrier to attorneys committing such crimes and further enabled them to continue to possess monopoly power in the relevant markets.

656. Plaintiffs have claimed the criminal enterprise has willfully and intentionally gained and maintained monopoly power through the theft and sabotage of inventions in violation of attorney conduct codes and through criminal activities causing loss of Plaintiff Bernstein's rights to his inventions.

Response to Count 3

657.

Response to Count 4

658. Plaintiffs have claimed properly under 18 U.S.C. §§ 1961-1968 and have claimed TFB members, including Triggs, received remuneration of some form for their participation in the artifice to defraud through the patent scheme or perhaps as stated they were threatened and intimated as was *Anderson* in New York to aid and abet. This is why further discovery will help determine how the cover up schemes were dictated and by whom at the various agencies.

659. The activity in New York and Florida appear to evidence the public office corruption element of RICO nicely and fits accordingly with how criminal enterprises infiltrate public offices to deflect actions against them either through direct infiltrations or through bribery of corruptible officials.

Response to Count 5

660. Malpractice claimed against the attorney conspirators that Plaintiff Bernstein and the Iviewit Companies had attorney/client privilege with, including Proskauer and Triggs, where Triggs also was a public officer of TFB. Malpractice claims already fully defined and argued in the Proskauer MTD response. TFB charged with aiding and abetting the activities by failing to perform their duties to discipline attorneys clearly involved in violating the well-established rules, regulations, and procedures of the TFB, by violating the Rules Regulating TFB.

Response to Count 6

661. Breach of Contract claimed against the attorney conspirators that Plaintiff Bernstein and the Iviewit Companies had attorney/client privilege with and other defendants involved in contracts, including Proskauer and Triggs, where Triggs also was a public officer of TFB. Tortious interference claims defined and argued in the Proskauer MTD response already. TFB charged with aiding and abetting these activities by failing to perform their duties to discipline attorneys clearly involved in violating the well-established rules, regulations, and procedures of the TFB by violating the Rules Regulating TFB.

Response to Count 7

662. Tortious interference claimed against the attorney conspirators that Plaintiff Bernstein and the Iviewit Companies had attorney/client privilege with and other defendants involved in various contracts, including Proskauer and Triggs, where Triggs also was a public officer of TFB. Tortious interference defined and argued already in the Proskauer MTD response. TFB charged with aiding and abetting these activities by failing to perform their duties to discipline attorneys clearly involved in violating the well-established rules, regulations, and procedures of the TFB by violating the Rules Regulating TFB.

Response to Count 8

663. Negligent interference with contractual rights claimed against the attorney conspirators that Plaintiff Bernstein and the Iviewit Companies had attorney/client privilege with and other defendants involved in contracts, including Proskauer and Triggs, where Triggs also was a public officer of TFB. Negligent interference with

contractual rights defined and argued already in the Proskauer MTD response. TFB charged with aiding and abetting these activities by failing to perform their duties to discipline attorneys clearly involved in violating the well-established rules, regulations, and procedures of the TFB by violating the Rules Regulating TFB.

Response to Count 9

664. Fraud claimed against the attorney conspirators that Plaintiff Bernstein and the Iviewit Companies had attorney/client privilege with and other defendants involved in the frauds defined in the AC, including Proskauer and Triggs, where Triggs also was a public officer of TFB. Fraud defined and argued already in the Proskauer MTD response. TFB charged with aiding and abetting these activities by failing to perform their duties to discipline attorneys clearly involved in violating the well-established rules, regulations, and procedures of the TFB by violating the Rules Regulating TFB.

Response to Count 10

665. Plaintiffs agree the claims regarding Officers and Directors of the Iviewit Companies are not directed at TFB. Plaintiffs are not accusing TFB of being Officers and Directors of the Iviewit Companies. TFB instead charged with aiding and abetting the criminal activities of the defendant Officers and Directors, by failing to perform their organizational duties to discipline attorneys clearly involved in violating the well-established rules, regulations, and procedures of the Rules Regulating TFB.

Response to Count 11

666. This claim is not directed at TFB and Plaintiffs are not accusing TFB of being employees of the Iviewit Companies. TFB charged with aiding and abetting these activities by failing to perform their duties to discipline attorneys clearly involved in violating the well-established rules, regulations, and procedures of the TFB by violating the Rules Regulating TFB.

