Motions

1:07-cv-11196-SAS Bernstein et al v. Appellate Division First Department Departmental Disciplinary Committee et al **CASE CLOSED on 08/08/2008**

CLOSED, ECF, PRO-SE, RELATED

U.S. District Court

Southern District of New York

Notice of Electronic Filing

The following transaction was entered on 2/28/2013 at 4:30 PM EST and filed on 2/28/2013

Case Name: Bernstein et al v. Appellate Division First Department Departmental Disciplinary Committee et al

Case Number: 1:07-cv-11196-SAS

Filer: Eliot Ivan Bernstein

WARNING: CASE CLOSED on 08/08/2008

Document Number: 142

Docket Text:

SECOND MOTION to Reopen Case *1:07-cv-11196-SAS*. Document filed by Eliot Ivan Bernstein, Eliot Ivan Bernstein(Individually).(Bernstein, Eliot)

1:07-cv-11196-SAS Notice has been electronically mailed to:

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The following document(s) are associated with this transaction:

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[STAMP dcecfStamp_ID=1008691343 [Date=2/28/2013] [FileNumber=11127375-0] [27f9d3423672e8c658f2c25b1123dc7cf13496f1a68955a75b90aff4b1de8d1b15f163c012ecc877866df488b2dd93026ac57c6c1fea77b60e30cfd6baf4ed0e]]

UNITED STATES DISRICT COURT
SOUTHERN DISTRICT OF NEW YORK
_____X

ELIOT I. BERNSTEIN, et al.,

Plaintiffs,

-against- **07-cv-9599**

APPELLATE DIVISION, FIRST DEPARTMENT DEPARTMENTAL DISCIPLINARY COMMITTEE, *et. al.,* **NOTICE OF MOTION**

Defendants.
_____X

PLEASE TAKE NOTICE that upon the accompanying affirmation and the exhibits, Pro Se Plaintiff Eliot Ivan Bernstein will move this Court before the Honorable Judge. Shira A. Scheindlin, United States District Judge, at the United States Courthouse, 500 Pearl Street, New York, New York 10007, at a date and time to be determined by the Court, for an order:

(1) striking the pleadings of Defendants pursuant to Rule 12 (f) of the federal Rules of Civil Procedure, *interalia,* reopening the herein case;

(2) granting a new trial pursuant to Rule 59, Fed.R.Civ.P.;

(3) for such other relief as the Court may find just and proper.

Dated: Boca Raton, FL 33434

February 28, 2013

Eliot I. Bernstein
2753 NW 34th St.
Boca Raton, FL 33434
(561) 245-8588

To: Defendants
Office of the NYS Attorney General
120 Broadway, 24th floor
New York, New York 10271-0332

and

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

UNITED STATES DISRICT COURT
SOUTHERN DISTRICT OF NEW YORK

_____X

ELIOT I. BERNSTEIN, et al.,

Plaintiffs,

-against- **07-cv-9599**

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

Defendants.

_____X

I, Eliot I. Bernstein, make the following affirmation under penalties of perjury:

I, Eliot I. Bernstein, am the pro se plaintiff in the above entitled action, and respectfully move this court to issue an order

1. striking the filings of defendants and reopen case pursuant to Rule 12(f), Fed.R.Civ.P
2. granting a new trial pursuant to Rule 59, Fed.R.Civ.P.

The reasons why I am entitled to the relief I seek are the following:

I. INTRODUCTION

1. On April 14, 2011, members of the AG's office and the Governor's office admitted to Plaintiff that they were conflicted with acting in this Lawsuit and needed to seek independent representative counsel to represent them and they could not represent any defendants in any way in these matters as illustrated in Exhibit 1. The AG stated that

they were seeking counsel and would get back to Plaintiff and have failed thus far to do that.

2. On June 10, 2004[1], July 07, 2007[2], September 07, 2007[3], March 14, 2008[4], February 09, 2009[5], June 13, 2009[6], June 18, 2009[7] and November 20, 2010[8], Plaintiff filed complaints with the Attorney General's office against NY Public Officials and others, including but not limited to, the New York Attorney General's office and its Officers. Felony Obstruction complaints were filed against Public Officials who were charged with

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1 http://www.iviewit.tv/CompanyDocs/200%2006%2009%20Spitzer%20Curran%20Cahill%20Rubenstein%20Krane.pdf

2 http://www.iviewit.tv/CompanyDocs/2007%2007%2023%20NY%20State%20Commission%20of%20Investigation%20Complaint.xps

3 http://www.iviewit.tv/CompanyDocs/2007%2009%2005%20Spitzer%20Letter%20FINAL.doc

4 http://www.iviewit.tv/CompanyDocs/United%20States%20District%20Court%20Southern%20District%20NY/20080314%20FINAL%20Letter%20to%20NY%20AG%20to%20reistigate%20investigation%20on%20new%20evidence.pdf

5 http://www.iviewit.tv/CompanyDocs/United%20States%20District%20Court%20Southern%20District%20NY/20090209%20NYAG%20PUBLIC%20INTEGRITY%20COMPLAINT%20SIGNED.pdf

6 http://www.iviewit.tv/CompanyDocs/United%20States%20District%20Court%20Southern%20District%20NY/20090613%20FINAL%20NYAG%20Steven%20Cohen%20Letter%20signed%20low.pdf

7 http://www.iviewit.tv/CompanyDocs/United%20States%20District%20Court%20Southern%20District%20NY/20090618%20FINAL%20NYAG%20Steven%20Cohen%20Letter%20Re%20Lamont%20Signed.pdf

8 http://iviewit.tv/CompanyDocs/United%20States%20District%20Court%20Southern%20District%20NY/20101120%20FINAL%20Andrew%20Cuomo%20Criminal%20Complaint%20Governor%20David%20Paterson%20Cover%20Letter%20Fingerprinted%20Color.pdf
And
http://iviewit.tv/CompanyDocs/United%20States%20District%20Court%20Southern%20District%20NY/20101120%20FINAL%20Andrew%20Cuomo%20Criminal%20Complaint%20New%20York%20Attorney%20General%20Cuomo%20Public%20Integrity%20Cover%20Letter%20Color.pdf

investigating Attorney at Law misconduct complaints and who failed to follow Rules, Regulations and Law in handling of the Public Officials' complaints and for Aiding and Abetting the other Attorneys at Law Defendants who are charged with the Theft of Intellectual Properties from Plaintiff.

3. On October 28, 2007[9], Christine C. Anderson, Esq., a New York Supreme Court Disciplinary Department Attorney filed a "Whistleblower" lawsuit in the US District Court SDNY and on January 11, 2008[10] she filed an Amended Complaint.

4. On December 12, 2007[11], Plaintiff filed a RICO case in the US District Court and on May 09, 2008[12] an Amended Complaint with predicate acts that include, but are not limited to, Theft of Intellectual Properties and Obstruction of Justice and Attempted Murder Via a Car Bombing of Plaintiff.

5. Plaintiff filed this RICO and ANTRITRUST Lawsuit with a request to the Court to be "Legally Related" to Whistleblower Christine C. Anderson's lawsuit, which then became "legally related" by The Honorable Shira A. Scheindlin to Plaintiff's RICO and the following other public office corruption cases:

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9 http://www.iviewit.tv/CompanyDocs/United%20States%20District%20Court%20Southern%20District%20NY/anderson/20071028%20Anderson%20Original%20Filing.pdf

10 http://www.iviewit.tv/CompanyDocs/United%20States%20District%20Court%20Southern%20District%20NY/Anderson%20v.%20New%20York%20--%20Second%20Am%20Compl.%20(Filed%20Stamped).pdf

11 http://www.iviewit.tv/CompanyDocs/20071212%20US%20District%20Court%20New%20York%20Filing.pdf

12 http://www.iviewit.tv/CompanyDocs/United%20States%20District%20Court%20Southern%20District%20NY/20080509%20FINAL%20AMENDED%20COMPLAINT%20AND%20RICO%20SIGNED%20COPY%20HIGH.doc

- (07cv09599) Anderson v The State of New York, et al. - WHISTLEBLOWER LAWSUIT
- (07cv11196) Bernstein, et al. v Appellate Division First Department Disciplinary Committee, et al.
- (07cv11612)[13] Esposito v The State of New York, et al.,
- (08cv00526) Capogrosso v New York State Commission on Judicial Conduct, et al.,
- (08cv02391)[14] McKeown v The State of New York, et al.,
- (08cv02852) Galison v The State of New York, et al.,
- (08cv03305)[15] Carvel v The State of New York, et al., and,
- (08cv4053)[16] Gizella Weisshaus v The State of New York, et al.
- (08cv4438)[17] Suzanne McCormick v The State of New York, et al.
- (08 cv 6368) John L. Petrec-Tolino v. The State of New York.

6. That on February 29, 2008[18], the New York Attorney General became acting legal counsel for 39 plus New York State Defendants, representing each in both a Personal and Professional capacity while also having already opened investigations into many of the same named Defendants in the Public Office Complaints filed by Plaintiff prior to this Lawsuit. It should also be noted here that in the Letter to this Court by AG, they had

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13 http://www.iviewit.tv/CompanyDocs/United%20States%20District%20Court%20Southern%20District%20NY/Esposito/20081228%20Luisa%20Esposito%20Original%20Filing.pdf

14 http://www.iviewit.tv/CompanyDocs/United%20States%20District%20Court%20Southern%20District%20NY/McKeown/20080307%20Kevin%20McKeown.pdf

15 http://www.iviewit.tv/CompanyDocs/United%20States%20District%20Court%20Southern%20District%20NY/carvel/Carvel%20Filing.pdf

16 http://www.iviewit.tv/CompanyDocs/United%20States%20District%20Court%20Southern%20District%20NY/Weisshaus/20080439%2008cv4053%20Gizella%20Weisshaus.pdf

17 http://www.iviewit.tv/CompanyDocs/United%20States%20District%20Court%20Southern%20District%20NY/McCormick/McCormick%2008cv4438%20SVM%20Cmplnt.pdf

18 http://www.iviewit.tv/CompanyDocs/United%20States%20District%20Court%20Southern%20District%20NY/20080229%20NYAG%20State%20Actors%20Letter%20to%20Hon%20Schiendlin.pdf

begun working on defense strategies with other DEFENDANTS ILLEGALLY Acting in Conflicted as Counsel in these matters, whom they CC on the Letter to this Court, including but not limited to Defendant Proskauer Rose and Defendant Foley and Lardner, two of the main Defendants in the Intellectual Property crimes alleged. These initial Conflicts led to Obstruction of both this Lawsuit and a Derailing of the Public Office complaints filed with the AG, all achieved through a web of Conflicts of Interest, violations of, Public Office Rules and Regulations, Attorney Conduct Codes and State and Federal Law.

