

IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL  
IN RE: ESTATE OF PROBATE DIVISION  
SIMON BERNSTEIN,  
FILE NO. 502012CP004391XXXXSB

Deceased

AND

IN RE: ESTATE OF PROBATE DIVISION  
SHIRLEY BERNSTEIN,  
FILE NO. 502011CP000653XXXXSB

Deceased.

ELIOT IVAN BERNSTEIN, PRO SE  
PETITIONER,  
V.

TESCHER & SPALLINA, P.A., (AND ALL PARTNERS,  
ASSOCIATES AND OF COUNSEL), ROBERT L. SPALLINA  
(BOTH PERSONALLY & PROFESSIONALLY), DONALD R.  
TESCHER (BOTH PERSONALLY & PROFESSIONALLY),  
THEODORE STUART BERNSTEIN, AS PERSONAL  
REPRESENTATIVES ET AL., TRUSTEES, SUCCESSOR  
TRUSTEES AND ESTATE COUNSEL AND JOHN AND JANE  
DOES,

RESPONDENTS.

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**EMERGENCY PETITION TO: FREEZE ESTATE ASSETS, APPOINT NEW  
PERSONAL REPRESENTATIVES, INVESTIGATE FORGED AND FRAUDULENT  
DOCUMENTS SUBMITTED TO THIS COURT AND OTHER INTERESTED PARTIES,  
RESCIND SIGNATURE OF ELIOT BERNSTEIN IN ESTATE OF SHIRLEY  
BERNSTEIN AND MORE**

This Entire Petition is written, filed upon the knowledge, information and belief of Eliot Ivan Bernstein ("Petitioner"):

Petitioner appears in this action "In Propria Persona" and asks that his points and authorities relied upon herein, and issues raised herein, must be addressed "on the merits" and not simply on his Pro Se Status.

1. That Eliot Ivan Bernstein ("Petitioner") and Petitioner's children are Beneficiaries/Interested Parties in the estates of Simon Leon Bernstein ("Simon") and Shirley Bernstein ("Shirley") and so named under their Wills and Trusts and other instruments that are part of their estates, where the combined estates of Simon and Shirley are herein after referred to as the Estates ("Estates").
2. Venue of this proceeding is in this county because it was the county of the decedents' residence at the time of decedent's death.
3. The nature and approximate value of the assets in this estate are real, tangible and intangible personal property in excess of \$20,000.000.00
4. That Petitioner is petitioning this Court to freeze the Estates and apply all remedies it deems appropriate after this Court can determine the effect and actions to be taken regarding all of the following issues detailed herein, including issues of alleged,
  - i. Forged and Fraudulent documents submitted to this Court and other Beneficiaries/Interested Parties as part of an alleged Fraud on this Court and the Beneficiaries/Interested Parties, including a document that was sent back for notarization after Simon's death that was sent via US Mail back to this Court notarized and signed by Simon in the presence of a notary, after Simon was deceased,
  - ii. Breaches of Fiduciary Duties by Personal Representatives/Trustees/Estate Counsel acting in the Estates,
  - iii. Conflicts of Interest by Personal Representatives/Trustees/Estate Counsel acting in the Estates,
  - iv. mismanagement of the Estates assets by Personal Representatives/Trustees/Estate Counsel acting in the Estates,
  - v. failure to produce legally required accounting and inventories and more by Personal Representatives/Successor Trustees/Estate Counsel acting in the Estates,

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- vi. creation of fraudulent trust in the estate of Simon and forged and fraudulent documents filed in the estate of Shirley by Personal Representatives/Trustees/Estate Counsel,
  - vii. duress and undue influence used to coerce Decedent Simon to make near deathbed changes that changed long established Beneficiaries and appointed new Personal Representatives to act in the Estates, and,
  - viii. possible murder of Simon reported to authorities by others, leading to Police Reports and an Autopsy, as further defined herein.
5. That Petitioner is petitioning this Court to construe this motion and pleading of Petitioner liberally as being filed Pro Se and to grant reliefs claimed in prayer and such other reliefs as this Court deems fit.

## **I. BACKGROUND**

6. That Simon and Shirley were married for fifty-one years prior to Shirley's passing in 2010. They had five children, Theodore Stuart Bernstein ("Theodore"), Pamela Beth Simon ("Pamela"), Petitioner, Jill Marla Iantoni ("Jill") and Lisa Sue Friedstein ("Lisa"). That Simon and Shirley had ten lineal descendant grandchildren.
7. That Simon was an established Pioneer in the life insurance industry since the 1970's and had become very successful in business, Shirley was a raise the kids mom and together they accumulated a great many assets, including real estate, private banking investment accounts (mainly invested in blue chip and low risk stocks), businesses worth tens of millions, jewelry worth millions and more.
8. Simon and Shirley provided well for their children and grandchildren throughout their lives, took their children and their friends on trips throughout the world, sent them all too fine colleges and shared their wealth not only with their family but their friends and co-workers. They were loving and caring<sup>1</sup>.
9. That on December 08, 2010, at age 71, Shirley passed away after a long and valiant struggle with lung and breast cancer and major heart problems.
10. That on May 10, 2012 Petitioner was summoned to a conference call by Simon with his siblings and the estate planners, Robert Spallina ("Spallina") and Donald Tescher ("Tescher") of Tescher & Spallina, P.A. ("TS").

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<sup>1</sup> Eliot Eulogy for Shirley

<https://www.facebook.com/notes/eliot-bernstein/mother-of-unconditional-love/172447362786005>

Eliot Eulogy for Simon

<https://www.facebook.com/notes/eliot-bernstein/simon-bernstein-eulogy/469529029744502>



11. That Petitioner was requested to attend this meeting by Simon where he learned for the first time that he had beneficial interests in the Estates. No notices of interests, accountings and inventories were ever provided by TS to Petitioner as a Beneficiary after Shirley's death, other than a Letter of Administration after approximately six months and then NOTHING else.
12. That Simon started the meeting stating that he was unsure if TS and Spallina had kept Petitioner and his siblings up to date on the estate of Shirley since her passing. That Simon was unsure if Spallina had kept all the siblings informed as obligated because when he invited Petitioner to the meeting he was surprised to learn that Petitioner had only received one document from Spallina regarding his interests in the estate since the passing of Shirley.
13. That the meeting was to discuss Petitioner, Jill and Lisa giving their interests in the Estates, which constituted the entire Estates assets that were going to them, instead going to Simon and Shirley's ten lineal descendent grandchildren to share equally. These changes according to Simon were to solve problems caused by Theodore and Pamela, which were causing Simon extreme emotional and physical trauma and duress at that time.
14. That the three children that are the designated Beneficiaries under the 2008 Trusts of Simon and Shirley are Petitioner, Jill and Lisa and their six children who also were Beneficiaries. That in Petitioner's instance even prior to the proposed changes, Simon and Shirley had intended to leave almost all of his inheritance to his three children directly to protect Petitioner's family for specific safety reasons further defined herein.
15. That Petitioner learned in the May 12, 2012 meeting for the first time that Theodore and Pamela had already been compensated from the Estates while Petitioner's parents were alive, through acquisitions of long standing family businesses worth millions of dollars and thus were excluded from the remainder of the Estates.
16. That Theodore, Pamela and Petitioner worked in the family businesses, Theodore and Pamela for their entire lives and Petitioner had his own companies for approximately 20 years doing business alongside the family companies and yet when Simon chose to sell the businesses, he sold them to Theodore and Pamela alone.
17. That these businesses provided millions of dollars of income for many years to Theodore and Pamela who have both led extravagant and rich lives from insurance plans invented and sold primarily by Simon and his companies. Theodore and Pamela both worked out of college in Simon's palatial offices, while Petitioner worked from his garages at college in Madison Wisconsin and then after college in California with his college friends/co-workers.
18. That Petitioner and his sister Jill on the other hand, who had worked for the family businesses for years were pushed out by Pamela as she took over and despite their years in business with the companies were left nothing in the buyouts for their years of service and have modest net worth.

19. That Pamela who lives in Magnificent Mile on Lake Shore Drive in Chicago is very well off from these acquisitions and has a high net worth as result, so much so as to buy her college bound daughter in 2008 a condominium in Magnificent Mile worth over a million dollars, directly next to her condominium worth several million dollars.
20. That Theodore had done well in the family businesses and so much so as to have gone from Bankruptcy and living at Simon and Shirley's home, to going into business with Simon in Florida and then suddenly buying a large intercostal waterfront home in Florida worth approximately USD \$4,500,000.00 million dollars, right as Petitioner's car had a bomb blow up in it and Petitioner was living in squalor, to be defined more fully herein.
21. That Petitioner's sister Lisa is married to the son of a partner at Goldman Sachs in Chicago who also works at Goldman Sachs and so she has never needed financially.
22. That Petitioner and Jill however have lived modest lives in modest homes and worked outside the family businesses for years on their own. This despite the fact that Petitioner's independent insurance agency worked to build the family insurance businesses through his sales efforts nationwide for almost twenty years. Petitioner was the largest sales producer for the companies for a decade before leaving the companies in frustration of working with Pamela and not getting paid according to contract.
23. That Theodore and Pamela had been completely cut out from the remainder of the Estates assets, including exclusion of their four children as they had already been well compensated through these business acquisitions which were the majority of Simon's net worth at the time and so Shirley and Simon decided together that the remainder of their Estates would go to the children who had not received or asked for any inheritance while they were alive.
24. That Petitioner learned Theodore and Pamela however had become very angry with Simon over this decision, with Pamela and her husband David B. Simon ("David") even threatening litigation against Simon after they learned of Simon and Shirley's decision to leave them wholly out.

- i. Language from May 20, 2008 Shirley Bernstein Trust Agreement and November 18, 2008 Shirley Bernstein Amended Trust Agreement

E. Definitions. In this Agreement,

1. Children Lineal Descendants.

...Notwithstanding the foregoing, as I have adequately provided for them during my lifetime, for purposes of the dispositions made under this Trust, my children, TED S. BERNSTEIN ("TED") and PAMELA B. SIMON ("PAM"), and their respective lineal descendants shall be deemed to have predeceased the survivor of my spouse and me, provided, however, if my children, ELIOT BERNSTEIN, JILL IANTONI and LISA S. FRIEDSTEIN,

and their lineal descendants all predecease the survivor of my spouse and me, then TED and PAM, and their respective lineal descendants shall not be deemed to have predeceased me and shall be eligible beneficiaries for purposes of the dispositions made hereunder.

ii. Language from August 15, 2000 – Will of Simon Bernstein

ELEVENTH: The term "descendants" as used in this Will shall specifically exclude my daughter PAMELA BETH SIMON and her descendants. Except as provided in Article SECOND of this Will, I have not made any provisions herein for PAMELA BETH SIMON or any of her descendants not out of lack of love or affection but because they have been adequately provided for.

iii. Language from alleged 2012 Amended Trust of Simon

E. Definitions. In this Agreement,

1. Children, Lineal Descendants.

... Notwithstanding the foregoing, for all purposes of this Trust and the dispositions made hereunder, my children, TED S. BERNSTEIN, PAMELA B. SIMON, ELIOT BERNSTEIN, JILL IANTONI and LISA S. FRIEDSTEIN, shall be deemed to have predeceased me as I have adequately provided for them during my lifetime.

25. That Simon at the time of the May 12, 2012 meeting to amend the 2008 Trusts of he and Shirley's they had designed and executed together was acting under extreme duress and suffering from documented mental depression from what his children were doing to him, this extreme stress placed on him was worrisome to Petitioner as Simon had a long history of heart problems.
26. That shortly before the May 12, 2012 meeting until Simon's passing, new and profound physical symptoms began to slowly appear leading to major medication alterations to his prescribed daily medications and additionally he was put on several new medications by his doctors, as evidenced further herein.
27. That Simon then began a series of medical problems that in June and July of 2012 began manifesting serious and bizarre symptoms and he was repeatedly taken seriously ill and multitudes of tests were ordered leading to several diagnoses of new problems with unknown origins and new treatments. For 2-3 months leading up to his death Simon became rapidly and progressively worse and heavily medicated until his death. Some of the tests and surgeries during this period, include but are not limited to,

- i. Bahamas Trip – approx. June 22<sup>nd</sup> - 24<sup>th</sup> returns with major flu like symptoms

- ii. July 24, 2012 Returns from a trip to Panama and is ill and having massive headaches
  - iii. August 14, 2012 Shoulder and Neck MRI to determine massive headaches,
  - iv. August 15, 2012 Brain MRI to determine massive headaches,
  - v. August 20, 2012 Brain biopsy surgery,
  - vi. Prednisone lowered due to massive headaches.
28. That in fact, Simon's physical and mental health rapidly declined and he never recovered from these new more serious symptoms that started almost exactly when he supposedly signed these near deathbed changes on July 25, 2012 to allegedly amend and radically alter his earlier 2008 trust ("2008 Trust") and create a new **alleged** 2012 trust ("Amended Trust"). Copies of that alleged 2012 Amended Trust are attached further herein and will evidence that that the alleged Amended Trust document was not notarized, witnessed and executed properly in accordance with law and part of a larger scheme involving alleged forged and fraudulent Estates documents, as evidenced and exhibited further herein.
29. That TS, Spallina and Tescher knowing of Simon's health problems and heavy medication use during this time period should not have allowed Simon to sign anything, as during this time the alleged 2012 Amended Trust was supposedly signed, prior to the closing of Shirley's estate, Simon was in great pain, heavily medicated and under massive stress and under psychological care.
30. That Petitioner and Petitioner's children's counsel have been denied by TS, Spallina and Tescher copies of the prior 2008 Trust of Simon that changes were made to in order to create the alleged 2012 Amended Trust so that Petitioner cannot analyze exactly what language was changed, despite repeated requests to the Personal Representatives for over seven months since Simon's passing.
31. That on information and belief the bad blood between Pamela, David and Simon and Shirley, actually began several years prior to Shirley's death and lasted until Simon passed away. Where on information and belief problems with the acquisitions of the long standing family companies during the buyouts may have led to some of these problems.
32. That allegedly after the business buyouts went sour, Pamela and David and their daughter did not see Simon and Shirley and boycotted them almost completely for several years until shortly before each of their deaths. Simon and Shirley were crushed by this loss and their behavior and severed their ties with them. Pamela may have known she was also excluded from the Estates in the 2000 Will of Simon already exhibited herein.
33. That Petitioner learned several months before Simon's death that Theodore and Simon were also separating from each other in business, as tensions had gotten out of control, when Simon invited Petitioner and his wife Candice Bernstein ("Candice") to help him start a new business venture with a new partner, in a new office he had just leased, in a

wholly new industry and where he would now be relocating wholly separate from Theodore.

34. That on information and belief, this separation was partially a result of bad blood over the splitting of the businesses and other business dealings gone badly and allegations that Theodore was taking monies from the businesses for himself in excess and finally because of Theodore's continuing anger and rage at Simon over learning he was also excluded from the Estates.
35. That Simon was also hurt by a lawsuit filed weeks before his death by his business partner William E. Stansbury ("Stansbury") against he and Theodore, as he had considered Stansbury to be a friend and likewise Stansbury claims he was Simon's friend too in his lawsuit. However Stansbury makes claims that Theodore was fraudulently signing checks made out into Stansbury name and converting the funds illegally into his own accounts and more, in a lawsuit that now is part of the Estates creditors, as more fully defined herein.
36. That the newly contemplated near deathbed changes sought to be made to the long standing 2008 estate plans of Simon and Shirley that were proposed in the May 12, 2012 meeting, still skipped leaving anything at all to Theodore and Pamela, as again they had already been compensated, and so the inheritance was to be left instead directly to their children, where three of their four children were already adults. Therefore, Theodore and Pamela should have very little to do with the Estates but instead have total control with exclusivity to the Personal Representatives and where the Beneficiaries and Interested Parties have been totally shut down from ANY information or funds, as further defined herein.
37. That Simon stated to Petitioner after the May 2021 meeting that he was skipping over leaving anything to Theodore and Pamela as he also felt that if he left the monies directly to them in the proposed 2012 Amended Trust, their children would never see the monies. Simon felt that Theodore and Pamela were using their current wealth gained through advancements on their inheritances through the company acquisitions to control their children by leveraging their monthly allotments to their children in college if they did not join in the boycott of Simon, making it virtually impossible for their children not to join in. In Pam's circumstances the boycott of both Simon and Shirley, by David, Pamela and their daughter began several years earlier.
38. That on information and belief, letters were sent and conversations held shortly after Shirley's death with Theodore, Pamela, Simon, Spallina and Tescher, notifying them that they had been left out of the remainder of the Estates. After Shirley's death, the Beneficiaries were not notified by the TS of their interests.
39. That on information and belief, after Shirley's death when Theodore and Pamela learned they and their families were wholly excluded from the Estates remaining assets, they began a campaign against Simon to have all his children and grandchildren not see or talk with him. At the time Petitioner did not know that Theodore and Pamela had been



cut out of the Estates or why, as Petitioner did not learn this until the May 12, 2012 meeting.

40. That the reasons given for blackballing Simon prior to the May 12, 2012 meeting were claimed first to be worries that Shirley and then Simon's personal assistant Rachel Walker ("Walker"), who was living and working with Simon was allegedly possibly sleeping with Simon and trying to get at Simon's money. When Simon took a new female companion, a friend and former employee of his he had known since approximately 2003 and he talked with weekly for years, Maritza Puccio ("Puccio"), the accusations by Petitioner's siblings shifted from Walker to now Puccio trying to swindle Simon's monies and get at the Estates assets.
41. That Pamela did however come to see Simon once from the time Shirley passed until his death, several months after Shirley's passing, when she came to clean out Shirley's closet with Lisa and Jill, who all came in town from Chicago, as Simon was considering having Puccio move into his home with him, along with his personal assistant Rachel Walker ("Walker") who was already moved in from on or about the time of Shirley's death and even had a room she called her own.
42. That upon this visit, Petitioner's sisters took not only all of Shirley's clothing and personal effects but also took 50 years of Jewelry and other valuables Simon and Shirley had accumulated worth an estimated several million dollars and were assets of the Estates.
43. That when Petitioner later questioned Simon about this he stated that they were merely borrowing these items. Simon was confused and upset when he realized that they had taken all of Shirley's possessions, he was very weak and depressed when they descended upon him and he did not know they took all of her valuables until after they left town and were back in Chicago with them. They left with loaded suitcases and shipped several containers they packed for themselves and never notified Petitioner or Theodore that they were carting off Shirley and Simon's personal affects and more. That Petitioner later learned that at that time Petitioner's sisters took these valuables to protect the items from Walker and Puccio who they thought would steal them.
44. That since no inventories were ever sent to Petitioner as a Beneficiary of Shirley's estate by TS, Petitioner does not know exactly what Shirley had bequeathed and to whom.
45. That Simon stated to Petitioner that he had never gifted, sold or transferred the jewelry and other items they took out of the Estates and therefore everything they took that was part of the Estates would all still be part of the Estates upon his death for distribution according to the Estates plans to the proper Beneficiaries. Simon stated that Petitioner's sisters had inventory lists of the jewelry and there was an insurance policy on the items that they took and all would be returned when he passed for equitable distribution to the Beneficiaries of the Estates.
46. That Petitioner did not learn from Theodore until after Simon's death that Theodore was extremely angry at Simon, Pamela, Lisa and Jill upon learning that Petitioner's sisters

took Shirley's entire personal effects and jewels and left him and his children none of it, not even a keepsake.

47. That upon trying to recruit Petitioner's immediate family to join an ongoing boycott against Simon a few months after Shirley died, it was told to Petitioner by Theodore's children, Eric Bernstein ("Eric"), Michael Bernstein ("Michael") and his step son Matthew Logan ("Matthew") that the reason all the children and grandchildren had joined together to boycott Simon, according to Theodore and Pamela, was now due to his companion, Puccio.
48. That Theodore's children were urging Petitioner and his family to get on board as they were enabling Simon, as Puccio they claimed was after his money, stealing his money, had stolen money from Shirley and Simon in the past and was now physically and mentally abusing Simon and other horrible allegations about her. They claimed they knew things about Puccio's past from when she worked for their father as a Nanny. They alleged she had swindled money from Simon regarding breast implant money when Puccio worked for Simon and Shirley and more. They stated they hated Puccio and refused to attend any family occasions with her as she was only after Simon's money and he was too enamored by her to see clearly. They stated that Shirley was rolling over in her grave as Puccio would desecrate their home and rob Simon and that Petitioner must join the boycott.
49. That Petitioner and Candice refused to participate in such a hurtful scheme against Simon and Puccio and told Theodore's children that Simon and Shirley would be ashamed of their bizarre and cruel behavior and that they should not continue to boycott seeing Simon as it was breaking his heart and depressing him and to tell Theodore and anyone else involved that we thought this was a bad idea. Especially disturbing is that Theodore's children were partially raised by Simon and Shirley, even when they were not well physically, for many years and even moving Theodore and his children into their home for several years. They raised Theodore's children during a lengthy personal and financial crisis Theodore went through resulting in his declaring bankruptcy, divorce, loss of his home and eventual tragic overdose death of his ex-wife and resulting loss to the children of a mother.
50. That Petitioner's siblings became angry with Petitioner's family when they would not join the boycott and were increasingly upset that Petitioner's family in fact was friendly with Puccio and had increased their visits to Simon.
51. That after learning of this exact ploy against Simon by all of Petitioner's siblings, their spouses and even their children, Petitioner wrote letters at Simon's request to Theodore, to have him state exactly what was going and why he was not attending the Jewish Holiday of Passover with his father who was still in mourning at Petitioner's house. That these correspondences are attached herein as, Exhibit 1 – Email Correspondences Theodore and Eliot, and wherein Theodore claims, "My primary family is Deborah and

our four children. They come first, before anything and anyone. **The family I was born into is no longer, that is just a fact, it is not a matter of opinion, it just is.**"

52. That Petitioner's wife Candice and children, Joshua Ennio Zander Bernstein ("Joshua"), Jacob Noah Archie Bernstein ("Jacob") and Daniel Elijsa Abe Ottomo Bernstein ("Daniel") and Petitioner, did not align with the rest of Petitioner's siblings and their families and instead remained steadfast in their weekly meetings with Simon, continuing to have brunch with him every Sunday, a tradition started over a decade prior in 1998 when Petitioner's family moved to Florida for the first time to be with Simon and Shirley, a tradition continued until their deaths.
53. That the boycott by Simon's other four children and seven grandchildren sent Simon into deep depression, which he began psychotherapy to attempt to cope with. Petitioner's immediate family increased their weekly visits to fill the loss and so began seeing Simon 2-3 times a week or more, trying to spend as much time with him as he was now not only suffering from the loss of Shirley whom he loved profusely but now suffered the catastrophic loss of almost his entire family supposedly over his girlfriend.
54. That on information and belief, Jill and Lisa also did not know of the exclusion of Theodore and Pamela from the Estates and were recruited into this boycott based solely on the claims of Theodore and Pamela about Puccio's past employment history with Theodore and the alleged crimes she had committed and that Puccio was after Simon's money.
55. That after speaking to Puccio and Shirley and Simon's personal assistant Walker and several close friends of Simon, it was learned by Petitioner that Pamela and David even tendered a letter to Simon threatening to start a lawsuit against Simon regarding their removal from further inheritance under the Estates. That both Puccio and Walker describe this as the saddest day for Simon they had ever witnessed and Walker claimed to Petitioner to have read the letter to Simon upon receiving it at his home and described him falling to pieces.
56. That during the time from Shirley's death to Simon's death all of Simon's children but Petitioner boycotted their father and hated on Puccio incessantly, even after the May 12, 2012 meeting with TS where all of these matters were to be put to rest by the proposed changes to the 2008 Trust of Simon. After the May 12, 2012 meeting it is believed that Jill flew out once more to see Simon with her daughter and would not stay with Simon in his home because of Puccio and the trip went sour as Simon refused to leave his girlfriend Puccio at home.
57. That the exclusion from the Estates appears now to have been the bane of Theodore and Pamela's anger all along and the real cause of their boycott of Simon, not Puccio, nor Walker, and it appears they had recruited Lisa and Jill into the scheme also based on concern over Puccio hurting and robbing their father, not on the fact they were angry over the Estates plans. Having Puccio as the focus of the boycott could get all the children to participate in the boycott in concern and designed to make Simon suffer

wholly through the total loss of his children and grandchildren and allegedly try to force him to make changes to the Estates plans or suffer never seeing or talking to any of them again.

58. That in the May 12, 2012 meeting, Simon clearly stated that the reason he was making these changes was to resolve family problems caused by the exclusion of Theodore and Pamela that were causing him too much stress. Clearly Simon was under undue pressure to contemplate making these changes, desperate to see his children and grandchildren and physically and mentally beaten down. At this May 12, 2012 meeting, Petitioner learned that this assault may have been due to Theodore and Pamela's anger over their exclusion and claiming the businesses they had acquired were not doing as well as when they acquired them and they wanted back in on the remaining Estates assets.
59. That at that May 12, 2012 meeting Petitioner agreed to sign and do anything that would relieve Simon's pain and stress caused on him by Theodore and Pamela, as it appeared there was a proverbial "gun to his head" now to either change his estate plan or lose almost his entire family and continue being abused. Petitioner agreed to the proposed agreement but only if he could see the documents necessary to evaluate what he would be signing and what rights and interests he would be forsaking.
60. That Jill and Lisa agreed also to make any changes necessary to alleviate Simon's stress after reviewing the documents to be sent by Spallina and it was then decided that documents would be sent for the children to review and sign. Spallina stated it was necessary to close out Shirley's estate and then Simon could make the proposed changes to the 2008 Trust of Simon when everyone sent in their documents.
61. That Petitioner was led to believe the proposed changes to the 2008 trusts of Simon and Shirley would not be effective until all the children of Simon reviewed and returned the documents and Shirley's estate was officially closed.
62. That the closing of Shirley's estate however did not occur until after Simon's passing, as Jill had failed to return the documents sent to her until after Simon had passed in October of 2012, evidenced and exhibited further herein.
63. That despite being a Beneficiary of Shirley's estate, Petitioner had never seen or been sent by TS any estate documents of Shirley's from the time of her passing, wholly violating their duties to the Beneficiaries of Shirley's estate.
64. That Petitioner requested in the May 12, 2012 meeting that TS send Petitioner the documents to sign and all relevant documents pertaining to Petitioner's rights and interests in the Estates, so as to determine what Petitioner was being requested to relinquish rights in.
65. That Tescher and Spallina agreed to send Petitioner all the relevant estate documents to review but then only sent Petitioner a "WAIVER OF ACCOUNTING AND PORTIONS OF PETITION FOR DISCHARGE; WAIVER OF SERVICE OF PETITION FOR DISCHARGE; AND RECEIPT OF BENEFICIARY AND CONSENT TO DISCHARGE"

("Waiver(s)") to sign. A three part document waiving his rights and interests in Shirley's estate, the document predicated on an understanding of the rights being waived and yet TS did not send any accountings, inventories or anything else to aid Petitioner in assessing what interests or rights he would be signing away.

66. That at that time in May Simon's health was beginning to rapidly decline and therefore Petitioner signed the Waiver almost instantly upon receiving it on May 15, 2012 and returned the document promptly so as to cause Simon no further grief or suffering, as Petitioner worried, as did Simon, that some of his recent maladies were due to his long standing heart problems and that holding off and Petitioner waiting for the underlying documents from Spallina to sign could kill him. In fact, Petitioner still waits for the underlying documents.
67. That Petitioner signed despite never having seen the underlying documents or understanding any of the interests he would be forsaking in Shirley's estate and despite the fact that the Waiver signed required review by counsel and an understanding of what the signor was signing. See Exhibit 2 – May 15, 2012 Eliot Email to Spallina with Signed and Not Notarized Waiver.
68. That TS according to well established law should have sent the underlying documents and inventories, accounting, etc. to Petitioner as he was a Beneficiary of Shirley's estate. This notification of interests should have already been done within the legal time frame after Shirley's passing but TS had never notified him.
69. That on information and belief, Jill and Lisa were also not notified properly and according to well-established law of their beneficial interests but Spallina did however have conversations and correspondences with Theodore and Pamela notifying them of their exclusion.
70. That Jill however did not sign her Waiver to close the estate of Shirley prior to Simon's passing, see Exhibit 3 – Jill's Waiver with No Notarization Dated, October 01, 2012, two weeks **after** Simon passed. Therefore Petitioner never thought the proposed 2012 Amended Trust was agreed to and completed by Simon and all the siblings, as Shirley's estate had never even been closed.
71. That in the eight weeks from July 15, 2012 when Simon allegedly signed the improperly notarized and improperly witnessed alleged 2012 Amended Trust and the time Simon passed on September 13, 2012, his health went wholly downhill to his sudden and unexpected death. In the eight weeks after he supposedly signed the alleged 2012 Amended Trust, Simon,
  - i. began suffering massive headaches that got worse each week, beginning weeks before his death that caused Simon to go for a brain scan only weeks prior to his death,
  - ii. was delirious, confused and suffering from hallucinations and fainting spells,

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- iii. had been radically medicated, including but not limited to, pain pills, steroid injections to his shoulder and neck, Prednisone and other radical changes made to his daily prescriptions. Including wild fluctuations and increased and decreased dosages of Prednisone during the time between July and September, all making Simon virtually out of his mind during this time period and physically deteriorating, all which should be well documented with his doctors in his medical records,
- iv. was given an improper pill of Ambien by Puccio, along with an unknown amount of prescribed pain medicine on September 08, 2012, causing Puccio to panic and state that she may have caused him harm. Puccio called Petitioner's home worried as all night as he had not slept watching over Simon and now wanted to rush Simon to the hospital. Puccio asked Candice to come to the home immediately as she thought he may be dying and evaluate his condition. Puccio claimed he was hallucinating and delirious and speaking to his mother on the bed, prompting Candice to immediately go to Simon's home to assess his health. Simon then went to Dr. Ira Pardo, MD ("Pardo") of Boca Raton with Puccio where Simon was cleared of any danger and let home by Pardo according to Puccio.