Response to Count 12

667. This claim also not directed at TFB and Plaintiffs are not accusing TFB of exercising ownership or control over Plaintiffs' funds and trade secrets of the Iviewit Companies, although Proskauer and Triggs are and Triggs is a former officer of TFB. TFB charged with aiding and abetting these activities by failing to perform their duties to

discipline attorneys clearly involved in violating the well-established rules, regulations, and procedures of the TFB by violating the Rules Regulating TFB.

RESPONSE TO – CONCLUSION

668. Because well-established rules were violated and the actors acted outside the scope of their professional duties to commit violations of clearly established rules, regulations and procedures, to further aid and abet the conspiratorial enterprise through these activities, TFB defendants should therefore not be dismissed from the case or granted typical immunity for bad decisions, as these are not bad decisions. The actions of TFB members are instead violations of the rules with scienter.

669. For attempting to put forth baseless arguments in a MTD, in attempt to avoid trial, this Court should sanction TFB counsel.

670. For acting in a conflict of interest with former client Bernstein, this Court should sanction Greenberg partners and attorney complaints will be forthcoming depending on the actions of this Court in resolving the conflicts here and now.

RESPONSE TO THE VIRGINIA STATE BAR

RESPONSE TO – BACKGROUND

671. The VSB counsel the VAAG, as already described herein, may be conflicted by the fact their patent counsel, they hired, is one of the main defendants, Foley. The VAAG hired Foley as counsel to the VAAG, the Virginia Commonwealth, and the VSB. This evidence should preclude their representation as already described herein and void this MTD.

RESPONSE TO – ARGUMENT

RESPONSE TO – POINT I

THIS COURT LACKS PERSONAL JURISDICTION

672. Personal jurisdiction of the Court has been answered already herein and the same arguments apply to the VSB MTD. As the conspiracy involves tortious acts committed in combination by various agents of a criminal enterprise, to deny inventors of their inventions and deny any due process to prosecution of the enterprise, the acts are typically committed in various states but act to enable the criminal enterprise. The enterprise centered in New York through Proskauer and several of the other original conspirators operates out of various states to prefect the crimes. Tortious acts then

construed as acts benefiting the criminal organization where it operates, despite being committed in a variety of states or countries. In fact, the orders to commit the crimes, very well maybe ordered in New York, further discovery necessary. Anderson and the two justices with eyewitness evidence of corruptions may prove valuable in determining this facet.

673. Like the other state MTD's filed, the VAAG misses the point of the allegations filed against VSB defendants. Plaintiffs, again, do not complain of bad decisions or failure to prosecute as the basis for their claims. Plaintiffs complain VSB officials did not follow well-established rules, regulations, and procedures of the VSB.

674. Plaintiffs complain VSB acted in concert with other actors in the conspiracy to deny Plaintiffs due process rights and in so doing block Plaintiff Bernstein from having his constitutionally protected IP, in opposite of the Constitution's intent.

675. Based on the new evidence Foley is counsel to the VSB on patent matters and where Plaintiffs complain the VSB in issuing their dismissal on review of the Dick complaint, overstepped their rules by stating conclusions that Dick's actions and those of his underlings Boehm and Becker did not do anything to deprive Plaintiff Bernstein of his IP rights. This formed the basis of a patent opinion on official letterhead with no formal investigation behind the opinion, where further discovery will reveal if they checked with their patent counsel for that opinion[137].

676. As mentioned already herein, VSB was cognizant Moatz had issued orders to get the IP revived and ready for the Commissioner of Patents to suspend, based in part on a patent portfolio prepared by Dick and Foley which was materially false, leading to the suspensions and this did not cause the VSB to review their review and change their opinion.