7. That on March 05, 2008[19] Plaintiff filed opposition to the Attorney General representing the New York State Defendants with this Court due to the Conflicts with acting as counsel to the State Defendants and simultaneously handling complaints of Felony Misconduct by these same Public Officials/State Defendants filed with their offices by Plaintiff and other conflicts discovered.

8. That on March 07, 2008[20], this Court ruled and stated the following,

> By letter to the Court dated March 5, 2008, plaintiffs request that the Court investigate whether the Attorney General for the State of New York suffers from conflicts of interest that prevent him from

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19 http://www.iviewit.tv/CompanyDocs/United%20States%20District%20Court%20Southern%20District%20NY/20080305%20Final%20Plaintiff%20Oposition%20to%20AG%20Cuomo%20letter%20email%20copy.pdf

20 http://www.iviewit.tv/CompanyDocs/United%20States%20District%20Court%20Southern%20District%20NY/Scheindlin%20Order%2003%2007%202008%20(2).pdf

representing certain defendants (the "State Defendants") in this matter. Plaintiffs suggest that the Attorney General is conflicted because they requested that he investigate the allegations underlying this action and because they believe he will be called upon to investigate related allegations as they are exposed. I have considered plaintiffs' request and have determined that the Attorney General does not face an improper conflict of interest in representing the State Defendants. **If, however, the Attorney General concludes that an investigation of defendants is warranted, then independent counsel would be required."**

9. On May 09, 2008 Plaintiff filed an Amended Complaint approved by this Court naming the "Office of the Attorney General of the State of New York" and "Eliot Spitzer, in his Official and Individual capacities, as both former Attorney General for the State of New York, and, as former Governor of the State of New York" as Defendants in the Iviewit RICO & ANTITRUST Lawsuit. The allegations against the AG are for their part in Aiding and Abetting RICO activities through Obstruction of Justice caused by Conflicts of Interest and more. All of these ILLEGAL acts combined to deny due process and procedure from the minute the AG began ILLEGALLY representing the State Defendants in conflict to effectuate a Fraud on the Court and on Plaintiff and further MISAPPROPRIATING PUBLIC FUNDS for Personal and Professional representations

to do so. The AG's office upon representing the State Defendants began ILLEGALLY burying the prior Public Official complaints filed with their offices against the New York State Defendants they began ILLEGALLY and in Conflict representing. The AG began representing the State Defendants after Plaintiff filed Public Office Complaints with their offices against the same Defendants and PRIOR to filing this Lawsuit and after taking in evidence relating to the complaints they were investigating.

10. That on September 07, 2007, February 09, 2009, June 13, 2009, June 18, 2009 and November 20, 2010 as illustrated already herein, Plaintiff filed additional Public Office complaints with both the AG's office and the Governor's office. New complaints of additional Felony misconduct by the AG Cuomo's Office and those members of the AG's office ILLEGALLY representing this Lawsuit or handling the complaints against their Client Defendants. These Public Office complaints became corruption stalled with the others, again through a series of ILLEGAL acts by Conflicted Parties designed to stymie and derail any investigations into the complaints and wholly deny Plaintiff Due Process and Procedure in this Court.

11. On November 16, 2009[21], Whistleblower Christine C. Anderson, Esq. filed a Motion with this Court to remove the AG due to similar Conflicts of Interest in their ILLEGAL representation in her case, again causing a Fraud on the Court through Conflicts of

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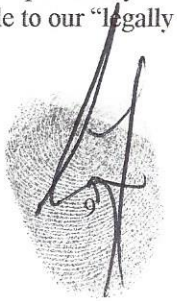
21 http://www.iviewit.tv/CompanyDocs/United%20States%20District%20Court%20Southern%20District%20NY/anderson/20091117%20Anderson%20Motion%20for%20Mistrial%20and%20Retrial.pdf Anderson's arguments to Remove the Attorney General are hereby fully incorporated by reference as my own arguments for this Court to rule on, where the arguments are the same or applicable to our "legally related" lawsuits.



Interest that Obstruct Justice and ILLEGALLY Misappropriate Public Funds for the State Actors' personal representations. This Court on November 25, 2010[22] by Order then rejected Anderson's Motion without hearing it first because it was filed Pro Se when apparently she still retained counsel.

12. On September 14, 2010[23] Christine Anderson filed a Motion to Remove the AG and Rehear her lawsuit with the Second Circuit court.

13. On July 27, 2012[24] Plaintiff filed an Emergency Motion with this Court to rehear the Lawsuit. Despite having admitted Conflicts of Interest and the need to retain Independent Non-Conflicted counsel for their offices and the 39 plus State Defendants they IILEGALLY represent, the AG ignored their own Admission of Conflicts and

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22

http://www.iviewit.tv/CompanyDocs/United%20States%20District%20Court%20Southern%20District%20NY/20091125%20Scheindlin%20Strikes%20Anderson%20Filing%20Pro%20Se%20Submission%20Bullshit.pdf

23

http://www.iviewit.tv/CompanyDocs/United%20States%20District%20Court%20Southern%20District%20NY/20100914%20Christine%20Anderson%20Motion%20to%20Second%20Circuit%20to%20Rehear%20and%20AG%20Conflicts.pdf Anderson's arguments to Remove the Attorney General to the Second Circuit are hereby fully incorporated by reference as my own arguments for this Court to rule on, where the arguments are the same or applicable to our "legally related" lawsuits.

and

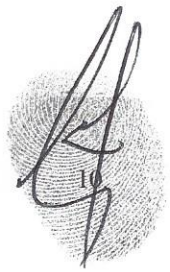
http://iviewit.tv/wordpress/?p=391

24

http://www.iviewit.tv/20120727%20COURT%20STAMPED%20FINAL%20SIGNED%20Motion%20to%20Remand%20and%20Rehear%20Lawsuit%20after%20Investigations%20of%20the%20New%20York%20Attorney%20General%20415935.pdf

and

http://iviewit.tv/wordpress/?p=703



brazenly and in knowing violation of law filed another ILLEGALLY OBSTRUCTING answer to the Motion while **KNOWINGLY CONFLICTED**. Plaintiff now moves to strike the AG's ILLEGALLY FILED PLEADING to the Motion and **ALL** prior pleadings, pursuant to Federal Rule of Civil Procedure 12(f) and to granting a new trial pursuant to Rule 59, Fed.R.Civ.P.

14. On March 05, 2008, as already incorporated herein, Plaintiff filed by letter with the Court opposition to the Attorney General's ILLEGAL and CONFLICTED representation of the 39 plus State Defendants for a variety of reasons. The letter to the Court came after the Attorney General's office refused to admit or deny conflicts to impart fair and impartial representation in the case and told Plaintiff to instead petition the Court to ascertain if they were conflicted or not, which seemed impossible for a judge to answer someone else's conflict of interest questions instead of demanding that opposing counsel run a thorough conflicts check before proceeding. After a review of the matters and on information and belief, without asking the Attorney General to admit or deny conflict themselves, this Court in an Order dated March 10, 200826 presumed no conflict existed and allowed the tainted and now learned ILLEGAL representations of State Defendants by the Attorney General to continue in the Court. However, the Court stated,

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[26] March 10, 2008 Order Scheindlin
http://www.iviewit.tv/CompanyDocs/United%20States%20District%20Court%20Southern%20District%20NY/Scheindlin%20Order%2003%2007%202008%20(2).pdf

> I have considered plaintiffs' request and have determined that the Attorney General does not face an improper conflict of interest in representing the State Defendants. **If, however, the Attorney General concludes that an investigation of defendants is warranted, then independent counsel would be required.**

15. The Attorney General has now concluded through Admitted and Acknowledged Conflicts of Interest that Investigations of the State Defendants complained of with their offices for FELONY MISCONDUCT by Plaintiff is now not only warranted but that such investigations have been wholly and ILLEGALLY derailed to Obstruct Justice, see Exhibit 1. In a series of TAPED[27] phone calls with both Governor Andrew Cuomo and Attorney General Eric Schneiderman's offices regarding the failure of the Attorney General's office and Governor's office to investigate Complaints directly related to this Lawsuit of Felony Misconduct of Public Officials and Defendants in this RICO & ANTITRUST Lawsuit, which were filed and stalled with their offices. Investigations that would have implicated their State Defendant clients in this case in a multitude of crimes were concealed instead to Obstruct prosecution in Violation of Procedural Law and more.

16. However, recently, the AG's office made startling admissions that they could not investigate and had not investigated the complaints relating to these matters that have been with their offices for now years without any due process at all. Further, the AG's office stated they could not continue representing anyone in this Lawsuit, including the 39 plus State Defendants in this Lawsuit, the AG's office and members of the AG's

[27] Iviewit calls Andrew Cuomo Emily Cole Stephen M Cohen re Criminal Complaint & NY AG Schneiderman http://www.youtube.com/watch?v=X2pwFlEIp6E

office, as they were wholly conflicted with the matters and would need to seek representative counsel to represent them in this Lawsuit. Finally, they stated they could not investigate the corruption stalled Public Office complaints for Felony Misconduct committed by their State Defendant Clients. Plaintiff has been waiting to be contacted by the New Non-Conflicted Counsel since the time of the last call in April 2011 whereby the Attorney General stated,

James Rogers[28]	My question to you is this.
Eliot Bernstein	Yes.
James Rogers	If you are a plaintiff in a lawsuit to which the AG I work for is a defendant, I can't talk to you unless I am represented by counsel.
Eliot Bernstein	You should be. So do you want to get counsel and start getting counsel for this?
James Rogers	I'll refer the case. We going to have to retain outside counsel if we are being sued directly.
Eliot Bernstein	Yes. Correct.
James Rogers	We'll retain outside counsel to represent us I think.
Eliot Bernstein	And also here's some other interesting points.
James Rogers	I can't do this. This conversation is over. I am a defendant in a case that you brought against this agency.
Eliot Bernstein	Well you're not but Cuomo and Spitzer are.
James Rogers	The AG as a whole.
Eliot Bernstein	But you're also representing against me you see because I'm pro se in the case
James Rogers	I have no idea. If I'm a defendant I can't talk to you.
Eliot Bernstein	Also wait wait wait. You're also counsel in the case.
James Rogers	I don't want to get too [sounds like] muffled with you. What you need to do is send me the Complaint against the Attorney General's office and I will make sure that our counsel gets back to you promptly, alright? I can't legally talk to you because I am an employee of the agency you are suing.
Eliot Bernstein	What is your email address?