- 72. That on September 12, 2012 Petitioner and Candice were again contacted with a medical emergency, this time by Walker, who summoned them to come immediately to Simon's home, as she stated that something was terribly wrong with Simon, that he was weak, confused, disoriented and she thought he needed to be rushed to the hospital.
- 73. That Candice arrived at Simon's home at the same time Diana Banks ("Banks"), Simon's business secretary, arrived at the home and Puccio returned from the club's gym shortly thereafter and they all determined that Simon needed to be taken to the Delray Medical Center hospital to be evaluated immediately.
- 74. That Puccio stated to Candice that Simon was fine prior to her leaving the home to work out approximately an hour earlier and Walker stated that when she got to the home Simon was in a complete physical meltdown, undressed and hallucinating wildly. They then allegedly carried Simon to Banks' car as he was unable to walk without their aid and rushed to the hospital.
- 75. That at the hospital Petitioner notified the hospital upon arriving that Simon's condition may be related to side effects from the Ambien given by Puccio earlier in the week, in combination with the pain medicines doctors prescribed and the combination might still be having an effect on him and to immediately run a drug screen to determine what medications he was on, as Puccio, Walker and Banks could not be sure what had been given to Simon in the last 24 hours.
- 76. That Simon was taken to the hospital suffering from pain, bloating, dizziness and mental confusion and disorientation and in severe pain. He spent the day doing tests and meeting with heart and infectious disease physicians. At first, early in the day, doctors advised Petitioner that his father had suffered a heart attack. Petitioner immediately

contacted his siblings to notify them of the peril Simon was in and have them get to the hospital ASAP. Jill and Lisa immediately hopped on the next plane out of Chicago and arrived several hours later. Theodore claimed to have to attend a meeting before coming and arrived Boca several hours later and began to request a variety of cardiologists personally known to him to treat Simon and none of them came, delaying getting anything done for a few more hours. Simon's normal cardiologist, Seth J. Baum, MD, FACC, FACPM, FAHA, FNLA could not handle the case due to some form of conflict with the hospital but he was to have sent his medical records to the hospital. In the end the hospital's cardiologist was appointed as attending cardiologist.

77. That an attending physician then came and stated that they did not think he had a heart attack and the infectious disease team was called due to concerns about his other vital functions which appeared highly irregular and he was then checked into ICU but listed in stable condition.
78. That in the early evening the attending cardiologist finally arrived in the ICU and stated that Simon's heart appeared fine, his tests did not show markers of a heart attack and that he did not think Simon had suffered a heart attack and in fact was not suffering from heart problems at all. Instead, he claimed that Simon may have contracted a flu like the "West Nile Virus" and he would begin that evaluation the next day but that he was fine for now and stable.
79. That the Doctor asked Petitioner if he remembered him from two weeks earlier as the attending physician at the brain scan and Petitioner replied that he did, as Petitioner had taken Simon with Candice and Puccio for the test. The Doctor stated that he was perplexed at what was going on after a thorough review of Simon's files now and those from just days ago that were fine and so he had went back to retrieve the older files and compare them, which is why he claimed he did not get to Simon earlier in the day, as it took him time to compare and contrast and try to determine what was happening.
80. That the Doctor then asked about Simon's travels, which had been fairly extensive over the last year and then advised the children present to go home and get rest as he was stable.
81. That Puccio decided to stay and keep company with Simon overnight in the ICU. Simon was heavily medicated but appeared in stable condition as Petitioner left to go home.
82. That several hours after leaving Simon, in the early morning of September 13, 2012 Petitioner was suddenly called to the Emergency room in the middle of the night at approximately 12:30am by Puccio, crying hysterical and stating Simon was Code Blue and they were resuscitating him. When Petitioner arrived at the hospital only minutes later with Candice, they were stopped at the ICU by the nurse in charge because she stated no one could go in to see Simon until security arrived, as someone had just phoned in a call that Simon's condition may have been part of a "murder plot." That Petitioner has still not discovered who made this call to the hospital at that time.

83. That when Petitioner and Candice were sent to the waiting room they found Puccio in the waiting room crying and hysterical as she had been removed from the ICU room from Simon after the call regarding a potential murder was made, right after Simon was beginning to need to be resuscitated for the first time.
84. That Petitioner while Simon was being resuscitated for the 2<sup>nd</sup> time still had to wait outside until the attending nurse allowed him in, right as security arrived, to see his father. When Petitioner arrived at his father's room, Simon was in a bad way with nurses already working on him with a full resuscitation crew.
85. That Petitioner's siblings, Theodore, Jill and Lisa arrived at the hospital shortly thereafter and Pamela was called in Israel via telephone as she would not be cutting her trip short to return home unless he got worse. The attending nurse then asked if the children wanted to continue to attempt resuscitations or let him pass.
86. That the hospital stated that without papers to the contrary, Petitioner was the designated person in charge of any medical decisions for Simon and so Petitioner stated that they should continue to resuscitate Simon, at least until a doctor could arrive to determine his condition and make determination as to what was causing this sudden and bizarre meltdown of his vital organs.
87. That several more resuscitations were necessary and all of the other siblings wanted Petitioner to "pull the plug" instantly with no further lifesaving efforts and let him die, claiming he wanted to be with Shirley and so no further efforts should be made to save his life and telling him to go be with her and more.
88. That Petitioner did not agree with his siblings decision to "pull the plug", as he was unsure if these were symptoms of the West Nile Virus and if he would recover if resuscitated, as Simon was just cleared of any heart problems by the attending cardiologist hours earlier and so despite his siblings protests Petitioner continued to have them proceed with lifesaving efforts.
89. That unbeknownst to Petitioner, during the life saving efforts Walker allegedly was ordered to go to the home and retrieve Wills and Trusts of Simon by Theodore that might have a Living Will and advance directives for medical decisions, as the siblings felt that Petitioner would not stop when Simon would have wanted them to stop and let him die without further attempts at resuscitation. The situation was not however like Simon was in a vegetative state for a period of time and we were deciding to discontinue life support after careful consideration. Petitioner also was unaware that Candice had been sent to Simon's to accompany Walker.
90. That after several resuscitations, a Doctor arrived and took charge of the resuscitations from the head nurse. That he first believed Simon would recover and after several more attempts had failed to stabilize Simon for more than a few minutes at a time, he advised Petitioner that Simon now appeared technically dead and the drugs they were injecting him with each time were making him appear to be alive each time they resuscitated him but he could not hold on any longer on his own. The Doctor finally stated that in his



medical opinion after the amount of time lapsed and number of efforts made, he may be gone and even if he did come back he may have severe brain damage or worse. On the Doctor's advice, Petitioner finally gave up the efforts and instructed the doctor to no longer resuscitate him and let him die naturally to the delight of his siblings.

91. That on September 13, 2012, Simon passed away.

## II. POST MORTEM EVENTS OF INTEREST

92. That within **minutes** after Simon's death, Petitioner was instructed by Theodore to go immediately to Simon's house to make sure that his companion Puccio was not robbing the house, which seemed strange to Petitioner. Petitioner wondered why Puccio, Candice and Walker had left the hospital in the first place prior to Simon's passing and Theodore claimed Puccio was going to rob the safe and home and had left some time ago and he had sent Walker and Candice to watch her and get some paperwork he needed from the home for the hospital.

93. That Theodore stated he would handle the hospital paperwork but somebody had to go to Simon's home ASAP and sent Petitioner who really did not want to go as Simon had just passed minutes earlier and he did not feel well or like driving but agreed to go.

94. That in the parking lot of the hospital, as Petitioner was leaving the hospital, Candice and Walker were returning from the home of Simon. Walker informed Petitioner that Theodore, Jill and Lisa had sent her away to the home to get documents necessary for hospital paperwork and have Walker watch over Maritza and throw her out of the home.

95. That in the parking lot of the hospital Walker stated to Petitioner that she was instructed to get documents to give Theodore, any documents regarding the Wills and Trusts she was to remove from the estate and now held in her hands. She claimed Theodore needed them as they contained important estate and other documents for the hospital. Walker then urged Petitioner and Candice to return to the home to watch over Puccio, as Walker claimed she had to bring Theodore the documents immediately for the hospital paperwork and did not trust Puccio. That Walker was convinced at that time that Puccio may have murdered Simon through poison or overdose.

96. That when Petitioner and Candice arrived at Simon's home, Puccio was packing her bags, crying and was scared, as she stated that members of Petitioner's family had threatened her and told her that if she was still at the home when they arrived they would cause her harm.

97. That other impoliteness's were exchanged according to Puccio when she was at the hospital as Simon lay dying and that she feared so much as to run out of the hospital and get her belongings and leave the home. Puccio left despite Petitioner and Candice informing Puccio that Simon had told them at the hospital the day before he died, that in the event anything happened to him and if Petitioner's siblings tried to do anything to

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harm Puccio or throw her out of the home, that she had rights to stay in the home as it was her primary residence with Simon for many months prior. Despite informing Puccio of Simon's request she still wanted to leave as she feared harm by Petitioner's siblings and Simon's assistant Walker.

### **III. POST MORTEM AUTOPSY DEMAND AND SHERIFF DEPARTMENT INVESTIGATION OF ALLEGATIONS OF MURDER**

98. That early in the morning of September 13, 2012, hours after Simon's passing, a Coroner called Simon's home and asked Petitioner if Petitioner was ordering an autopsy to discover if Simon had been "murdered." Petitioner informed the Coroner that he knew nothing about murder allegations or that an autopsy was ordered at the hospital but that Petitioner would have Theodore call him back as he had done all the paperwork at the hospital he was calling in reference to.
99. That Petitioner immediately contacted Theodore who stated to Petitioner that his siblings were ordering an autopsy based on the allegations that they thought Puccio murdered Simon, a belief Petitioner did not share and does not share at this time.
100. That Theodore stated he had friends in the Boca Raton, FL legal community he was already speaking to about what to do, including but not limited to, his friends at Greenberg Traurig ("GT") and TS and that he would contact the Boca PD from referrals from his friends to start a formal police investigation into Simon's death.
101. That several shortly thereafter the Sheriff Department (See Exhibit 4 Sheriff Department Intake Form) arrived in multiple squad cars and surrounded Simon's home and proceeded to then take statements on the front lawn for several hours regarding an alleged murder plot by Puccio.
102. That shortly after the Sheriffs arrived at Simon's, Theodore, Jill and Lisa showed up at Simon's house with Walker, in order to give statements regarding the accusations that Puccio had murdered Simon by poisoning him or overdosing him with medications. That Walker claimed that Puccio was switching pain pills with his nitro pills with intent while he was confused and that too many pain pills were being mixed with other unknowns.
103. That Pamela, David and their daughter were in Israel at the time of Simon's death and did not come back for several days after learning of Simon's death and so Petitioner is unsure if they gave statements to the Coroner or Sheriff at that or any time.

### **IV. POST MORTEM ESTABLISHMENT OF PERSONAL REPRESENTATIVES, SUCCESSOR TRUSTEES AND SEIZING THE PROPERTIES FROM BENEFICIARIES**



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104. That later that afternoon on September 13, 2012, Theodore stated that he had just spoken with Tescher and Spallina and that he was appointed to act as the Personal Representative/Executor/Successor of the Estates for the real estate and personal properties and Tescher and Spallina were also Personal Representatives. That according to Theodore the alleged 2012 Amended Trust of Simon now gave TS, Spallina and Tescher, the authority to act as Trustees and Personal Representatives over the Estates and he claimed they had chosen him as a Personal Representative/Executor/Successor Trustee because he was the oldest surviving child.
105. That the Court should note here that the alleged 2012 Amended Trust that TS, Spallina and Tescher were now acting under as Personal Representatives will be shown herein to have been constructed and signed under duress, improperly notarized and improperly witnessed by Spallina who authored the alleged 2012 Amended Trust document, which purportedly now gave him these brand new legal capacities over the Estates and additionally interests in the Estates. Petitioner believes that these documents may have never been completed by Simon and the alleged forged documents exhibited and evidenced further herein may prove such theory to be true.
106. That since the time immediately after Simon's death TS has acted in these capacities as Personal Representatives, Trustees and Counsel in handling the Estates and in assigning Theodore the roles he has been acting under.
107. That TS, Tescher and Spallina have been working almost exclusively with Theodore since that time, sharing and controlling the assets and documents with Theodore and Pamela.
108. That Theodore now acting in his new role Spallina had just anointed him over the phone, stated he was now to control the real estate and other properties to Petitioner's siblings and that he needed to make all these decisions and that according to Spallina he had many obligations and responsibilities but he would keep everyone up to speed on what they were doing.
109. That later that day when Petitioner, after looking up Florida law, challenged Spallina's claims that only because Theodore was the oldest living child was he capable of acting as a Personal Representative who could therefore take charge of the properties of the Estates and demanded Theodore again called Spallina to confirm.
110. That Theodore then claimed that Spallina had just informed him on the phone that under Shirley's 2008 Trust and Will, he was the Successor Trustee to Shirley's Estate and therefore he could act in these capacities Spallina was anointing him too in controlling the assets of both Shirley and Simon's estates.
111. That it was not learned until months later that TS, Spallina and Tescher were elected as the **ONLY** Personal Representatives and that no children had been chosen by Simon in the alleged 2012 Amended Trust they were operating under.
112. That Petitioner did not think the proposed 2012 Amended Trust could have been finalized prior to Simon's death, which elected TS, Spallina and Tescher as Personal

Representatives with these new powers, as this would have meant that Shirley's estate had been closed, which it had not been. Petitioner found it very strange that Theodore would be a Successor Trustee in the closed estate of Shirley and further able to now act as Personal Representative or Successor Trustee regarding the properties in Simon's estate under a moot document.

113. That Petitioner immediately asked to see the controlling documents they began operating under and was placated by Spallina not to worry they would be sent to him shortly and to not worry "he was a member of the Florida Bar and we could all trust him" and "he had the best of interest of the Beneficiaries in mind" and words to that effect.
114. That up until the day of Simon's death, Walker maintained keys and alarm codes to his home, as she had done for several years prior, however suddenly on the day Simon died she stated she no longer had the house keys, the alarm codes and did not have the right combination to open the personal safe of Simon, claiming Simon must have just changed the code on his safe days before his death and she had lost her keys.
115. That Walker had been residing in Shirley and Simon's home until several weeks before Simon's death and had moved from the home due to problems that had arisen with her and Puccio and Simon could no longer handle the additional stress. Where Walker had joined with Simon's other children and grandchildren in hating on Puccio and began claiming she was after his money, abusing him and more. That this feuding led to Walker and Simon attending therapy together and finally Walker moving out. Simon felt betrayed by Walker who he had considered like a daughter siding with his children and going against Puccio with such anger, yet he kept her employed and she showed up at his home almost daily until his death for work.
116. That due to the lost keys and codes and nobody living in the home now with Puccio having already fled, Theodore then asked Petitioner and Petitioner's family to stay at Simon's home for the next several days, as he did not have the keys, alarm or safe codes and he could not just leave the home open. Theodore claimed that he could not stay as all the other siblings were staying at his home and refused to stay in the home Puccio had destroyed. Theodore stated he feared Puccio could return to steal items and Petitioner agreed that leaving the house open and unalarmed seemed a bad idea and therefore he moved his family into the home for several days after Simon's passing.
117. That Petitioner's siblings, Pamela, Jill and Lisa stated that they would not stay in the home of Simon as it had been desecrated by Puccio living there and that they would not attend a funeral reception at the home if it were held there. They stated that all the other siblings had agreed and were planning on having the funeral reception at Theodore's home instead, as this was more convenient for them.
118. That Petitioner protested this funeral reception arrangement and wanted the reception instead at their father's home, so as all his elderly friends at the club he lived in could come by and be at their home for the last time where they had all shared memorable times with Simon and Shirley.

119. That Theodore claimed that after he spoke with Spallina again they decided that they could definitely not hold the funeral reception at Simon's home as it was too risky and someone could slip and fall or steal estate items. Where it suddenly appeared that they were best of friends, as Theodore was on the phone incessantly with Spallina and Tescher now.
120. That Theodore claimed that now that he was in charge of the properties, he and Spallina felt this exposed the estate and them personally to liabilities as Personal Representative/Successor Trustee to large risks from lawsuits and theft and other liabilities and that therefore there was no way to hold the reception at the home.
121. That Petitioner even offered Spallina and Theodore the option of having the attendees sign personal waivers for slip and fall before entering and having security at the home to prevent theft and stop and frisk attendees on the way out but all to no avail. That Spallina grew angry with Petitioner's renewed request to have the documents emailed to him showing all these powers granted and responsibilities and again Spallina stated he would send them shortly.
122. That several days after Simon's passing when the locks and alarm codes on both real estate properties in the Estates were changed, Theodore took possession of the new keys and codes and to the best of Petitioner's belief has since locked all Beneficiaries from the properties and seized possession of the two properties and all of their contents.
123. That Petitioner has tried to gain entry to the properties since that time but the guards at both residences refuse to allow him or his children entry on the orders of Theodore, no notices of possession were given to anyone by Theodore or TS, Spallina or Tescher.
124. That Petitioner further repeatedly requested Theodore to allow entry to get certain items for the children but each time since Simon's death he was not allowed back into the home or able to use any of the amenities on the properties he had been previously using. Theodore told Petitioner he would meet him at the properties several times over the last seven months but each time evaded Petitioner denying access.

## **V. ITEMS REMOVED FROM THE ESTATE POST MORTEM AND MORE**

125. That Walker claimed that when she went to Simon's home she grabbed anything estate planning looking that she could find from his home files, including trusts, wills, etc., as Theodore had requested her to do at the hospital.
126. That later when initially questioned by Petitioner about what the contents of the package Walker had given him were, Theodore claimed they were estate documents, including trusts, wills, some medical records and some insurance documents. Petitioner requested copies and inventory of the documents removed and an inventory of the personal effects of Simon he had taken from the hospital and Theodore stated he would have copies for everyone later that day. To this date Petitioner has never received the

inventories or accounting for anything removed from the estate or Simon's personal affects taken from the hospital.

127. That Petitioner learned later from Walker that some of the documents she removed from the estate included a contract Simon had made pertaining to Puccio and a check made out to her.
128. That later upon questioning Theodore again about the contents of the package and if he had documents for Puccio, he initially denied he had any Puccio documents until Petitioner notified Theodore that Walker had told him of documents for Puccio that she had taken from the home and given to him and further that Walker claimed she had discussed them with him at the hospital.
129. That suddenly Theodore acknowledged he was in possession of Puccio documents and claimed that he had just reviewed the Puccio documents with Pamela and David and the contract and did not appear valid and the check to Puccio was not signed and therefore she would not be paid despite Simon's desire or intent and this is why he claimed he had forgotten about it.
130. That Petitioner then notified Theodore that Simon had personally informed Petitioner of a document and check for Puccio in the hospital on September 12, 2012 that he wanted her to have in the event anything happened to him in the hospital.
131. That several days later, after failing to turn over the documents to Petitioner, Theodore stated he turned the documents and personal effects taken from the estate to TS, Tescher and Spallina.
132. That when requesting copies of the Puccio documents from Spallina he stated Petitioner did not need them as the check was not signed and he and Theodore were not intending to pay Puccio, despite Simon's desire and intent. Petitioner still requested copies be sent to him by Spallina and Spallina stated he would send them when he got a chance.
133. That for several months prior to and then for months after Simon's death Spallina told Petitioner repeatedly that he would get the Estates documents to him and the other Beneficiaries and Trustees but then in a family call with Spallina, he claimed suddenly and angrily in an "about face" that Petitioner was not entitled to any documents, as Petitioner was not a Beneficiary of either parent's estate and therefore had no rights to them and would send what he thought Petitioner needed when he needed them. Spallina then directed Petitioner to obtain what was in the public record at this Court instead. That Spallina misinforming Petitioner that he was not entitled to any documentation of the Estates, even as Trustee and Guardian for his children who under the alleged 2012 Amended Trust are Beneficiaries, evidences a lack of duty and care for the Beneficiaries and a breach of fiduciary responsibilities and more. As will be further evidenced herein Spallina now claims that Petitioner is a Beneficiary of the Estates, in yet another about face and documents exhibited and evidenced herein procured by TS show Petitioner always was.

134. That suddenly many key Estates documents essential to understanding the Estates and defining the distribution of assets are claimed to now be missing from Simon and Shirley's estate plans entirely and where no Attorneys at Law involved creating the documents appear to now have copies of these missing estate and insurance documents and more, as will be evidenced further herein.
135. That in the parking lot of the hospital Walker also exchanged what she thought was a gift she had for Petitioner and when Candice opened it on the way to Simon's it had 5-6 large red pills inside. That when they contacted Walker on the way to Simon's to find out what these pills were and who they were for, she claimed that they were her pills, not Simon's and stated she gave Petitioner the wrong package and to throw them away.
136. That Petitioner on September 13, 2012 upon trying to log in to Simon's computer at his home to get his personal friends contact information to notify them of Simon's passing noticed that the hard drives on all of Simon's computers in his home were missing or scrubbed and Petitioner found this highly irregular. Theodore stated he would look into where they had gone and question several people who handled Simon's computers at his office and home if they knew anything. To this date those items appear to have been taken from the estate and never recovered.

## **VI. MISSING LIFE INSURANCE TRUST AND LIFE INSURANCE POLICY OF SIMON**

137. That on September 19, 2012 Petitioner met with Theodore and Spallina at the offices of TS and Pamela, David, Jill and Lisa were teleconferenced into the meeting from Chicago and we learned from Spallina and Tescher that documents were now missing in the Estates and they were pertinent documents to the distribution of major assets and controlling documents to the Estates.
138. That according to Spallina a Simon Bernstein Irrevocable Trust dated June 4, 1995 ("IIT") of Simon's was determined to be missing. The IIT was initially created by Hopkins & Sutter ("Hopkins") law firm in Chicago, IL., which was later acquired by the law firm of Foley & Lardner ("Foley"). Exhibit 5 - Emails Regarding Lost IIT and Settlement Agreement and Mutual Release ("SAMR").
139. That according to Spallina a Heritage Union Life Insurance Company insurance Policy No. 1009208 on Simon ("Heritage Policy") was also now missing from the Estates records. See Exhibit 6 – Emails Regarding Lost Heritage Policy. That the Heritage Policy is reinsured by Reassure American Life Insurance Company ("RALIC"), who has become involved in the insurance matters.
140. That Exhibit 6 shows that initially Spallina states that the beneficiaries are now being based on an "educated guess" at best, as no one knew who the beneficiaries were. Spallina then later states Simon told him who the beneficiaries were to be and yet



Spallina fails to insure the benefits for the beneficiaries by documenting such and now as it factually is a guessing game, it exposes all potential interested parties to a variety of liabilities.

141. That Petitioner believes that the Heritage Policy and Simon's IIT were part of VEBA Trust that was initially sold and implemented by Simon's insurance brokerage and trust companies and that these companies at that time are believed to have been managed by Pamela and her husband David B. Simon, Esq. and owned by Simon. That it should be noted that Simon was an expert in VEBA trusts for life insurance sales and created one of the first such plans in the nation.
142. That Simon's brokerage companies sold tens of millions of dollars of VEBA life insurance premiums over the years for large estates, all utilizing complicated estate trust vehicles, which were an inherent part of the VEBA plans designed by Simon. Almost all of Simon's high net worth clients' estate plans also involved complicated estate planning and trusts that Simon prepared and preserved as part of his business practice with Pamela and her husband David Simon. That Simon was considered one of the nation's smartest and wealthiest life insurance salesman and expert estate planner and his clients were all high net worth individuals and successful companies. In fact, Simon's products sold were estate planning tools he created (VEBA's, Premium Financing Arbitrages and others) that were adopted and used by thousands of clients, all extremely high net worth persons.
143. That it is beyond belief that Simon who was well versed in estate planning would create an estate plan and leave critical trusts and policies missing from the records on his very own estate and that Pamela and Theodore who maintained these records also would now be missing copies.
144. That Pamela and Simon are believed to be the life insurance agents on the now missing or suppressed Heritage Policy and where Pamela would be one of the General Agents for the carrier and may manage or own various of the trust companies involved with the VEBA's, with responsibilities for maintaining the IIT records and insurance policy records.
145. That according to TS and Theodore in a September 19, 2012 meeting, it appeared that Proskauer Rose<sup>2 and 3</sup> ("Proskauer") may have received copies of the IIT from Simon and

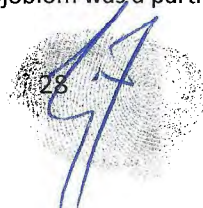
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<sup>2</sup> That this Court should note that Proskauer has been sued by the Receiver in the now convicted Felon Ex-Sir Allen Stanford of Stanford Financial Group ("Stanford") and where Simon had estate assets in Stanford further discussed herein. That Thomson Reuter's reported the following @

[http://newsandinsight.thomsonreuters.com/New\\_York/News/2012/02\\_-\\_February/Stanford\\_Financial\\_receiver\\_sues\\_law\\_firms\\_lawyer/](http://newsandinsight.thomsonreuters.com/New_York/News/2012/02_-_February/Stanford_Financial_receiver_sues_law_firms_lawyer/)

"Ralph Janvey, the court-appointed receiver for Stanford Financial Group, filed suit on Friday in federal court in Washington against the law firm Proskauer Rose, the law firm Chadbourne & Parke, and Thomas Sjoblom. The lawsuit alleges that while working at the firms, Sjoblom helped Stanford defraud more than 30,000 investors by issuing \$7 billion worth of bogus certificates of deposit. Sjoblom was a partner at Chadbourne & Parke from 2002 to 2006 and at Proskauer Rose from 2006 to 2009.

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Petitioner later learned that copies of the IIT may have been transferred from Hopkins/Foley in or about 1999-2001 to Proskauer. That Theodore states that his "friends" at Proskauer would know and he and Spallina both stated they would check with their Proskauer "friends" to see if they had the missing documents. Petitioner found his brother's new "friends," which are Petitioner's current enemies to be strange bedfellows for him.

146. That later according to Spallina, after checking with Proskauer's estate planning attorney Albert Gortz ("Gortz"), Spallina stated that the Proskauer firm had "fired" Simon as an estate planning client, after Proskauer prepared and supposedly completed estate work for Simon in or about 1999-2001. Gortz now claims to have no records regarding the estate planning work of Proskauer's for Simon, including copies of the IIT.
147. That Petitioner contends that instead Simon fired Proskauer, as Petitioner did, after discovering in 1998-2002 that Proskauer was involved in the theft of extremely valuable Intellectual Properties and assets of companies owned by Simon and Petitioner, as will be fully discussed and evidenced further herein, leading to an ongoing RICO and Antitrust and Ongoing Federal Investigations and more.
148. That Petitioner voided ALL/ANY estate planning work done by Proskauer in 1998-2002 for his family and does so again herein, after firing Proskauer and filing a series of complaints against them, further discussed herein. Petitioner assumes Simon had done the same.
149. That the Court should note here however, that despite Gortz's claim to Spallina that Proskauer has no estate documents in their possession, a Proskauer document turns up, allegedly executed by Simon in 2000, and it is a Will and Last Testament ("Will Exhibit"). This Will Exhibit turns up in the strangest of places, mysteriously appearing in this Court's record. The Will Exhibit is filed in the estate of Simon on October 10, 2012, as

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The lawsuit also alleges that Stanford Financial lost at least \$1.8 billion because Sjoblom, a 20-year veteran of the U.S. Securities and Exchange Commission's enforcement division, thwarted a federal investigation into the company. The lawsuit further alleges that the two law firms failed to properly supervise Sjoblom's work... The three defendants named in the lawsuit filed by Janvey also face at least six class-action lawsuits in Texas filed by Stanford Financial Group investors who claim that Sjoblom conspired to defraud them and that the law firms failed to keep tabs on his activities.

