
**United States Court of Appeals
For the Second Circuit**

ELIOT I. BERNSTEIN, INDIVIDUALLY and P. STEPHEN LAMONT 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 PATENT INTEREST HOLDERS ATTACHED AS EXHIBIT A

Plaintiffs - Appellants,

--v--

APPELLATE DIVISION FIRST DEPARTMENT DEPARTMENTAL DISCIPLINARY COMMITTEE, THOMAS J. CAHILL, in his official and individual capacity, JOSEPH WIGLEY in his official and individual capacity, CATHERINE O'HAGEN WOLFE in her official and individual capacity, PAUL CURRAN in his official and individual capacity, MARTIN R. GOLD in his official and individual capacity, HON. ANGELA M. MAZZARELLI in her official and individual capacity, HON. RICHARD T. ANDRIAS in his official and individual capacity, HON. DAVID B. SAXE in his official and individual capacity, HON. DAVID FRIEDMAN in his official and individual capacity, HON. LUIZ A. GONZALES in his official and individual capacity, APPELLATE DIVISION SECOND DEPARTMENT DEPARTMENTAL DISCIPLINARY COMMITTEE, LAWRENCE DIGIOVANNA in his official and individual capacity, DIANA MAXFIELD KEARSE in her official and individual capacity, JAMES E. PELTZER in his official and individual capacity, HON. A. GAIL PRUDENTI in her official and individual capacity, STEVEN C. KRANE in his official and individual capacity, HON. JUDITH S. KAYE in her official and individual capacity, KENNETH RUBENSTEIN, ESTATE OF STEPHEN KAYE, PROSKAUER ROSE LLP, MELTZER LIPPE GOLDSTEIN & BREISTONE LLP, LEWIS S. MELTZER, RAYMOND A. JOAO, FOLEY LARDNER LLP, MICHAEL C. GREBE, WILLIAM J. DICK, DOUGLAS A. BOEHM, STEVEN C. BECKER, STATE OF NEW YORK COMMISSION OF INVESTIGATION, LAWYERS FUND FOR CLIENT PROTECTION OF THE STATE OF NEW YORK, THE FLORIDA BAR, LORRAINE CHRISTINE HOFFMAN in her official and individual capacity, ERIC TURNER in his official and individual capacity, JOHN ANTHONY BOGGS in his official and individual capacity, KENNETH MARVIN in his official and individual capacity, THOMAS HALL in his official and individual

capacity, **DEBORAH YARBOROUGH** in her official and individual capacity, **VIRGINIA STATE BAR**, **ANDREW H. GOODMAN** in his official and individual capacity, **NOEL SENDEL** in her official and individual capacity, **MARY W. MARTELINO** in her official and individual capacity, and **John Does**.

Defendants-Appellees

**ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

**PLAINTIFF-LEAD APPELLANT LAMONT'S OPPOSITION, IN PART, TO
PLAINTIFF-APPELLANT BERNSTEIN'S "EMERGENCY" MOTION TO
COMPEL**

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1. Plaintiff-Lead Appellant, P. Stephen Lamont, individually, and on behalf of shareholders of the Iviewit Companies and patent interest holders, file this Motion to oppose Plaintiff-Appellant Eliot I. Bernstein's "Emergency" Motion to Compel, in part -- the prayed for removal of Plaintiff-Lead Appellant P. Stephen Lamont.

I. REMOVAL OF PLAINTIFF-LEAD APPELLANT LAMONT.

2. Peculiarly, and as parties that should be aligned in their goals in the instant appeal, Bernstein now takes issue with the omission of the word "individually" after P. Stephen Lamont in the caption of the instant appeal (Bernstein's Motion at 135). Lamont proffers the position that such omission is of no affect wherein Lamont, from the inception of the action in District Court to the instant appeal, has pursued the case individually and on behalf of shareholders and patent interest holders of the Iviewit Companies, as so pled and drafted in the Original Complaint, Oppositions to Motions to Dismiss, Motion for Reconsideration in District Court, and his Appellant Brief in this Court filed on November 17, 2008 and has been served as an individual Plaintiff-Appellant in all instances; Lamont is also a shareholder and patent interest holder of the Iviewit Companies.

3. It should be clear to this Court that Bernstein cites neither one case, nor one rule of the Federal Rules of Civil Procedure, nor one rule of the Federal Rules of Appellate Procedure, but just a mass of grammatically incorrect verbiage.

4. Bernstein is well aware that the "Removal of Plaintiff Lamont" section of his motion is not subject matter of this appeal, as the District Court made no mention of his frivolous claims.

5. Lamont is free to bring the action and this appeal on behalf of shareholders and patent interest holders in that such actions put such shareholders and patent interest holders at no monetary risk.

II. MISSAPPROPRIATION AND CONVERSION OF IVIEWIT MONIES BY BERNSTEIN

6. After years of experiencing the libelous and slanderous remarks from Bernstein, on Tuesday November 4, 2008, Lamont was forced to transmit the following electronic mail message to shareholders:

Sent: Tue, 4 Nov 2008 7:33 pm

Subject: Eliot Bernstein -- For the Record

In a taped recorded conversation in or about March 2002, a time of dire need for Iviewit, Bernstein admitted to selling \$100,000 in Iviewit equipment and put the money in his own pocket, circumventing the then Iviewit bank account.