[28] James Rogers, Esq. ~ Special Counsel and Sr. Advisor @ State of New York Office of the Attorney General Schneiderman Administration

James Rogers	My email address is james.rogers@ag.ny.gov
Eliot Bernstein	Okay and what was that james.rogers@ag.ny.gov
James Rogers	That's right.
Eliot Bernstein	Okay I will send you over a copy of the complaint.
James Rogers	And our counsel will get in touch with you.
Eliot Bernstein	And your counsel…by the way the Complaint will have a conflict of interest letter attached to the front of it.
James Rogers	As soon as we can open up a line of communication we will be happy to talk to you.
Eliot Bernstein	Then you're the first administration in eight years that will do that. It's amazing I'm blown away. From your mouth to God's ears. [29]

17. Plaintiff has been waiting since April 14, 2011 for the New York AG's counsel to respond to us "promptly" and "open up a line of [NON CONFLICTED] communication" but no one has called or written to this point and no line has been established. Plaintiff is certain that the AG would already have notified this Court and the US Court of Appeal of their ADMITTED need to secure counsel, their Voluntary Disqualification of BOTH their self-representation and representation of the 39 Plus State Defendants in this Lawsuit, notified their former ILLEGALLY represented clients to secure non-conflicted "legal" legal counsel immediately and found a NON CONFLICTED THIRD PARTY INVESTIGATOR to investigate the Complaints filed with their offices against Members of their Office and their State Defendant Clients and others that have been corruption stalled for years.

18. The New York Attorney General's office has failed to date to secure the promised NON CONFLICTED counsel to represent them and their 39 Plus State Defendants in these

[29] Full Transcripts of the Calls – Exhibit 1

matters, nor brought in a NON CONFLICTED INVESTIGATOR and despite stating they cannot represent these matters and need independent counsel they instead turn around and file a response to Plaintiff's most recent Emergency Motion[30] in 2012 still with no counsel representing them and still ILLEGALLY representing the State Defendants.

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[30] Emergency Motion to:

I. IMMEDIATELY DISQUALIFY ALL JUSTICES AND OTHER MEMBERS OF THE UNITED STATES SECOND CIRCUIT COURT OF APPEALS (THIS COURT) WHOM HAVE CURRENTLY ACTED IN THIS LAWSUIT IN ANYWAY WHATSOEVER, FOR THEIR PART IN AIDING AND ABETTING FRAUD ON THE COURT, OBSTRUCTION OF JUSTICE, DENIAL OF DUE PROCESS AND MORE PRIOR TO ACTING FURTHER ON THIS MOTION

II. REMAND AND REHEAR THIS RICO & ANTITRUST LAWSUIT DUE TO THE NEW YORK STATE ATTORNEY GENERAL'S NOW ADMITTED AND ACKNOWLEDGED CONFLICTS OF INTEREST, BOTH PAST AND PRESENT, IN ACTING ILLEGALLY AS COUNSEL FOR THEIR OFFICE AND ADDITIONALLY FOR 39 PLUS STATE DEFENDANT/ACTORS IN THIS LAWSUIT AND VIOLATING PUBLIC OFFICE RULES & REGULATIONS, ATTORNEY CONDUCT CODES AND STATE & FEDERAL LAW

III. REMAND AND REHEAR THIS LAWSUIT DUE TO THE NEW YORK STATE SUPREME COURT ATTORNEY WHISTLEBLOWER CHRISTINE C. ANDERSON'S FELONY CRIMINAL ALLEGATIONS AGAINST SENIOR COURT OFFICIALS, PUBLIC OFFICIALS AND MORE

IV. REMAND AND REHEAR THIS LAWSUIT DUE TO THE NEW YORK STATE SUPREME COURT ATTORNEY WHISTLEBLOWER NICOLE CORRADO'S FELONY CRIMINAL ALLEGATIONS AGAINST SENIOR COURT OFFICIALS, PUBLIC OFFICIALS AND MORE AS ALREADY EVIDENCED HEREIN AND IN EXHIBIT

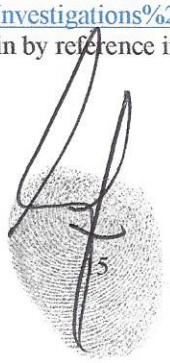
V. REMOVE AND REPORT ALL OTHER CONFLICTS OF INTEREST, VIOLATIONS OF PUBLIC OFFICE RULES, VIOLATIONS OF JUDICIAL CANNONS, ATTORNEY CONDUCT CODES AND STATE AND FEDERAL LAW, CURRENTLY IN PLACE IN THIS RICO LAWSUIT AND RELATED CASES, IN ORDER TO IMPART FAIR AND IMPARTIAL DUE PROCESS UNDER LAW

VI. DEMAND THAT ALL PARTIES TO THIS LAWSUIT GOING FORWARD, INCLUDING BUT NOT LIMITED TO, COURT JUSTICES & OFFICIALS, ATTORNEYS AT LAW, PROSECUTORS, CLERKS, ETC. SIGN AFFIRMED CONFLICT OF INTEREST DISCLOSURES, IDENTICAL TO THE ONE ATTACHED HEREIN, ACKNOWLEDGING PERSONAL AND PROFESSIONAL LIABILITIES FOR ANY VIOLATION, PRIOR TO, ANY FURTHER ACTION BY ANYONE IN THIS RICO & ANTITRUST LAWSUIT

VII. DEMAND FOR JUSTICES OF THE SECOND CIRCUIT TO TURN THEMSELVES INTO STATE AND FEDERAL CRIMINAL AUTHORITIES TO ANSWER TO FILED CRIMINAL COMPLAINTS AGAINST THEM AND SERVED UPON THEM

VIII. ALLEGED CRIMES ONGOING BY P. STEPHEN LAMONT ET AL. BOTH KNOWN AND UNKNOWN AND FRAUD ON THIS COURT, THE US DISTRICT COURT AND NOW OTHER COURTS INCLUDING THE SUPREME COURT AND MORE

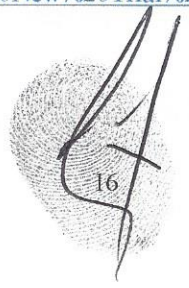
IX. PLAINTIFF SEEKS LEAVE TO AMEND THE AMENDED COMPLAINT TO ADD NEW DEFENDANTS AND NEW ALLEGED CRIMES NEWLY DISCOVERED filed July 27, 2012 http://www.iviewit.tv/20120727%20COURT%20STAMPED%20FINAL%20SIGNED%20Motion%20to%20Remand%20and%20Rehear%20Lawsuit%20after%20Investigations%20of%20the%20New%20York%20Attorney%20General%20415935.pdf , hereby incorporated herein by reference in entirey.



Quite astonishing is that while admitting Conflicts of Interest that have been Obstructing Justice to deny Plaintiff Due Process rights in this Court and criminal Obstruction of Justice to the complaints of Public Office Felony Misconduct with their offices, the Attorney General then further brazenly acts as counsel in these matter without securing INDEPENDENT NON-CONFLICTED counsel to represent them and continue their ILLEGAL representation of their State Defendant Clients, as if none of this or the law mattered. The illegal AG response[31] to the "Emergency Motion" filed by Plaintiff, acting as both their own counsel and on behalf of the 39 Plus State Defendants, both personally and professionally, is again an illegal Fraud on the Court that denies Plaintiff Fair and Impartial Due Process under Law through conflicts, which have Obstructed Justice since the moment this Lawsuit was filed and the AG began ILLEGAL representations, wholly prejudicing this Lawsuit and Plaintiff.

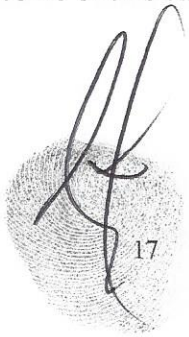
19. This Court has Erred greatly in accepting such CONFLICTED AND ILLEGAL PLEADINGS by the New York Attorney General both past and present and this Court must now strike all ILLEGAL representations by Defendant New York Attorney General and rehear the case free of these Frauds on the Court that have Obstructed Justice caused by Conflicts and Violations of State and Federal Law, Attorney Conduct Codes, Judicial Cannons and Public Office Rules and Regulations, all which have denied Plaintiff Due

[31] August 14, 2012 "STATE DEFENDANTS' MEMORANDUM OF LAW IN OPPOSITION TO PLAINTIFF ELIOT I. BERNSTEINS' "EMERGENCY MOTION".
http://www.iviewit.tv/CompanyDocs/United%20States%20District%20Court%20Southern%20District%20NY/20120824%20082412%20Docket%20Report%2008-14-2012%20140%20MEMORANDUM%20OF%20LAW%20in%20Opposition%20re%20138%20MOTION%20to%20Reopen%20Case%20%20MOTION%20for%20New%20Trial%20%20Motion%201.pdf



Process in toto. Denying Plaintiff a single day in court for years in opposite of his rights to a speedy trial. Denying and blocking the Complaints for Felony Misconduct of their State Defendant Clients through Obstruction to Aid and Abet the Evasion of Prosecution. Finally, denying Plaintiff a Fair and Impartial Federal Venue to pursue Intellectual Property Licensing and Antitrust Violations preventing Plaintiff from monetizing his Property.