The case is Janvey v. Proskauer Rose, U.S. District Court for the District of Columbia, 12-CV-00155.

For the plaintiff: Guy Hohmann with Hohmann, Taube & Summers.

For the defendants: Not immediately available."

<sup>3</sup> That a lawsuit filed alleges that Proskauer directly Aided and Abetted Stanford and committed Conspiracy and more.

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA,  
RALPH S. JANVEY, IN HIS CAPACITY AS COURT-APPOINTED RECEIVER FOR THE STANFORD RECEIVERSHIP ESTATE, AND THE  
OFFICIAL STANFORD INVESTORS COMMITTEE PLAINTIFFS,  
VS.

PROSKAUER ROSE, LLP,  
CHADBOURNE & PARKE, LLP,  
AND THOMAS V. SJOBLUM,  
DEFENDANTS.

<http://www.stanfordfinancialreceivership.com/documents/sjoblomcomplaint.pdf>

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- either a second Simon Will or as an “exhibit” to the 2012 Will of Simon done by TS. This alleged 2000 Will Exhibit was filed by TS on October 02, 2012 with this Court and the two wills that are now filed with this Court are wholly different and apparently unrelated?
150. That this “Will Exhibit” according to the Court docket is an “exhibit” and was done August 15, 2000 and yet is never referenced in the 2012 Will of Simon as an exhibit, the document apparently is a notarized and signed Will and yet no law firm markings or reference numbers or account appear on the document pages. This “Will Exhibit” is inserted into the Court record for no apparent reason or rationale, which raises the question of why there is a need for two wills to be filed with this Court or why it was attached to the 2012 Will of Simon as an exhibit when not referenced therein and what document now rules? The issues with improper notarization of the 2012 Will of Simon and more will be discussed in greater detail further herein.
151. That Pamela, Theodore and Spallina have all claimed they now have no records of the missing IIT or Heritage Policy, however, Spallina, Theodore and Pamela stated in a phone call with Petitioner’s siblings that they had each been working on reinstating the Heritage Policy which had lapsed at some point months prior to Simon’s passing and they had luckily reinstated it shortly before his death. How the Heritage Policy could have been reinstated without a clear beneficiary designation and without having copies of the policy and IIT at that time, only a few months prior is unknown.
152. That after speaking to various employees of Simon’s and others, Petitioner learned that the Heritage Policy and IIT documents were witnessed to be contained in files maintained in both Simon’s business office and his home office files.
153. That since his death, Simon’s effects, including ALL documentation from his home and office have been controlled by Theodore and TS and there has been no accounting of any of the documents or other items of the Estates by the designated Personal Representatives/Successor Trustees acting under the alleged 2012 Amended Trust to the Beneficiaries, the Trustees for the Beneficiaries or Interested Parties and thus they have no way to access and search for the alleged missing documents or to find out if they have been removed and/or suppressed.
154. That upon Petitioner asking for copies of the Heritage Policy he has been refused by Spallina, Theodore and Pamela and even denied repeated requests for information regarding the point of contact at Heritage as exhibited and evidenced herein, with Pamela even claiming in the exhibited emails that Simon must have taken them from his office to his home and then basically with him to the grave as from the instant of his death they vanish into thin air.

## **VII. INSURANCE PROCEED DISTRIBUTION SCHEME**



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155. That Spallina with the aid of Theodore, Pamela and her husband David then concocted a scheme using a proposed "Settlement Agreement and Mutual Release" ("SAMR"), see Exhibit 7 – Settlement Agreement and Mutual Release, drafted on or about December 06, 2012 by an unknown Attorney at Law or Law Firm, as no law firm markings are again on the pages.
156. That Spallina claims to Petitioner and his siblings that this scheme will get Simon's children monies from the Estates, as they were no longer beneficiaries under the alleged 2012 Amended Trust, as all five children would get nothing, as it would go to Simon's grandchildren as proposed in the May 12, 2012 meeting. Spallina apparently advising the children to act adversely to the grandchildren beneficiaries, their own children and get the money to themselves instead. Spallina states he is looking to get the children some of the monies outside the Estates, such as the insurance proceeds and IRA's, so as to get the children money versus their children who are the rightful beneficiaries. This makes one wonder exactly who Spallina is representing.
157. That the proposed SAMR scheme is to have the Heritage Policy insurance proceeds be distributed to the children outside of the estate and into the SAMR, under the claim that there was a lost trust and no beneficiary designation. Upon trying to move the monies in this fashion prior to agreement by anyone, it appears Heritage's reinsurer demanded an order from this Court with its blessing. However, on information and belief and limited legal knowledge, Petitioner believes the funds would flow into the estate of Simon, per instructions in his estate plans in the life insurance carry over clauses in both the 2008 Trust of Simon and alleged 2012 Amended Trust.
158. That as proposed by Spallina, Theodore would be the Trustee of the SAMR scheme, claiming that under the IIT, which they all claim is lost, he knew he was the "Successor Trustee."
159. That Spallina claimed that the SAMR was necessary to "avoid creditors" and "avert estates taxes" or words to that effect and get money out to the non-beneficiary children.
160. That Spallina states the SAMR will protect the Heritage Policy proceeds from liabilities and creditors, including liabilities that may result from a lawsuit filed against Theodore and Simon and their companies and later amended to add the Estates. That the lawsuit was filed by a one William E. Stansbury ("Stansbury") in the Circuit Court of the Fifteenth Judicial Circuit of Florida, in and for Palm Beach County, FL., Case #502012CA013933XXXX ("Stansbury Lawsuit"). The Stansbury Lawsuit will be discussed in greater detail further herein.
161. That Spallina claimed the SAMR would keep the Heritage Policy proceeds from estate taxes too and if the SAMR was not done the proceeds would "escheat" to the state of Florida and not the estate of Simon, which Petitioner believes is not the case and that this threat and misinformation was used to intentionally scare the Beneficiaries and Interested Parties to hurry up and sign the SAMR or else face dire consequences and possible loss of the entire insurance benefit. That Petitioner did not agree that estate

taxes could be evaded through a post mortem trust, especially where claims that Simon was the owner of the policy had been made by Spallina.

162. That it appeared to Petitioner that claims were being made to the insurance carrier already to pay the benefits, so was wholly confounded as to why the insurance carrier would escheat the benefits as if a beneficiary could not be found and a timely claim made. The claim was made, there were beneficiaries represented and so it seemed ludicrous and bad legal advice based on Petitioner's limited understanding of these complex estate issues. In all Petitioner's years selling insurance he had never witnessed something even remotely similar to this situation.
163. That it should be noted by this Court that the five children of Simon and Shirley are all Trustees of their children's trusts that were to be set up under the alleged 2012 Amended Trust in order to transfer their inheritances to them. That per Spallina these trusts for the grandchildren under the alleged 2012 Amended Trust were never established and still have not yet been created and he would be creating them soon, again post mortem estate planning taking place.
164. That Simon's children, Lisa, Jill and Petitioner are still Guardians of their children as they are all minors and where all of the children of Theodore and Pamela are no longer minors as they are all over 21 currently. Thus, if the proceeds were paid to Theodore and Pamela's children directly the monies would again skip over them as Simon and Shirley intended and they would receive nothing. Whereas the other children, Petitioner, Jill and Lisa would control the trusts for their children for many years to come, allowing them to distribute the investment income earned for their family's needs, until the children would be entitled to the money fully upon reaching the stated ages in the trusts.
165. That Simon's children, especially Theodore and Pamela, under the SAMR appear in direct conflict with their children's interests over the distribution of the insurance proceeds and have in fact adverse interests. Where due to these conflicts and adverse interest with his own children, Petitioner felt the SAMR would need to be reviewed now by several different Attorneys at Law representing each party separately. One Attorney at Law for Petitioner's children, one for Petitioner as Trustee for his children's trusts under the alleged 2012 Amended Trust, one for Petitioner's new interests and each of the children and their children would have to retain similar counsel to parse these parental conflicts with their children, all due to Spallina's failure to properly protect the beneficiaries by adequately securing the Heritage Policy and IIT beneficial interests through a legally documented paper trail. Petitioner claimed that he found it unethical to act adversely to his children and stated he would need to obtain independent counsel to review the SAMR scheme prior to signing. Petitioner questioned why the SAMR had to have the children of Simon as Beneficiaries and not the grandchildren but was told that Simon did not want it this way and that if he did that he would get nothing.
166. That later in a teleconference with Petitioner, Spallina, Petitioner's siblings and others, Petitioner asked Spallina if this conversion of money from the intended grandchildren to

the children through this new SAMR scheme created by the children naming themselves as the beneficiaries of the Heritage Policy posed conflicts of interest or could be construed as fraud and a violation of fiduciary duties. Petitioner found it highly irregular that acting as Trustees and Guardians for their children, that Theodore and Pamela would be creating and executing a document that could be construed as usurping funds from their children and putting those funds into their own pockets, in a highly irregular scheme.

167. That Spallina also appears to be acting with adverse interest to the grandchildren that he has fiduciary responsibilities to protect as Beneficiaries of the Estates by moving monies out of the Estates with this new concoction to their non-beneficiary parents. Petitioner found it strange how Spallina stated over and over again how he was going to work with Theodore and Pamela to get them some money somehow outside of the Estates plans, in direct opposition to the wishes, desires and legal documents he drafted for Simon and Shirley.
168. That Petitioner noted the conflicts and other problems to his siblings and urged them to seek counsel to make sure it could not be construed as a conflicted transaction that could be viewed as a fraudulent conveyance, violation of their fiduciary responsibilities and more. At this time it is not known if any of the other children have retained counsel for themselves and their children to review the SAMR for potential conflicts and legal validity. Yet, according to the exhibited Heritage Policy emails, apparently all of them appeared willing to have signed blindly at that point without counsel, without getting an approval from this Court, solely relying on the counsel of Spallina for all parties that this scheme was legit.
169. That the proposed SAMR that was drafted was not done apparently by any law firm willing to affix their firm's name to the SAMR, the only law firm listed in the document is that of David B. Simon, The Simon Law Firm, 303 E. Wacker Dr., Suite 210, Chicago, IL 60601-5210, for serving process and notices, no other firm markings exist. However, the evidence exhibited herein shows Spallina selling the concept to all parties, over and over and involved in creating and negotiating the SAMR with insurance carriers and the children and authoring the SAMR concept and the language of the draft SAMR attached already herein.
170. That Petitioner objected to signing any such deal, even when claimed they would get a Court Order, until he could retain counsel that could decide if this were legal, a violation of his fiduciary duties to his children as Trustee of their trusts and if in fact if this SAMR could further be construed as fraud and more.
171. That in the Heritage Policy emails already exhibited herein, Spallina, after claiming it was initially an "educated guess" at best of whom the actual beneficiaries were, then reverses course in the attached emails, now suddenly remembering that Simon verbally told him the five children were supposed to be beneficiaries of the Heritage Policy proceeds and so the beneficiaries for the SAMR should absolutely be the children and not the

grandchildren. However, this is Prima Facie evidence that Spallina failed to take reasonable care to document this verbal statement supposedly made by Simon to him designating the Beneficiaries of a large estate asset in the estate plan and should have thus taken reasonable steps to protect those Beneficiaries.

172. That Spallina supposedly created the alleged 2012 Amended Trust by modifying the 2008 trusts of Shirley and Simon just weeks earlier and in both cases appears to have failed to document and secure the proper papers for the Beneficiaries of the IIT and Heritage Policy and failed to maintain the missing IIT, the Heritage Policy and even the parole evidence offered of Simon's supposed statement and so wholly failed to protect his clients and their Beneficiaries.
173. That Spallina having no legal designation of beneficiaries to the Heritage Policy and the IIT now exposes all the Beneficiaries and Interested Parties to a plethora of new liabilities and losses, such as, potential adverse tax consequences, adverse creditor issues, large legal and accounting bills to evaluate the problems resulting from this, loss of benefits to some parties and gain to other parties, all problems created by these fiduciary failures and more by the Personal Representatives.
174. That if true that Spallina knew these Beneficiary designations all along as the children and not the grandchildren, in advance of Simon's death and while amending the 2008 Trust, then his prior statements that Petitioner was not a Beneficiary under the Estates and was not entitled to documents other than what was in the public record, nor entitled to ANY inheritance or assets of the Estates is then materially false, as he would have known Petitioner to be a Beneficiary of the Heritage Policy and IIT, as Simon had told him prior to his according to the emails. Petitioner believes that this misinformation regarding him not being a Beneficiary was used to suppress documents from being released to Petitioner in the Estates, while alleged criminal activities were taking place in the creation of those documents post mortem, as exhibited and evidenced at length further herein.
175. That at minimum, even if Spallina claims he did not possess the IIT or Heritage Policy for this major Estates asset, he should have stated in the alleged 2012 Amended Trust that he had this knowledge of who the beneficiaries were under the IIT that he did not poses and stating in its absence the reason for the absence of the prevailing document designating the Beneficiaries and who they were, in spite of not having possession of the IIT, reasonably ensuring the proper Beneficiaries rights to the proceeds.
176. That according to Spallina, Theodore and Pamela, as exhibited in the Heritage Emails, the owner of the Heritage Policy is Simon and not the IIT, which at this time Petitioner cannot confirm, as the Heritage Policy and IIT are alleged to be missing and other information appears secreted and suppressed by the Personal Representatives, Theodore, and apparently as exhibited, Pamela, all now claiming to have lost all copies and records of these items.

177. That the owner designation as Simon himself goes against proper estate planning of an irrevocable trust necessary to achieve the tax and creditor and other benefits of an irrevocable trust. Typically, and in almost all instances that Simon and Petitioner sold insurance together to clients for over 25 years, the owners and beneficiaries of the policies were the irrevocable trusts established, NOT the individual as owner or with any controlling interest. Having the insured act as the owner, who can then make policy and beneficiary changes, etc. would violate the very nature of the irrevocability of the trust being designed, which removes any control to make changes by the insured who irrevocably gives all rights up to gain the benefits. Why hire an Attorney at Law and pay them to prepare and implement a trust designed to fail?
178. That Spallina was confronted by Jill as to the legality of the SAMR in a family call attended by Petitioner's siblings, Tescher, Spallina and others, asking if her child could later sue her for actions under the SAMR due to the apparent conflicts of interest and possible fraud, Spallina claimed, "only if you later tell her what you did or she finds out" or words to that effect. Again, it appears that Spallina is again acting as counsel to the children in adverse interest to the grandchildren Beneficiaries and his client Simon and Shirley's wishes, desires, intent and legal documents, all in violation of law.
179. That again, as exhibited already herein, Spallina counsels and advises Petitioner to just sign the SAMR documents, that he did not need counsel as it would be a waste of money. That this claim to not seek counsel, as it is was a waste of money is also parroted by Theodore and Pamela as evidenced in the exhibited emails. Where Petitioner has been counseled that in fact each party to the SAMR and those affected by it would need separate and distinct counsel to represent each capacity they were being advised by Spallina to act under in the SAMR in order to parse the conflicts, if they could be.
180. That for example, in the SAMR proposal alone, Theodore acts without separate and distinct counsel in each of the following capacities,
- i. as a Personal Representative/Successor Trustee in the Estates,
  - ii. as a Trustee for his children's benefits under the alleged 2012 Amended Trust of Simon,
  - iii. as the Trustee of the SAMR and
  - iv. as an individual and direct benefactor of the SAMR proceeds in adverse interest to his children.
181. That for example, in the SAMR proposal alone, Spallina, Tescher and TS, act without separate and distinct counsel in each of the following capacities,
- i. as Personal Representatives under the alleged 2012 Amended Trust of Simon,

- ii. as Trustee of the SAMR, whereby Spallina claimed if Theodore was not elected by his siblings to be successor trustee of the SAMR, he would act in such capacity and open new trust accounts in his name to hold the proceeds and distribute them. Petitioner immediately objected to Theodore due to the apparent conflicts,
  - iii. as Counsel to the Estates,
  - iv. as Counsel to the Beneficiaries and other Interested Parties in the SAMR, except for Petitioner's children who have retained independent counsel and Petitioner who seeks currently to retain counsel individually,
  - v. as counsel for the Beneficiaries under the alleged 2012 Amended Trust of Simon, and,
  - vi. as Counsel for TS, Spallina and Tescher, as they appear without having retained independent counsel for any of the conflicting representations they have.
182. That Petitioner asks the Court if TS, Spallina and Tescher's liability and malpractice carrier would allow TS to act in these multiple and conflicting representations to all of these parties without independent counsel for themselves other than acting as their own counsel for their own acts in each capacity. Further where these conflicts appear to be self-dealing and cause liabilities to not only the Beneficiaries but the carrier.
183. That this suppression and loss of documents by TS, Spallina, Tescher, Theodore and Pamela could be construed as constructive fraud, a tort of deliberate omission or alteration of facts, in order to benefit themselves and others, just one example of a serious breach of fiduciary duty, which may lead to fines and repayment to beneficiaries for ALL losses. Courts can and should remove the Personal Representatives, Trustees and Successor Trustees for such breaches.
184. That this SAMR proposed and endorsed by Spallina clearly benefits Theodore and Pamela mainly, whom without such scheme would have no direct or indirect beneficial interest in the Heritage Policy under either the alleged 2012 Amended Trust or prior known trusts of Simon and Shirley, as both were wholly cut out from receiving anything in the Estates and with the SAMR they would now get a large chunk of the proceeds, approximately two fifths of the death benefit. This scheme would clearly reverse the desire and intent and estate documents of Simon and Shirley to exclude them from the remaining assets of the estate.
185. That this scheme of Spallina and others works adversely to the grandchildren Beneficiaries of the Estates under the alleged 2012 Amended Trust, giving Theodore and Pamela two fifths of the proceeds or more and where Spallina is acting as counsel against the Beneficiaries in favor of Theodore and Pamela and this appears to present numerous problems. If the alleged 2012 Amended Trust however is stricken, as Petitioner believes it should be by this Court, then the Beneficiaries of the proceeds would be only Petitioner, Jill and Lisa and their children.



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186. That Spallina in several calls with Simon's children claimed the SAMR was a way to get the children monies out of the Estates and promised Theodore and Pamela that through the SAMR they concocted together, he could get them at least something from the Estates, along with perhaps the IRA monies. Where this legal advice is directly in conflict and to the detriment of the Beneficiaries of the Estates in either the 2008 or the alleged 2012 trust. Spallina's working in fact with Theodore and Pamela to get monies from the Estates to them personally, in opposite of the desires and intent of Shirley and Simon appeared wholly unethical and more to Petitioner.
187. That if Petitioner signed the SAMR and received one fifth of the Heritage Policy proceeds as proposed in the SAMR versus his children receiving three tenths of the proceeds, this would create a loss of inheritance to Petitioner's family of several hundred thousand dollars.
188. That Spallina on a phone call with Petitioner and a friend, Marc Garber, Esq. ("Garber"), made a threat to Petitioner in attempts to coerce Petitioner to sign the SAMR without seeking counsel and not cause problems whereby Petitioner either accepted the SAMR or Spallina would now somehow seize Petitioner's children's home.
189. That Spallina claimed later that some kind of mortgage existed on the home of Petitioner's children and that he could forgive such mortgage as Personal Representative but only if Petitioner accepted the SAMR. All the while as exhibited and evidenced herein urging Petitioner to do the SAMR without securing counsel or he would seize Petitioner's children's home and evict Petitioner, Candice and their children. That this threat on Petitioner to extort him to accept this SAMR scheme may be evidence of criminal activity by Spallina that harms the beneficiaries.
190. That after receiving advice from Garber, whom is not retained in these matters, that the SAMR could be construed as a violation of Petitioner's fiduciary responsibilities to his children and law, Petitioner then immediately retained the law firm of Tripp Scott and Attorneys at Law Christina Yates, Esq. ("Yates") and Douglas H. Reynolds, Esq. ("Reynolds"), from a referral from Garber of Flaster Greenberg P.C. ("Flaster") to evaluate the SAMR, demand documents for the Estates and other matters.

**VIII. PETITIONER FORCED TO RETAIN COUNSEL DUE TO PERSONAL REPRESENTATIVES LACK OF DUTY AND CARE, BREACHES OF FIDUCIARY DUTIES AND CONFLICTS OF INTEREST REGARDING MISSING ESTATE ASSETS AND DOCUMENTS AND MORE**

191. That Spallina grew angry at Petitioner's stated desire to retain independent counsel and threatened Petitioner that if he retained counsel that TS would not deal kindly with him forward and in an adversarial fashion. Spallina claimed it was a waste of time and the Estates monies to get counsel involved that he approved the SAMR and would get a

Court Order approving it now to satisfy the reinsurance carrier who did not go along with the initial scheme that did not entail an order from this Court.

192. That further, Spallina claimed that TS could represent all the parties without the need for either the children, the grandchildren Beneficiaries or their Trustees to retain independent counsel to review the SAMR. Petitioner felt extorted by these threats made by Spallina to either go along with the SAMR without counsel "or else" and further created the need for Petitioner to retain counsel.
193. That Petitioner at this time grew leery of the integrity of Spallina and Tescher and now had several reasons necessitating the need for counsel, including but not limited to,
- i. securing estate documents, as now months had passed since Simon's death and TS had never sent ANY documents for Simon's estate and now over a year and half later had received no documents for Shirley's estate and Spallina had failed repeatedly on his promise to deliver them to Petitioner,
  - ii. to evaluate if what Petitioner was told by Spallina regarding not being a Beneficiary of either estate and therefore not entitled to any documents of the Estates was true, especially in light of the fact that Petitioner would have been entitled to the Estates documents even in his role as Guardian and Trustee for his children's trusts
  - iii. to evaluate the Estates assets,
  - iv. to evaluate the cause and effect and resolution of the missing IIT and Heritage Policy and determine the liabilities resulting from such breaches of fiduciary duties as the documents are claimed missing by Spallina, Theodore and Pamela and this materially effects beneficiaries rights and interests negatively,
  - v. to evaluate the SAMR created in order to replace the missing IIT and Heritage Policy for legal validity and possible fraud,
  - vi. to evaluate if Petitioner and Petitioner's children now needed separate counsel due to adverse interests causing conflicts and possible fiduciary violations,
  - vii. to evaluate the new tax and creditor implications of the new SAMR upon distribution of the Heritage Policy proceeds to the Beneficiaries,
  - viii. to evaluate if Creditors to the Estates could construe the SAMR as a Fraudulent Transfer to avoid creditors,
  - ix. to evaluate if the Personal Representatives and Successor Trustee were acting in good faith and following law,
  - x. to evaluate the legal opinions being rendered by Spallina regarding claims about the SAMR's tax and creditors protections this Post Mortem SAMR would gain, and
  - xi. to evaluate Spallina's newly disclosed eviction threat on behalf of the estate of Simon against Petitioner's children's home.

194. That Yates then attempted to schedule a call and meeting with Spallina to discuss the beneficial interests of Petitioner's children and Petitioner and secure the documentation of the Estates.
195. That Yates upon having her staff contact TS to schedule a meeting, told Petitioner that TS denied knowing Petitioner or of Petitioner's father's estate matters and Yates was surprised as she had already seen evidence that Spallina knew of Petitioner and Petitioner's father, including but not limited to, information regarding the specific meetings already held with Petitioner's family and Petitioner personally, as evidenced in the exhibits evidenced herein already.
196. That after several delays in speaking with Tripp Scott for several weeks through a series of tactical evasions, Spallina then stated he would not meet with Yates and cancelled a scheduled meeting. These aversions for months by TS ran up an enormous bill for Tripp Scott as will be exhibited and evidenced herein, just in trying to get the documents from them.
197. That when Yates contacted Petitioner they decided to now have Tripp Scott send letters to TS, demanding TS to respond and produce documents and records of the Estates. See Exhibit 10 – Tripp Scott Letters to Spallina for Documents and Spallina Reply.
198. That to the best of Petitioner's belief, currently Tripp Scott has only received PARTIAL documentation requested, with key documents to understanding the rights of the beneficiaries that were requested still never sent by TS to Tripp Scott or Petitioner and leaving Yates responding to Spallina she would attempt to piece together the documents of the Estates to make sense, as what he sent was a puzzle with many missing pieces. Again, major pieces of the puzzle requested were not sent and still have not been, leaving an incomplete picture of the Estates to the Beneficiaries and where the Estates documents and assets should be an open book to the Beneficiaries, instead we find non beneficiaries apparently having exclusive access with Spallina to the Estates and everyone else wholly in the dark.
199. That the problems and conflicts created with the IIT and SAMR now forced Petitioner to now have to retain two separate Attorneys at Law, as Tripp Scott astutely identified a conflict of interest that precluded them from continuing representing both Petitioner and Petitioner's children together, as Petitioner and his children suddenly had adverse conflicting interests and would need separate and distinct counsel.
200. That after reviewing the new conflict of interest the SAMR posed, Tripp Scott decided they could only represent one party forward and it was decided that Tripp Scott would remain counsel for Petitioner's children. Therefore, Tripp Scott advised Petitioner that he would now need to retain individual legal counsel to represent his beneficial interests in the Estates that now conflicted with his children's beneficial interests. See Exhibit 11 - Tripp Scott Conflict Letter.
201. That it is now necessary for Petitioner to retain separate counsel in attempts to determine the effect on the Estates of these problems identified already and how they

will affect beneficial interests and whom the beneficiaries will ultimately be, a large legal undertaking for the Beneficiaries and Interested parties.

202. That once Tripp Scott and Petitioner received the partial documentation from Spallina and secured the Court records of the Estates that were in the public record, problems were instantly discovered, including alleged FRAUDULENT and FORGED documents, as defined further herein, all requiring steep new legal fees for Petitioner, Petitioner's children and Beneficiaries and Trustees to encumber for counsel to now analyze and determine the cause and effect of these newly discovered problems, all will be evidenced herein to be a direct result of TS, Tescher, Spallina, Theodore and Pamela.

**IX. FORGED AND FRAUDULENT DOCUMENTS  
FILED IN THE ESTATE OF SHIRLEY IN THIS COURT BY TESCHER AND  
SPALLINA CONSTITUTING A FRAUD ON THIS COURT AND THE  
BENEFICIARIES AND MORE**

203. That once Tripp Scott received this partial and incomplete set of documents for the Estates from TS, it immediately became clear that certain documents stood out as absolute Prima Facie evidence of Forgery and Fraud in documents submitted by estate counsel TS to this Court and now part of this Court's record.
204. That over a month after Simon's passing on October 24, 2012 TS filed with this Court several "WAIVER OF ACCOUNTING AND PORTIONS OF PETITION FOR DISCHARGE; WAIVER OF SERVICE OF PETITION FOR DISCHARGE; AND RECEIPT OF BENEFICIARY AND CONSENT TO DISCHARGE" ("Waiver(s)") necessary for the closing of the estate of Shirley Bernstein that had come from Simon, Theodore, Pamela, Lisa, Jill and Petitioner, all signed at different times and locations. Exhibit 12 – Waivers Not Notarized.
205. That in a Memorandum sent by this Court to TS on Nov 05, 2012, **nearly two months after Simon's death**, this Court then sent back all of these Waivers for notarization by each party, stating, "Receipts for assets from all of the specific beneficiaries were not notarized." Exhibit 13 – This Court's Memo to TS.
206. That on November 19, 2012 this Court received documents that appear similar to those sent back from TS but now, they were supposedly notarized on the prior date they were signed months earlier. The earlier documents signed did not have a notary but these somehow now did.
207. That in the November 19, 2012 Waivers sent back to this Court, the Waivers appear to have been altered from those sent back by this Court, to now have a notary public seal contained on them that is falsely witnessed on a time in the past. It would be impossible to have the documents notarized in the past without a time machine but that is what

appears in the Court record. Exhibit 14 – Waivers Notarized on Dates Months in the Past.