RESPONSE TO – POINT II

THE ELEVENTH AMENDMENT BARS CLAIMS AGAINST THE VIRGINIA BAR AND THE COMMONWEALTH

677. This argument already responded to in the NYAG and TFB MTD responses, the same arguments hold for VSB.

RESPONSE TO – POINT III

[137] Exhibit 1 – Evidentiary Links 462, 464, 471, 352, 357, 646, 827, 828

THE INDIVIDUAL VIRGINIA DEFENDANTS ARE ENTITLED TO ABSOLUTE JUDICIAL OR QUASI-JUDICIAL IMMUNITY

678. This argument already responded to in the NYAG and TFB MTD responses, the same arguments hold for VSB.

RESPONSE TO – POINT IV

THE COMPLAINT FAILS TO STATE A CLAIM

679. This argument already responded to in the NYAG and TFB MTD responses, the same arguments hold for VSB.

RESPONSE TO – POINT V

CIVIL RIGHTS CLAIMS ARE TIME BARRED AGAINST THE VIRGINIA BAR DEFENDANTS

680. This argument already responded to in the NYAG and TFB MTD responses, the same arguments hold for VSB.

RESPONSE TO: CONCLUSION

681. For all the reasons stated herein, dismissal by the Court of the VSB defendants is not acceptable. VSB defendants are an integral part of the conspiracy to deny due process, alleged in the AC with supporting evidence, that act to deny Plaintiff Bernstein rights to recover his inventions. Anderson offers reason to keep all defendants in until all tentacles to such due process violations are explored through discovery.

RESPONSE TO RAYMOND A. JOAO

RESPONSE TO: DECLARATION OF JOHN W. FRIED

682. As noted to this Court in prior filings and again herein, John W. Fried may be acting in conflict of interest, as he was part of the affairs at the 1st DDC in his representation of Joao's disciplinary complaint and therefore may have vested interest in the outcome of the proceedings. Depending on the *Anderson* case information and Anderson's testimony regarding political influence denying due process for favored attorneys, one cannot presume Fried is not one of these attorneys or perhaps piggybacking on Krane's influence at the 1st DDC.

683. Fried therefore should resign as counsel to Joao, until such time Plaintiffs discovery in the *Anderson* case completes, as this may lead to his being found later accomplice to the denial of due process described herein and where it may be after he has

moved the Court to prejudice Plaintiffs through an invalid MTD. The circumstantial evidence at this time in *Anderson* should provide enough substantive cause to force Joao to get counsel that did not act in matters central to this proceeding which may provide ulterior motives for Fried as Joao's counsel, such as keeping himself and Joao out of the proceedings as a defendant through say anything pleadings on behalf of Joao.

684. The MTD filed by Fried should therefore be denied until determined if it was tendered in conflict.

685. It appears Fried is representing all defendants, as he makes a plea to dismiss the entire AC against all defendants, not just dismiss Joao. Is Fried moving to dismiss the complaint for defendants he is not acting counsel too and what if a defendant wanted to respond in the affirmative to all allegations in the AC?

686. Fried seeks to move to have the AC dismissed with prejudice, prior to hearing testimony of three whistleblowers with eyewitness information regarding the subterfuge of due process at the 1st DDC, that both he and Joao may be intimately involved with waiting further discovery in Anderson.

687. Fried seeks to have the AC dismissed with prejudice on these frail MTD claims, when sooner or later; Joao will be called to account for his actions in the patent frauds against both the USPTO and Plaintiff Bernstein. Whereby in order to return the inventions, Joao, more inventive then Edison with 90+ patents[138], who fraudulently converted Plaintiff Bernstein's technologies to his own name, in violation of attorney/client privilege and federal patent law, must be held accountable in order to return the IP to the true and proper inventors as required by the Constitution.

RESPONSE TO: MEMORANDUM OF LAW OF DEFENDANT RAYMOND A. JOAO IN SUPPORT OF MOTION TO DISMISS PLAINTIFFS' AMENDED COMPLAINT

688. It appears here Fried is not asking the Court to dismiss Joao from the AC but instead to dismiss the entire AC against all Plaintiffs and again, Plaintiffs wonder if Fried has the legal authority to act on behalf of all other defendants in so moving this Court to dismiss everyone and the AC.

Response to: Summary of Alleged Facts Pertaining to Joao

[138] Exhibit 1 – Evidentiary Links 173 and 174

Response to: Summary of Causes of Action Involving Joao

Response to: Count 1

Response to: Count 2

Response to: Count 3

Response to: Count 4

Response to: Count 5

Response to: Count 6

Response to: Count 7

Response to: Count 8

Response to: Count 9

Response to: Count 10

Response to: Count 11

Response to: Count 12

689. Plaintiffs seek in addition to a trillion dollars per count additional injunctive relief from this Court against Joao, regarding his patent applications alleged to have been converted from concepts he learned while retained by the inventors' to procure patents for them. Injunctive reliefs this Court can grant to convert those patents back to the true and proper inventors and any other injunctive reliefs this Court may find applies.