20. The complaints for Public Office Felony Misconduct filed with the New York Attorney General's Office are against members of the State and Federal court systems, Attorneys at Law and Public Officials whom are related directly to this Lawsuit as Defendants and these complaints have not been investigated at this time due to these ADMITTED AND ACKNOWLEDGED CONFLICTS OF INTEREST THAT OBSTRUCTED JUSTICE CONSTITUTING NEW ONGOING CRIMINAL ACTS in these matters, including ongoing RICO activities of Public Office Corruption to Cover Up the crimes. No investigations into the complaints by DEFENDANT and OPPOSING COUNSEL in this Lawsuit, the New York Attorney General have ever begun or been transferred to a Non-Conflicted party, quite outside of Procedural Law and all due to the ADMITTED DIZZYING ARRAY OF VIOLATIONS OF LAW by the Attorney General's Office, which have had the complaints concealed for several years as the taped conversation show. Obviously, if proper procedure both in the handling of the complaints and this Lawsuit had occurred, the outcome of this case would have been far different and if the



Defendants were not guilty of the alleged crimes by Plaintiff there would have been no Conflicts of Interest or violations of Public Offices, Attorney Conduct Codes, Judicial Canons and State and Federal Law to deny due process and procedure, thus severely prejudicing Plaintiff through Criminal Misconduct.

21. THESE NEW AND SHOCKING ADMITTED AND ACKNOWLEDGED CONFLICTS OF INTEREST and VOLUNTARY DISQUALIFICATIONS AS COUNSEL in this RICO Lawsuit and in handling the Criminal Complaints filed at the Attorney General's offices is a game changer in this RICO Lawsuit as it opens the door for a fairer playing field. The Admission of the Conflicts, Disqualification from Representation in this Lawsuit and Disqualification from handling CRIMINAL COMPLAINTS by the new Schneiderman Administration invalidates all prior filings by ALL New York State Defendants ILLEGALLY tendered in Conflict by the AG and cause this Court to rehear the case from the beginning free of conflicts and prejudice, with each State Defendant having proper counsel to submit their pleadings and allow for the relevant criminal complaints to be investigated prior to or in conjunction with the rehearing. All prior ILLEGAL and VEXATIOUS filings in this Court by Defendant the New York Attorney General on behalf of their State Defendant clients and in their own defense serve only as Prima Facie evidence for Criminal Investigators and this Court of further evidence of Fraud on the Court by Officials of the Court, Obstruction of Justice, Violations of Public Office Rules and Regulations and State and Federal Law.

22. Corroboration of Plaintiff's claims of ILLEGAL REPRESENTATIONS BY THE NEW YORK ATTORNEY GENERAL FOR STATE DEFENDANTS comes from expert in Attorney at Law misconduct complaints, New York Departmental Disciplinary Committee Attorney, Expert Witness in Attorney Misconduct Complaints and Whistleblower Christine C. Anderson, Esq. has also called for the IMMEDIATE CESSATION OF THE ILLEGAL REPRESENTATIONS OF THE ATTORNEY GENERAL AND THE ILLEGAL USE OF PUBLIC FUNDS FOR PRIVATE LEGAL REPRESENTATIONS. The ILLEGAL FUNDS FOR PRIVATE REPRESENTATION PAID FOR OUT OF STATE FUNDS is estimated to amount to several million dollars of legal costs to date just for the 39 plus State Defendants in this action who have had a free ride on counsel for their personal representations, courtesy of ILLEGAL actions by the former AG's. The State Defendants, almost all Attorneys at Law, all with knowledge of the Law have KNOWINGLY and with SCIENTER conspired with the AG to have "free" ILLEGAL legal counsel that is paid for ILLEGALLY with state of New York Taxpayer Dollars, while Plaintiff has spent his last dollars to defend his rights, thus further prejudicing the Lawsuit and Plaintiff.

23. Anderson further complains to the Federal Court in a Motion to Remove the Attorney General[35] from ILLEGAL legal representations in her case where the AG **is**

[35] Anderson's Motion to Remove the Attorney General can be found at the following URL's and Anderson's arguments for removing the Attorney General in that Motion are hereby fully incorporated by reference as my own arguments for this Court where they are applicable to our "legally related" lawsuits.
http://iviewit.tv/wordpress/?p=391

ILLEGALLY REPRESENTING STATE ACTORS/DEFENDANTS in both the US District Court for the Southern District of New York and the Second Circuit Court of Appeals. Anderson filed to remove the Attorney General from her Whistleblower Lawsuit for ILLEGAL Conflicts of Interest and other Violations of Attorney Conduct Codes, Public Office Rules & Regulations and State & Federal Law, illustrating a further Pattern and Practice of Public Corruption designed to evade prosecution.

24. In particular, Anderson claims in her Motion,

> **Ongoing Conflict of Interest**
>
> Representation by the New York Attorney General's office in the pending appeal continues the improper prejudice against plaintiff. Furthermore, not only did the Attorney General's representation of the defendants unduly prejudice the plaintiff, but it also raised serious conflict of interest issues with respect to the defendants themselves. To protect their own rights, each of the defendants had to have their own attorneys in order to permit them to cross claim or make admissions, including their own right to protect their own individual rights in this appeal. Under New York State and federal conflict of interest rules, each of the defendants must be free to undertake these independent actions. To do so, they must have their own counsel. (See NYS Code of Professional Conduct Cannon 5 Conflict of Interest Rules. [15]) The Attorney General as a state attorney is bound by these rules as well. [16]
>
> This constitutes New York State law, and the attorney who violates these safeguards must be immediately removed from the case. Further, should the defendants seek to waive the conflicts they would have to submit an affidavit to that effect to the court.

"Wednesday, September 15, 2010 "Anderson Moves to Disqualify NY Attorney General" http://www.frankbrady.org/TammanyHall/Documents_files/CCA%20091410%20Filing.pdf

Notwithstanding a defendant's attempt to waive his right to independent counsel, the court can deny the waiver, based on a finding that ultimately this conflict cannot properly be waived.

The trail [sic trial] court [this Court] improperly ignored the obligation to address the inherent conflict up to and including the trial. This court, however, must now disqualify the Attorney General from any representation of the defendants.

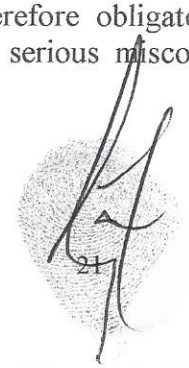
As a result of these conflict of interest issues, the Attorney General cannot properly represent the defendants, either as a group or individually, in these appellate proceedings. Each defendant must have the right to advance his or her own position on appeal, to cross claim against the others, and to bring a counterclaim against the State.

These actions most certainly could not be undertaken in a case where the Attorney General represents all the named defendants. All defendants clearly are in conflict with each other, especially in their individual capacities. Without question, the Attorney General violated its ethical rules and the public trust in undertaking to represent all of the defendants. The Attorney General continues to violate its ethical rules by appearing before this appellate body.

This would be the case, even were it established that the defendants had sought to consent to such representation...

The conflict here is particularly acute given the nature of the claims brought by plaintiff Anderson. Plaintiff's charges warranted an independent investigation by the New York State Attorney General's office to review the basic claims given that Anderson was formerly a Departmental Disciplinary Committee staff attorney with considerable experience and over the years received excellent evaluations. The fact is that these are not allegations from a lay person.

While at the DDC, Plaintiff Anderson was charged with investigating cases involving possible criminal and civil misconduct by attorneys. She carried out her duties as a duly authorized officer of the Court. The New York State Attorney General's Office was therefore obligated to protect her and to investigate her claims of serious misconduct against the named



> parties. To the Contrary, the New York State Attorney General's Office failed to do so.
>
> The Attorney General is a publicly funded arm of the State. It was conflicted from the outset of this case because it could not possibly defend any of the defendants, while simultaneously investigating plaintiff's claims of serious ongoing misconduct by the defendants. Indeed, no explanation has ever been provided as to why the Attorney General did not represent plaintiff Anderson against any of the original defendants. **This was itself a misappropriation of public funds by a state investigative agency with prosecution powers.**
>
> Federal law mandates that a special prosecutor be substituted into the case, and this was not done.[36]

25. A tip of the hat to the integrity of Eric Scheinderman Administration and Mr. James Rogers, Esq. for finally doing the right thing and admitting that the New York Attorney General's Office is ABSOLUTELY CONFLICTED in this Lawsuit and the Criminal Complaints and taking the right steps to absolve such continued violations of law and ethics. Further commendation for the AG's office in seeking INDEPENDENT NON CONFLICTED PARTIES to now represent and investigate these matters forward for their office, officials of their office and their former Client State Defendants named in

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[36] Footnotes from Anderson's filing:

Footnote [15] - Conflict of Interest Disciplinary Rule 5

Footnote [16] As head of the Department of Law, the Attorney General is both the "People's Lawyer" and the State's chief legal officer. As the "People's Lawyer," the Attorney General serves as the guardian of the legal rights of the citizens of New York, its organizations and its natural resources. In his role as the State's chief legal counsel, the Attorney General not only advises the Executive Branch of Slate government, but also defends actions and proceedings on behalf of the State.

this Lawsuit. The Admission and Disqualification of the AG breaks down one of main conflicts in the WALL OF FELONY OBSTRUCTIONS perverting this Lawsuit from day one from Fair and Impartial Due Process under Law and wholly denying lawful due process and procedure to Plaintiff. Prior to the Admission by Rogers of conflicts precluding the AG from representing Defendants in these matters, both New York Attorney Generals Spitzer and Cuomo, flagrantly and with SCIENTER violated Conflict of Interest Rules, Public Office Rules and Law to deny Plaintiff due process through ILLEGAL legal representation and ILLEGAL use of Public Funds to derail Plaintiff's rights. These OBSTRUCTIONS occurred with the blessing and APPROVAL FROM MEMBERS OF THE COURTS who allowed the AG to operate in the Courts in conflict, knowing of the illegality, all in Violation after Violation of Law and this Court must now put an end to these perversions of Justice.