208. That the documents returned to this Court by TS in some instances, including Petitioner's, appears at first glance to have the exact same signatures and writings from the prior documents dated and signed months earlier without notary but now had been notarized in November 2012 on the dates in the past.
209. That in the November 19, 2012 Waivers returned to the Court there was also a notarized Waiver from Simon, now notarized and signed. However, the Court did not send the document to have a notarized Waiver until two months after Simon's death and thereby raising the question of **just how Simon rose from the grave to notarize a document in November 2012 when he passed away in September 2012**, again Prima Facie evidence of Fraud and Forgery and more. Exhibit 15 – Simon's Waiver Signed Post Mortem.
210. That all of the Waivers appear to have been further altered with scienter, whereby the un-notarized documents sent back by this Court appear also to have been allegedly criminally altered by shrinking the original un-notarized documents in size and then affixing a false notary seal upon them and then creating a merged and new document, of which the signatures were then forged onto the new documents to resemble the documents submitted to the Court, which were then sent by US Mail back to this Court. This appears to be how dead men sign and notarize documents in the past post mortem or Petitioner waits for a better explanation from this Court.
211. That Petitioner's prior signed and not notarized Waiver also came back notarized, despite the fact that Petitioner has never met with TS and/or their notary to notarize any documents and therefore Petitioner's notarized document appears to be the same document sent back by the Court but now is also forged and altered to affix a fraudulent notarization and signature on documents dated and executed in the past.
212. That on information and belief, Petitioner's sisters were also not in Florida during the time period of the documents being falsely notarized in November 2012 and therefore could not have signed personally in front of the notary on a date in the past either and thus it is alleged that their signatures and notary have been forged as well.
213. That why would someone get a document back in November 2012 from the Court to notarize it and then recreate that document, using in Simon's example April 2012 as the signing date and then affix a notary seal on a document that was not originally notarized on the date in the past. Hard to understand other than when one of the parties you need to have notarize the document is dead for two months and you cannot get his signature or have him appear before a notary but you also cannot submit a document dated in the present as everyone would see a dead man signing and notarizing and find that hard to believe. So, it appears you take the document from April and you carefully craft it to look like the ones done in the past, replete with attempted forged signatures and shrink it to fit a notary and presto, you hope no one catches it.

214. That this alteration of the Waivers by manipulation and alteration of the prior documents shows that this was no notarization mistake or accident but rather a carefully crafted FORGERY by TS and their notaries, attempting to make the resubmitted documents look identical to the earlier documents signed and doing a wholly amateur job of FORGERY with so many inconsistencies existing in the two documents for each party that a child can spot the numerous defects in signatures and more.
215. That Petitioner alleges that these alleged document forgeries and signature forgeries and fraudulent notarizations re-submitted to this Court by TS, Tescher and Spallina constitute an instance of irrefutable Fraud on this Court and Fraud, Fraud on Petitioner's family and Fraud on the Beneficiaries, commissioned through alleged felony violations of law by the Personal Representatives, Trustees and Estate Counsel. Yes, it appears the fraudulent documents were sent via mail or wire to the Court and others.
216. That Petitioner was never notified by TS that documents were sent back from the Court and needed to be notarized until recovering them from the Court, perhaps one of the reasons TS and others are hiding documents essential to the Estates.
217. That on January 23, 2013 after reviewing the Forged and Fraudulent documents with Tripp Scott and their Notary Public expert at their offices, Tripp Scott prepared and Petitioner signed a **REVOCATION** OF: WAIVER OF ACCOUNTING AND PORTIONS OF PETITION FOR DISCHARGE; WAIVER OF SERVICE OF PETITION FOR DISCHARGE; AND RECEIPT OF BENEFICIARY AND CONSENT TO DISCHARGE ("Revocation") revoking the alleged Fraudulent and Forged Waiver that was submitted to this Court on Petitioner's behalf and without Petitioner's knowledge or consent by TS. Exhibit 16 - Petitioner Revocation of Waiver.
218. That Petitioner is unclear as to whether Tripp Scott filed this Revocation on behalf of Petitioner with this Court prior to having to separate representations as described further herein due to conflict between Petitioner and his children. That if Tripp Scott did not file such Revocation with this Court that such Revocation attached herein may now also be construed to be filed with this Court through submission herein.
219. That Petitioner's Revocation herein may cause this Court to reopen and re-administer the Estate of Shirley again free of such Fraudulent and Forged documents and the effects of them.
220. That Petitioner claims that Simon's Waiver should also be stricken from the record in Shirley's estate, as it too is a Fraudulent and Forged document, as it appears impossible that Simon could have signed and notarized a document post mortem and again his document was shrunk to fit the notary public seal and his signature appears to have been forged.
221. That Petitioner states that these alleged Forged and Fraudulent documents are Prima Facie evidence of the alleged criminal activity in the estate of Shirley should be reported by this Court to all appropriate criminal authorities for immediate investigation. If this Court does not intend on notifying the appropriate authorities on its own authority, which

may constitute Misprision of a Felony, including notifying the Governor of the State of Florida for the alleged illegal and improper notarizations and reporting the alleged Forgery and Fraud on the Court to criminal authorities, then Petitioner requests the Court notify him in writing that the Court is not intending on reporting the alleged criminal activity and tendering the evidences exhibited herein of such alleged criminal acts to the authorities and Petitioner will contact these authorities directly. That Petitioner feels that it is a duty of this Court to report such alleged criminal activities and exhibited Prima Facie evidence, especially where the alleged crimes are alleged committed by another Attorney at Law acting as an Officer of this Court, as is the case with TS, Spallina and Tescher.

## **X. INCOMPLETE NOTARIZATION IN THE ALLEGED 2012 AMENDED TRUST OF SIMON AND MORE**

222. That upon reviewing the documents in the estate of Simon sent by TS to Tripp Scott and those gathered by Petitioner from this Court, several more problems arose with the validity and legality of estate and other documents prepared and filed by TS with this Court, the Beneficiaries and Interested Parties, including the fact that the alleged 2012 Amended Trust of Simon dated July 25, 2012, less than two months before Simon's death on September 13, 2012, also is alleged deficient in the notarization.<sup>4</sup> See Exhibit 17 – Signature Pages of Alleged 2012 Amended Trust.
223. That in the alleged 2012 Amended Trust neither the identification that Simon appeared or was known on that date to the notary was indicated, so that Simon neither appeared before the notary or was known to the notary at the time of notarization of the alleged 2012 Amended Trust that Spallina and others have gained powers over the estates using. The failed notarization of this document making it an alleged nullified document that cannot be relied upon legally and due to the lack of care and duty by TS to properly notarize these documents, a further Breach of Fiduciary Duties by TS and further possible evidence of Notary Public Fraud by TS and others, all beneficiaries have further liabilities and burdens.
224. That the alleged 2012 Amended Trust of Simon also appears improperly witnessed by Spallina who acts as one of the two Witnesses to the alleged 2012 Amended Trust, a

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<sup>4</sup> <http://notarypublic-florida.com/liability.htm>

A recent court decision should be of special interest to Florida notaries and their employers. In *Ameriseal of North East Florida, Inc. v. Leiffer* (673 So. 2d 68 [Fla. 5th D.C.A. 1996]), the Court ruled that a notary public and the law firm that employs her may be held liable for damages resulting from an improper notarization... Because notaries are appointed by the Governor, it is the responsibility of the Governor's Office to investigate allegations of misconduct by notaries. The Notary Section investigates hundreds of complaints each year and takes disciplinary action against those notaries found to have been negligent in their duties. Most complaints involve business deals gone awry, persons involved in legal disputes, or friends who asked the notary for a special favor.

document Spallina prepared as Counsel and whereby under the alleged 2012 Amended Trust TS is also granting TS, Tescher and Spallina powers to act in the capacities they have acted in since day one after Simon's death and these same documents also gave them interests in the Estates.

225. That since TS and Spallina have refused to send the original 2008 Trust of Simon to Tripp Scott or Petitioner after repeated requests, it remains unclear as to who the Personal Representatives of Simon's estate were designated to be in the 2008 Trust that TS was changing in the alleged 2012 Amended Trust to make TS, Tescher and Spallina the new Personal Representatives, again a guessing game.
226. That these new problems with notarizations in the estate documents of now Simon combined with the overwhelming Prima Facie evidence of alleged Forged and Fraudulent documents in the estate of Shirley, now begets the question as to just what the bigger Fraud is that is attempting to be pulled off on this Court, the Beneficiaries and Interested parties that would cause Fraudulent, Forged and incomplete documents to be submitted to this Court and others by TS, Spallina and Tescher in now both Simon and Shirley's estate.
227. That Petitioner states that these alleged Forged and Fraudulent documents are Prima Facie evidence of the alleged criminal activity in the estate of Simon should be reported by this Court to all appropriate criminal authorities for immediate investigation. If this Court does not intend on notifying the appropriate authorities on its own authority, which may constitute a Misprision of a Felony, including notifying the Governor of the State of Florida for the alleged illegal and improper notarizations as required by law and reporting the alleged Forgery and Fraud on the Court to criminal authorities, then Petitioner requests the Court notify him in writing that the Court is not intending on reporting the alleged criminal activity and tendering the evidences exhibited herein of such alleged criminal acts to the authorities and Petitioner will contact these authorities directly and immediately. That Petitioner feels that it is a duty of this Court to report such alleged criminal activities with the exhibited Prima Facie evidence, especially where the alleged crimes are alleged committed by another Attorney at Law acting as an Officer of this Court, as is the case with TS, Spallina and Tescher.

## **XI. INCOMPLETE NOTARIZATION IN THE 2012 WILL OF SIMON AND MORE**

228. That the 2012 Last Will and Testament of Simon filed with this Court dated July 25, 2012, forty-nine days before Simon's death on September 13, 2012 is also deficient in the notarization, see Exhibit 18 – Signature Pages of 2012 Will of Simon, as again neither the identification that Simon appeared or was known on that date to the notary was indicated, so that Simon neither appeared before the notary or was known to the notary at the time of notarization of the alleged 2012 Amended Trust that Spallina and



others have gained powers over the estates using. The failed notarization of this 2012 Will making it an alleged nullified document that cannot be relied upon legally and due to the lack of care and duty by TS to properly notarize these documents, a further Breach of Fiduciary Duties by TS and further possible evidence of Notary Public Fraud by TS and others, all beneficiaries have further liabilities and burdens.

229. That additionally there is apparently an unidentified exhibit to the 2012 Will of Simon filed with the Court on October 02, 2012 by TS, which appears to be a previous Will of Simon signed on August 15, 2000, the Will Exhibit. This Will Exhibit is never referenced as an exhibit in the 2012 Will of Simon that was prepared by TS and purportedly signed by Simon on July 25, 2012 and so what exactly it is an exhibit for is unknown. See Exhibit 19 – Relevant Signature Pages of Will Exhibit.
230. That the 2012 Will of Simon was recorded as a nine page document with this Court on October 05, 2012. The 2000 Will Exhibit to the 2012 Will of Simon was filed with the Court October 10, 2012 and docketed as an “exhibit” but no indication to what and appears to be an old Last Will and Testament prepared and executed by Proskauer on August 15, 2000. As the Will Exhibit is never referenced in the Will of Simon that was prepared by TS in 2012, the questions of if Simon knew this Will Exhibit would be affixed to his Will or would somehow become part of the estate documents filed with this Court and what purpose it would serve or rights it would convey is unknown, as this 2000 Will was voided in the 2012 Will prepared by TS.
231. That as of the date of filing, it remains unclear to Petitioner why the Will Exhibit has been entered and now part of this Court’s record and why there are now two Last Will and Testaments in the Estate of Simon filed by TS. That again, the question of what part of a larger scheme is at play here is raised and why is the involvement of Proskauer brought into such a scheme through a 2000 Will Exhibit that is over a decade old and voided??? The relation of Proskauer to Simon and Petitioner has a long and sordid history and will be further discussed and defined herein and in exhibit.
232. That in contrast the Will of Shirley filed with this Court and done in May of 2008 by TS appears to be notarized correctly and the notary properly underlines that Shirley is “personally known to me” on the date of notarization. However the document still suffers from Spallina acting as Counsel and Witness in the document in conflict, despite that no interests or powers appear to be transferred in the Will of Shirley to TS through the execution of the Will, although now all documents become questionable due to the alleged forgeries and fraud in the other documents.

**XII. FAILURE BY PERSONAL REPRESENTATIVES TO INFORM AND DEFEND BENEFICIARIES IN CLAIMS AGAINST THE ESTATE VIOLATING FIDUCIARY RESPONSIBILITIES AND MORE**



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233. That William E. Stansbury ("Stansbury") filed a lawsuit in the Circuit Court of the Fifteenth Judicial Circuit of Florida, in and for Palm Beach County, FL., Case # 502012CA013933XXXX for USD \$2,500,000.00 on July 30, 2012, just five days after Simon supposedly signs the alleged 2012 Amended Trust and the 2012 Will of Simon.
234. That Stansbury first sues in his original complaint the following Defendants,
- i. Ted S. Bernstein,
  - ii. Simon Bernstein,
  - iii. LIC Holdings Inc. and
  - iv. Arbitrage International Management LLC fka Arbitrage International Holdings LLC.
235. That Spallina advises Petitioner and his siblings that this was a business deal of Theodore's and that Theodore was taking care of the lawsuit with counsel and Stansbury and that the lawsuit would not become a problem to the estate, as Theodore would be settling it shortly for no more than a couple thousand dollars, Spallina opining that Stansbury had no real claims.
236. That Theodore and Spallina have not been noticing properly the Beneficiaries and other interested parties of the status of the Stansbury lawsuit or the liabilities that may result to the estate as required by law.
237. That as of this date the lawsuit has not settled and upon doing his own due diligence Petitioner discovered the Stansbury complaint had been amended by Stansbury on February 14, 2012, obviously having not been settled by Theodore for a couple thousand dollars.
238. That Stansbury amends his original complaint to now sue Defendants,
- i. Ted S. Bernstein,
  - ii. Donald Tescher and Robert Spallina as,
    - a. Co-Personal Representatives of the estate of Simon L. Bernstein,
    - b. Co-Trustees of the Shirley Bernstein Trust Agreement dated May 20, 2008,
  - iii. LIC Holdings Inc., ("LIC")<sup>5</sup>
  - iv. Arbitrage International Management LLC fka Arbitrage International Holdings LLC, and
  - v. Bernstein Family Realty LLC.
239. That Stansbury claims in the amended complaint that,
- i. LIC retained commissions in 2008 that amounted to USD \$13,442,549.00,
  - ii. Simon Bernstein was paid USD \$3,756,229.00 in 2008, and
  - iii. Theodore was paid USD \$5,225,825.00 in 2008.

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<sup>5</sup> That Petitioner, Lisa and Jill's children are all Shareholders of LIC

240. That Stansbury lowers the amount of the lawsuit from USD \$2,500,000.00 to USD \$1,500,000.00 in the amended complaint.
241. That Stansbury adds three new specific real estate properties to the lawsuit in the amended complaint in attempts to put liens on them, including Petitioner's children's home which was purchased for approximately USD \$360,000.00 and yet fails to include Theodore's home purchased for approximately USD \$4,400,000.00. Instead, Stansbury lists a home of Theodore that had sold and that he no longer lives in. On information and belief, Stansbury knew Theodore no longer lived in or owned the home he sued and intentionally left off Theodore's home that he lives in. Theodore is supposedly the defendant in the lawsuit that Stansbury claims did most of the egregious acts against him, including several that appear to be criminal, including allegations of check forgery and signature forgery, conversion of funds and more.
242. That Petitioner, on information and belief, has recently learned that Stansbury may be in fact colluding with Theodore, Spallina, GT and Ransom Jones ("Jones") an employee of LIC, to target assets of the Estates through the lawsuit by adding these new defendants and assets in the amended complaint. Whereby they have been allegedly conspiring together with intent to defraud the Estates of assets which would constitute abuse of process, Fraud on that Court, theft and more. Perhaps why Stansbury is now targeting the real estate held in the Estates where Theodore has no beneficial interests in the properties and this legal process abuse scheme and Fraud on that court would provide a way for Theodore and Stansbury to take interests from the Estates through such lawsuit, working together and to relieve Theodore from his personal financial obligations to Stansbury for the alleged check forgery and other damages he may owe.
243. That prior to Stansbury's amended complaint, Petitioner in a teleconference with Spallina, Yates and his siblings asked Theodore and Spallina who was representing the various parties in the lawsuit and were the Estates being represented by independent counsel or TS. **That TS stated the estate did not yet have counsel in the lawsuit despite the lawsuit being filed months earlier on July 30, 2012 and despite his prior opines on the lawsuit to not worry to the children of Simon it would be handled by Theodore.**
244. That Theodore in that teleconference stated that his personal counsel and LIC's counsel was GT<sup>6</sup> and Petitioner reminded Theodore that GT would have conflicts with Petitioner and Simon's Estate that are more fully described further herein.

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<sup>6</sup> That GT is also alleged involved in the Stanford Money Laundering Operation, "Stanford receiver sues law firms Greenberg Traurig and Hunton & Williams" American City Business Journals, Nov 17, 2012, 10:15am CST UPDATED: Mar 20, 2013, 9:18am CDT

<http://www.bizjournals.com/houston/news/2012/11/16/stanford-receiver-sues-law-firms.html?page=all>

and

"R. Allen Stanford and Miami-based Greenberg Traurig: why is it always Greenberg Traurig?" by Eye on Miami Sunday, July 05, 2009

A handwritten signature in blue ink is written over the number 47, which is printed in a light grey font. The signature is stylized and appears to be a set of initials or a name.

245. That shortly after Petitioner reminded Theodore of the GT conflicts with certain of the Estates assets, including the Stanford investment and trust accounts, Simon and Petitioner, that Stansbury suddenly, months after filing the lawsuit, files a motion to remove GT as counsel representing Theodore, due to a conflict of interest he suddenly remembers he has with GT.
246. That GT then recently withdraws as counsel in the lawsuit claiming to that court that GT was conflicted with the "Defendant's," their client Theodore, when the conflict allegedly is with the Plaintiff Stansbury instead, as described in Stansbury's motion to dismiss GT as counsel in that lawsuit?
247. That after the Stansbury amended complaint was served, TS finally retained counsel for the Stansbury lawsuit, TS and Mark R. Manceri, P.A. ("MM"), as Petitioner and others were worried that a default could be issued with no counsel providing estate representation.
248. That the lack of providing counsel for the estate of Simon by TS in the lawsuit until months later when questioned by Petitioner and after the filing of the Stansbury amended complaint may have been intentional and used to secure a default against the real estate and other assets of Simon and Shirley's estates by TS, Spallina, Tescher, GT, Theodore and Ranson Jones, all working together in concert with Stansbury to bleed the estate of monies and properties and before any of the Beneficiaries were aware of what happened, as no notices and information have been provided to the Beneficiaries as proscribed by Florida law regarding this creditor and the lawsuit against the Estates by TS, Spallina, Tescher or Theodore.

### **XIII. THREATENED FORECLOSURE ON SIMON'S GRANDCHILDREN'S HOME BY SIMON'S ESTATE POST MORTEM**

249. That in 2008 Petitioner was moving to a home in Eureka, California, when Shirley's health declined and Petitioner asked Shirley if she wanted them to move instead to Florida to be with her and Simon with the grandchildren.
250. That Shirley then told them to leave their home in California and she would take care of getting a house and decorating it and so not to even bring their furnishings. Shirley and Simon then purchased and fully remodeled the entire home for Petitioner's children with funds from their grandchildren's trust accounts and threw a surprise party with all their friends so that as Petitioner's family pulled in from the long drive from California what a surprise was waiting.
251. That Simon and Shirley purchased the house using funds from the Petitioner's children's 2006 trust accounts with Stanford, whereby Petitioner and his wife Candice signed a

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transfer of funds release letter to Stanford Trust Company to approve such transfer of funds for the full amount of the purchase price of the home as Guardians. See Exhibit 20 – Stanford Transfer of Funds Release Letter

252. That Yates contacted Petitioner and informed him after speaking with Spallina that Spallina had claimed that Petitioner should take the SAMR deal quickly as there was an impending foreclosure on Petitioner's home he would need the funds for and the insurance funds he would receive directly under the SAMR would be taken to pay off the mortgage debt and stave off foreclosure.
253. That Petitioner shortly after learning of this impending foreclosure by Yates from an unknown entity, shortly thereafter on a conference call with Spallina, Yates, Petitioner and his siblings, Petitioner asked Spallina who the bank was that was instituting foreclosure on the children's home. At first Spallina claimed he did not know off hand, he then found the file and stated that it was Simon who would be foreclosing on his Grandchildren's home. That Spallina then referred to a Balloon Mortgage, see Exhibit 21, and, a Promissory Note, see Exhibit 22, both that TS and Spallina apparently prepared and had executed for Simon, in efforts to protect Petitioner and his family but as this Court will see evidenced herein that this was not to eventually force an eviction on them at his death, in fact, the exact opposite was to happen. This threatened foreclosure by Spallina would be wholly inconsistent with the desires and intent of Simon and Shirley and the elaborate steps they took to protect Petitioner and his family while alive through complicated estate plans. As Petitioner will evidence further herein, his life, the lives of his immediate family and the lives of Simon and Shirley's extended families are all in grave danger and steps were taken to try and protect Petitioner and his children, not to harm them.
254. That the Court should note here that the Balloon Mortgage docketed with Palm Beach County Court, Clerk & Comptroller Office consisted of three pages. That the Court should note that the Exhibit A referenced in the Balloon Mortgage does not appear to be docketed with that Balloon Mortgage as Exhibit A, and in fact, no Exhibit A is part of the court record of the Balloon Mortgage.
255. That Spallina transmitted a Promissory Note to Yates with the Balloon Mortgage and where the Promissory Note is not docketed with the Palm Beach County Clerk and is not part of the certified copy of the Balloon Mortgage obtained by Petitioner. Spallina claimed that these two documents now gave him the power to foreclose on Simon's grandchildren's home and evict them from their home unless they took the SAMR deal.
256. That the promissory note may also have a deficient notarization.
257. That up until the point that Spallina claimed to Yates that he was holding off an impending foreclosure on Petitioner's children's home, Petitioner had thought his children's home was owned free and clear of any bank mortgages by his children.
258. That Simon had told Petitioner that the house was fully paid for, other than a small carry over loan owed to the prior home owner he purchased it from, Walter Sahn ("Sahn").

Simon worked the home purchase into a deal whereby he purchased Sahn's insurance business from him and paid cash for the home and Simon had even thrown Sahn, his friend, a retirement party upon closing of their deal. Sahn with the sale of his business and home to Simon moved into a luxury retirement home with his spouse.

259. That Simon and Shirley were excited to have purchased Sahn's home as it directly borders Saint Andrews school and upon closing on the home they contacted Petitioner and Candice to tell them they had purchased the perfect home for the children that bordered Saint Andrew's school.
260. That Simon and Shirley stated they had set aside funds for the children to attend Saint Andrew's throughout their lower, middle and high school years. How cool, their grandchildren could just walk out their backyard and be at school and it was a mile or two from their Bubbie and Zaidas home to top it off.
261. That the loan to Sahn was also thought by Petitioner to be entirely paid off, as approximately USD \$4,000.00 was being deducted from an annual Advancement of Inheritance Agreement ("AIA") of USD \$100,000.00, see Exhibit 23 – Advanced Inheritance Agreement, contracted between Simon and Shirley and Petitioner and Candice and funded monthly since August 15, 2007, less deductions taken for payment of the loan to Walt Sahn home loan since approximately August 2008.
262. That the AIA was providing all expenses for Petitioner's family and the home, due to extraneous circumstances precluding Petitioner from earning income over the last 13 years, involving Car Bombings and Death Threats, as more fully discussed and evidenced further herein.
263. That Simon had conveyed to Petitioner that he had secured the house from retaliation by defendants in a RICO & Antitrust Lawsuit and Ongoing State, Federal and International investigations, initiated by Petitioner. That Simon claimed he placed some form of second on the house to himself to protect the home. Simon further stated that he had wound the home up further into a company he started with the grandchildren as owners.
264. That Simon took all of these elaborate steps to protect Petitioner and his family as they were in grave danger, steps which TS and Spallina were supposedly contracted as counsel to protect and continue to protect after Simon and Shirley's deaths and where it now appears that TS, Spallina and Tescher are moving against Simon's desires and deconstructing the planning Simon and Shirley did for Petitioner's family, in concert with other Defendants in the RICO, to leave Petitioner and his family on the street soon, a plan which will be more fully discussed and defined herein.
265. That Spallina claims now that there is a total loan on the home of USD \$475,000.00 with USD \$365,000.00 as a balloon mortgage to Simon's estate due and additionally the full amount of Sahn's note of USD \$110,000.00 also due, which Sahn's appears to be recently extended and due in full now in 2014. See Exhibit 24 – Walter Sahn Mortgage, Promissory Note, Warranty Deed and Amended Mortgage and Promissory. This makes the total loan USD \$110,000.00 higher than the actual purchase price of the home USD

\$365,000.00. All attempts to get information from Spallina regarding the loans and payments, etc. has been suppressed.

#### **XIV. VANISHING ESTATE ITEMS AND ASSETS**

266. That according to Patricia Fitzmaurice, L.C.S.W., P.A., ("Fitzmaurice") Simon's therapist, in a session with Petitioner and Candice informed them that Simon had conveyed to her that his net worth was approximately USD \$30,000,000.00 shortly before his death.
267. That according to Puccio, Simon had told her that the estate was worth between USD \$20,000,000.00 to \$30,000,000.00 at various times, with monies already put away and protected for Petitioner and his family for school, home and other items.
268. That after the May 12, 2012 estate meeting with Spallina, Tescher, Simon and his children, Simon claimed to Petitioner that each grandchild would receive, for example, a minimum USD \$2,000,000.00 if he died that day and that at an estimated 8% interest it would cover the family's costs of living and more. For the ten grandchildren this would put the total estate at a minimum value of USD \$20,000,000.00.
269. That later that week Simon clarified that Petitioner's family, even at the minimum amount used for example would get USD \$6,000,000.00 and would be set up fine with good investments made and with school funds for the grandchildren paid for throughout college already set aside. Simon stated he wanted Petitioner to secret this information from family members as he was very worried about Theodore and Pamela and their spouses knowing exactly what his net worth was and why on the phone call on May 12, 2012 he did not state any numbers with them.
270. That prior to her death Shirley and Simon had taken Candice and Petitioner to dinner to tell them that the almost all of the Stanford monies had been unfrozen and they had received almost all of their investment monies back, less a small percentage of their account value approximately 2-3 million dollars that were in some form of risky CD's of Stanford's<sup>7</sup> that could be lost. Upon confirming they had received their investment monies back they immediately funded college plans for Petitioner's three children in entirety and told Petitioner that Walker had completed funding for such. Walker, later on staying at Petitioner's home overnight, was excited and told Petitioner and Candice they had nothing to worry about for their children with the home paid off and her having just taken care of funding their college plans.
271. That recently settlements have been made regarding portions of the Stanford CD's for victims and due to the inability to get information from the Personal Representatives regarding Simon's claims, the Beneficiaries have no way of knowing what has been recovered to date and what are the remaining amounts pending under the litigations.

Despite request for this information the Personal Representatives have again failed to produce documents regarding these assets.

272. That on information and belief, Theodore is attempting to sell or sold a real estate property held in the Estates, with no notice to Beneficiaries and where Petitioner and Petitioner's children counsel has not been noticed even after the sale and where Petitioner and Petitioner's counsel expressly told Spallina and Theodore to not make any transactions of properties without first notifying them properly as required under law.

### **1. Loans Against Estate Assets and No Accounting by Personal Representatives**

273. That initially Spallina stated the two homes in the Estates were free and clear of encumbrances and then several months later revealed that there was an unknown USD \$500,000.00 line of credit on the home at Saint Andrews Country Club at 7020 Lions Head Lane, Boca Raton, FL 33496 that was due in full.
274. That when Tripp Scott and Petitioner requested copies of the line of credit, including all withdrawals, dates of transactions and amounts, they were met with hostile resistance and still have not received the information months later from TS.
275. That Spallina initially claimed the Heritage Policy was for USD \$2,000,000.00 and months later claimed that suddenly there was a USD \$400,000.00 loan against the Heritage Policy leaving a net of approximately \$1,600,000.00.
276. That when Tripp Scott and Petitioner requested the information regarding the Heritage Policy loans, including transaction dates and amounts, again they were met with hostile resistance by Spallina and still have not received the loan information or the policy information.
277. That Spallina initially claimed that had the Heritage Policy and would send it to Petitioner to read and review before signing the SAMR and then later claimed TS did not now nor ever have a copy as already evidenced in the exhibited letters herein.
278. That Pamela later stated in a conference call with Spallina, Yates and Petitioner's siblings that initially she sent Spallina a copy of the Heritage Policy and then Spallina asked that she send him another copy as he had lost his and Pamela agreed to do so. That Pamela then sent an email, Exhibit 25 – Pamela Email's Regarding Lost Heritage Policy, stating she no longer had the Heritage Policy and Simon must have taken it with him.