Response to: The Court's Jurisdiction

690. As there are federal questions raised that are valid and several of the counts are federal, i.e. RICO, this Court has jurisdiction. As Plaintiff Lamont maybe omitted by the Court, if ruled acting on behalf of others not permitted, the case will remain standing with Plaintiff Bernstein who also sued in his individual capacity, who is a resident of California protecting his individual rights to his intellectual properties. The Court has jurisdiction of the state claims as pendent jurisdiction to the federal questions.

RESPONSE TO: ARGUMENT

691.

I. RESPONSE TO: PLAINTIFFS' AMENDED COMPLAINT SHOULD BE DISMISSED AS FAILING TO COMPLY WITH RULE 8(a)(2).

692. 8(a)(2) arguments already answered in the Proskauer and Foley MTD's. Plaintiffs same arguments prevail for the Joao MTD.

693. Again, not an example from the AC for Plaintiffs to respond to the claim for dismissal, as it is merely a reciting of the code with no examples.

694. There is plenty of evidence to support claims of Joao's involvement attached to the AC and as the TFB defendants were able to find the referenced exhibits for their defendants, presumably Joao found the evidence against him contained in the AC exhibits. For example, the 1,753-page rebuttal to Joao's disciplinary complaint response filed by Plaintiffs at the 1st DDC. That document contains plenty of factual allegations with supporting evidence against Joao that remains valid, more information has since been learned but that exhibited should suffice as clearly stated claims against Joao with lots of factual evidence, witness statements, etc.

695. Joao, like other defendants in their MTD's, chose to ignore the exhibits supporting the claims and instead proffers nonsense claims to this Court that specific factual allegations with supporting evidence was not provided, while providing not a single example. Since there are no examples to argue, Plaintiffs cannot respond intellectually to this baseless argument with no supporting facts to the conclusion lacking premises. In the context of ordinary argumentation, the rational acceptability of a disputed conclusion depends on both the truth of the premises and the soundness of the reasoning from the premises to the conclusion, of which this argument wholly fails with no premises and no soundness to the reasoning for the conclusion.

696. Joao was in on the schemes from day one with Proskauer, Wheeler, Foley, Rubenstein, MLGWS, and Utley. As such, Joao accused of all crimes as a main conspirator and a central player in the criminal organization's hierarchy. Joao also directly committed many of the patent crimes, failing to file for entire inventions, fraudulently changing and filing patent documents. Joao in fact, represents the lowest form of patent attorney ever, one who patents his clients' inventions in his own name. Joao claims to the 1st DDC in his response, Plaintiff Bernstein was infringing on his inventions, which begets the question of if Joao had patents Plaintiffs infringed on, why does not state such in retaining Plaintiff Bernstein and the Iviewit Companies as clients.

Did MLGWS run conflicts check, did Joao not see the claimed infringement and why has he not pressed his claim?

697. Plaintiffs allege the response by Joao was under the same spell of corruption at the 1st DDC as the Proskauer complaints, as *Anderson* supports. In fact, the original Joao complaint was filed in the disciplinary department that regulated attorneys from his district but was mysteriously transferred to the 1st DDC, further discovery is necessary to see how that internally was crafted.

698. It appears Fried asks the Court to dismiss the AC instead of dismiss Joao from the AC. Again, is Fried capable of requesting such relief for all defendants, including those he does not represent.

II. RESPONSE TO: EACH OF THE FOUR FEDERAL QUESTION CLAIMS AGAINST JOAO SHOULD BE DISMISSED AS FAILING TO STATE A CLAIM UPON WHICH RELIEF CAN BE GRANTED.

699. Plaintiffs remain confused as how Fried makes the spectacular leap that Joao cannot be responsible as an individual for violating Plaintiffs constitutional rights, especially for counts such as antitrust and civil RICO other than in prayer.

700. Perhaps, concerning the claims against the state agencies of violating Plaintiffs constitutional rights of due process is what they refer too, although he was a central part in the alleged 1st DDC scheme to derail his complaint and may be responsible in part for those violations too. As to violating Plaintiffs' rights under the Constitution, which protects inventors from poachers, Joao is central to this violation and is a registered attorney with the Federal Patent Bar that may constitute an actor of the USPTO, which under those rules may also implicate him in denying constitutionally protected rights as part of that agency. Joao was central to the original patent fraud steadily built upon by Foley and BSTZ, after his termination, as described and evidenced in the AC.