II. ARGUMENT

A. Strike the filings of Defendants and reopen case

1. Relevant Law

Fed. R. Civ. P. 12(f) provides that, upon motion, the court may order stricken from a pleading an insufficient defense or an immaterial matter. However, a court will not exercise its discretion under the rule to strike a pleading unless the matter sought to be omitted has no possible relationship to the controversy, may confuse the issues, or otherwise **prejudice** a party.

Charles R. Reyher vs. Transworld Airlines, Inc., 881 F. Supp. 574 (U.S. Dist. 1995). A three-part test determines whether a Rule 12(f) motion will be granted in district:

> First, there may be no question of fact which might allow the defense to succeed...Second, there may be no substantial question of law, a resolution of which could allow the defense to succeed....Third, [the] plaintiff must show that it is prejudiced by inclusion of the defense.

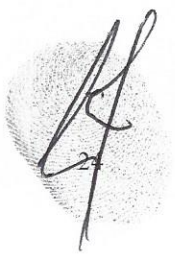
County vanlines Inc. v. Experian Infor Solutions, Inc., 205 F.R.D. 148, 153 (S.D.N.Y. 2002) (quoting *SEC v. Toomey*, 866 F. Supp. 719, 722 (S.D.N.Y. 1992)) (alteration in original)

It has been held "prejudice is presumed when counsel is burdened by an actual conflict of interest. This presumption is fairly rigid. Moreover, once the defendant establishes that there was an actual conflict, he need not prove prejudice, but simply that a lapse in representation resulted from the conflict. To prove a lapse in representation, a defendant must demonstrate that some plausible alternative defense strategy or tactic might have been pursued, and that the alternative defense was inherently in conflict with or not undertaken due to the attorney's other loyalties or interests." *Unites States of America v. Michael Malpiedi and others,* 62 F.3d 465 (U.S. App. 1995)

2. Discussion

The defendants have admitted the conflict of interest. When there is conflict of interest prejudice is presumed. All the pleadings filed under conflict of interest prejudice the Plaintiff. Hence the court should strike all pleadings of Defendants and reopen the case.

B. Granting a new trial



1. Relevant Law

Because of the unique perspective of the trial judge, the decision as to whether to grant a new trial is committed to the court's sound discretion and will be reversed only for a clear abuse of that discretion. *Kempner Mobile Electronics, Inc. v. Southwestern Bell Mobile Systems,* 428 F.3d 706, 716 (7th Cir. 2005); Latino v. Kaizer, 58 F.3d 310, 314 (7th Cir.1995).

Fed.R.Civ.P. 59 does not list the grounds for which a new trial may be granted. (Wright § 95). In federal courts, common law must be looked to in determining the available grounds. Of the numerous grounds justifying a grant of new trial, one is that the "interests of justice" require a new trial. See e.g., *Fort Howard Paper Co. v. Standard Havens, Inc.*, 901 F.2d 1373, 1379 (7th Cir. 1990) (affirming grant of new trial after a three-week jury trial). Among the grounds cited for seeking new trials are the following:

(1) Irregularity of the proceedings;

(2) Misconduct of jury;

(3) Accident or surprise;

(4) Newly discovered evidence;

(6) Insufficient evidence;

(6) Verdict against law;

(7) Error in law;

(8) Excessive or Inadequate damages.

In ruling on a motion for a new trial, "the judge may consider the credibility of the witnesses, the weight of the evidence, and any other matter which justice requires." *Spanish*

Action Committee of Chicago V. City of Chicago, 766 F.2d 315, 321 (7 Cir. 1985). Moreover, the judge can order a new trial sua sponte. Rule 59(d), Fed.R.Civ.P.

A key question is whether a new trial should be granted to avoid a miscarriage of justice. See *Beckman v. Mayo Foundation,* 804 F.2d 435, 439 (8th Cir.1986) ("The district court can only disturb a jury verdict to prevent a miscarriage of justice.").

A court has broad discretion in considering a Rule 59(e) motion. *Hagerman v. Yukon Energy Corp.*, 839 F.2d 407, 413 (8th Cir.), cert. denied, 488 U.S. 820 (1988). Rule 59(e) was adopted to clarify that "the district court possesses the power to rectify its own mistakes in the period immediately following the entry of judgment." *White v. New Hampshire Dep't of Employment Sec.*, 455 U.S. 445, 450 (1982) (internal quotations omitted). A Rule 59(e) motion may be granted to correct a manifest error of law or fact, or to consider newly discovered evidence. See *Hagerman,* 890 F.2d at 414.

The granting of a new trial is within the discretion of the district court. *Larson v. Farmers Cooperative Elevator of Buffalo Center*, 211 F.3d 1089, 1095 (8th Cir. 2000). A new trial should be granted "if the verdict is against the weight of the evidence and if allowing it to stand would result in a miscarriage of justice." *Manus v. AmfIrican Airlines, Inc.*, 314 F.3d 968, 973 (8th Cir. 2003).

Although the issue is rarely raised, the district courts' grants of motions for new trials have been repeatedly affirmed. E.g., *General Foam Fabricators, Inc. v. Tenneco Chemicals,*

Inc., 695 F.2d 281, 288 (7th Gir. 1982); *Juneau Square Corp. v. First Wisconsin Nat. Bank of Milwaukee,* 624 F.2d 798, 809 (7th Cir. 1980).

2. Discussion

In this action, Plaintiff was confronted with an unquestionably unfair set of circumstances. Plaintiff filed his complaint against defendants, who, although employed by the State of New York, were ultimately sued in both their individual and professional capacities, as their ILLEGAL actions personally have no immunity. These Defendants in turn were ILLEGALLY defended by the New York State Attorney General both personally and professionally "free of charge." Thus, while the Plaintiff charged the Defendants with serious violations of law, the Attorney General stood before the court defending these very same actions and blocking any investigations into the criminal allegations against their Client State Defendants and others filed with their offices, thus creating a shield to prosecution criminally and civilly[37]. This arrangement seriously prejudiced the Plaintiff, as the Court could and likely did conclude that the State Of New York supported fully the conduct of the State Defendants.

Furthermore, not only did the Attorney General's representation of the State Defendants unduly prejudice the Plaintiff, but it also raised serious Conflict of Interest issues with respect to the Defendants themselves. To protect their own rights, each of the Defendants had to have two of their own Attorneys at Law, one personally and one professionally, in order to permit them to cross claim or make admissions. The Attorney General has accepted the Conflict of Interest.

[37] March 14, 2008 Plaintiff Letter to AG re Conflicts and more.
http://www.iviewit.tv/CompanyDocs/United%20States%20District%20Court%20Southern%20District%20NY/20080314%20FINAL%20Letter%20to%20NY%20AG%20to%20reistigate%20investigation%20on%20new%20evidence.pdf

The Attorney General not only advises the Executive Branch of State government, but also defends actions and proceedings on behalf of the State government and represents all the named State Defendants, including their own offices and members of their offices. All State Defendants clearly are in conflict with each other, especially in their individual capacities. Without question, the Attorney General violated its ethical rules and the public trust in undertaking to represent all of the State Defendants both personally and professionally in conflict and violation of law, including their conflicted self representation.

The involvement of the New York Attorney General in refuting Plaintiff's allegations, which involved serious violations of Federal and State Law and ethical Rules and Regulations, and in presenting the case of each State Defendant, denied Plaintiff's due process and equal protection guarantees, and right to a fair and impartial trial. See *Snyder v. Massachusetts,* 291 U.S. 97, 105 (1934) ("If a practice or rule offends some principle of justice so rooted in the traditions and conscience of our people as to be ranked as fundamental") and *Eldridge v. WIlliams,* 424 U.S. 319 335 (1974)

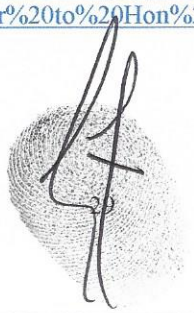
The Attorney General is a publicly funded arm of the State. It was conflicted from the outset of this case because it could not possibly defend any of the State Defendants and investigate them simultaneously without setting up a China Wall, getting Conflict Waivers (if they could be obtained) and calling in a special prosecutor to investigate their State Defendant Clients. The actions of the Attorney General here confused, misled and confounded the court creating a Fraud on the Court and more.

The representation made by Attorney General under Conflict of Interest has prejudiced the Plaintiff and resulted in miscarriage of justice, hence warranting a new trial.

III. Conclusion

For the reasons set forth in detail herein, Plaintiff respectfully requests that this Court, in the interest of justice, strike all the pleadings and filings of defendants and grant a new trial/rehaearing. Plaintiff is ready willing, and able to go to trial/rehearing immediately and no delay, harm, or prejudice will occur to the other parties as a result of Plaintiff's motion. Finally, several other Defendants have also been ILLEGALLY representing themselves or others and some have worked with the Attorney General to prepare their ILLEGAL DEFENSES tendered in Conflict and more[38]. Plaintiff filed with this Court several other Conflict of Interest pleadings and in light of the Admitted Attorney General Conflict, all these prior motions should be re-evaluated for ILLEGAL REPRESENTATION by ALL DEFENDANTS and new counsel forced upon all that have violated the Conflict of Interest Rules and Laws. In as much as the Attorney General should even be denied the opportunity to answer, and as justice demands, the court should sua sponte, grant the herein sought relief.

I declare under penalty of perjury that the foregoing is true and correct.



[38] February 29, 2008 New York Attorney General Letter to Shira Scheindlin
http://www.iviewit.tv/CompanyDocs/United%20States%20District%20Court%20Southern%20District%20NY/20080229%20NYAG%20State%20Actors%20Letter%20to%20Hon%20Schiendlin.pdf

Wherefore, Plaintiff respectfully requests that after notice and hearing, strike all the pleadings and filings of Defendants, the judgment rendered in this case be set aside and the Plaintiff be granted a new trial/rehearing.