### **2. Missing Investment Accounts**

Private Banking Investment Accounts (Stanford, JP Morgan, Oppenheimer and Others)



279. That Simon had an estimated tens of millions of dollars in Stanford Group Company investment accounts handled by Private Banking representative, Christopher R. Prindle who is now with J.P. Morgan Private Bank.
280. That Simon was a victim of the Stanford scandal and his accounts were frozen in total by the SEC and Federal Court for several weeks. Allen Stanford was arrested and a Ponzi (more aptly Money Laundering) scheme was discovered. Again the Court should note that Proskauer and GT are being sued by the Federal Court Appointed Receiver in the Stanford SEC/FBI case for Conspiracy, Aiding and Abetting and more as actually participating in architecting and enabling the crimes.
281. That since almost all of Simon's investments were in blue chips and other low risk investments in Stanford, these monies were released back to Simon. That Simon told Petitioner that he lost a small percentage of his money in risky CD's he had purchased and did not think he would recover much but had filed several lawsuits later to recover the funds.
282. That the Court should also note here that Proskauer has been linked to the Madoff scandal, initially claiming they had the most Madoff clients and holding a national call in for clients, etc.<sup>8</sup> Keep in mind that later it was learned that most of the "victims" of Madoff were part of the Ponzi (more aptly Money Laundering) scheme. That Madoff and Stanford both burned many South Florida charities, including children's charities and bankrupted many families here in Florida.
283. That Spallina stated that the Estates of Simon and Shirley had two ongoing litigations involving monies in Stanford but again TS has failed to release any information to Petitioner upon repeated requests.
284. That the Stanford monies now according to Spallina are almost all gone somehow vanishing into thin air like a magic trick between transferring the funds out of Stanford, into JP Morgan Private Banking accounts and then supposedly to Oppenheimer. However, Spallina stated that Simon never transferred the monies to Oppenheimer, yet Petitioner on information and belief has learned that this was not true and Simon did have Oppenheimer accounts at some point. Certain eye witnesses to Simon's accounts

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<sup>8</sup> "Madoff Case Discussion - Proskauer Rose LLP"

<http://www.proskauer.com/files/Event/1e0d8a8c-e42f-436c-a89f-2128cbccfb30/Presentation/EventAttachment/aec49c40-363c-4e75-b536-2355d2233897/MadoffCaseDiscussion.pdf>

and

"U.S. Securities and Exchange Commission Office of Investigations Investigation of Failure of the SEC to Uncover Bernard Madoff's Ponzi Scheme - Public Version - August 31, 2009 Report No. OIG-509"

<http://www.sec.gov/news/studies/2009/oig-509.pdf>

and

"The News For Law Firm Giant Proskauer Rose is Not Good, and Getting Worse" by NYCOURTS- NEW YORK AND U.S. COURT CORRUPTION FRIDAY, SEPTEMBER 11, 2009

<http://newyorkcourtcorruption.blogspot.com/2009/09/news-for-law-firm-giant-proskauer-rose.html>

have stated to Petitioner that one of Simon's accounts had approximately USD \$5,000,000.00 days before his death.

285. That Spallina when questioned on these funds claims that Simon used the investment account monies to pay off his homes and never had any monies transferred into Oppenheimer, which appears contrary to information Petitioner has learned.
286. That TS initially claimed there were IRA's for both Simon and Shirley worth several million dollars in the Estates and several months later claimed nothing was left in IRA's and still have provided no documentation or inventories to Beneficiaries for these assets.

### **3. TELENET SYSTEMS, INC.<sup>9</sup>**

287. That when asked how the IRA's had disappeared over the last months, the reply from Spallina was that Simon had taken the millions and spent it and Spallina stated that some of it, USD \$250,000.00 had been taken to give to Scott Banks ("Banks"), President of Telenet Systems, Inc. ("Telenet") for the venture Simon had started months prior to his death with Banks.
288. That after Spallina claimed that Telenet had received this money, Petitioner informed Spallina that this was wholly untrue as Banks had never received USD \$250,000.00 from Simon, as Petitioner was integrally involved in the Telenet company start up with Simon and Banks and that Simon had not completed the financing of Telenet's USD \$250,000.00 personal investment before his death or raised the USD \$500,000.00 Line of Credit Simon was working to secure with his banking connections prior to passing. Simon had already begun meeting with bankers to raise the LC.
289. That to the best of Petitioner's knowledge no more than USD \$55,000.00 had been funded by Simon personally before his passing. Petitioner asked Spallina where the remaining USD \$200,000.00 of the IRA he claimed Simon took for Telenet went and Spallina again became hostile and claimed there was nothing left period.
290. That Petitioner then asked for an accounting of the millions that were supposed to be in IRA's and the loans against them and any transactions paid to Telenet and Spallina again became irate with Petitioner and still has refused any accounting for these assets and proof of any loans against them to Petitioner or Yates.
291. That when Petitioner asked what Spallina was doing about the continuation of Telenet, as an asset of the estate, Spallina stated that Theodore was handling the decision of what to do as he turned this responsibility and decisions over to Theodore, despite Theodore having no legal capacity to act in the estate of Simon.
292. That Petitioner informed Spallina that he was promised by Simon USD \$50,000.00 to help set up the computer systems and form a sales team for Telenet, which he had

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<sup>9</sup> Draft Telenet Business Plan August 2012  
[www.iviewit.tv/2012 Draft Telenet Business Plan.pdf](http://www.iviewit.tv/2012%20Draft%20Telenet%20Business%20Plan.pdf)

begun doing but was not yet paid as Simon passed away just prior to completing the funding that would have paid Petitioner what Telenet owed him.

293. That Theodore and TS without properly informing Beneficiaries ceased funding of the investment in Telenet and forgave any debts owed and forgave any interests owned by the estate, all without any notification or accounting for these assets and interests to Beneficiaries and Interested Parties. That money had already transferred for several months prior to Simon's death to Telenet in the spirit of their agreement and to pay the new bills encumbered by Telenet based on Simon's promise to pay.
294. That this sudden termination of funding sent Telenet into a sharp and catastrophic decline, due to the fact that at Simon's request and with Simon's initial funding's over a two month period, Banks had begun hiring staff, had taken a new lease on new office space, purchased computers and more, all on the assumption that Simon was going to continue funding the company up to the agreed upon amount per their agreement.
295. That most of the legal work had already been drafted and agreed to between Simon and Banks and was ready to sign and they were already acting in good faith together under the contract terms, setting up new companies, etc.
296. That Candice was contracted for a base salary of USD \$60,000.00 with a 50% commission split on all business generated by Petitioner, Simon and her own sales efforts.
297. That Simon had claimed that his shares in TS when he deceased would be split between his estate and then Puccio, Petitioner and Candice would divvy up the remainder equally.
298. That Simon's desire was to have Petitioner, Candice, Puccio and his friends Scott and Diana Banks all working together with him in Telenet, as he was moving out of his offices with Theodore due to an increasingly hostile environment. Simon had been financing deals for Telenet and Banks for several years prior on a one-off basis when Banks needed capital and so he knew the business inside and out and projected a large ROI as evidenced in the exhibited Telenet business plan.
299. That TS instead of having the US \$55,000.00 investment in the Telenet deal accounted for and properly disposed of via the Estate by the designated Personal Representatives, TS, Tescher and Spallina, instead put Theodore in charge of handling the interest in Telenet for no apparent reason, as Theodore has no basis to act in this or any capacity under the Estates. Again Breach of Fiduciary duties of the Personal Representatives in the handling of the Estates assets and failure to report to Beneficiaries a major asset sale.
300. That the instant termination of funding by Theodore and Spallina immediately after Simon's death forced Banks to fire the newly hired employees, move from his office space (still owing the lease amount) and sell off assets to survive, none of the debts to Petitioner or Candice were paid off either, all against the desires of Simon. That to further injure Simon's friends, Bank's wife Diana was then terminated from employment

by Theodore from LIC with barely any notice and no severance or benefits for her loyal years of loving service, truly a depressing period for the Banks.

301. That Theodore claimed when questioned on what he was going to do with Telenet, stated he already had ceased relations with Banks as the agreement between Telenet and Simon was not 100% perfected before his death. Theodore chose without accounting for this asset to the Beneficiaries and providing no notice to, nor receiving any consent from the Beneficiaries, ceased relations entirely with Telenet and abandoned the Estates interests in Telenet, all apparently with no authority under the Estates.
302. That the decision to cease funding and relations with Telenet was made by Theodore and Spallina together according to Banks. Banks claimed that he was bounced for several weeks between the two trying desperately to get answers as the business he started with Simon was going under.

#### **4. Family Businesses**

303. That Petitioner asked Spallina if he had the buy sell agreements, etc. that transferred the interests of the long standing family companies Simon owned and had sold some to Pamela and others to Theodore to make sure that all the terms and payments were made according to the contracts and that the contracts were wholly fulfilled. Petitioner sought these items to determine if there were balances unpaid and if so, what remained unpaid and what interests would be retained if payments were not yet made in full or what payments were owed to the Estates.
304. That Spallina stated that the buyout transactions occurred a long time ago (believed to be in the mid 2000's) with Pamela and so it did not matter anymore, again legal advice that did not sound kosher and where no accounting of these assets or Simon's interests (including renewal commissions and over-rides on premium financing dollars) have been offered by TS to the Beneficiaries.
305. That Petitioner asked Spallina and Theodore to procure any buy sell agreements or other agreements regarding the ownership of the businesses that Simon and Theodore were splitting prior to his death and they both claimed not to possess any. As Petitioner and his children are direct shareholders of certain of these companies, Petitioner asked Spallina for the value of the companies and he claimed he did not know and stated that Theodore would be best able to answer the question.
306. That Theodore then claimed in the conference call with Spallina, Tescher, Yates, Pamela, Jill and Lisa that the companies were now all worthless currently and nothing was in them or anticipated to be in them. When Petitioner asked about renewals and other income to the companies from premium financing arrangements, Theodore stated these were meaningless amounts, yet parole evidence in the Stansbury lawsuit appears to contradict these claims.

307. That Theodore is not an accountant, has not graduated college, has declared personal and professional bankruptcies and has no known ability to evaluate a company financially, most importantly he obviously was conflicted in assessing the businesses that he personally has large interests in. The Personal Representatives TS, Spallina and Tescher should have instead had an independent accounting firm do a proper accounting of the businesses to analyze the value of the companies for the Estates and Beneficiaries, further evidencing a lack of duty and care by Spallina and Breach of Fiduciary Duties.
308. That Spallina in a family meeting claimed that there is now only a few hundred thousand dollars of cash and cash equivalents left in the Estates, a far cry from the believed worth of Simon's Private Banking investment accounts with Stanford, JP Morgan and Oppenheimer alone.
309. That Simon also had other assets, such as bank accounts, IRA's, pensions, insurance, etc. that he possessed and again no information of any of these assets has been sent to Beneficiaries, in opposite of the terms of the Trusts and law and where these assets were to be divvied up promptly to the Beneficiaries. Where now seven months after Simon's passing no assets have been distributed to Petitioner's family and the Beneficiaries have NO way to ascertain anything they are inheriting due to the lack of documentation provided by the Personal Representatives, in violation of law, as evidenced ad nauseam already herein but there is more.

**XV. THE ELEPHANT IN THE ROOM  
THE IVIEWIT COMPANIES STOCK AND PATENT INTEREST HOLDINGS  
OWNED BY SIMON AND SHIRLEY, AS WELL AS, INTERESTS IN A FEDERAL  
RICO<sup>10</sup> ACTION REGARDING THE THEFT OF INTELLECTUAL PROPERTIES  
AND ONGOING STATE, FEDERAL AND INTERNATIONAL INVESTIGATIONS**

**IVIEWIT BACKGROUND HISTORY**

310. That in 1997 Petitioner moved from Corona Del Mar, California to Boca Raton, Florida after having his first son Joshua. After Petitioner's parents could not fly out to California even for the birth of their grandson due to health problems, it was decided by Petitioner and Candice that they would move to Florida so they could see and be with Joshua weekly. Simon and Shirley were elated and helped Petitioner and Candice secure a

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<sup>10</sup> Iviewit/Eliot Bernstein RICO and ANTITRUST Amended Complaint  
<http://www.iviewit.tv/CompanyDocs/United%20States%20District%20Court%20Southern%20District%20NY/20080509%20FINAL%20AMENDED%20COMPLAINT%20AND%20RICO%20SIGNED%20COPY%20MED.pdf>

condominium minutes from their home. Simon and Shirley put USD \$100,000.00 down on the condominium, as a wedding gift to Petitioner and Candice.

311. That Petitioner and Simon for the first time began working in the insurance business together in close proximity and Petitioner was pursuing at the time work on making Simon's insurance plans quotes and sales data into screaming digital media presentations for carriers, clients and underwriters. That Petitioner was commissioned by Simon to build a website and design the software necessary to implement the idea, as websites were the hottest new thing at the time for businesses and Simon wanted Petitioner to create digital presentations for clients, carriers and banks and create a digital underwriting program that could be used online and get his companies ahead in the new digital age.
312. That Petitioner was and is computer savvy and was already working with a team in California to achieve online multimedia presentations and quickly had a team put together in Boca Raton, including two of Simon's clubs staff workers, Jude Rosario and Zachirul Shirajee, who Petitioner employed to work on these projects and who instantly became more a part of the family than just employees.
313. That the problem was that online bandwidth is limited and rich image and video presentations just would not work on a thin pipe, such as internet modems. Petitioner had created high quality video and graphic presentations that worked well on the computer or CD and then compressed them for the web at low bandwidth, the videos became graphic nightmares and they were left with basic text presentations and banner ads that looked horrific. Simon stated he would never use it to sell to clients or carriers with the quality so pathetically poor and so Petitioner went back to the drawing board, again and again and again, failing repeatedly.
314. That Simon urged Petitioner to continue trying to resolve the problems and "fix this shit up" or get rid of the computers and website wholly. The problem for Petitioner and millions of others at the time was that leading engineers worldwide had already given up the search to fix these problems, as mathematically trying to get good video and imaging to end users over low bandwidth was deemed the Internet Holy Grail, as it was akin to trying to suck an elephant through a straw.
315. That Petitioner after many sleepless nights with his team suddenly had a series of divine epiphanies that changed the world in a multiplicity of ways and continue to do so. That Petitioner and his immediate and extended families' lives changed too on the discovery of these novel inventions.
316. That as soon as the first invention was realized and displayed, Simon and Petitioner decided to get patents as no one had ever seen images that could zoom endlessly over low bandwidth and Simon's friend and neighbor Lewin, who was Petitioner's accountant personally, said he could help and introduced them to Proskauer to form companies and protect the Intellectual Properties.

317. That these were very happy times for Petitioner's family and his parents, Candice had another son Jacob and he and Joshua saw their grandparents 2-3 times a week and Simon and Petitioner had just rented large office space in Boca and were ramping up for an IPO.
318. That the Estates of Petitioner's parents have large interests in the Iviewit companies<sup>11</sup> that were then formed. Where Simon and Petitioner started certain of the Iviewit companies together with a 70-30 stock split between them, 30% owned by Simon for the initial seed capital of approximately USD \$250,000.00 and 70% owned by Petitioner for inventing the technologies that were to be licensed through the Iviewit companies. Other companies were however then set up without their knowledge by their Attorneys at Law, Proskauer, and these companies are now subject to several ongoing investigations and lawsuits.
319. That Simon had an office in the Iviewit companies, alongside Petitioner and where Simon was an active participant in getting the company up, raising capital and running it initially as Chairman of the Board of Directors. That was until Lewin and Proskauer's partners had Simon relieved as Chairman, stating that it was a condition of Huizenga's attorney to obtain further seed capital infusion, capital that never came as other investors swooped in and where later Huizenga's attorney's claimed this to be an untrue statement they never made.
320. That Petitioner and Simon retained Proskauer to procure Intellectual Properties ("IP")<sup>12</sup>, including but not limited to, US and Foreign Patents, US Copyrights, Trademarks, Trade Secrets and more and to form companies to hold and license such IP.
321. That the IP centers around a group of technologies in digital imaging and video that have been estimated as "Priceless," the "Holy Grail" and "worth hundreds of billions" by leading engineers from companies such as Lockheed, Intel, Warner Bros., AOL, Sony

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<sup>11</sup> List of Iviewit companies:

1. Iviewit Holdings, Inc. – DL
2. Iviewit Holdings, Inc. – DL (yes, two identically named)
3. Iviewit Holdings, Inc. – FL (yes, three identically named)
4. Iviewit Technologies, Inc. – DL
5. Uviewit Holdings, Inc. - DL
6. Uview.com, Inc. – DL
7. Iviewit.com, Inc. – FL
8. Iviewit.com, Inc. – DL
9. I.C., Inc. – FL
10. Iviewit.com LLC – DL
11. Iviewit LLC – DL
12. Iviewit Corporation – FL
13. Iviewit, Inc. – FL
14. Iviewit, Inc. – DL
15. Iviewit Corporation

Herein together as ("Iviewit" or "Iviewit companies")

<sup>12</sup> <http://www.iviewit.tv/#USPTOFILINGS>

and more, all fully part of public record with over a decade of validation and exhibited in more detail in the Wachovia Private Placement<sup>13</sup> and at the Iviewit Web Exhibit List<sup>14</sup>.

322. That these Intellectual Properties have wholly changed the world in profound and fantastic ways over the last decade, revolutionizing the digital video and imaging worlds, to allow for markets that **could not exist without them**, such as,

- i. Quality Internet video as used by virtually anyone plugged in digitally, for example, YouTube is 100% reliant on Iviewit's technologies and is now the largest broadcaster in the history of the world, where the name more aptly should be EliotTube,
- ii. Cell phone video, the hottest digital market,
- iii. Internet Video Conference,
- iv. Rich Imaging for the Internet,
- v. Camera's and optics with zoom that does not pixilate,
- vi. Cable TV with 200+ channels versus the old 40+, and,
- vii. GPS Mapping.

323. That the Iviewit Technologies have literally thousands of market applications, such as,

- i. Microchips, as virtually all chips with digital imaging and video code embedded that have been manufactured worldwide since 1998 have stamped the Iviewit mathematical scaling formulae upon them,
- ii. Video Hardware and Software, as since 1998 virtually every product involved in content creation and distribution have embedded the Iviewit mathematical scaling formulae within their source codes,
- iii. Medical Video and Imaging Hardware and Software, as virtually every medical product that uses scaling imaging techniques have embedded the Iviewit mathematical scaling formulae upon them, revolutionizing the medical imaging of MRI's, XRAY, etc.
- iv. Military and Government Video and Imaging Hardware and Software, as virtually every military and government device that uses scaling video and imaging techniques have embedded the Iviewit mathematical scaling formulae upon them, revolutionizing and advancing Satellite Imaging, Flight Simulation, Remote Controlled Vehicles, Drones, Self-Propelled Guided Weapon Systems, Space Telescopes (such as the Hubble and others that now bring rich views of the universe as never before seen offering humanity a new view into the origins of the universe) and even those pesky "red light" cameras, etc. etc. etc.

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<sup>13</sup> January 2001 Iviewit Wachovia Private Placement Memorandum

<http://www.iviewit.tv/CompanyDocs/Wachovia%20Private%20Placement%20Memo%20with%20bookmarks/Wachovia%20Private%20Placement%20Memorandum%20-%20with%20bookmarks%20in%20col.pdf>

Note that Proskauer Rose is Patent Counsel to Iviewit and Lewin does the financials for the PPM

<sup>14</sup> Iviewit Evidence Table <http://www.iviewit.tv/#Evidence>



v. Camera's, phones, television and virtually any digital screen that scale images so one can zoom without pixilation uses the technologies, where Iviewit inventions solved for pixilation and allowed zoom on low resolution images at depths never before seen and high quality low bandwidth imaging as found on virtually all websites, camera's and anything with a digital screen.

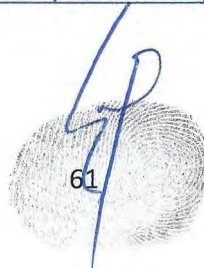
324. That Simon and Shirley and now their Estates Beneficiaries are one of the largest benefactors of such IP, along with other investors including Wayne Huizenga, Crossbow Ventures (W. Palm Beach, FL), Alanis Morissette, Ellen DeGeneres<sup>15</sup> and many more.
325. That Simon believed in the companies, so much so that he was Chairman of the Board of Directors<sup>16</sup> and other Board of Directors and Officers included Lewin<sup>17</sup> and members of Proskauer, as indicated in the Wachovia PPM that Proskauer prepared and distributed, already exhibited and evidenced herein. Proskauer even secured a lease for Iviewit directly across the hall from their offices in Boca Raton, FL. and had a team of lawyers from all practice areas basically move into the Iviewit offices, spending almost all of their time at Iviewit.
326. That Petitioner even offered a gift of ground floor stock to Proskauer and Lewin who paid a nominal price for this ground floor stock in the Iviewit companies, as the technologies had been validated before their own eyes by leading engineers and was already, even in the very beginning, estimated to be the biggest technological advancement in the history of digital video and imaging.
327. That Jill and her husband Guy Iantoni ("Guy") bought in ground floor and even moved to Florida from Chicago to work in the Iviewit offices, as they had been instrumental in helping Petitioner from the start. That Jill's moving with her husband and daughter to Florida also brought happiness to Simon and Shirley.
328. That Lisa and her husband Jeffrey Friedstein ("Jeffrey") bought in ground floor and Jeffrey became involved through his employer Goldman Sachs, where his father Sheldon Friedstein was a long time Goldman agent and Goldman after signing a Confidentiality Agreement began instantly introducing the technologies to major players, including several Fortune 500 companies and Billionaire clients, many who began working on various licensing arrangements for usage.
329. That other law firms and their partners and friends of Petitioner from California and elsewhere all bought in, all owned stock, along with all of the employees, as Petitioner had desired everyone involved at the ground floor and contributing sweat to be shareholders as well. Many of these ground floor investors had a wealth of clients, including many Fortune 100 clients that they introduced the technologies and were in

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<sup>15</sup> Ellen DeGeneres Iviewit Video <http://www.youtube.com/watch?v=2xfjK4VvhzQ>

<sup>16</sup> Simon Bernstein 1998 Video Iviewit  
<http://www.youtube.com/watch?v=L6D1uTbTIZo>

<sup>17</sup> Gerald "Jerry" Lewin 1998 Video Iviewit  
<http://www.youtube.com/watch?v=UqeaU0aSU-Q>



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various stages of the licensing the IP and using the technologies all under various contracts with Iviewit. Doors were opened and the technologies were quickly embraced.

330. That licensing deals with AOL, TW, Real 3D (Intel, Silicon Graphics, Lockheed), Sony and many others were inked or being finalized and a Private Placement was in place with Wachovia, when it was discovered by others doing due diligence on the PPM and from an audit that was being conducted that Iviewit IP Counsel and others were attempting to steal the Iviewit IP, through the use of complicated legal schemes, including an involuntary bankruptcy and a Proskauer instigated billing lawsuit in this courthouse, to be discussed more fully herein.
331. That first discovered was that one of the attorneys brought in by Proskauer, Raymond Anthony Joao, was putting patents in his own name, with Joao later claiming 90+ patents in his own name and suddenly, after meeting Petitioner and taking invention disclosures, Joao became more inventive than Tesla.
332. That then Proskauer brought in Foley attorneys after they removed Joao, in order to fix Joao's work and they too were found putting patents in other's name, including Utley and in so doing they were committing Fraud not only the Iviewit Shareholders but upon the US Patent Office, which has led to ongoing investigations and suspension of the IP by the US Patent Office.
333. That then Proskauer's Kenneth Rubenstein (Iviewit's Patent Counsel as stated in the Wachovia PPM) was found to be transferring the technologies to Patent Pooling Schemes he is the sole patent reviewer for and founder of and now Proskauer controls these pools that are the largest infringers of Petitioner and Simon's IP, including but not limited to, MPEGLA LLC.
334. That Proskauer then illegally tied and bundled the IP to thousands of applications and created licensing schemes in violation of Sherman and Clayton and most of the Antitrust laws and thus through these illegal legal schemes so converted the royalties from the Iviewit Shareholders and Inventors to Proskauer and their friends. In further efforts to block Iviewit from market or bring their crimes to light of day, an organized and conspiratorial effort began against Petitioner and his family and the Iviewit companies. It should be noted that prior to learning of the Iviewit inventions, Proskauer did not even have an Intellectual Property department and immediately acquired Rubenstein from a law firm where he and Joao were already working on pooling schemes and so Proskauer started a new Intellectual Property department days after learning of the inventions from Petitioner with Rubenstein and cornered the market for Petitioner's inventions through these pools.
335. That upon discovering these alleged criminal acts and Petitioner reporting the perpetrators to State and Federal authorities, the Board of Directors and others, Proskauer, Foley, Utley and others began an instant campaign to destroy the Iviewit companies and evidences of their crimes and to destroy Petitioner, his family, shareholders and his friends.

336. That information was learned in an audit from Crossbow Venture's by Arthur Andersen that there were several companies with identical names but different dates and minutes were missing from some and share distributions. That Arthur Andersen alleged that Erika Lewin, daughter of Lewin and Goldstein Lewin and Iviewit employee had intentionally misled auditors regarding the corporations' structures.
337. That at that same time it was learned that technology transfers were occurring with Enron Broadband to do a deal, unbeknownst to shareholders and Board Members, with Huizenga's Blockbuster Video to do a digital online movie download program, using technologies Enron had suddenly acquired to deliver the movies full screen full rate. That Enron Broadband then booked revenue in advance of their venture based on having the stolen IP but this was derailed as the scheme was being exposed and it was Enron Broadband that truly caused the Enron Bankruptcy as the records indicate.
338. That at that time, Warner Bros. and AOL investment and patent counsel advised Petitioner that they had reviewed the patents and there were "BIG PROBLEMS" and informed him further that he was being sued by Proskauer in a billing lawsuit and was involved in an Involuntary BK that no one knew about at the Iviewit companies and that the legal actions were somehow even represented by counsel. That no one admitted at the Iviewit companies, Proskauer or Goldstein Lewin to knowing about any of these legal actions against the company and certainly no one had informed Wachovia of anything like this and that had just conducted due diligence on the IP and companies with Proskauer, Utlely and Lewin. Small oversight to have forgot to tell the Bankers, Investors, Board of Directors, etc.
339. That the IP's worth has provided motive for a multitude of predicate acts under RICO in attempts to steal the IP. Acts directly against Petitioner and Simon's families, continuing now through a Fraud on this Court through Fraudulent and Forged documents to rob the Estates and more with an identical cast of characters committing virtually the same type of schemes and alleged crimes in this Court. Some of the alleged crimes include but are far from limited to,
- i. ATTEMPTED MURDER via a CAR BOMBING<sup>18</sup> of Petitioner's family vehicle that blew up three cars next to it in Del Ray Beach, FL., graphic images at [www.iviewit.tv](http://www.iviewit.tv) ,

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<sup>18</sup> <http://www.iviewit.tv/Image%20Gallery/auto/Auto%20Theft%20and%20Fire%20Master%20Document.pdf>



- ii. death threats against Petitioner and Petitioner's wife and children from a Proskauer and Foley referred President and COO of the Ivievit companies, a one Brian G. Utley, who was also found having his friend at Foley and old IBM pal, William Dick ("Dick"), writing IP into his name<sup>19</sup>, like one Utley claims to have invented "Zoom and Pan on a Digital Camera" when he was not hired for a half a year or so after that invention was discovered and where it was confiscated from his person with an entire set of fraudulent patents that no one had known or approved and Dick had done through Foley. These patents in Utley's name and others, are now subject to a

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<sup>19</sup> It was not learned until after Utley was fired that Utley, Wheeler and Dick had a sordid past of attempted theft of intellectual properties from a one Monte Friedkin of Diamond Turf Equipment of Florida. Friedkin stated to Petitioner and others that he employed Utley at Diamond Turf until he found that he was using Dick to write patents into his name and send them to a company Wheeler of Proskauer had formed at his home. Upon learning of this, Friedkin fired Utley and closed Diamond Turf. Wheeler than introduced Utley to Ivievit with a false resume that omitted what happened at Diamond Turf and finally Utley and Wheeler recommended their friend Dick of Foley and so is evidenced a pattern and practice of patent thieves and conspiracy .

Congressional investigation<sup>20</sup> that was forwarded to the Inspector General of the Department of Justice, Glenn Fine at that time, by Hon. Senator Dianne Feinstein for further investigations and

- iii. Forged and Fraudulent Documents submitted to the US Patent Office and then other Foreign IP offices by former Iviewit IP counsel that have led to Suspension of the IP<sup>21</sup> pending the outcome of US Patent Office and Federal FBI Official Investigations of the Intellectual Property Attorneys at Law and others involved in the crimes, including but not limited to, Iviewit former IP counsel, Proskauer, Foley and GT. Yes, the same firms that all now have a hand in the Estates in strange ways.