701. Plaintiffs have described already in the AC and again herein, that Joao's actions in violation of law combined with the other conspirators, aid the criminal enterprises restraint of interstate commerce to Plaintiff Bernstein's inventions. Plaintiffs have shown the illegal enterprise operates to form a monopoly power centering on the

stolen IP, the intentional sabotage by Joao and others to make the Plaintiffs IP rights suspended to preclude entry to market and all typical antitrust violations.

702. The 42 U.S.C. § 1983 language to be included in any amended AC as already cited herein, should also be possible reason to include Joao in this claim. Even though Joao was not employed by the 1st DDC, he is a member of the disciplinary under such membership. Can a member be included as an actor of the organization, especially where they are found using membership to influence corruptly the agency and its actors, we leave this question to the Court?

703. The RICO claim, as already discussed herein, states very specifically, with what knowledge is available at this time, claims against Joao with factual evidence supporting the claims against Joao and showing his part in acting to violate the rights of Plaintiffs. Those same arguments apply to Joao's MTD.

704. The cases cited to dismiss the RICO actually support Plaintiffs RICO claims under either courts interpretation cited. Plaintiffs have filed a tremendous amount of factual evidence against the defendants providing prima facie evidence criminal activities under RICO are being committed. *Anderson* provides solid substantive evidence of a conspiracy to deprive due process rights committed by public officials to favored attorneys, even involving threat and intimidation, which supports almost exactly Plaintiffs complaints of the due process denials committed against him. The USPTO suspensions also offer evidence criminal wrongdoings may have been committed with enough evidence submitted to suspend the patents. Joao also is under investigation with the other IP attorneys involved with the USPTO OED for his actions in the conspiracy to deprive inventors' of their rights, through crimes as insidious as fraud on the USPTO to achieve their ends. The claims are not only plausible but also factually supported by evidence and witnesses.

705. Plaintiffs may have erred in formulating the specific counts to the mass of crime and may have improperly pled in that regard due to their Pro Se status and this Court should understand due to the complexity of the case these defects. If such defects are present, Plaintiffs seek leave to amend and correct any such defects.

706. Plaintiffs have shown injury caused by the direct actions of Joao. As for basing their RICO argument on others MTD's, those RICO arguments have been made in

response to the other MTD's and Plaintiffs contend the same arguments apply to Joao's request for dismissal on those grounds.

707. Plaintiffs did not state Joao conducted the criminal enterprise, just that he was an integral part from the start and thus is worthy of being included in the RICO claim for his actions in violations of law.

708. Joao accused also of all crimes, as one of the original conspirators and directors of the actions against Plaintiffs originally. Plaintiffs' claim Joao also has committed numerous of the predicate acts directly, specifically defined in the exhibits relating to Joao in Exhibit 1, already evidenced herein but overlooked by Joao in the AC.

709. Examples of Joao's predicate acts; (i) committed mail and wire fraud by sending to the USPTO, Plaintiffs, investors and securities firms, fraudulent patent applications directly[139] (ii) fraudulent transfers of IP into his own name (iii) document forgery (v) false pleadings in an official proceeding and (iv) perjury and other crimes further defined in the AC and in the RICO section.

710. The RICO claim 4-year statue should refresh with Anderson's claims and should not apply to the date they try and establish without consideration of the due process violations preventing the timely assertion of civil rights through civil remedies. This argument already responded to in the other MTD's and those arguments should apply here with Joao.

III. RESPONSE TO: EACH OF THE EIGHT STATE LAW CLAIMS AGAINST JOAO SHOULD BE DISMISSED.

711. As mentioned already, Plaintiff Lamont may not survive the ruling of the Court to defend others rights. If Lamont cannot represent others, including himself, as he did not sue personally, the complaint would be with Plaintiff Bernstein and the defendants, Bernstein a resident of the state of California.