Respectfully submitted,

Dated: FEBRUARY 28, 2013
Boca Raton, FL 133434

X _____,
Eliot I. Bernstein
2753 NW 34th St.
Boca Raton, FL 3343
(561) 245-8588

EXHIBIT 1 - TRANSCRIPTS

Iviewit calls with Andrew Cuomo Office, Emily (Cuomo) Cole, Stephen M. Cohen and Eric Schneiderman's Office, James Rogers, et al. re Criminal Complaints Against Andrew Cuomo, Steven Cohen and Members of This Court.

Audio File Length: 42.48 minutes

Posted/Shared/Uploaded May 22, 2011

SIX CALLS

CALL DATES

- **February 8, 2011**
- **March 24, 2011**
- **April 13, 2011**
- **April 14, 2011**

Transcribed July 20, 2012

By: Roxanne Grinage, Legal Assistant / HireLyrics Administrative Services

FIRST CALL BETWEEN

ELIOT BERNSTEIN, WILLIAM WAGNER (A REPORTER) AND EMILY (CUOMO) COLE IN STEPHEN COHEN'S OFFICE

February 8, 2011

Eliot Bernstein	Quiet on the set [dialed call rings].
1st Female Voice, Executive Chambers	Executive Chambers.
Eliot Bernstein	Hi, Andrew Cuomo please.
1st Female Voice, Executive Chambers	Okay, who's calling?
Eliot Bernstein	My name is Eliot Bernstein and I have on the line with me William Wagener who is a reporter.
1st Female Voice, Executive Chambers	Okay one moment. [call transfers]
2nd Female Voice, Press Office	Press Office.

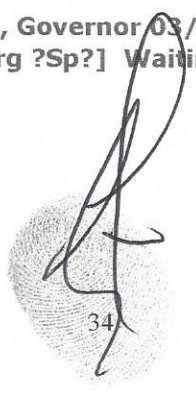
Eliot Bernstein	Hi, I'm trying to reach Andrew Cuomo.
2nd Female, Voice Press Office	Okay one moment. [brief ring while call transfers]
3rd Female Voice, Executive Chambers	Executive Chambers. May I help you?
Eliot Bernstein	Yes. It's Eliot Bernstein and…
William Wagener	and William Wagener.
3rd Female Voice, Executive Chambers	and William… I'm sorry [pause].
Eliot Bernstein	Yes. It's regarding a criminal complaint I filed against Andrew Cuomo while he was Attorney General. I also filed a copy with Governor Patterson and I haven't had any response back yet.
3rd Female Voice, Executive Chambers	You filed this when he was Attorney General?
Eliot Bernstein	Correct. I filed it with the Attorney General's offices and I filed it with Governor Patterson's office as well as the New York Chief Justice of the criminal courts as well as about fifty other people.
3rd Female Voice, Executive Chambers	And you never heard back from anyone?
Eliot Bernstein	No. In fact this goes way back to Stephen Cohen's promise to get right back to me regarding the criminal complaints and I have several submissions to Mr. Cohen as well as notified federal and state authorities of Mr. Cohen's possible criminal activities as well.
3rd Female Voice Executive Chambers	When was the last time you spoke to Stephen Cohen?
Eliot Bernstein	Hmmmm hold on…looks about June 13, '09. And I sent him a letter on June 13, 2009 memorializing our conversation. That was an eight page letter. And, he knows me since childhood so he should know this call well.
3rd Female Voice Executive Chambers	All right. Bear with me one sec.
Eliot Bernstein	Okay. Can I get your name? [keyboard/typing sounds].
3rd Female Voice Executive Chambers	Mr. Bernstein?
Eliot Bernstein	Yes.
3rd Female Voice Executive Chambers	Bear with me one moment sir.
Eliot Bernstein	What is your name? [ringing call transfers]
Emily Cole	Hello Mr. Bernstein? Hi, this is Emily Cole, I work for Steve Cohen.

Eliot Bernstein	Emily, what is your last name?
Emily Cole	Cole, [spells name] C O L E
Eliot Bernstein	You work for Stephen Cole so you probably have conflict with this matter but I'll let you decide.
Emily Code	Okay.
Eliot Bernstein	I had filed criminal complaints against Andrew Stephen and Monica Connell. I filed a criminal complaint in November with Andrew Cuomo's office directly. I filed it with Governor Patterson so I'm calling also to find out how that complaint is going; and I filed it with the Chief Justice of the criminal courts of New York as well as with Eric Holder and several other people that were investigating the matters that we are discussing.
Emily Cole	Concerning what? - was the complaint?
Eliot Bernstein	Criminal allegations against Andrew Cuomo, Stephen Cohen and Monica Connell….for criminal obstruction of justice and a variety of other things including RICO which I am in the middle of a federal RICO and antitrust civil lawsuit before Shira Anne Scheindlin at the Second Circuit as well tied to a whistleblower Christine Anderson in the New York Supreme Court. Federal Judge Scheindlin has legally related my case to her's. I'm not sure if you're familiar but Stephen Cohen who knows me since [sounds like] Glanko [Glencoe, IL] as a child where we played hockey and other things together, has spoken to me at length about these things and he failed to get back to me dating way back to '09 when I've written letters to him because he requested I write letters to him regarding the criminal activity of Mr. Cuomo.
Emily Cole	Okay.
Eliot Bernstein	So, acknowledging that there could be possible conflicts here, who is going to handle this criminal complaint that's been lodged with the Governor's office against Mr. Cuomo?
Emily Cole	You know what I'm not certain who that would go to. I can check into that and get back to you. I assume perhaps Counsel's office but I think that's more formally the role of the Attorney General's office.
Eliot Bernstein	Well I filed it with the Attorney General while Mr. Cuomo was there and he blatantly disregarded it by failing to do anything, which is again… [Emily Cole asks question]
Emily Cole	By failing to investigate?
Eliot Bernstein	Yes. By failing to turn it over to a non-conflicted prosecutor.
Emily Cole	Okay.
Eliot Bernstein	And that is criminal activity too because that again is obstruction of justice.

Emily Cole	Okay.
Eliot Bernstein	Okay. So now with all that information, do you want to go find out now who to have take this call?
Emily Cole	Sure. Let me ask around and see if I can come up with an answer for you. I know that if you filed the complaint with the Attorney General's office, I'm sure it's still there. I know that it may have not necessarily been handed down, but I'm sure that it is with the administration there and they might be the people to talk to about it as well.
Eliot Bernstein	But I also did file the formal complaint with the Governor asking that the Governor Patterson move the complaint through to a special prosecutor.
Emily Cole	Okay. Well if he didn't do that, then there is nothing we can do about that now.
Eliot Bernstein	Well what do you mean?
Emily Cole	If Governor Patterson didn't do that I don't - I'm almost certain I can check for you but there is nothing we can do with that complaint that was filed with Governor Patterson's office if he hadn't passed it on to a prosecutor. So, perhaps re-filing it with the new Attorney General would be my suggestion but again I will check and I will ask Steve and I will find out the best way to go about this and I will let you know.
Eliot Bernstein	Okay, do you need my number or anything?
Emily Cole	Yes please.
Eliot Bernstein	Okay. 561-245-8588. My name is Eliot [spells Eliot] Bernstein [spells Bernstein]
Emily Cole	Okay.
Eliot Bernstein	And as Stephen Cohen knows this involves a car bombing and attempted murder of my family.
Emily Cole	Okay.
Eliot Bernstein	So it has a high priority urgency to it so if you could back to me sometime today or tomorrow that would be great.
Emily Cole	Okay. I will let you know.
Eliot Bernstein	I think he already knows all that.
Emily Cole	Okay. I will have someone get back to you.
Eliot Bernstein	Thank you have great day. [hang up call ends].

SECOND CALL

Eliot Bernstein Calls Andrew Cuomo, Governor 03/24/2011 Pat Hanley, Eliot Bernstein [?Sp? Readingberg ?Sp?] Waiting For Emily Cole.



Eliot Bernstein	[door closes footsteps heard approaching] Hello.
Pat Hanley	I'm here.
Eliot Bernstein	[sounds like memo to file] Andrew Cuomo, Governor 03/24/2011 Call: Pat Hanley, Eliot Bernstein **[?sp? Readingberg ?sp?]**. Waiting for Emily Cole.
Pat Hanley	Indiscernible.
Eliot Bernstein	I object and do not consent to any other listeners on this call.
Pat Hanley	Repeats I object and do not consent to any other listeners on this call.
Female voice	Mr. Bernstein?
Eliot Bernstein	Yes.
Kate Wittemore	I'm sorry she's away from her desk and I'm not getting an answer. May I take a number?
Eliot Bernstein	Certainly. My number is 516-245-8588 and it's in regard to our February 8th call regarding the Iviewit companies and the criminal complaint against Andrew Cuomo.
Kate Wittemore	And Mr. Bernstein that's spelled Bernstein?
Eliot Bernstein	Correct. And what is your name please?
Kate Wittemore	My name is Kate.
Eliot Bernstein	And your last name please?
Kate	Excuse me I have to put you on hold.
Pat Hanley	You there?
Eliot Bernstein	Yes.
Eliot Bernstein	"Hey dude" in response to child saying "Hey dad."
Pat Hanley	How long will this take?
Eliot Bernstein	She's gotta find a last name.
Pat Hanley	I notice the way she did that.
Eliot Bernstein	Coughs. Excuse me.
Kate Whittemore	Thank you I'm sorry to keep you holding. What was it that you needed?
Eliot Bernstein	Your last name.
Kate Whittemore	My last name is Whittemore and spells Whittemore.
Kate Whittemore	That's right.
Eliot Bernstein	Types and repeats spelling Whittemore. And Kate what is your
Kate Whittemore	"Thank you for calling" [Kate Whittemore interrupts Eliot Bernstein and ends the call before Elliot Bernstein could complete question].
Pat Hanley	Well Eliot [sounds like] I think I should've gotten this from her email.

[Eliot Bernstein Initiates Call to Emily Cole]

[Memo to File: Andrew Cuomo call 04/13 2:05 PM.]