### **ESTATE INTERESTS IN IVIEWIT, IP & RICO**

340. That the following letters were sent to TS, Exhibit 26 – Petitioner Letter Exchange with TS Regarding Iviewit, regarding the Iviewit companies stock Simon owned, his IP interests and his interests in the ongoing RICO action and his desires and wishes of how to handle he stated to Petitioner.
341. That Theodore had initially advised Spallina in the May 12, 2012 family meeting that he thought Proskauer had done some estate planning work for Simon and his friend Gortz might have a copy of the missing IIT discussed already herein and Spallina stated he too had friends at Proskauer that he would contact to find out if they had the missing IIT and he would also inquire about the Iviewit companies and see if they knew anything.
342. That Petitioner was stunned to learn that Theodore was friendly with the central Defendant Gortz, GT and others involved in the Iviewit RICO and criminal complaints filed and had brought them into the Estates affairs.
343. That Spallina had stated that he was a very close and an intimate personal friend of Simon whom knew his business and personal affairs well, yet when Petitioner questioned Spallina on how the Iviewit companies shares, potentially the largest asset of

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<sup>20</sup> April 19, 2006 Letter to Diane Feinstein Re: IVIEWIT REQUEST FOR: (I) AN ACT OF CONGRESS & CONGRESSIONAL INTERVENTION TO PROTECT STOLEN INVENTIONS & INVENTORS RIGHTS UNDER ARTICLE 1, SECTION 8, CLAUSE 8, OF THE CONSTITUTION, (II) CONGRESSIONAL INTERVENTION IN HAVING INFORMATION RELEASED TO NON-INVENTORS AND PARTIES WITH NO RIGHTS, TITLE OR INTEREST IN STOLEN INTELLECTUAL PROPERTIES. WITHOUT SUCH INTERVENTION, INVENTIONS MAY BE PERMANETLY LOST DUE A FRAUD AGAINST THE UNITED STATES PATENT & TRADEMARK OFFICE BY REGISTERED FEDERAL PATENT BAR LAWYERS, (III) CONGRESSIONAL OVERSIGHT IN THE FEDERAL, STATE AND INTERNATIONAL INVESTIGATIONS CURRENTLY UNDERWAY BY A NUMBER OF AGENCIES DESCRIBED HEREIN, AND, (IV) CONGRESSIONAL OVERSIGHT OF THE LEGAL PROCESS AND THE ENSURING OF A CONFLICT FREE FORUM FOR DUE PROCESS AND PROCEDURE OF THE ACCUSED LAWYER CRIMINALS.  
<http://iviewit.tv/CompanyDocs/Congress/Letter%20to%20the%20Honorable%20Senator%20Dianne%20Feinstein%20D%20California%20Signed.pdf>

<sup>21</sup> US Patent Office Suspension Notice and Complaint against Iviewit retained Attorneys at Law for FRAUD ON THE US PATENT OFFICE and Iviewit companies shareholders. Note the complaints were also signed by Stephen Warner of Crossbow Ventures, a large investor in the Iviewit companies and one of the assignees on the IP.  
<http://www.iviewit.tv/CompanyDocs/USPTO%20Suspension%20Notices.pdf>

the Estates, would be split among the Beneficiaries and if he had the stock certificates, etc., he claimed to know absolutely nothing about the Iviewit companies and claimed to have never heard of it from Simon.

344. That Petitioner explained to Spallina that Proskauer was IP and General Counsel for the Iviewit companies and when the Iviewit companies were raising a Private Placement with Wachovia Securities, Proskauer had even done some estate planning work for Simon and Petitioner so that the value of the stock could be transferred in advance to Simon's children and grandchildren and Petitioner's infant children so as to grow in their estates and not have to transfer it to them when the stock prices surged, as the company was already valued high for a startup company.
345. That Proskauer billed for and completed irrevocable trusts for Joshua and Jacob at that time to transfer a 10% interest of Petitioner's stock in Iviewit into and Simon and Petitioner did estate plans with Gortz.
346. That at that time the Iviewit companies were set to go public with Wachovia and with Goldman Sachs also acting as an Investment Banker to Iviewit and it was anticipated to far exceed even the largest IPO's of the Internet boom, as the IP is the main driver to rich multimedia over the Internet, which is the largest use of Internet bandwidth globally, where video transmitted using Petitioner's inventions is claimed to be approximately 90% or more of total Internet transmissions and where now over 90% of digital imaging devices now infringe on the Iviewit IP<sup>22</sup>.
347. That Petitioner informed Spallina that both Proskauer and Lewin would have all the records of the Iviewit companies, as they were counsel and accountants for Iviewit and started all the Iviewit companies and distributed all the shares, including Simon and Shirley's shares and even the shares Proskauer and Lewin owned.
348. That Spallina after contacting Proskauer and Lewin claimed they stated they knew nothing about Iviewit at which point Petitioner further informed Spallina of their prior roles in the Iviewit companies to aid in refreshing their memories; see Exhibit 27 - Letter from Petitioner to Spallina Re Iviewit's Relation to Proskauer and Lewin. Petitioner found it strange that Gortz and Lewin claimed they did not know of the RICO action and what has been transpiring over the last several years and somehow had forgotten history, when Lewin claimed in his deposition that will be further exhibited herein, when asked about his recollections on Iviewit he actually claimed "he was trying to erase his memory" or words to that effect and it appears he had now successfully erased it<sup>23</sup>.
349. That the following LAW FIRMS, Proskauer, GT and Foley are direct Defendants in a Federal RICO & ANTITRUST Lawsuit filed that has been legally related by Federal

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<sup>22</sup> "Cisco Predicts That 90% Of All Internet Traffic Will Be Video In The Next Three Years" by Megan O'Neill, WebMediaBrands Inc. on November 1, 2011 4:45 PM  
<http://socialtimes.com/cisco-predicts-that-90-of-all-internet-traffic-will-be-video-in-the-next-three-years> b82819

<sup>23</sup> Lewin Deposition on erasing his memory  
<http://www.iviewit.tv/CompanyDocs/Lewin%20Deposition%20on%20Memory%20page%20666.pdf>



Judge, Hon. Shira A. Scheindlin, to a New York Supreme Court Attorney Whistleblower Lawsuit of Christine C. Anderson (“Anderson”). Anderson an expert in Attorney at Law misconduct complaints who was employed by the NY Supreme Court Departmental Disciplinary Committee until she was fired in retaliation for her heroic Whistleblowing efforts.

350. That Petitioner and Anderson also testified before the New York Senate Judiciary Committee at ongoing hearings on Public Office Corruption in the New York Supreme Court Disciplinary Departments<sup>24</sup> and now **RIVITING NEW NEWS STORIES REVEAL A MASSIVE CONSPIRACY IN THE NEW YORK AND OTHER STATE AND FEDERAL COURTS COMMITTED MAINLY BY CORRUPTED ATTORNEYS AT LAW ACTING IN ROLES IN GOVERNMENT REGULATORY AGENCIES, PUBLIC DEFENDERS OFFICES, DEPARTMENT OF JUSTICE POSITIONS, STATE AND FEDERAL COURTS, SENIOR COURT AND OVERSIGHT COMMITTEES AND MORE.**

351. That these recent news articles, see Exhibit 28 – Expose Corrupt Court Articles, show that Whistleblower Anderson was targeted and her privacy rights violated along with other “targets” by Senior Members of the New York Disciplinary Departments and courts with the intent to intentionally “Obstruct Justice” in her case and the legally related cases, including Petitioner’s RICO, in unparalleled fashion.

352. That the articles of particular interest to this Court are found at the following URL’s,  
i. That on Friday, January 25, 2013, ECC released the RIVITING STORY,

**“FORMER INSIDER ADMITS TO ILLEGAL WIRETAPS FOR NYS ‘ETHICS BOSSES’”**

<http://exposecorruptcourts.blogspot.com/2013/01/former-insider-admits-to-illegal.html>

ii. That on Sunday, February 10, 2013, ECC released the story,

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<sup>24</sup> Eliot Bernstein Testimony:

[http://www.youtube.com/watch?v=7oHKs\\_crYIs](http://www.youtube.com/watch?v=7oHKs_crYIs)

and

Christine Anderson Testimony:

A sample of the New York Disciplinary Department Ethics Department as Robert Ostertag former President of the New York State Bar Wants to Give “Finger” to Victim at Senate Judiciary Hearing

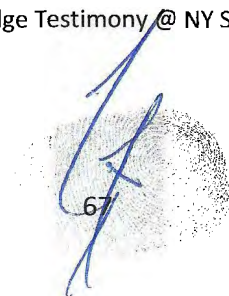
<http://www.youtube.com/watch?v=jndsqFNo-jc>

Testimony of Hon Duane Hart NY Supreme Court Judge Testimony @ NY Senate Judiciary Hearing John Sampson P1

<http://www.youtube.com/watch?v=53jPDBR8OXc>

P2

<http://www.youtube.com/watch?v=WdlmeFsH3oY>

A handwritten signature in blue ink is written over a circular stamp. The number '67' is printed in the center of the stamp.

**“UPDATE ON ATTORNEY "ETHICS" COMMITTEES' ILLEGAL WIRETAPS  
FORMER INSIDER ADMITS TO ILLEGAL WIRETAPS FOR "ETHICS" BOSSES.”**

<http://exposecorruptcourts.blogspot.com/2013/02/update-on-attorney-ethics-committees.html>

- iii. That on Friday February 15, 2013, ECC released the SHOCKING following two stories,

**“JUDGES WERE ILLEGALLY WIRETAPPED, SAYS  
INSIDER”**

<http://exposecorruptcourts.blogspot.com/2013/02/judges-were-illegally-wiretapped-says.html>

and

<http://ethicsgate.blogspot.com/2013/02/judges-were-illegally-wiretapped-says.html>

- iv. That on Friday February 15, 2013, ECC released the story,

**“NY GOVERNOR ANDREW CUOMO ASKED TO SHUT DOWN JUDICIAL  
"ETHICS" OFFICES.”**

<http://ethicsgate.blogspot.com/2013/02/ny-governor-andrew-cuomo-asked-to-shut.html>

- v. That on Friday, February 15, 2013, ECC released the story,

**“SEE THE LETTER TO NEW YORK GOVERNOR ANDREW CUOMO RE:  
WIRETAPPING JUDGES...CLICK HERE TO SEE THE LETTER, AT**

<http://ethicsgate.blogspot.com/2013/02/letter-to-new-york-governor-andrew.html>

- vi. That on Tuesday, February 19, 2013, ECC released the story,

**“ETHICSGATE UPDATE FAXED TO EVERY U.S. SENATOR  
[WWW.ETHICSGATE.COM](http://WWW.ETHICSGATE.COM) “THE ULTIMATE VIOLATION OF TRUST IS THE  
CORRUPTION OF ETHICS OVERSIGHT” EXCLUSIVE UPDATE:**

- vii. That on Thursday, February 28, 2013, ECC released the story,

**“NEW YORK SENATORS ASKED TO APPOINT ETHICS CORRUPTION  
LIAISON...EVERY NEW YORK STATE SENATOR HAS BEEN REQUESTED TO  
APPOINT AN "ETHICS CORRUPTION LIAISON" SO THAT TIMELY  
INFORMATION IN THE EVER-GROWING SCANDAL INSIDE NEW YORK'S SO-  
CALLED "ETHICS" ENTITIES MAY BE PROVIDED TO EACH STATE SENATOR.**



viii. That on Wednesday April 03, 2013, ECC released the story,

**FORMAL COMPLAINT FILED AGAINST NYS EMPLOYEES FOR ILLEGAL WIRETAPPING...THE WIDESPREAD ILLEGAL WIRETAPPING INCLUDED TARGETED NEW YORK STATE JUDGES AND ATTORNEYS.....**

Excerpts from that story

Reform2013.com  
P.O. Box 3493  
New York, New York 10163  
202-374-3680 tel  
202-827-9828 fax  
via facsimile # 202-514-6588

April 3, 2013

Robert Moossy, Jr., Section Chief Criminal Section, Civil Rights Division  
US Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, D.C. 20530

**RE: FORMAL COMPLAINT AGAINST NEW YORK STATE EMPLOYEES INVOLVING CONSTITUTIONAL VIOLATIONS, INCLUDING WIDESPREAD ILLEGAL WIRETAPPING**

Dear Mr. Moossy,

In researching and reporting on various acts of corruption in and about the New York State Court System, specific reviewed evidence supports allegations that over a ten-year-plus period of time, certain NYS employees participated in the widespread practice of illegal wiretapping, inter alia. **As these individuals were in supervisory positions at "ethics oversight" committees, the illegal wiretapping largely concerned attorneys and judges, but their actions also targeted other individuals who had some type of dealings with those judicial and attorney "ethics" committees.**

The NY state-employed individuals herein complained of include New York State admitted attorneys **Thomas Joseph Cahill, Alan Wayne Friedberg, Sherry Kruger Cohen, David Spokony and Naomi Freyda Goldstein.**

At some point in time shortly after 9/11, and by methods not addressed here, **these individuals improperly utilized access to, and devices of, the lawful operations of the Joint Terrorism Task Force (the "JTTF"). These individuals completely violated the provisions of FISA, ECPA and the Patriot Act for their own personal and political agendas.** Specifically, these NY state employees essentially commenced "black bag operations," including illegal wiretapping, against whomever they chose- and without legitimate or lawful purpose.

To be clear, any lawful act involving the important work of the JTTF is to be applauded. The herein complaint simply addresses the unlawful access- and use- of JTTF related operations for the personal and political whims of those who improperly acted under the color of law. Indeed, illegally utilizing JTTF resources is not only illegal, it is a complete insult to those involved in such important work.

In fact, hard-working and good-intentioned prosecutors and investigators (federal and state) are also victims here, as they were guided and primed with knowingly false information.

Operations involving lawful activity- and especially as part of the important work of the JTTF and related agencies- are not at issue here. This complaint concerns the illegal use and abuse of such lawful operations for personal and political gain, and all such activity while acting under the color of law. This un-checked access to highly-skilled operatives found undeserving protection for some connected wrong-doers, and the complete destruction of others- on a whim, including the pre-prosecution priming of falsehoods ("set-ups"). The aftermath of such abuse for such an extended period of time is staggering.

**It is believed that most of the 1.5 million-plus items in evidence now under seal in Federal District Court for the Eastern District of New York, case #09cr405 (EDNY) supports the fact, over a ten-year-plus period of time, of the illegal wiretapping of New York State judges, attorneys, and related targets, as directed by state employees.**

To be sure, the defendant in #09cr405, Frederick Celani, is a felon who is now regarded by many as a conman. Notwithstanding the individual (Celani), the evidence is clear that Celani once supervised lawful "black bag operations," and, further, that certain NYS employees illegally utilized access to such operations for their own illegal purposes. (Simple reference is made to another felon, the respected former Chief

Judge of the New York State Court of Appeals, Sol Wachtler, who many believe was victimized by political pre-priming prosecution.)

In early February, 2013, I personally reviewed, by appropriate FOIL request to a NYS Court Administrative Agency, over 1000 documents related to the herein complaint. Those documents, and other evidence, fully support Celani's claim of his once-lawful supervisory role in such JTTF operations, and his extended involvement with those herein named. (The names of specific targeted judges and attorneys are available.)

One sworn affidavit, by an attorney, confirms the various illegal activity of Manhattan's attorney "ethics" committee, the Departmental Disciplinary Committee (the "DDC"), **which includes allowing cover law firm operations to engage in the practice of law without a law license.** Specifically, evidence (attorney affidavits, etc.) supports the claim that Naomi Goldstein, and other DDC employees **supervised the protection of the unlicensed practice of law. The evidence also shows that Ms. Goldstein knowingly permitted the unlicensed practice of law, over a five-year-plus period of time, for the purpose of gaining access to, and information from, hundreds of litigants**

Evidence also supports the widespread illegal use of "black bag operations" by the NYS employees for a wide-range of objectives: to target or protect a certain judge or attorney, **to set-up anyone who had been deemed to be a target**, or to simply achieve a certain goal. The illegal activity is believed to not only have involved attorneys and judges throughout all of the New York State, including all 4 court-designated ethics "departments," but also in matters **beyond the borders of New York.**

Other evidence points to varying and widespread illegal activity, and knowledge of such activity, by these and other NYS employees --- all of startling proportions.

For example:

The "set-up" of numerous individuals for an alleged plot to bomb a Riverdale, NY Synagogue. These individuals are currently incarcerated. The trial judge, U.S. District Court Judge Colleen McMahon, who publicly expressed concerns over the case, saying, "I have never heard anything like the facts of this case. I don't think any other judge has ever heard anything like the facts of this case." (2nd Circuit 11cr2763)

  
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**The concerted effort to fix numerous cases where confirmed associates of organized crime had made physical threats upon litigants and/or witnesses, and/or had financial interests in the outcome of certain court cases.**

The judicial and attorney protection/operations, to gain control, of the \$250 million-plus Thomas Carvel estate matters, and the pre-prosecution priming of the \$150 million-plus Brooke Astor estate.

The thwarting of new evidence involving a mid 1990's "set-up" of an individual, who spent over 4 years in prison because he would not remain silent about evidence he had involving financial irregularities and child molestation by a CEO of a prominent Westchester, NY non-profit organization. (Hon. John F. Keenan)

The wire-tapping and ISP capture, etc., of DDC attorney, Christine C. Anderson, who had filed a lawsuit after being assaulted by a supervisor, Sherry Cohen, and after complaining that certain evidence in ethics case files had been improperly destroyed. (See SDNY case #07cv9599 - Hon. Shira A. Scheindlin, U.S.D.J.)

The eToys litigation and bankruptcy, and associates of Marc Dreier, involving over \$500 million and the protection by the DDC of certain attorneys, one who was found to have lied to a federal judge over 15 times.

The "set-up" and "chilling" of effective legal counsel of a disabled woman by a powerful CEO and his law firms, resulting in her having no contact with her children for over 6 years.

The wrongful detention for 4 years, prompted by influential NY law firms, of an early whistleblower of the massive Wall Street financial irregularities involving Bear Sterns and where protected attorney-client conversations were recorded and distributed.

The blocking of attorney accountability in the \$1.25 billion Swiss Bank Holocaust Survivor settlement where one involved NY admitted attorney was ultimately disbarred- in New Jersey. Only then, and after 10 years, did the DDC follow with disbarment. (Gizella Weisshaus v. Fagan)

Additional information will be posted on [www.Reform2013.com](http://www.Reform2013.com)

The allegations of widespread wiretapping by New York's so-called "ethics" committees were relayed to New York Governor Andrew M. Cuomo on February 15, 2013, and to the DDC Chairman Mr. Roy R. L. Reardon, Esq., who confirmed, on March 27, 2013, his

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knowledge of the allegations. (Previously, on March 25, 2013, I had written to DDC Deputy Chief Counsel Naomi Goldstein, copying Mr. Reardon, of my hope that she would simply tell the truth about the improper activity, inter alia.)

New York judges and lawyers, and obviously the public, deserve immediate action to address the widespread corruption in and about New York's so-called "ethics" oversight entities.

Please take immediate action regarding this troubling issue, and so as to continue the DOJ's efforts to help all New Yorkers restore their faith in their government.

cc:

**U.S. Attorney Loretta E. Lynch via facsimile 718-254-6479 and 631-715-7922**

**U.S. DOJ Civil Rights Section via facsimile 202-307-1379, 202-514-0212**

**The Hon. Arthur D. Spatt, via facsimile 631-712-5626**

**The Hon. Colleen McMahon via facsimile 212-805-6326**

**Hon. Shira A. Scheindlin via facsimile 212-805-7920**

**Assistant U.S. Attorney Demetri Jones via facsimile 631-715-7922**

**Assistant U.S. Attorney Perry Carbone via facsimile 914-993-1980**

**Assistant U.S. Attorney Brendan McGuire via 212-637-2615 and 212-637-0016**

**FBI SSA Robert Hennigan via facsimile 212-384-4073 and 212-384-4074**

**Pending SEC Chair Mary Jo White via facsimile 212-909-6836**

Posted by Corrupt Courts Administrator at 2:11 PM

353. That on information and belief and after speaking with the source of the stories and others close to the source of the story, Petitioner learned that the plaintiffs in the "Legally Related" cases to Anderson, including Petitioner's lawsuit, are also "targets" and whose rights to privacy and property have been wholly violated by criminals disguised as Attorneys at Law, Judges, Disciplinary Department members, who are cloaked in often false legal degrees according to the articles and planted into Public Offices to derail and obstruct justice in lawsuits and criminal complaints against them.
354. That these insidious criminals are committing illegal legal crimes, as only licensed Attorneys at Law can do and using the Courts and other Public Offices to effectuate these crimes and then destroy their victims with Legal Process Abuse and more and

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misusing their legal titles and public offices to then shield themselves from prosecution and further abuse their victims through denials of due process through conflicts of interests that obstruct justice and fraud on the courts and more.

355. That one wonders why no one is in jail for the Wallstreet Crimes, the Homeowner Crimes, etc. etc. etc., that have been committed mainly by "Attorneys at Law" working in either the cartel law firms or revolving to and from them into government posts to aid and abet the crimes. These stories and the heroic Whistleblowing efforts by Anderson and now several others reveal the reason, the regulators and prosecutors over Wall Street Attorneys at Law are corrupted and when the head of beast is corrupted you can bet the feet are too.
356. That as the ECC articles expose, it is alleged that these schemes have infected various states out of New York, where apparently the same disabling of the legal system has occurred.
357. That the stories reveal that **JUDGES CHAMBERS**, their **DRESSING ROOMS** and even their **PRIVATE RESIDENCES** were **ILLEGALLY WIRETAPPED** and more, as these named judges were also "targets" of those in charge of the legal regulatory agencies and prosecutorial offices and further many were illegally surveilled 24/7/365, some for now ten years. Yes, the heads of the attorney regulatory agencies are charged with targeting attorneys at law and judges or just about anyone that gets in their way and misusing public resources and funds illegally to achieve their ends, in typical Criminal Cartel fashion.
358. That new evidence in the matters suggests that "targets" were unfairly accused of made up crimes and then sentenced to silence them as indicated in the exhibited stories.
359. That this new public evidence shows that **UNITED STATES DEPARTMENT OF JUSTICE JOINT TERRORISM TASK FORCE** resources and funds were **ILLEGALLY ACCESSED** and used against "targets" with the intent to Obstruct Justice in lawsuits and criminal complaints and more.
360. That this new public evidence shows that the **UNITED STATES PATRIOT ACT** was violated repeatedly against even private citizen "targets" with the intent to Obstruct Justice in lawsuits and criminal complaints and more.
361. That Petitioner is filing a new Motion for Rehearing in the RICO based on the brand new evidences of Fraud on that US District Court through Obstruction, Conflicts of Interest and more and is drafted based on this new and riveting information. Where Petitioner's Petition to this Court will also be filed as exhibit in that Motion for Rehearing to evidence new alleged RICO activity of fraud and forgeries allegedly committed upon this Court by Officers of the Court, Spallina and Tescher. Exhibit 29 – Draft Motion to Rehear US District Court.
362. That several months prior to his death, Simon revealed to Petitioner that he was considering contacting Federal Authorities investigating the Iviewit affairs to offer eyewitness testimony and was given the name of Glenn Fine, the Inspector General of

the Department of Justice to contact and his referred point of contact, a one Lonnie Davis, of the IG's Miami Field Office. Both officials were directly and solely responsible for intake of the Iviewit evidences for the FBI and US Attorney's offices, due to the fact that the original agents from both offices suddenly and mysteriously went missing, elevating the matters first to Department of Justice Office of Professional Responsibility and then to Department of Justice Inspector General's Office.

363. That Petitioner remains uncertain if Simon had already made contact with prosecutorial offices or others to give his testimony. Now that Simon may have also been one the "targets" whose rights to Privacy were being violated and his conversations with Petitioner allegedly illegally intercepted, his willingness to go the authorities and conversations he had over the last year may provide additional motive for "foul play" in the death of Simon and the alleged criminal activities in the Estates.
364. That Simon and his entire family were in danger after Simon gave a damaging deposition against Proskauer Rose in Case # CA 01-04671 AB.<sup>25</sup> Simon's deposition specifically fingered Proskauer's Rubenstein as Iviewit Patent Counsel, as illustrated also in the Wachovia PPM and even Proskauer's own billing records, despite Rubenstein's perjured deposition statements and statements to officials that he knew nothing about Iviewit or Petitioner and was not IP counsel. Rubenstein's deposition is also contained in the above referenced URL and confounded when evidence at Deposition contradicted his statements, Rubenstein then walked out of the Deposition and the case was then thrown by Judge Jorge Labarga. Based on new information of Fraud on the Court in that lawsuit and more, that case will soon be appealed in FL.
365. That Simon had already given partial statements for Petitioner to use with State and Federal Authorities that are damning to Defendants in the RICO as well, as the statements wholly refute Rubenstein's sworn statements to authorities and in deposition<sup>26</sup> and more.
366. That when Utley had made death threats upon Petitioner, Candice and their children, Board meetings were held with certain members of the Board and others that were not presumed to be involved in the thefts and they decided that Petitioner, who was in California at the time but living in Boca Raton, could not come home as scheduled that week and instead should have his wife and children move and uproot instantly and virtually overnight to California until they could figure things out in Boca Raton, in order to protect Petitioner and his family from any harm.
367. That Petitioner filed reports of the death threats made by Utley with the local California PD and the Huntington Beach FBI offices. Keep in mind that Petitioner when threatened by Utley was threatened by Utley who flew to California unannounced to deliver his

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<sup>25</sup> Depositions of Rubenstein and Simon et al.

<http://www.iviewit.tv/CompanyDocs/Depositions%20BOOKMARKED%20SEARCHABLE%20with%20hyperlink%20comments.pdf>

<sup>26</sup> 2003 Statement Regarding Events – Simon L. Bernstein – Past Chairman of the Board Iviewit

<http://iviewit.tv/CompanyDocs/SHAREHOLDER%20STATEMENTS%20BOOKMARKED2.pdf>



death threat message and stated he and the partners at the law firms of Proskauer and Foley, his friends, Dick and Wheeler, would harm his family and that Petitioner did not know how powerful these law firms were and better shut up and not bring the evidence of the patent thefts to the authorities or else watch his family's back or words to that effect.

368. That Candice was directed by Simon to pack their family's belongings and ship them and get on the next plane with the two children, abandoning her home and leave Shirley and Simon with hardly a goodbye. All of this to the detriment of Shirley, who was furious that Petitioner was moving his children from her. Simon did not want Shirley to know what was going on with death threats, as her heart condition and cancer were too fragile at that time and Simon thought it was best to keep her in the dark and basically lie to her. Candice then packed and moved by herself with the kids to California and it was advised later that Petitioner and his family not return to Boca Raton and instead find a hideout to lay low in California until things could be resolved in a year or two.
369. That to protect Shirley from a heart attack, a long and painful lie began, one of the first Petitioner had told his mother since he was a child, one that broke her heart anyway but the other way just might have killed her and the lie only got worse. Petitioner and his wife agreed with Simon to not tell Shirley any details of death threats and that Petitioner would tell her that he was moving suddenly to stay and open the California office of Ivievit. Losing her two grandchildren overnight was enough to kill her, if she knew that death threats were made against Petitioner, Candice and her infant grandchildren, Simon rightfully feared she would panic to death literally. Shirley was angry at both Petitioner and Candice until much later when they moved back to Florida and she began figuring out what had really transpired and what was going on and when Simon finally allowed Petitioner to tell her the whole truth but only after she had been diagnosed with Stage IV cancer shortly before her death. Shirley was relieved to know the truth at last, years later, upset that we lied to her so much but forgiving.
370. That Petitioner then moved back to Florida from California again, this time again due to his parents' medical problems worsening and to fight Proskauer in the Proskauer lawsuit in this Courthouse and at that time moved to Boynton Beach, FL.
371. That Petitioner's relationship was strained during this move back as he was fighting Proskauer in this Courthouse and then elevated the complaints to the Florida Supreme Court and the United States Supreme Court. Each of these cases soon to appealed based on new evidence of Fraud On and In the courts, with documented evidence of corruption by Attorneys at Law blocking Petitioner's due process rights here in Florida and connected to those in New York. Thus why the RICO has so many Attorneys at Law, Judges and Public Officials as nearly half of the four thousand named defendants.
372. That understanding how Petitioner was "targeted" and monitored and how government resources were turned against him to violate his due process rights through violations of



ethics rules and laws by the very legal system designed to protect inventors is essential to understanding the strains on Petitioner and his entire extended family at that time.