712. The various Statute of Limitations claims already addressed in the other MTD's and the same arguments apply to Joao's statutes claims. Plaintiffs initiated this

[139] Fried argues that since one application, which Plaintiff Bernstein and other inventors found Joao fraudulently changing, and then took from him and sent to the USPTO directly with other witnesses to these events is reason to state Bernstein sent any other documents to the USPTO. This application while sent by Bernstein and others to the USPTO has disappeared per the USPTO from their files. Joao sent all other applications to the USPTO & EPO directly himself and Fried attempts to mislead the Court in this regard. Joao sent every other fraudulent document to the USPTO, EPO, the Iviewit Companies, Proskauer, Foley, investors, and the Inventors, through mail or wire.

action in 2007, in support of Anderson and because Anderson revealed new evidence opening up the can worms to expose the inner workings of a small part of the criminal enterprise and allowing Plaintiffs to better plead their case, as it relates to denial of due process through controlling key positions of power at the 1st DDC.

713. Regarding the assertion that Plaintiffs pled the fraud claim against Joao insufficiently, lacking specificity and facts that give rise to a strong inference of fraudulent intent, is untrue. Plaintiffs claim again all the facts regarding Joao's fraudulent activity have been already included in the AC and its incorporated exhibits and again herein, pertaining to Joao. This evidence and fact, should give one rise to jump out of their chair at the fraud Joao has committed. Notably, the claims again are baseless having no examples from the AC to support the presumptions that the frauds of Joao are not perfectly pled. A good place to start with Joao is Exhibit 1, Evidentiary Links 238, 214, 223, 430, 460, 498, 508, 707-709 and 713-718.

RESPONSE TO: CONCLUSION

714. Plaintiffs here again are confused if Fried argues to dismiss the AC for all defendants or just dismiss Joao from it. If it is to dismiss the entire AC for all defendants, we are unclear if he can plead on behalf of defendants he does not represent. If he pleads only for Joao, Joao should not be dismissed from the AC for all the reasons stated herein and in the AC.

OVERALL CONCLUSIONS

715. Plaintiff Bernstein comes to this battle armed only with the rights to his inventions, which have the full weight of the Constitution protecting them from poachers, even legal poachers trying to poach them through legal debauchery. Knowing in the end, no matter what rules and laws claimed to preclude him now of those rights (i.e. those rules and laws claimed in the MTD's), eventually, those rules will be amended or changed. Even if the change takes congressional legislative changes to return the inventions to the true and proper inventors, as mandated by the Constitution and in the event the courts fail.

716. As long as the acts of the defendants preclude inventors' rights to their inventions and further denial of due process rights to assert those rights violated to

preclude the inventors of their inventions, Plaintiff Bernstein will simply collect fingerprints from all conspirators acting in concert to deny such rights.

717. Plaintiffs will wait for a court, free of conflicts and willing to enforce the full weight of the Constitution to restore those rights, through prosecution of those that committed the acts to deprive the rights with scienter, leading to the return of the inventions to the true and proper inventors. Until such time, every lawyer, politician, judge, court, and judicial officer found interfering with this inventors' rights, until justice restored, will be added to the next complaint necessary to enforce the intent of the Constitution, until such time Plaintiffs prevail and their inventions returned.

718. If this Court allows the legal circus to continue, to form a barrier to inventor Bernstein getting his inventions back, free commerce is comprised in America, as lawyers, judges, public officers, public agencies and judicial officers and agencies have figured out a complex scheme working to deny inventors their rights. Congress will then be petitioned to perform their duties under the Constitution to force the Court's and legal communities involved, to give up this hoax and fraud on the United States Patent & Trademark Office, worldwide patent authorities and inventors which puts all inventors at risk to this same scheme in violation of Article 1, Section 8, Clause 8.

719. Plaintiff Bernstein has not quoted the case of blah v. blah or any other case in support of his rational. Bernstein has searched high and low for a similar case to reference where one seeking to assert their timely rights to civil and criminal authorities, then was denied legal due process at every avenue of relief sought. No cases having this type of conspiratorial misuse of law to commit crimes and then misuse law again to block the victims' rights, by those beholden to uphold law, has historically occurred to the best of Plaintiff Bernstein's knowledge. The cases cited by defendants all fail to deal with this legal anomaly, which may in fact, be precedent setting.

WHEREFORE, based on the above extraordinary circumstances, Plaintiffs request this Court to issue an order granting an extension of time until August 30, 2008 to respond more formally, in a clearer state of mind than moving under duress a family five causes. This time will allow Plaintiff Bernstein to establish a new residence, re-establish

business services and the Bernstein's possessions shipped to a new residence unavailable until at least August 15, 2008.