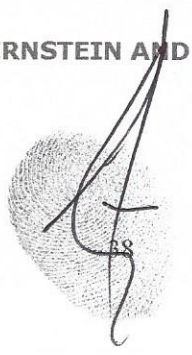
Eliot Bernstein	Good morning, is Emily Cole in?
Female voice	She's at our New York office. I'll connect you.
Eliot Bernstein	Okay. Hello! Emily Cole please.
Emily Cole	This is she.
Eliot Bernstein	This is Eliot Bernstein calling.
Emily Cole	Hi, How are you?
Eliot Bernstein	I'm not well but how are you?
Emily Cole	I'm pretty good.
Eliot Bernstein	I was calling to see if you got any information on my complaints.
Emily Cole	I passed it along…
Eliot Bernstein	Let me ask you a quick question. Are you related to a Cuomo by the way?
Emily Cole	No.
Eliot Bernstein	Is your mom?
Emily Cole	No sir.
Eliot Bernstein	So you're not part of Maria Cuomo Cole?
Emily Cole	No and I don't understand why you are asking all of these questions.
Eliot Bernstein	Well, I'm asking about the handling of a complaint about Andrew Cuomo. If you family that is related and there is an Emily Cole whose mother is
Emily Cole	It is not an appropriate question as this is not the case.
Eliot Bernstein	So you're not the Emily Cole whose father is Kenneth Cole and mother, Maria Cuomo Cole?
Emily Cole	Would you like me to patch your call into someone else who could maybe handle it better?
Eliot Bernstein	Well I'm asking you a question. If you are saying no that you are a different Emily Cole, then that's fine with me. Then I don't have an issue with a conflict. Otherwise I would have a massive conflict as you can understand - YOU would have a massive conflict and I would…
Emily Cole	Regardless…
Eliot Bernstein	No not regardless, let me just explain.
Emily Cole	Okay.
Eliot Bernstein	Let me explain.
Emily Cole	No sir. I just explained there's nothing I can do to help you. All I can do is pass your message along.

Eliot Bernstein	Pass what message along? First of all I would like to get that I called you and we spoke on 03/24, Correct?
Emily Cole	Yes.
Eliot Bernstein	And you were checking into to where the criminal complaint against Andrew Cuomo and Stephen Cohen which were filed both with the AG's office and Andrew Cuomo while he was AG.
Emily Cole	All I can do sir is explain to people that you are check into these complaints.
Eliot Bernstein	What's your title?
Emily Cole	I work for Steve Cohen.
Eliot Bernstein	Okay. Steve Cohen. Now I definitely have a conflict with you because I filed a criminal complaint against Steve Cohen.
Emily Cole	Okay then I should pass your phone call on to someone else.
Eliot Bernstein	Yes. Who are we passing it to?
Emily Cole	I'm not sure who would have a conflict or who would be best to [indiscernible] your phone calls.
Eliot Bernstein	That's your job not mine. You have to address who doesn't have conflict because the Complaint states formally in the beginning, "Please if you have conflict you will avoid me including you as a defendant in a RICO [Emily Cole interrupts]
Emily Cole	Usually it's the Attorney General's role to investigate but they usually don't prosecute…
Eliot Bernstein	Yes Mr. Cuomo was the Attorney General.
Emily Cole	Well have you tried the current Attorney General's office?
Eliot Bernstein	I have but I also sent the same Complaint to Andrew Cuomo as Governor to deal with. And now, he has to deal it with as the Governor of the State of New York. So my separate complaint with be Attorney General which collusion might be there as well, will be dealt with separately. Andrew Cuomo has an obligation to deal with the Complaint as Governor. So I petitioned him under his power as Governor. Now obviously he can't or any of his family members or Steve Cohen or any of his employees can't be handling this like you. And now I'm going to have to include you [Emily Cole interrupts]
Emily Cole	Sir I can't [sounds like] have any obligation…
Eliot Bernstein	No, actually by handling this knowing that it was against Steve Cohen I am already going to include you in a criminal RICO federal lawsuit that [Emily Cole interrupts]
Emily Cole	I just took your full message.
Eliot Bernstein	You have delayed this process and like I told you there's been a car

	bombing attempted murder. These are the fundamentals of the RICO Complaint. And now you are going to be added as a part of that actually.
Emily Cole	I don't appreciate you threatening me.
Eliot Bernstein	I'm not threatening you. I'm telling you a fact.***[Emily Cole and Eliot Bernstein are now speaking at the same time, Emily Cole indiscernible because Eliot Bernstein is closest to the microphone]***. I'm telling you a fact. I'm telling you a fact and you should tell Steve Cohen the fact that how dare he put you into that position? He's already become a defendant, he already has a criminal complaint against him and the fact that he has one of his staff working on this without a conflict check really puts you in the hot seat there. I'd be mad at the right person.
Emily Cole	Sir, I'm not working on anything I took a phone message for Steve and I passed it along to him. That is all I've done.
Eliot Bernstein	I told you on that phone call that Stephen Cohen was one of those complained [Emily Cole interrupts]
Emily Cole	Sir, I don't know what "handling the investigation" means. All I can do is pass it along to someone in a position of power to do something about it.
Eliot Bernstein	So Steven didn't call me. You passed the message to Stephen Cohen. Pass me to me to Steve Cohen.
Emily Cole	Okay. He's aware that you called and he is not in the office today.
Eliot Bernstein	Okay then you know what? Can I have **Benjamin Lawsky**
Emily Cole	He is in the New York office so you will have to call there to catch him.
Eliot Bernstein	Is he the Chief of Staff currently?
Emily Cole	Yes.
Eliot Bernstein	Okay. Great and I appreciate that and again you're not the Emily Cole whose father is Kenneth Cole?
Emily Cole	No sir and it is really none of your business.
Eliot Bernstein	It is an appropriate question considering the criminal activity going on in the Governor's office in New York. C'mon, it's a totally clear question. It's funny, I don't need that conflict with you anymore Emily. The very conflict that you work for Steven Cohen and have jimmy rigged this Complaint to not be dealt with according to procedural law and rule has just landed you in the center of a criminal complaint. [Emily Cole hangs up while Eliot Bernstein is speaking.]

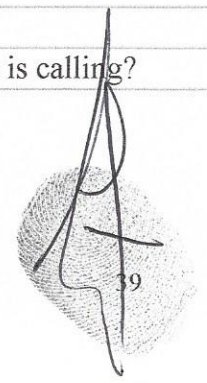
FOURTH CALL

ELIOT BERNSTEIN AND PAT HANLEY



BENJAMIN LAWSKY CHIEF OF STAFF GOVENOR CUOMO

Pat Hanley	I think she hung up on you Eliot.
Eliot Bernstein	Gotta love 'em. I gotta love 'em. What? Hello, Hello.
Pat Hanley	Are you getting anomalies too Eliot?
Eliot Bernstein	Hold on…Let's call what's his name? Benjamin Lawsky
Pat Hanley	She wants it Eliot I'd say.
Eliot Bernstein	Oh she's gettin it. She's dead. And she lied. She totally lied and I'm going to memorialize that in one second with her. So we're going to send her a nice little letter in a moment.
Eliot Bernstein	[Memo To File] Benjamin Lawsky Call Chief of Staff Governor Cuomo.
Female voice	[Indiscernible]
Eliot Bernstein	Hi. Benjamin Lawsky please.
Female voice	I'll transfer you he's at another office.
Eliot Bernstein	Yes. Do you have his number there?
Female voice	Yes of course. It's **[?]**42-681-4321.
Eliot Bernstein	Okay thank you.
Female voice	Okay.
Pat Hanley	She forgot to connect us to the number.
Eliot Bernstein	Yeah. She didn't connect us. Hold on. [touchtone dialing].
Female Voice	[answers] [how she identifies office is indiscernible].
Eliot Bernstein	Hi. Benjamin Lawsky please.
Female Voice	Who is calling please.
Eliot Bernstein	Eliot Bernstein. Thank you.
Female Voice	May I say what this is regarding?
Eliot Bernstein	Yes. Criminal complaints against Andrew Cuomo, Stephen Cohen and now Emily Cole.
Female Voice	Okay hold on.
Eliot Bernstein	[sounds like cookware or dishes clanging - EIB asks people in background to hold off for a minute] [Hold Time before call resumes is 7 minutes and 26 seconds]
Vanessa Salpana	Executive Chamber.
Eliot Bernstein	Hi. Who am I speaking with?
Vanessa Salpana	Vanessa.
Eliot Bernstein	Vanessa….last name?
Vanessa Salpana	Salpana
Eliot Bernstein	Can I ask who is calling?



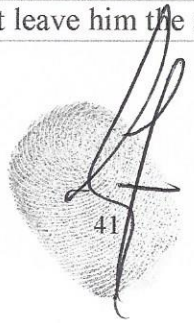
Eliot Bernstein Salpana	Yes. It's Eliot Bernstein
Vanessa Salpana	Oh Okay. Salpana
Eliot Bernstein	And your title?
Vanessa Salpana	What are you calling for.
Eliot Bernstein	I'm trying to get somebody to handle a criminal complaint that I filed with Andrew Cuomo against Andrew Cuomo, Stephen Cohen and now Emily Cole is added to that list. How do I spell your last name again?
Vanessa Salpana	I don't have one. [hang up].
Eliot Bernstein	Excuse me. Vanessa?
Eliot Bernstein	No deal getting a surname. That's a good sign. Mr. Herpes is calling. [female voice in room with Eliot laughter]. These are our public officials.
Female in room with Eliot	[sounds like] They know your name by now?
Eliot Bernstein	Oh yeah. I've filed criminal complaints on the Governor. They know my name. They don't know their names. [laughter]
Eliot Bernstein	[Eliot initiates a call] Hello.
Female voice on phone	What's your name again?
Eliot Bernstein	My name is Eliot Bernstein [Eliot spells first and last name.]
Female voice on phone	Hold on one moment.
Eliot Bernstein	[Memo to File] Eliot Bernstein call to Benjamin Lawsky Chief of Staff nine minutes and thirty two second (9 minutes and 32 seconds) and holding.
Eliot Bernstein	Hello. I object and do not consent. I definitely heard somebody on that line. [transcriptionist confirms a male voice was heard a second indiscernible.] [Eliot Bernstein continues to hold]
Stephen Cohen	Hello.
Eliot Bernstein	Steve Cohen!
Stephen Cohen	Yes.
Eliot Bernstein	What the hell is going on with my criminal complaint Steve Cohen against you and Andrew Cuomo?
Stephen Cohen	Well I'm conflicted so I can't really discuss it in any great detail but it's at the AG's office, will you call them?
Eliot Bernstein	Well I filed the Complaint with the Governor as well and I filed it with the AG that you kind of blew off and so I'm kind of tired of all that game so I put the Complaint on the Governor's desk and I want the Governor to take the actions he is required by law to take.
Stephen Cohen	I'll make a deal with you Eliot, call the Governor's office not the AG's office.