373. That then suddenly and without warning, a bomb exploded in Petitioner's Minivan. As the images reveal a **STRONG MESSAGE** sent to anyone thinking of aiding Petitioner in his efforts in the courts or against the RICO Defendants, this time not merely a threat but an attempted murder, a scene out of a war zone, in Del Ray Beach, FL.
374. That once the **CAR BOMBING** occurred, Simon took many elaborate steps not only to protect Petitioner and his family but also to protect his entire extended family from the main culpable defendants in the RICO, as any father and grandfather would do. That Simon and Petitioner struggled with how to protect their families and decided after the bombing that it would be best that Petitioner distance himself from his immediate family and this would mean Petitioner having to sever personal and financial ties with his mother, father and siblings, while Simon and he and others tried to figure something out to keep their families from being **MURDERED**.
375. That this Court need stop for a moment and imagine in real time, real life what this would cause you personally to do, in order to protect your family, your friends, your businesses, etc. from this form of murderous retaliation.
376. That to put some distance between Petitioner and his family and friends, it was again decided that Petitioner and his family pack and move overnight, for the second time Petitioner fleeing Florida with his wife and children overnight.
377. That again, Shirley was blown apart, from the moment she heard Petitioner and family were leaving again with no notice and thought Petitioner needed and intervention or tough love and this too broke Petitioner and Candice's hearts to see her so saddened again.
378. That Simon from the instant of the Ivievit companies being blown apart upon discovering the IP thefts and the monies stolen from the companies as reported to Boca PD and the SEC initially, had been supporting Petitioner and his family financially monthly but it was decided that all ties, personal and financial to family should be cut and so it was for everyone's safety. Simon again, immediately after the bombing, urged Petitioner and Candice to further lie to Shirley and keep the whole car bombing thing from reaching her if possible, as she was again ill and on chemotherapy and more and Petitioner complied as again it was too much for her.
379. That Simon and Petitioner parted ways and staged a fight over this or that and he stated he was done with Petitioner to everyone and vice versa and told Shirley and others we got in a fight and we were parting ways. Again, Shirley was crushed and angered at Petitioner and Candice and hardly spoke with them for the next two years. Other friends and family members from Candice's family aided Petitioner and his family from that point as best they could during the ensuing three years with houses, odd jobs, handouts and love.



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380. That Petitioner's family moved to Red Bluff, California and moved in with Petitioner's mother-in-law, a one wonderful, Ginger Stanger and her daughter Amanda Leavitt. Four adults and three children in a 500 square foot apartment, one bath, two bedrooms and a long wait to shower for the next the three years.
381. That Petitioner severed financial ties with his father and his family immediately and went on public assistance, welfare and food stamps to survive. Not many jobs for persons being targeted by Car Bombs, not many friends will one keep, as Petitioner distanced himself not only from family but friends so as to expose no one to such wrath and danger to their families. Petitioner ceased talking with almost all of his friends that he spoke to regularly since childhood, all will attest such to this Court.
382. That Petitioner has warned every lawyer that touching Ivievit would lead to assaults on their careers as Anderson now exposes how this scheme to target honest Attorneys at Law works from inside the belly of the beast in her historic testimony in Federal court where she identifies "The Cleaner" and Attorneys at Law in the highest ethics posts at the leading courts and prosecutorial offices violating law and obstructing justice and blackballing lawyers and more. The very same people that control bar admissions then even target any insider Whistleblowers with severe retaliation, in Anderson's case leading to physical assault by a Superior and then threats on a Federal Witness in her lawsuit against a one Nicole Corrado, Esq., yet another New York Supreme Court Supreme Court Disciplinary Attorney gone Whistleblower Hero on her way to testify at Anderson's trial. Corrado has recently filed yet another Federal action in the Eastern District of New York, again involving the same crew operating in the courts.
383. That in fact, Petitioner was notified by Yates, after she had spoken to Spallina initially, that Spallina had barked at her, as he has done repeatedly without courtesy, respect or professionalism on calls with Petitioner's and others that she did not "*know who her client was*" or words to that effect, in a condescending tone in reference to her representation of Petitioner and imparting that she should abandon representation of Petitioner. This perhaps explains Petitioner's Pro Se status in this Court due to his inability, despite repeated attempts from even referred Attorneys at Law to represent him here now before this Court and part of coordinated effort to deprive Petitioner of his rights to representation in any court, as exhibited in the ECC articles.
384. That in the already exhibited herein Motion for Rehearing, this Court will see how Petitioner's 6<sup>th</sup> Amendment Right to Counsel in these civil matters has wholly been interfered with to block any of the victims in the related cases to Anderson from help in the legal community and how those corrupted ethics bosses or mob bosses it appears, destroy the lives of those Good Intentioned Attorneys at Law trying to actually do their jobs ethically and fairly for their clients.
385. That Petitioner, having a long career in the insurance industry, with leading law firms and billionaires as his clients from the time he was 21, has many dear friends that are

Attorneys at Law but whom he would never ask to put their lives and livelihoods in danger and make them targets too.

386. That these RICO Defendant LAW FIRMS are now under investigation in several ongoing actions involving the theft of the Intellectual Properties, including the investigations that have led to suspension of the IP with the US Patent Office pending the outcome of joint federal investigations. Therefore, all of the following law firms and other now involved in the Estates have Conflicts of Interests with the Iviewit companies, Simon Bernstein, Petitioner and the Estates regarding the Iviewit RICO, as defined below. All of these parties should be removed and precluded from any further involvement in this probate matter, other than to relinquish all records to this Court and Petitioner and replacement Personal Representatives and Successor Trustees, this time screened heavily in advance for conflicts of interests with any of the Defendants listed in the exhibited herein already Conflict of Interest Disclosure. For the following reasons,

i. Proskauer has conflicts as,

- a. Former Iviewit IP and corporate counsel,
- b. Former personal counsel to Simon and Petitioner,
- c. Shareholder of Iviewit stock,
- d. Former estate counsel Albert Gortz did the estate planning work for Simon, Shirley, Petitioner, Trust of Joshua Ennio Zander Bernstein and Jacob Noah Archie Bernstein.
- e. Proskauer, Gortz et al. are Defendants in the RICO Lawsuit and under investigation in State, Federal and International investigations,
- f. Proskauer claims not to have the missing 1995 IIT described above whereby Proskauer was the last law firm in possession of the trust in 2000-2001 and this may be done with intent as further posited herein.
- g. That Proskauer Rose is at the heart of the RICO and Criminal Complaints and has recently been accused of Conspiracy and Aiding and Abetting a Criminal Enterprise, that of Convicted Felon, Ex-Sir Allen Stanford by the US Court Appointed Receiver in that case.
- h. That Proskauer was patent counsel and corporate counsel to Iviewit companies and is accused of stealing the patents directly and as the initial point of the ensuing decade of alleged Criminal Acts against Petitioner's family.

ii. Foley & Lardner/Hopkins & Sutter has conflicts as,

- a. Former Iviewit IP Counsel,
- b. Foley et al. are Defendants in the RICO Lawsuit and under investigation in State, Federal and International investigations,

- c. Wrote the original missing 1995 Insurance Trust described above that was then transferred to Proskauer. Tripp Scott made written requests for the ITT and other documents directly to Foley and as of this date they have not received them.

iii. Greenberg Traurig has conflicts as,

- a. GT et al. are Defendants in the RICO Lawsuit and under investigation in State, Federal and International investigations,
- b. GT et al. are Defendants in the RICO Lawsuit and under investigation in State, Federal and International investigations,
- c. Counsel in RICO representing The Florida Bar and Florida Supreme Court,
- d. Represented Theodore in the lawsuit by William Stansbury until GT was disqualified and withdrew for conflicts of interest in the Stansbury lawsuit.<sup>27</sup>  
and <sup>28</sup>

iv. Goldstein Lewin has conflicts as,

- a. Former Iviewit corporate accountant and Petitioner's personal accountant,
- b. First person Simon introduced to Iviewit IP, who introduced Simon and Petitioner to Albert Gortz of Proskauer,
- c. Party of interest in the Fed RICO & ANTITRUST Lawsuit, introduced Simon and Petitioner to Proskauer's Gortz and Christopher Clarke Wheeler ("Wheeler") who are the central conspirators in the RICO,
- d. Shareholder with other Lewin family members of Iviewit stock,
- e. Simon and Shirley Bernstein accountant at some point in time after Iviewit companies were formed.

v. Tescher and Spallina has conflicts as,

- a. TS and Proskauer have close relations that are believed to have been previously undisclosed to Simon,
- b. TS has Board and business affiliations with Theodore Bernstein, including,
  - a. Ted and Deborah Bernstein Foundation<sup>29</sup>

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<sup>27</sup> "Greenberg Traurig Settles with Heller Estate for \$5 Million" By Scott Graham, The Recorder, April 25, 2013  
[http://www.americanlawyer.com/PubArticleTAL.jsp?id=1202597625743&Greenberg\\_Traurig\\_Settles\\_with\\_Heller\\_Estate\\_for\\_5\\_Million&slreturn=20130328105328](http://www.americanlawyer.com/PubArticleTAL.jsp?id=1202597625743&Greenberg_Traurig_Settles_with_Heller_Estate_for_5_Million&slreturn=20130328105328)

<sup>28</sup> "Greenberg Traurig Grilled On Ties To Political Intel Firms" By Sindhu Sundar and Law 360 April 25, 2013  
<http://www.law360.com/articles/436050/greenberg-traurig-grilled-on-ties-to-political-intel-firms>

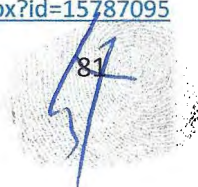
- b. Aya Holdings, Inc.<sup>30</sup>
- c. That it should be noted here by this Court that TS, Spallina and Tescher also have a very close new relationship whereby Donald Tescher was honored with an induction party to a very select “elitist” group, which was funded and promoted by RICO Defendant Proskauer. Information regarding this is found at the Jewish Federation site, in an article titled, “Caring Estate Planning Professionals to Honor Donald R. Tescher, Esq. at Mitzvah Society Reception on March 27” Published Sunday, March 4, 2012 7:00 am | Category: PAC. That the article states “The Mitzvah Society Cocktail Reception is generously sponsored by BNY Mellon Wealth Management; Law Offices of Tescher & Spallina, P.A.; Proskauer; and Life Audit Professionals, LLC,” where the honoree was Donald Tescher.  
Where it is clear from the article that RICO Defendant David Pratt of RICO Defendant Proskauer Rose is extremely close with Spallina and Tescher, claiming “It is my honor and privilege to welcome the community to join our annual Mitzvah Society Reception,” said David Pratt, who is co-chairing the event with Robert Spallina...We are also excited to inaugurate three new members: Jodi Lustgarten, Jon Sahn and Robert Spallina, bringing our Mitzvah Society ranks **to a proud 55!**”
- d. TS is acting as Counsel for the Estates, Acting as Personal Representatives for the Estates, Acting as Trustees in the Estates, Acting as Witness to Documents that make changes giving authority and interest to TS, Tescher and Spallina to act as personal representatives on documents they prepared and had a client who was mentally depressed, confused and undergoing a series of serious physical problems supposedly sign them but now appears they may have fraudulently through forged signatures and more, signed the documents for him post mortem,
- e. Acting as Counsel in the SAMR to all parties in efforts to change beneficiaries of the insurance policies of the Estates.

ii. This Court

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<sup>29</sup> Business Relation of TS, Tescher and Spallina as Directors of Ted and Deborah Bernstein Foundation  
<http://www.corporationwiki.com/Florida/Boca-Raton/ted-deborah-bernstein-family-foundation-inc/29100251.aspx>

<sup>30</sup> Aya Holdings, Inc.  
<http://www.corporationwiki.com/graphs/roamer.aspx?id=15787095>



- a. That this Court is conflicted with Petitioner as it is also sued in the RICO and ANTITRUST Lawsuit, along with members of the Court and that members of this Court have been complained of in the State and Federal complaints.
- b. That Petitioner is willing to consider allowing members of this Court to parse such conflict with the RICO & ANTITRUST and continue adjudicating these matters and waive any conflict with the prior matters, if each person handling this probate of the Estates will sign and verify the attached Conflict of Interest Disclosure form attached as Exhibit 30, prior to ANY action. Presumably, if there are no Conflicts of Interest that will deny due process and obstruct justice in these matters, the COI should be a no brainer to sign by anyone acting forward in these matters.

387. That all of these alleged unlawful actions described herein, especially where the RICO defendants are involved may be done with scienter to throw the Estates of Simon and Shirley into a long and protracted time to distribution, during which time the assets are being misappropriated and depleted and incurring large legal costs. Petitioner alleges this is in order to prevent Petitioner from having access to his inheritance that could be used for living expenses for his immediate family and to deny him access to funds which could be used to assert his legal rights, for example by retaining counsel in the Estates actions and the RICO.
388. That the actions of TS, Spallina, Tescher, Theodore and others, already described herein have caused massive financial distress on Petitioner and his family, kept completely in the dark of the information to figure out their inheritance. That with the threats of foreclosure on Petitioner's children's home by Spallina these acts may be further evidence of ongoing RICO activity to further harm Petitioner, as is also being alleged as well in the Motion to Rehear in the US District Court case.
389. That these conspiratorial efforts alleged in this Petition act as possible further evidence of new alleged Criminal RICO activity through further Abuses of Legal Process in the Estates and more and appear to be an attempt to steal the estate assets of Simon and Shirley and deprive Petitioner of his inheritance entirely and leave him and his children homeless and broke in approximately the next 90 days or so.

## **XVI. THE ADVANCED INHERITANCE AGREEMENT ("AIA")**

390. That the AIA was set up to fund the costs of living of Petitioner's family by Simon and Shirley and had been funded consistently since August 2007, providing USD 100,000.00 annually. That each month health insurance and other home and living expenses of Petitioner's family were paid to various vendors by Walker and in 2008, approximately

USD \$4,000.00 was deducted to pay back the loan on the home and the remainder was given to Petitioner.

391. That the AIA was set up to provide for these expenses but also as compensation for monies Petitioner lost when his sister Pamela took over the family businesses that he had worked in for approximately twenty years and began a long campaign of failing to pay commissions, over-rides to Petitioner and failure to honor a contract that also included a ¼% point lifetime commission on all premiums financed by any agent for the companies.
392. That the ¼% point was in exchange for Petitioner's not getting stock in the companies he helped build when Simon was selling the businesses to Pamela and so it was contracted. Petitioner was getting a continuing and life override on new business for his contributions to the business, a deal which was accepted by both parties but never honored when Pamela took control of the businesses.
393. That after several years with Pamela in charge of the family businesses, Petitioner after not getting paid according to contract, sent notice to Pamela and her husband David B. Simon, Esq. that he would notify clients and carriers of the approximately six million dollars owed of unpaid commissions that they refused to pay.
394. That to stop such contact with the carriers and the clients, STP Enterprises and David B. Simon sued Petitioner in the Circuit Court of the Fifteenth Judicial Circuit of Florida, in and for Palm Beach County, FL., Case # 50 2004A002166XXXXMB on February 22, 2004 for Injunctive Relief, Declaratory Relief and Damages.
395. That Petitioner filed a Counter Complaint in Case # 50 2004A002166XXXXMB on March 18, 2004 for Breach of Contract, Tortuous Interference in Business Relationships, Defamation, Civil Conspiracy, Injunctive Relief and Specific Relief. That similar to Stansbury's claims that Theodore was cashing checks made out directly to him, the counter complaint alleged that Pamela was converting checks of Petitioner's for renewal commissions and signing them into her accounts, a practice still believed to be ongoing as Petitioner has never received any renewals on his clients per the contracts and where the checks are sent to Pamela.
396. That the judge in the matter had reviewed the contracts and evidences presented by Petitioner and noticed the Counter Defendants in court that they should settle with Petitioner as it was clear that monies were owed from his review of the counter complaint and that he would not be dismissing the case prior to trial.
397. That Simon then got involved, as he had previously stayed on the sidelines in the matter, other than advising Petitioner to Counter Sue his sister and brother-in-law yet suddenly asked Petitioner to give up his counter complaint and that he would set aside the monies owed to him for the commissions and ¼% in his inheritance. Simon's motivation to end the suit was that the whole suit was causing Shirley and him emotional pain and she was medically very ill at that time and so Petitioner abandoned his claims and accepted Simon's promise and honored his wish and walked away from the claims and the millions

of dollars owed. Petitioner at about that time was already working on establishing the Iviewit companies and raised millions of dollars and walked away professionally and personally from Pamela and David since that time. Petitioner believes that this lawsuit may also have been part of the cause of the parting of ways for Simon and Shirley with Pamela and David, as many problems arose in business relations when Pamela and David took over and many of Simon's agents friends ceased working with them and were also upset with Simon over similar allegations of commissions being withheld and not paid.

398. That Petitioner had since the agreement abandoned working in the companies he helped build and was the largest nationwide sales agent with Billionaire clients to boot<sup>31</sup> and began working in various other occupations as he could no longer stand to work with Pamela and David.
399. That Spallina, immediately after Simon's death had Walker continue the funding of the AIA to Petitioner's family monthly from bank accounts at Legacy Bank of Florida but then stated that until the monies in the Estates transferred to the grandchildren's trusts, that Petitioner should use monies from their already partially funded trust accounts to pay these expenses and directed Janet Craig of Oppenheimer to arrange these payments for living expenses.
400. That Petitioner's family living expenses since that time have been paid by depleting the children's school trust accounts Petitioner then learned, which now have very little in them left for school, not even another semester and where Petitioner did not know Spallina had started to deplete school trusts for the payment through Oppenheimer, as Spallina directed Petitioner to send Craig the Legacy account checks that Walker had recently given Petitioner on Spallina's direction. Spallina told Walker to have Candice write checks from this Legacy Bank of Florida account and again Petitioner found it strange that Spallina would direct Candice to write checks out of a corporate account that she had never had any signatory power or knowledge of.
401. That Petitioner would not allow Candice to write any checks until Legacy bank could verify and authorize such and Petitioner and Walker contracted Legacy to find out that not only had they never been notified of Simon's death but that Walker was not on the account in any way and in no way was authorized to have been writing checks from the account. That further Petitioner and Candice were not on the account and finally, that since Simon was dead they were closing the accounts.
402. That Spallina was notified and Petitioner was told to send the Legacy account checks and information to Craig and she would now handle the payments. At no time did he tell us he was switching accounts to the children's school trust funds.

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<sup>31</sup> 1995 Eliot Bernstein Insurance Client Listing  
<http://www.iviewit.tv/inventor/clientlisting.htm>



403. That Spallina has recently sent notice that Petitioner and his wife would have to now report these funds as income, which he had never advised Petitioner of when making these arrangements.
404. That according to Simon, Spallina had instructions as how to keep the monthly amounts flowing to Petitioner and his family when he passed and stated there would be plenty of money to cover the expenses from the grandchildren's inheritance from the interests on the monies alone and that as Trustees of the children's trusts, Petitioner would be able to take out each month's expenses and Simon intended no interruption in these expenses being paid. Yet, according to Spallina he has not even set up the grandchildren's trusts under Simon's alleged 2012 Amended Trust and now claims there is no money left in the Estates to put in them.

## **XVII. ALLEGED MURDER OF SIMON BERNSTEIN**

405. That this Court should note that despite allegations of Murder made by Petitioner's siblings and Walker and their request for Autopsy and a Sheriff's department investigation into alleged murder, that instead of Personal Representatives and others taking actions to preserve evidence and properly secure estate items, the Court will instead find the actions described herein to be quite the opposite of what should have happened in preserving evidences, protecting the estate assets and investigating accusations of murder.
406. That the first thing that makes no sense in the accusations by Petitioner's siblings of murder by Puccio is that Puccio appeared to have no beneficial interest in the Estates of Simon and Shirley and thus no known motive or benefit for murder.
407. That later, after the Sheriff had left, Walker told Petitioner and Candice that in the Estates documents she removed from the home there was a check and an agreement Simon had executed for Puccio, that inured an estimated \$100,000.00 to Puccio if Simon were to die, which Walker then removed both documents from the Estates and transferred them to Theodore the night of Simon's death, who then allegedly transferred them to Spallina a few weeks later, as already discussed herein.
408. That when the Sheriff came on September 13, 2012, despite Walker knowing of this document and Theodore knowingly in possession of the document, neither one of them mentions this document to the Sheriff's or turns it over as evidence of a possible motive that Puccio murdered Simon.
409. That on information and belief, Theodore turned the documents over to Spallina and despite Petitioner asking for an accounting of these documents for the Beneficiaries from Spallina, instead TS, Spallina and Theodore have secreted them from the Beneficiaries and Interested Parties and the Sheriff.

410. That to Petitioner's knowledge the documents were never turned over to the Sheriff by TS, Theodore, Spallina or Walker, in effect Obstruction and Suppression of document that would appear material to any murder investigation as the damaging potential motive for Puccio to have murdered Simon.
411. That it should be noted that the documents were signed, according to Walker, on or about the time that Puccio had given Simon the Ambien days before his death when Puccio called Petitioner and Candice to come over to Simon's home as Simon was hallucinating and talking to his deceased mother and she feared he might be dying from the Ambien she gave him, as it was not a prescribed medicine by his physicians. The Puccio documents were being claimed later by Walker and Theodore to be the reason she might have murdered Simon, yet strangely neither had mentioned this to the Sheriff's.
412. That TS, Spallina, Tescher and Theodore, instead of turning this document over to the Sheriff as evidence and to prove a possible motive by Puccio, disregarded turning this vital evidence over to investigators or even mentioning it.
413. That instead of giving the documents to investigators, Spallina met with Puccio and her counsel denying her claim and telling her she would get nothing, opposite of Simon's desires and allegedly threatening her that she was a suspect in a murder investigation and should go away or else, further frightening Puccio who has since apparently abandoned her claim against the estate. NO INFORMATION REGARDING THIS CLAIM AGAINST THE ESTATE HAS BEEN SENT BY TS, SPALLINA AND TESCHER TO THE BENEFICIARIES.
414. That on information and belief, Puccio retained counsel that contacted Spallina but after hearing they were accusing her of murder she decided to drop her claim in fear of retaliation.
415. That this Court should notify the appropriate authorities of the alleged murder of Simon and the new exhibited Prima Facie evidence of alleged criminal activity in and upon this Court, as certain elements of the alleged crimes of fraud, forgery, obstruction, tampering with evidence and more now show absolute cause for further investigation of potential "foul play" in the Estates and may establish further suspects and motives than originally reported to the Sheriff and Coroner for murder.
416. That any murder investigation of Simon should include the lviewit companies as a possible motive as it remains the largest potential asset in the Estates and certainly for the dollar amounts estimated upon licensing there are Trillions of motives.
417. That an inquest should be conducted into the deaths of both Simon and Shirley due to the circumstances described herein.

**XVIII. LACK OF DUTY AND CARE BY PERSONAL REPRESENTATIVES, TRUSTEES AND ESTATE COUNSEL, CONSTITUTING BREACHES OF FIDUCIARY DUTIES AND MORE**

418. That Petitioner does not know what legal language was changed from the 2008 Simon Trust that Simon and Shirley completed together, to the new near deathbed alleged 2012 Amended Trust Simon allegedly signed weeks before his death in a confused state of mind, as TS, Tescher and Spallina, despite repeated written and oral requests, have refused to turn over the Original 2008 Simon Trust to Petitioner or Tripp Scott, along with other relevant documents, evidencing a lack of duty and care to the Beneficiaries and breach of fiduciary responsibilities and more.
419. That Theodore acting in a capacity designated by TS as a Successor Trustee/Personal Representative under Shirley's 2008 Trust, removed from the home valuables, including jewelry of Simon and Shirley's that were in a locked safe in his home with all paperwork and items in the safe, in violation of his fiduciary duties and failing to provide proper notice for items removed.
420. That Theodore, after contracting to have the safe opened by a locksmith was to turn the contents of the safe and other documents contained therein over to Spallina immediately for accounting and inventory to the Beneficiaries of the items but at this time there has been no accounting by TS or Theodore to the Beneficiaries of these items removed by Theodore or any indication of who is now in possession of these items, evidencing a lack of duty and care for the Beneficiaries and a breach of fiduciary responsibilities and more.
421. That Petitioner has learned recently that there is now a dispute between certain siblings and Theodore as to what was removed and the value of the items as no inventories have been provided since the time of removal by TS or Theodore, evidencing a lack of duty and care for the Beneficiaries and a breach of fiduciary responsibilities and more.
422. That upon meeting with Tescher and Spallina after Simon's death to discuss the Estates, Petitioner again asked for all the documents, accountings and inventories for the Estates and Spallina again agreed to send them but again never sent any of them to Petitioner, evidencing a lack of duty and care for the Beneficiaries and a breach of fiduciary responsibilities and more.
423. That the documents and other items removed from the Estates after Simon's death by Walker have never been accounted for or inventoried and Petitioner is unsure of who is now in possession of these items, evidencing a lack of duty and care for the Beneficiaries and a breach of fiduciary responsibilities and more.
424. That the personal effects of Shirley's removed from the home by Petitioner's sisters have not been accounted for or inventories sent to the Beneficiaries and Petitioner does not know who is currently in possession of these items, evidencing a lack of duty and care for the Beneficiaries and a breach of fiduciary responsibilities and more.

425. That for several months after Simon's death Spallina told Petitioner repeatedly that he would get the Estates documents to him and the other Beneficiaries and Trustees but then in a family call with Spallina he claimed suddenly and angrily in an "about face" that Petitioner was not entitled to any documents, as Petitioner was not a Beneficiary of either parent's estate and therefore had no rights to them. Spallina directed Petitioner to obtain what was in the public record at this Court instead. That Spallina misinforming Petitioner that he was not entitled to any documentation of the Estates, even as Trustee and Guardian for his children who under the alleged 2012 Amended Trust are Beneficiaries, evidences a lack of duty and care for the Beneficiaries and a breach of fiduciary responsibilities and more.
426. That the IIT designating Beneficiaries of a life insurance policy and the insurance policy underlying it are now missing according to TS, Spallina, Theodore and Pamela who have claimed to have looked for these missing items and after several attempts to get any of the insurance documents, Petitioner was instead met with hostility from Spallina, as evidenced in the correspondences already exhibited herein. These missing documents evidence a lack of duty and care for the Beneficiaries and a breach of fiduciary responsibilities and more.

#### **XIX. CONFLICTS OF INTEREST BY PERSONAL REPRESENTATIVES, ESTATE COUNSEL AND TRUSTEES DISCOVERED**

427. That Tescher, Spallina and Theodore at no time informed the Beneficiaries or the Trustees that they are directors and all sit on a board together of Theodore's foundation, The Ted and Deborah Bernstein Foundation.
428. That Tescher, Spallina and Theodore at no time informed the Beneficiaries or the Trustees that they were part of a company AYA together, causing conflict.
429. That upon information and belief, Petitioner has learned that TS, Tescher and Spallina have been conducting business with Theodore for several years, each referring business to each other and making splits on referrals, splitting either legal client fees sent to TS by Theodore or Insurance Commissions from clients referred to Theodore by TS for insurance sales. These conflicts of interest were also never disclosed to the Beneficiaries and Interested Parties.
430. That TS appointing Theodore as a Personal Representative or Successor Trustee and assigning him roles in both Estates appears invalid and conflicted. Theodore also has never been approved or filed for any such authority to act in any capacity with this Court or taken oath. That Theodore acting in this capacity is wholly contrary to the wishes, desires and terms under the Wills and Trusts of Simon.
431. That despite Theodore's total lack of beneficial interest in the Estates, the anointment of him by TS in such capacity appears to be conflicted in light of their other undisclosed

conflicts, which may have been the reason for TS choosing Theodore in these capacities. This opportunity given to Theodore allows for self-dealing in conflict with the Estates and Beneficiaries, including his own children, as evidenced in the proposed SAMR scheme, the Stansbury Lawsuit and more.

432. That as of this date TS, Tescher, Spallina and Theodore, have failed to disclose their business relations together to the Beneficiaries or the Trustees.
433. That it appears that Spallina was a very good friend and very close business associate of Theodore and despite knowing that Simon had wanted Theodore to have no involvement in the administration of the Estates and inheritances of others he instead gives him total and absolute control and works together with him against the interest of Petitioner, Jill and Lisa.
434. That since acting as Personal Representative Spallina has gone wholly against the desires and wishes of Simon and Shirley in a multiplicity of ways. Since Simon's passing both Spallina and Theodore have acted to hurt those Simon and Shirley loved and adorned, including but not limited to, Puccio, Walker, Banks, S. Banks, Petitioner's family, Lisa and Jill and their children and others. That Spallina acting mostly with Theodore have acted together to,
  - i. threaten and throw out on the street Simon's companion and girlfriend Puccio on the night Simon passed, deny her access to personal effects for some time until she contacted the PD, threaten her with a murder investigation if she did not abandon her claim against the Estates and scared her from attending the funeral and more,
  - ii. shut down business ventures with S. Banks and Telenet destroying Simon's close personal friends and leaving them saddled with large debts incurred,
  - iii. fired and gave no benefits to Simon's long time personal business secretary Banks leaving her unemployed overnight,
  - iv. fired and gave no benefits to Walker, Shirley's and then Simon's personal assistant leaving her unemployed overnight,
  - v. have shut down Beneficiaries of virtually all documents necessary to evaluate their claims, denied them to any rights of their, inheritances and treated Beneficiaries unfairly and unjustly through a pattern and practice of lies and deceit and alleged criminal acts.
435. That it appears that TS, Tescher and Spallina have been working exclusively with Theodore, Pamela and David and sharing information and documents with them to make all kinds of decisions and craft new documents converting monies to themselves outside the Estates and rightful Beneficiaries and all the while denying Lisa, Jill, Petitioner and Petitioner's counsel even the basic necessary documents, inventories, etc. to assess their interests for themselves and as Trustees of the Beneficiaries, all contrary, and in fact, wholly opposite of the intents and desires of Simon and Shirley and their contractual

Estates Plans. Where it appears further, through Forgery and Fraud that Spallina is working in adverse interests to the Beneficiaries with bad intent that compel him to create a Fraud on this Court through alleged Felonious acts utilizing Fraudulent documents and all it appears to the benefit of mainly Theodore, who was cut out of the Estates.