Plaintiffs seek this Court to order each MTD filed refused at this premature time, until further discovery of critical evidence and witness in all related cases is wholly explored by Plaintiffs and Defendants, to determine if a MTD can properly be filed with valid claims, at some later more appropriate time.

Plaintiffs wish this Court to extend the July 14, 2008 deadline so a supplemental, point-by-point, detailed response to each individual MTD, more thorough, and not written in duress, can be tendered. If the Court finds it needs such detailed individual response after hearing the reasons to quash each MTD already described herein.

Where if the herein response to the MTD's or forth coming separate and individual responses, if necessary, are deemed in any way deficient in causes stated in any MTD and Pro Se claims or counts may have been pled improperly in any amendable way, Plaintiffs respectfully request to make leave to amend the AC to correct any defect(s).

Plaintiff Bernstein apologizes for this helter-skelter filing but the fact is on Tuesday, July 07, 2008 at 6am, Plaintiff Bernstein and his family were evicted and have no known legal residence, have no business phone, have no offices, have no files and have nothing but what fits into their car with their children. A permanent residence will not be available until August 15, 2008 to re-establish communications with almost anyone, as they are moving between friends and families home until then. Had the eviction not been effectuated through sneaky legal tactics and forced instantly upon them without notice, as the Bernstein's had paid in full two months rent in advance and were already planning to leave in August when their agreement ended, no additional time would be necessary from the Court. Nevertheless, the entire time Plaintiff Bernstein has had to respond to each MTD consumed with the eviction and that court, coincidental or not. The stress has continued throughout and almost exactly with the forty-five days to respond and left Bernstein without a way to continue work on these filings for almost two critical weeks.

Per the Courts Order regarding an extension of time, the Court forewarned Plaintiffs to follow the rules and decorum of Your Honor's courtroom. Plaintiffs

contacted the Pro Se Desk and spoke with Mr. Street, whom advised because our belongings, other than a weeks worth of clothes are packaged and warehoused with the rules sent by the Court initially included, we should seek additional time to respond and seek to have the Court resend the rules to assure compliance. In that spirit we request, if necessary, a copy of the rules referred to in the order and if the response herein suffers from any rule violation, to allow such time to correct this response for those deficiencies. Although at this time, we have no permanent address to send such too.

Plaintiff Bernstein has filed this response in his own individual capacity and pertaining to his rights to his inventions and his shareholdings in the companies, whatever companies those may be. In regard, to Plaintiff Lamont, Plaintiff Bernstein has requested he file separate MTD responses, as he did not sue in his individual capacity and maybe excluded with other Plaintiffs, if the Court finds no rationale to support suing on others behalf, despite the extraordinary circumstances created through the misuse of law to violate law against the shareholders. Bernstein thus incorporates by reference, in entirety, any responses to the MTD by Lamont, in addition to his own, and any arguments favoring Plaintiffs that may not be included in Bernstein's MTD responses herein. Plaintiffs have not worked together on these responses for several reasons, including the loss of business communications due to the eviction.

Other issues between Lamont and Bernstein at this time also have motivated separate filings which will be further expanded, if necessary, after this Court's rulings on the MTD's and AC are entered.

As Plaintiffs have come to this Court in support of an inside whistleblower case, *Anderson* and where our efforts to aid the Big Apple in "taking a bite out of crime" and public office corruption comes at great personal risk and continued suffering, as the defendants are leading public officials. We beg this Court to have a little compassion and understanding in allowing us to put forth proper pleadings in light of the fact this Court has denied Pro Bono counsel until after the MTD's are determined and where pleadings made under duress caused by legal abuse will look like hurried and prone to mistake versus proper. The time to respond severely tampered with by the eviction, as to appear conspiratorial if it causes any of these criminals to evade prosecution from a response error. Such short extension by the Court of two weeks to file response to the MTD's

without eviction seemed a hardship when compared to the Esposito request for more time and where she had two MTD's, not seven, and received 30 days extension seems prejudiced against Plaintiffs. The short extension seems prejudiced and compounded with the eviction, filing timely responses became nearly impossible. Plaintiff Bernstein has run out of time as the Marshal locked us out of home and Plaintiff Bernstein now has no address for rebuttal responses to the MTD's to be sent, etc.

Not sure, what to do under this duress but request the Court have mercy, as this filing situation is identical exactly to what happened when filing at the United States Supreme Court, as the case documents will show, due to coincidentally or conspiratorially to an eviction again due to legal process abuse.