Eliot Bernstein	But you're conflicted. I'm trying to put you in prison. I'm trying to put you in prison in a RICO.
Stephen Cohen	Some would argue that I am already in prison.
Eliot Bernstein	I would agree.
Stephen Cohen	But in the meantime, the guy you want to speak to at the AG's office is [sounds like] Dave Hart, he has my old job. Call [sounds like] Paul Hart and tell him to take your phone call. Okay? If you have a problem just call me. [sounds like] Insulting my staff is just getting crazy. Just call me we know each other, I assume you're not going to New Trier's reunion or [indiscernible].
Eliot Bernstein	[Eliot chuckles] I'm not going because I don't want to but otherwise I would go.
Stephen Cohen	Okay I gotta run. [indiscernible] in the Governor's office. Harlan Levy is the man you want. Call that 212-416-8051. Harlan Levy.
Eliot Bernstein	[reports telephone number and spelling of Harlan Levy.]
Stephen Cohen.	Exactly, and I will tell Harlan that he's gotta deal with you.
Eliot Bernstein	Okay thanks. Talk to you later.

FIFTH CALL

[TRANSCRIPTIONIST UNSURE]

Eliot Bernstein and Pat Hanley	[Initiate a call].
Rachel	[sounds like] Executive Chambers.
Eliot Bernstein	Eliot Bernstein and Pat Hanley.
Eliot Bernstein	Pat?
Pat Hanley	I'm here.
Eliot Bernstein	I need quiet on the set.
Rachel	Hey there. He's actually in a meeting right now. Can I take a message?
Eliot Bernstein	Yes. I left a message earlier. Is this Rachel?
Rachel	Yes. And I talked to him.
Eliot Bernstein	So basically can I expect a call back tonight?
Rachel	I don't know.
Eliot Bernstein	You want to ask him? It's kind of urgent. It involves car bombings and death threats on people, it's kind of urgent. I don't know what he is meeting about. I'm sure it's pretty important that this serious stuff.
Rachel	I can't interrupt the meeting sir. Sorry.
Eliot Bernstein	Yeah. Then just leave him the same message that I'd like to speak to

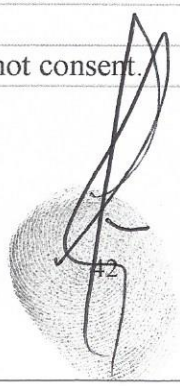


	him today if possible.
Rachel	Okay.
Eliot Bernstein	Okay. Thanks Rachel. Have a good night.
Eliot Bernstein	Pat?
Pat Hanley	I'm here.
Eliot Bernstein	Can you believe that?

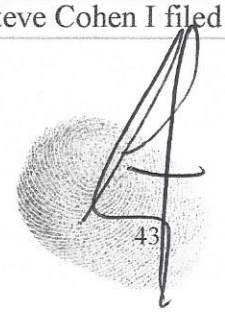
SIXTH CALL April 14, 2011

ELIOT BERNSTEIN AND PAT HANLEY CALL HARLAND LEVY ON REFERRAL OF STEPHEN COHEN IN THE GOVERNOR'S [CUOMO] OFFICE

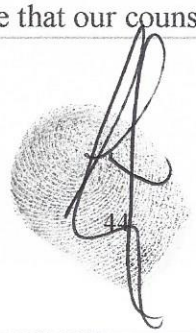
Eliot Bernstein	[Memo To File] 04/15/11, Eliot Bernstein, Pat Hanley call Harlan Levy on referral from Stephen Cohen in the Governor's [Cuomo] office. Here we go.
Eliot Bernstein	Pat? Pat?
Pat Hanley	Yo.
Female voice	[?_____?] office.
Eliot Bernstein	Harlan Levy Please?
Female voice	May I ask who is calling?
Eliot Bernstein	Eliot Bernstein and Patrick Hanley.
Female voice	Hold on one moment.
Eliot Bernstein	[while holding]. I'm telling you they arrested that judge for treason in the courtroom using the Magna Carta in whatever country that was in.
Pat Hanley	I don't know….what you are talking about.
Eliot Bernstein	I posted a video of them arresting a judge for treason.
Pat Hanley	Okay.
Eliot Bernstein	They turned him over to the police. They were in his courtroom. They jumped over the bench. They arrested him, they made the police come and arrest him.
Pat Hanley	What county was this?
Eliot Bernstein	I think it England since they were using the Magna Carta law of common something. Maybe Australia, I don't know. I'm not a hundred percent sure. But I posted it….let me send it to you. I'm telling you, we could do it right here.
A second female voice	Hello. Oh [abruptly returns call to hold].
Eliot Bernstein	Pat?
Pat Hanley	I'm here.
Eliot Bernstein	I object and do not consent.



Pat Hanley	I object and don't consent right back at you.
Eliot Bernstein	Was that on your phone?
Pat Hanley	Negative. I think that was somebody at the AG's office. That's my impression but I still object and don't consent.
Eliot Bernstein	On an ongoing basis I object and don't consent
James Rogers	Hello.
Eliot Bernstein	Harland?
James Rogers	No, I'm James Rogers, Senior Counsel to the Attorney General. How may I help you?
Eliot Bernstein	I contacted the Governor's office, Steve Cohen referred me to Harland directly and to speak to him directly.
James Rogers	Okay. Well you're in the ball park here. So what can I help you with?
Eliot Bernstein	You can tell me what is your exact name again.
James Rogers	My name is James Rogers [and he spells his name],
Eliot Bernstein	What was your first name?
James Rogers	Jim.
Eliot Bernstein	James?
James Rogers	Yeah. Short for James.
Eliot Bernstein	Okay. James Rogers. And what is your title?
James Rogers	I am Special Counsel and Senior Advisor to the Attorney General.
Eliot Bernstein	Okay my name is Eliot Bernstein, and I
James Rogers	Hi.
Eliot Bernstein	And I have on the line with me Patrick Hanley and Pat and I are also related to a case that your office is handling. You are representing 39 state defendants in a lawsuit that I filed in a federal court that is related to a federal whistleblower lawsuit that also implicates your office of high crimes.
James Rogers	Implicates my office of high crimes?
Eliot Bernstein	Yes. The AG's office.
James Rogers	[sounds like] You said the lawsuit has already been filed?
Eliot Bernstein	I have a Twelve Trillion Dollar Federal RICO and Antitrust lawsuit that is legally related by Shira Scheindlin in the Southern District to a whistleblower case for the attorney for the Supreme Court whistleblower who also has problems with your office.
James Rogers	Is my office a named defendant in that suit?
Eliot Bernstein	Yes.
James Rogers	Okay. I can't talk to you.
Eliot Bernstein	You know Steve Cohen I filed criminal complaints against him and



	Cuomo. I filed them with the AG's office. It's gotta conflict letter on it that's pretty clear that if you handle it and you have any conflict with any of the thousands of people that I'm going to file against you for obstruction and those things. So that is probably your best move. Wait Wait Wait.
James Rogers	I don't even want to hear what you're talking about.
Eliot Bernstein	I've sent letters to the AG's office because…
James Rogers	Yeah but it will help me in my ability to understanding you if you don't talk about things without explaining them first. I have no idea what you are talking about.
Eliot Bernstein	Okay. I have a ten year legacy here. I have also filed with Mr. Schneiderman, Eric Schneiderman, I believe, complaints, criminal complaints against Stephen Cuomo and Andrew Cuomo.
James Rogers	[Indiscernible]
Eliot Bernstein	Yes. And I filed those complaints prior with Andrew Cuomo and Steven Cohen. And he blew it off. Now Stephen Cohen knows me going back quite some time…he
James Rogers	My question to you is this.
Eliot Bernstein	Yes.
James Rogers	If you are a plaintiff in a lawsuit to which the AG I work for is a defendant, I can't talk to you unless I represented by counsel.
Eliot Bernstein	You should be. So do you want to get counsel and start getting counsel for this?
James Rogers	I'll refer the case. We going to have to retain outside counsel if we are being sued directly.
Eliot Bernstein	Yes. Correct.
James Rogers	We'll retain outside counsel to represent us I think.
Eliot Bernstein	And also here's some other interesting points.
James Rogers	I can't do this. This conversation is over. I am a defendant in a case that you brought against this agency.
Eliot Bernstein	Well you're not but Cuomo and Spitzer are.
James Rogers	The AG as a whole.
Eliot Bernstein	But you're also representing against me you see because I'm pro se in the case
James Rogers	I have no idea. If I'm a defendant I can't talk to you.
Eliot Bernstein	Also wait wait wait. You're also counsel in the case.
James Rogers	I don't want to get too [sounds like] muffled with you. What you need to do is send me the Complaint against the Attorney General's office and I will make sure that our counsel gets back to you promptly, alright? I



	can't legally talk to you because I am an employee of the agency you are suing.
Eliot Bernstein	What is your email address?
James Rogers	My email address is james.rogers@ag.ny.gov
Eliot Bernstein	Okay and what was that james.rogers@ag.ny.gov
James Rogers	That's right.
Eliot Bernstein	Okay I will send you over a copy of the complaint.
James Rogers	And our counsel will get in touch with you.
Eliot Bernstein	And your counsel…by the way the Complaint will have a conflict of interest letter attached to the front of it.
James Rogers	As soon as we can open up a line of communication we will be happy to talk to you.
Eliot Bernstein	Then you're the first administration in eight years that will do that. It's amazing I'm blown away. From your mouth to God's ears.

END AUDIO END DRAFT TRANSCRIPT 26 PAGES VERBATIM WITH TRANSCRIPTION COMMENTS IN BRACKETS