During the time period of, roughly 2002 to 2004, in another tape recorded conversation, Bernstein admitted to raising up to \$400,000 in Iviewit cash and admittedly put the money in his own pocket, circumventing the then Iviewit bank account...when questioned on this matter he said "Go get your own money," or words to these effects.

Most recently, just prior to filing of the Federal action, Bernstein came up with another approximately 150 new shareholders who he claims funded \$2.41 million in Iviewit cash; he has made no accounting for these funds except for purchasing a \$60k Volvo SUV for his family and a \$500k home in Boca Raton, Fla.

These circumstances, logic tells, should be taken into account during the upcoming filing of briefs and motions in USCA, and what further emails Bernstein chooses to transmit.

7.irate at this revelation, one of the leading and founding shareholders, the name of which will be submitted according to proof at any motion hearing or oral argument, replied to Lamont as follows:

Sent: Thu 11/6/2008 1:17 PM

Subject: RE: Eliot Bernstein -- For the Record

tape recorded by whom? Hmm, explains allot (sic) about where our collective \$\$ went after that horseshit final funding round and how he was able to afford living in Palos Verdes from 02-04 while partying his ass off... I'm sure he, unbeknownst to shareholders, sold our traded our stock for an 8 ball... I'd LOVE a copy of said tape....

8. Clearly, by these revelations, it is not in the interest of Lamont or any Iviewit shareholder to have Bernstein the sole Plaintiff-Appellant in the instant appeal.

III. DISMISSAL OF PLAINTIFF-APPELLANT BERNSTEIN FOR CONTEMPT OF COURT

9. In the District Court, and from the time period of on or about April 2008, Bernstein insisted on assuming the authorship of the Plaintiffs-Appellants Court documents beginning with his patently absurd filing of the Amended Complaint that added approximately one hundred and twenty five new defendants including several former members of the United States cabinet: Lamont was neither allowed to view such document nor comment upon it prior to filing.

10. Upon the dismissal of the District Court action on August 8, 2008, Bernstein undertook a malicious attack upon the District Court Judge, the Hon. Shira A. Scheindlin and Lamont, the appointed CEO of the Iviewit Companies according to an employment agreement dated December 3, 2001, as amended, an agreement where Bernstein alone is powerless to remove.

11. Proceeding along to the instant appeal, Bernstein now includes in his malicious attacks, in addition to Judge Scheindlin and Lamont, a Senior Circuit Judge of this Court, one commissioned more than twenty eight years ago, Hon. Ralph K. Winter.

12. Further, in this age of Ponzi schemes by participants in the financial community Bernstein bizarrely ties these circumstances to the Iviewit Companies. In fact, as equally bizarre, anytime a national or international scandal is unclocked, whether it be news of war crimes by the Bush administration or Ponzi schemes, Bernstein ties these occurrences to the Iviewit Companies and adds such occurrences to his patently absurd filings in this Court.

13. Clearly, the actions of Bernstein that serve as a mockery to the United States courts, must be stopped.

14. It is well settled in the law that, under American jurisprudence, acts of contempt are divided into two types, direct contempt and indirect contempt:

- a. Bernstein has committed direct contempt insofar as filings to the panel in the presence of a judge (*in facie curiae*), in this case Judge Winter, whereby this Court must deal with Bernstein's actions summarily;
- b. this Court must notify Bernstein that he has acted in a manner which disrupts the tribunal and prejudices the administration of justice; and
- c. this Court is obligated impose the sanctions immediately, in this case dismissal of Plaintiff-Appellant Bernstein.

15. Moreover, this Court must perceive Bernstein's direct civil contempt as an effort to intentionally harm the reputations of the Plaintiff-Lead Appellant Lamont, the Hon. Shira A. Scheindlin, and Hon. Ralph K. Winters.

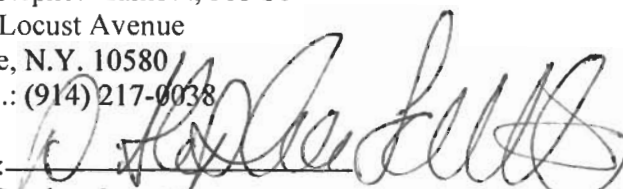
IV. CONCLUSION

16. For all the foregoing reasons, Plaintiff-Lead Appellant P. Stephen Lamont, respectfully requests this Court to deny the "Emergency" Motion to Compel of Bernstein,

in part, as: (i) Lamont has acted as an individual Plaintiff-Appellant from the inception of the action in Federal courts and that the claim of Bernstein is not subject matter of this appeal; (ii) Lamont is free to act on behalf of shareholders and patent interest holders of the Iviewit Companies as the instant appeal puts such parties at no monetary risk and is not subject matter of this appeal; (iii) to grant an order holding Plaintiff-Appellant Bernstein in direct civil contempt and dismissing him from the instant appeal; and (iv) such further relief as this Court deems advisable.

Attorney for Plaintiff-Lead Appellant

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By: 
P. Stephen Lamont

AFFIDAVIT OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been furnished to all Plaintiff-Appellant and Defendants-Appellees by electronic mail this 11th day of September 2009. Defendants-Appellees are served by electronic mail as opposed to hand delivery to the Court or mail delivery for the sake of Pro Se expediency.


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