Plaintiffs request the Court to sanction all attorneys who filed MTD's in conflict as herein defined and award a default judgment in favor of Plaintiffs. Plaintiffs also ask an award for legal time and expense fees to Pro Se Plaintiffs for having to respond to each MTD filed with no real legal standing in an attempt to avoid court proceedings on failed claims and false pleadings.

> THOMAS JEFFERSON said, "What country before ever existed a century and a half without a rebellion? And what country can preserve its liberties if their rulers are not warned from time to time that their people preserve the spirit of resistance? Let them take arms. The remedy is to set them right as to facts, pardon and pacify them. What signify a few lives lost in a century or two? The tree of liberty must be refreshed from time to time with the blood of patriots and tyrants. It is its natural manure."
>
> (1743-1826), US Founding Father, drafted the Declaration of Independence, 3rd US President
> Source: November 13, 1787, letter to William S. Smith, quoted in Padover's Jefferson On Democracy, ed., 1939

EXHIBIT 1 – EVIDENCE LINKS

All evidence links attached below can be found additionally, in hyperactive form on the website www.iviewit.tv and the table numbers below match the site links on that web page. The table is found at the bottom of the Iviewit Companies homepage.

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355 Filing with the United States Patent & Trademark Office claiming that per the direction of Harry I. Moatz, Director of the Office of Enrollment & Discipline, Iviewit & Crossbow Ventures were seeking the Commissioner of Patents to suspend the Iviewit patents based on evidence of Fraud on the United States Patent & Trademark Office by Iviewit former Intellectual Property attorneys, Kenneth Rubenstein, Proskauer Rose LLP, Meltzer Lippe Goldstein Wolf & Schlissel, Raymond Anthony Joao, Foley & Lardner, William J. Dick, Douglas Boehm, Steven Becker, Blakely Sokoloff Taylor & Zafman, Thomas Coester, Norman Zafman, Farzahd Ahmini, Christopher & Weisberg PA, Krishna Narine, Andrew Barroway, Schiffrin & Barroway and others. This led to the Commissioner of Patents suspending certain of the Iviewit patent applications into an infinite black hole. The form also included inventor change forms which have gone wholly unresolved while patents are in black hole at the United States Patent & Trademark Office.'
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869 NY Times Article, NYAG officials transfer to Proskauer and then later represent Spitzer in his affairs, literally @
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870 Law.com – Schnell and Cleary of NYAG join Proskauer

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871 New York Daily News - Spitzer Hires Proskauer for his Troopergate Scandal

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ELIOT I. BERNSTEIN, et al.

DOCKET NO: 07Civ11196 (SAS) [rel. 07 Civ 09599]

Plaintiffs,

-against-

APPELLATE DIVISION FIRST DEPARTMENT DEPARTMENTAL DISCIPLINARY COMMITTEE, et al.

AFFIRMATION OF SERVICE

Defendants

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I, Eliot I. Bernstein, declare under penalty of perjury that I have served a copy of the attached EMERGENCY MOTION FOR ADDITIONAL EXTENSION OF TIME TO FILE RESPONSIVE PLEADINGS TO MOTIONS TO DISMISS & OPPOSITION TO MOTIONS TO DISMISS upon defendants;

1. Stephen M. Hall, Commonwealth of Virginia, Office of the Attorney General - Attorney for Virginia State Bar, served by US Mail and email.
2. John W. Fried, Fried & Epstein LLP – Attorney for Raymond A. Joao, served by email via counsel request and fax.
3. Kent Kari Anker, Friedman, Kaplan, Seiler & Adelman LLP – Attorney for Foley & Lardner, served by email and fax.
4. Glenn T. Burhans, Jr., Greenberg Traurig, LLP. – Attorney for The Florida Bar, served by email via counsel request.
5. Richard M. Howard, Meltzer, Lippe, Goldstein & Breitstone, LLP – Attorney for Meltzer, Lippe, Goldstein, Wolf & Schlissel, served via email and fax.
6. Gregg M. Mashberg, Proskauer Rose LLP – Attorney for Proskauer Rose LLP, served via email and fax.

Dated: Red Bluff, California
July 12, 2008

X_____
Signature
Eliot I. Bernstein, Pro Se
NO LEGAL ADDRESS AT THIS TIME
Phone 530-526-5751