436. That Petitioner again begs the Court take pause and understand that under the circumstances expressed herein everybody's lives changed when these inventions were discovered, then again when these crimes were discovered and exposed and then again when a Car Bomb went off and now when they have learned they are "targets" having their lives and privacy wholly violated with no protections and well, Petitioner casts no stones in judging anyone without fully understanding these unique situations. For example, it may appear that Theodore or Pamela are the cause of certain activities alleged herein and they may in fact be but the question is what has motivated them, are there guns to their heads or to their children's heads, have they been threatened or extorted or bribed for misdeeds and then ask what you and your family would do under similar circumstances. Then, finally, look at who has caused these stressors on so many innocent lives, the RICO defendants again and again, where yes, it may at first glance appear that Simon and Shirley had messed up children or family dysfunction and they are doing things one cannot believe at first as described herein but when you add the factors described herein to any family you begin to understand that each person is scared for both their life and their families lives and these are very real events and thus may be motivation for many of the actions described herein. Again, what would you do if someone had a proverbial gun, or car bomb, to your grandchildren's head?

## **XX. ARGUMENTS**

### **5. Removal of Personal Representative**

#### **i. Relevant law**

733.504 Removal of personal representative; causes for removal.—A personal representative may be removed and the letters revoked for any of the following causes, and the removal shall be in addition to any penalties prescribed by law:

- (1) Adjudication that the personal representative is incapacitated.
- (2) Physical or mental incapacity rendering the personal representative incapable of the discharge of his or her duties.
- (3) Failure to comply with any order of the court, unless the order has been superseded on appeal.

- (4) Failure to account for the sale of property or to produce and exhibit the assets of the Estates when so required.
- (5) Wasting or maladministration of the Estates.
- (6) Failure to give bond or security for any purpose.
- (7) Conviction of a felony.
- (8) Insolvency of, or the appointment of a receiver or liquidator for, any corporate personal representative.
- (9) Holding or acquiring conflicting or adverse interests against the Estates that will or may interfere with the administration of the Estates as a whole. This cause of removal shall not apply to the surviving spouse because of the exercise of the right to the elective share, family allowance, or exemptions, as provided elsewhere in this code.
- (10) Revocation of the probate of the decedent's will that authorized or designated the appointment of the personal representative.
- (11) Removal of domicile from Florida, if domicile was a requirement of initial appointment.
- (12) The personal representative would not now be entitled to appointment.

Fla. Stat. ch. 733.504 authorizes the removal of a personal representative and trustee of an estate if sufficient grounds for removal are shown. *In re Estate of Moe Senz*, 417 So. 2d 325, Fla. App. LEXIS 21159 (Fla. Dist. Ct. App. 1982). In the case of *In re Estate of Moe Senz*, the Florida Court of Appeals for fourth district reversed the judgment of lower court stating that holding that there was sufficient evidence of numerous instances of mismanagement of the estate by appellees nephew and lawyer, which justified granting appellant widow and beneficiaries's petition for removal as personal representatives and trustees and the matter was remanded with directions to grant appellants' petition for removal of representative.

According to [Fla. Stat. ch. 733.504\(9\)](#), a personal representative may be removed for holding or acquiring conflicting or adverse interests against the estate which will adversely interfere with the administration of the estate as a whole. *In re Estate of Bell*, 573 So. 2d 57, 59, Fla. App. LEXIS 9651(Fla. Dist. Ct. App. 1990).

## ii. Discussion

In this case there is clear mismanagement by Personal Representatives and they are also holding conflicting/ adverse interests against the Estates. Hence they should be removed. Moreover they have also failed to produce or exhibit assets when required to do so and submitted forged and fraudulent documents to this Court and others.

### 6. Personal Representatives are liable for damages and loss to Petitioner:

## i. Relevant law

733.609 Improper exercise of power; breach of fiduciary duty.—

(1) A personal representative's fiduciary duty is the same as the fiduciary duty of a trustee of an express trust, and a personal representative is liable to interested persons for damage or loss resulting from the breach of this duty. In all actions for breach of fiduciary duty or challenging the exercise of or failure to exercise a personal representative's powers, the court shall award taxable costs as in chancery actions, including attorney's fees.

(2) When awarding taxable costs, including attorney's fees, under this section, the court in its discretion may direct payment from a party's interest, if any, in the Estates or enter a judgment which may be satisfied from other property of the party, or both.

(3) This section shall apply to all proceedings commenced hereunder after the effective date, without regard to the date of the decedent's death.

If the exercise of power concerning the estate is improper or in bad faith, the personal representative is liable to interested persons for damage or loss resulting from a breach of his fiduciary duty to the same extent as a trustee of an express trust. In all actions challenging the proper exercise of a personal representative's powers, the court shall award taxable costs as in chancery actions, including attorney's fees. [Fla. Stat. ch. 733.609](#)(1993). *Landon v. Isler*, 681 So. 2d 755, \*756, Fla. App. LEXIS 9138 (Fla. Dist. Ct. App. 1996)

If the personal representative breaches his fiduciary duty, he may be liable to the interested persons for damage or loss resulting from that breach. *McDonald v. Mauriello (In re Estate of Wejanowski)*, 920 So. 2d 190, \*191, Fla. App. LEXIS 1804 (Fla. Dist. Ct. App. 2006).

Under Florida law, an estate's personal representative has the same fiduciary duty as a trustee of an express trust. See [Fla. Stat. § 733.609\(1\)](#). That standard is one of reasonable care and caution. See [Fla. Stat. § 518.11\(1\)\(a\)](#) (referenced by [Fla. Stat. § 737.302](#)); see also [State v. Lahurd](#), 632 So. 2d 1101, 1104 (Fla. Dist. Ct. App. 1994); [Estate of Rosenthal](#), 189 So. 2d 507, 508 (Fla. Dist. Ct. App. 1966).

## ii. Discussion





In this case the Personal Representatives have breached their fiduciary duty by exercising their power concerning the Estates in improper manner and in bad faith. Hence, they are liable to interested persons for damage or loss resulting from a Breach of his Fiduciary Duty and the Court has to award taxable costs including attorney's fees and other costs.

**7. Will of Simon is void as it was procured by fraud, duress and undue influence. The portion of the Amended Trust procured by fraud is void. The Estate of Shirley was improperly closed due to forgery and fraud in the Waivers.**

**i. Relevant law**

**732.5165 Effect of fraud, duress, mistake, and undue influence.**—A will is void if the execution is procured by fraud, duress, mistake, or undue influence. Any part of the will is void if so procured, but the remainder of the will not so procured shall be valid if it is not invalid for other reasons. If the revocation of a will, or any part thereof, is procured by fraud, duress, mistake, or undue influence, such revocation is void.

Fla. Stat. ch. 732.5165 (1995) provides that a will is void if the execution is procured by fraud, duress, mistake, or undue influence. Any part of the will is void if so procured, but the remainder of the will not so procured shall be valid if it is not invalid for other reasons. *Am. Red Cross v. Estate of Haynsworth*, 708 So. 2d 602, Fla. App. LEXIS 1361(Fla. Dist. Ct. App. 1998). In the case of *Id.*, *Am. Red Cross v. Estate of Haynsworth* the court held that the order admitting the later written will into probate should be vacated and the earlier written will should be admitted. Niece, as proponent for the later written will, failed to meet her burden of establishing, by competent and substantive evidence, that decedent was competent at the time he executed the later written will.

In order to constitute a sound disposing mind, a testator must not only be able to understand that he is by his will giving the whole of his property to one object of his regard, but that he must also have capacity to comprehend the extent of his property. *Id.*, *Am. Red Cross v. Estate of Haynsworth*.

In *id Am. Red Cross v. Estate of Haynsworth* a personal representative was beneficiary, had confidential relationship with testator, and failed to prove she was not active in procuring will, she did not show that presumption of undue influence had not arisen. Therefore, contestant's petition to revoke probate under [§ 732.5165, Fla. Stat.](#), should not have been dismissed on summary judgment.

A will--or a portion thereof--procured by undue influence is void. § 732.5165, Fla. Stat. (2005). Undue influence comprehends overpersuasion, coercion, or force that destroys or hampers the free agency and will power of the testator. *RBC Ministries v. Tompkins*, 974 So. 2d 569, \*571, Fla. App. LEXIS 2029 (Fla. Dist. Ct. App. 2008), If a substantial beneficiary under a will occupies a confidential relationship with the testator and is active in procuring the contested will, the presumption of undue influence arises. The Florida Supreme Court has provided the following nonexclusive list of criteria which are relevant to determining whether a beneficiary has been active in procuring a will: (a) presence of the beneficiary at the execution of the will; (b) presence of the beneficiary on those occasions when the testator expressed a desire to make a will; (c) recommendation by the beneficiary of an attorney to draw the will; (d) knowledge of the contents of the will by the beneficiary prior to execution; (e) giving of instructions on preparation of the will by the beneficiary to the attorney drawing the will; (f) securing of witnesses to the will by the beneficiary; and (g) safekeeping of the will by the beneficiary subsequent to execution. Will contestants are not required to prove all the listed criteria to show active procurement. Indeed, it will be the rare case in which all the criteria will be present. *Id RBC Ministries v. Tompkins*,

The rebuttable presumption of undue influence implements public policy against abuse of fiduciary or confidential relationships and is therefore a presumption shifting the burden of proof. [§ 733.107\(2\), Fla. Stat.](#) (2005). Such a presumption affecting the burden of proof--as distinct from a presumption affecting the burden of producing evidence--imposes upon the party against whom it operates the burden of proof concerning the nonexistence of the presumed fact. [§ 90.302\(2\), Fla. Stat.](#) (2005). Accordingly, once a will contestant establishes the existence of the basis for the rebuttable presumption of undue influence, the burden of proof shifts to the proponent of the will to establish by a preponderance of the evidence the nonexistence of undue influence. *Id RBC Ministries v. Tompkins*

Once the presumption of undue influence arises, the issue cannot be determined in a summary judgment proceeding. A summary judgment cannot be entered in favor of one who has the burden of overcoming the presumption of undue influence for such proceeding does not afford the contesting party the right of cross-examination and an opportunity to present rebuttal testimony. Instead, the proponent of the contested will must come forward with a reasonable explanation of his active role in the decedent's affairs, and the trial court is left to decide the case in accordance with the greater weight of the evidence. *Id RBC Ministries v. Tompkins*

## ii. Discussion

In this case the near deathbed Will and alleged 2012 Amended Trust by Simon has been procured by fraud, duress and undue influence. Obtained when Simon was in bad health and heavily medicated and was not competent to execute the Will or Trusts. Hence they are void. No evidence has been produced to show that alleged 2012 Amended Trust was procured without undue influence. Hence it cannot be accepted. The portion of trust that was obtained by fraud is void. In this case Theodore who is not the beneficiary under a will for reason that place him with adverse interests to the Beneficiaries is active in procuring the contested will, the presumption of undue influence arises and the burden of proof shifts to him to establish by a preponderance of the evidence the nonexistence of undue influence. In absence of such evidence the Will and Trust executed by Simon is void.

**8. To construe this Pro Se motion liberally:**

**i. Relevant Law:**

Judiciary Act of September 24, 1789, Section 342, FIRST CONGRESS, Sess. 1, ch.20, 1789 states that:

“Pleadings of the Plaintiff SHALL NOT BE dismissed for lack of form or failure of process. All the pleadings are as any reasonable man/woman would understand, and:

“And be it further enacted. That no summons, writ, declaration, return, process, judgment, or other proceedings in civil cases in any of the courts or the United States, shall be abated, arrested, quashed or reversed, for any defect or want of form, but the said courts respectively shall proceed and give judgment according as the right of the cause and matter in law shall appear unto them, without regarding any imperfections, defects or want of form in such writ, declaration, or other pleading, returns process, judgment, or course of proceeding whatsoever, except those only in cases of demurrer, which the party demurring shall specially sit down and express together with his demurrer as the cause thereof. And the said courts respectively shall and may, by virtue of this act, from time to time, amend all and every such imperfections, defects and wants of form, other than those only which the party demurring shall express as aforesaid, and may at any, time, permit either of the parties to amend any defect in the process of pleadings upon such conditions as the said courts respectively shall in their discretion, and by their rules prescribe (a)”

Court errs if court dismisses pro se litigant without instructions of how pleadings are deficient and how to repair pleadings. *Plaskey v CIA*, 953 F .2nd 25

It is settled law that the allegations of such a complaint, "however inartfully pleaded" are held "to less stringent standards than formal pleadings drafted by lawyers, see *Haines v. Kerner*, 404 U.S. 519, 520 (1972). See also *Maclin v. Paulson*, 627 F.2d 83, 86 (CA7 1980); *French v. Heyne*, 547 F.2d 994, 996 (CA7 1976); *Estelle v. Gamble*, 429 U.S.97, 106 (1976). Such a complaint should not be dismissed for failure to state a claim unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief. *Haines*, supra, at 520-521. And, of course, the allegations of the complaint are generally taken as true for purposes of a motion to dismiss. *Cruz v. Beto*, 405 U.S. 319, 322 (1972).

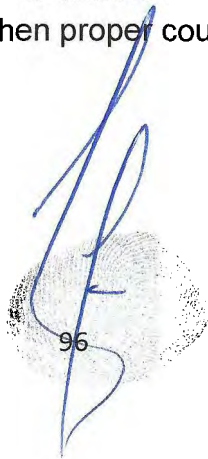
Recognizing that transsubstantive pleading standards do not sufficiently account for the capability differential between represented and unrepresented litigants, the Supreme Court fashioned a rule of special solicitude for pro se pleadings. See Robert Bacharach & Lyn Entzeroth, *Judicial Advocacy in Pro Se Litigation: A Return to Neutrality*, 42 IND. L.REV. 19, 22-26 (2009)

The Court granted such leniency, or "liberal construction," to pro se pleadings against the backdrop of *Conley v. Gibson's* undemanding "no set of facts" standard. See *Conley v. Gibson*, 355 U.S. 41, 45-46 (1957) "[A] complaint should not be dismissed for failure to state a claim unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief.", abrogated by *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 561-63 (2007). This standard epitomized the notice-pleading regime envisioned by the drafters of the Federal Rules, who emphasized discovery as the stage at which a claim's true merit would come to light, rather than pleading. See *Christopher M. Fairman*, *The Myth of Notice Pleading*, 45 ARIZ. L. REV. 987, 990 (2003).

**ii. Discussion:**

In this action, the Petitioner appears Pro se. Hence, this motion should be construed liberally. It should not be dismissed for failure to state a claim. It should be decided on true merit, rather than pleading. Pro se Petitioner is afraid for the life of his family and his extended families lives based on the evidences herein exhibited, hurried due to sales of assets without notices, etc. and files this unable to retain personal counsel timely and seeks leave to amend this Petition when proper counsel can be obtained.

**XXI. CONCLUSION**



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For the reasons set forth in detail herein, Petitioner respectfully requests that this Court, in the interest of Justice to remove the Personal Representatives, to direct Personal Representatives pay for damages and loss to Petitioner, to declare Will of Simon void as it was procured by fraud, duress and undue influence and also the portion of amended trust procured by fraud as void, to construe this motion and pleading of Petitioner liberally as being filed Pro Se and to grant reliefs claimed below and such other reliefs as this Court deems fit.

## **XXII. PRAYER FOR RELIEF**

### **WHEREFORE,**

Petitioner respectfully requests that this Court:

1. Determine who should pay legal and other related costs for Petitioner and Petitioner's children. That the lack of duty and care to the Beneficiaries and the procuring of Forged and Felonious documentation to this Court by TS, Spallina and Tescher, now demand legal counsel be retained by the Beneficiaries to evaluate these problems that are wholly caused by violations of Fiduciary Responsibilities and Law. That Tripp Scott's bill thus far for Petitioner's children, Exhibit 31 – Tripp Scott Bill is already approximately USD \$10,000.00 and most of this expense has been trying to get TS to turn over the documents to beneficiaries and examine the effects of TS's document forgeries, etc. on the beneficiaries.
2. Determine who should pay for Petitioner's personal representation, where initially he was claimed not to be a Beneficiary by TS and Spallina under the Estates. That this counsel is necessary in part in order to analyze the new proposed Beneficial interests under the SAMR that conflict Petitioner with his children. That a whopping retainer of USD \$25,000.00 has been asked by one Attorney at Law contacted to handle Simon's estate and another USD \$25,000.00 for Shirley's due the complexities already caused by TS's failures and more, see Exhibit 32 – Legal Service Retainer Letter. Over a dozen other law firms and Attorneys at Law have refused to take the case in entirety, possibly for reasons already discussed herein relating to the Ivewit and Anderson federal lawsuits and the blocks on Petitioner's right to due process and coordinated efforts to preclude him from obtaining counsel by those in charge of Disciplinary Regulation in the states of Florida, New York and Virginia, as now new evidence further confirms.
3. Determine emergency distributions to Beneficiaries and Petitioner for support as NO distributions of the Estates has been made and Petitioner believes that TS has purposely and with scienter caused these hardships on Petitioner for purposes already described herein.

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4. Determine why monies from Petitioner's children's education trust funds are being depleted by TS, where monies to provide for Petitioner's family were provided for in the trusts of the grandchildren of Simon and Shirley upon their deaths to be used instead and determine if those monies should be paid back to those trusts. That TS has forced the children to expend their school fund trust accounts to maintain the costs of the home they live in and purchased and other expenses of Petitioner and his family that were being paid for through other means prior to Simon's death through a non-trust account at Legacy Bank of Florida. That Simon was paying for the home bills of the Petitioner and Candice Children's home through funding the AIA, already established trusts and other means and TS has failed to establish even the trusts that were to be created under the alleged 2012 Amended Trust in the Estates that were to be funded by estate assets in order to continue these ongoing costs of living for Petitioner's family without disruption, as was the intent of Simon and Shirley. That TS advised Craig at Oppenheimer to take funds from the children's school trusts, which Petitioner did not know were trust funds set aside for their lower and high school tuitions and use those monies to cover the home expenses Simon and Shirley had been paying for several years out of other accounts. That on April 12, 2013 TS and Spallina advised Petitioner that the monies taken from the trusts since Simon's passing and used for home and school expenses of the children, was taxable to Petitioner.
5. This Court demand that TS turn over paperwork on a gift to Simon's grandson Joshua. Spallina refuses to release a birthday gift, a 2013 Kia paid for in full, given to Petitioner's son Joshua from his grandfather Simon. This gift was transacted to Joshua two weeks before Simon's passing on August 27, 2012 at Joshua's birthday party at Simon's home as he had just got his driver's license. Despite full knowledge of this gift TS refuses to release the paperwork necessary to renew the registration properly in Joshua's name as was intended by Simon and which was being processed by Simon prior to his death. The car has remained in Joshua's possession for seven months unable to be driven due to the inability to properly register the car due to Spallina's lack of care and duty and suppression of the title from the proper owner, Joshua.
6. This Court immediately remove TS, Spallina, Tescher, Theodore, Pamela and David from all fiduciary responsibilities in all capacities until this Court and criminal authorities can assess the forged and fraudulent documents submitted to this Court and other alleged crimes committed by TS that constitute a Fraud on the Court and Fraud on the Beneficiaries, etc. and disqualify those involved instantly from any of the Estates matters.
7. This Court has legal obligations to report the alleged FELONY misconduct evidenced herein of forgery and fraudulent documents to the proper authorities and is also bound under Judicial and Legal Cannons to so report any alleged misconduct by another Attorney at Law to proper criminal authorities and state bar associations.

8. This court removes Theodore from any and all involvement in the handling of the Estates assets and acting in any capacity and demand records regarding any all activities to date. That Theodore does not have standing or a basis in the Estates for the following reasons,
  - i. he has been wholly excluded under the estates of both Simon and Shirley due to gifts during their lifetime and therefore has no beneficial interest in the Estates,
  - ii. he has conflicting interests as Trustee for his children's trusts under the Estates,
  - iii. he now has a possible beneficial interest in the SAMR that conflicts with the Beneficiaries of the Estates,
  - iv. he has a conflicting interest with the Beneficiaries of the Estates involving the outcome of the Stansbury lawsuit as he is the central defendant and has considerable personal risks,
  - v. this Court has not approved Theodore as a Personal Representative, nor has he submitted any papers to the Court to be appointed in this or any role,
  - vi. any appointment by TS of Theodore is conflicted due to, Tescher and Spallina's undisclosed Board position with Theodore's company, their undisclosed ongoing business relationships and such conflicts would not be waived by Petitioner if they had been disclosed.
9. This Court demand a full accounting of the Estates, including all business and personal records, all interests of Simon and Shirley, including any jewelry, art, businesses, etc. that Theodore or anyone is in possession of or has removed from the Estates without proper authority or accounting. That these assets be fully accounted for, frozen and turned over to this Court until new counsel can be appointed to represent the Estates and Beneficiaries.
10. This Court issue an order to have the Estate advance the costs of school and monthly living expenses for Petitioner from assets of the Estate and further grant declaratory judgment that the Balloon Mortgage on the home of Petitioner's children at 2753 NW 34<sup>th</sup> Street, Boca Raton, FL 33434 be rendered unenforceable.
11. This Court may Issue and Order for relief under RULE 5.407. PROCEEDINGS TO DETERMINE FAMILY ALLOWANCE for \$100,000 annually to be divided equally amongst Petitioner and Candice Bernstein based upon the AIA and additional funds for their children that were being provided monthly over several years, after review by this Court of what Simon had been paying in expenses in total for the survival of Petitioner and his family under the set of circumstances described herein regarding the RICO lawsuit, car bombs, etc...
12. This Court is petitioned herein for immediate Interim Judicial Review.
13. This Court halt any sales, pending sales or listings of any of the Estates assets until the true and proper beneficiaries are ascertained and retrieve any items that may have been sold. That Petitioner has been informed that properties are being sold behind his back by Theodore, Pamela and Spallina and without notifying other Beneficiaries properly of the

sales, prices, etc. and where Petitioner expressly noted Spallina to not take any actions without notice to Petitioner and Petitioner's children's counsel Tripp Scott.

14. This Court secure all documents prepared by TS, Spallina, Tescher, Proskauer Rose, Foley & Lardner/Hopkins Sutter, Gerald R. Lewin, Goldstein Lewin/ CBIZ MHM, LLC, Pamela, David, David B. Simon Law Firm, Stansbury and Theodore filed in the Estates or any other documents in their possession regarding Simon and Shirley, which all should now be analyzed and verified for further evidence of fraud, forgery and false and deficient notarizations or any other improper markings, etc.
15. This Court secure all records of all notaries to determine possible other fraud in the Estates. That the employers of all notaries' records also be obtained to determine evidence of validity, as these employers are alleged to have employed the notaries and supervised them in the alleged unlawful acts.
16. This Court should demand all Simon and Shirley's insurance records from any carrier in the last 10 years, including but not limited to, insurance trusts, life policies, disability policies, homeowners policies, etc. and demand them sent to this Court, as Tripp Scott and Petitioner have been unable to obtain copies from any of the parties that maintain or maintained these records, after repeated requests.
17. This Court should demand the law firms Proskauer, Foley and GT's records regarding the Estates or any records pertaining to Petitioner, Simon and Shirley, Ivewit and any other party named herein that they have records on concerning the Estates and that these documents be immediately turned over to this Court for analysis of further probable fraud, forgery and more and for furtherance to the proper criminal authorities for investigations.
18. This Court should demand the accounting firm of Goldstein Lewin produce all records regarding the Estates or any records pertaining to Petitioner, Simon, Shirley and Ivewit and any other person or company named herein they have records of and that these documents be immediately turned over to this Court for analysis of further probable fraud, forgery and more.
19. This Court needs to determine if the Estates of Simon and Shirley will remain as they were prior to the deathbed alleged 2012 Amended Trust changes and 2012 Will of Simon both that were executed only weeks before Simon passed away, under extreme duress and major medical health problems affecting his psychological stability and further executed with documents which were not properly signed or completed lawfully and rule whether these new documents, including those already evidenced herein as Fraudulent and Forged, fail. If they fail, this Court must then decide if the Estates revert to the prior established 2008 Trust documents that Simon and Shirley finalized together and that were in place for years before the near deathbed changes or what will happen. These decisions of this Court will now materially affect who the Beneficiaries, Trustees, Personal Representatives, etc. actually are and what interests they have and without such rulings these Estates cannot be further adjudicated properly and have put several of the Beneficiaries lives into crisis.



20. Petitioner seeks leave to Amend this Pro Se Petition once it can be determined by this Court the effect of these alleged crimes and who therefore should pay these legal and other costs now involved to address the issues of alleged Fraud on the Court, Fraud in the estates of both Simon and Shirley, Forgery, Failure of Fiduciary responsibilities by Personal Representatives to allegedly commit felony criminal acts and if Criminal Prosecutors will simultaneously be forged into the proceedings by an order of this Court.
21. This Petition was filed under tremendous stress and while Petitioner is undergoing a several year Facial Reconstruction requiring medications, in order to notify this Court instantly of the alleged crimes discovered and how they may relate to the alleged murder of Simon and perhaps Shirley and to cease alleged crimes taking place real time and have this Court take instant actions to cease the alleged unlawful activities ongoing and notify all proper criminal authorities of the Fraud on this Court, Forgery, Fraud, Theft, Alleged Murder and more.
22. This Court rule to reimburse ALL costs incurred by any Interested Party or Beneficiary or Trustee, etc., after the Court rules on just who the exact beneficiaries are to be. As resolving these legal problems that are due to violations of fiduciary duties in handling the Estates and alleged Fraud and Forgery and more should neither be burdened to the Estates, the Beneficiaries, Interested Parties or Trustees and instead should be demanded by this Court to be paid entirely by TS, Tescher, Spallina and Theodore and any others this Court deems culpable.
23. That this Court should have those responsible for these document defects and crimes put up bonds or any other relief this Court may find applicable to cover these resulting costs in advance and to secure that these monies are covered for future anticipated costs of correcting all deficiencies and losses of any sort caused by their unlawful actions by all responsible parties.
24. Under RULE 5.160. PRODUCTION OF ASSETS due to the alleged unlawful activity alleged and evidenced herein, the Court should require all Personal Representative, including Theodore Bernstein who is acting as a Personal Representative and Successor Trustee without Court approval, produce satisfactory evidence that the assets of the Estates are in the possession or under the control of the Personal Representatives and Successor Trustee and order production of the assets in the manner and for the purposes directed by the Court.
25. Under RULE 5.230. COMMISSION TO PROVE WILL, due to the problems with the Will of Simon Bernstein evidenced herein and the inclusion of the Will Exhibit with no reference thereunder, Petitioner petitions the Court to appoint a commissioner to take the oath of any person qualified to prove the wills of Simon and Shirley under Florida law.
26. Under RULE 5.235. ISSUANCE OF LETTERS, BOND, due to the problems with the documentation in the Estates and unlawful activities alleged and evidenced herein, Petitioner requests the Court consider requiring the Personal Representatives to give bond to require additional surety great enough to cover all potential losses to the

Beneficiaries. Losses could be claimed to be approximately \$20,000,000.00 or more by each beneficiary.

27. Under RULE 5.310. DISQUALIFICATION OF PERSONAL REPRESENTATIVE; NOTIFICATION, since Theodore Bernstein, TS, Donald Tescher and Robert Spallina all appear to be acting Personal Representatives who were not qualified to act at the time of appointment and whose appointments were made through Fraudulent and Forged and incomplete documentation submitted to this Court and Petitioner and other, as described herein, Petitioner believes none of them would be qualified for appointment at that time, this time or any time.
28. That Petitioner files and serves herein on all parties this notice describing why these Personal Representatives should be removed due to the alleged unlawful acts and violations of fiduciary responsibilities evidenced herein, which show that Theodore Bernstein, Robert Spallina, Donald Tescher and TS were not qualified at the time of appointment to be Personal Representatives for the Estates. For the reasons already stated herein these Personal Representatives would not be qualified for appointment if application for appointment were again made based on the facts contained herein. That the Court should instantly remove and replace these Personal Representations and grant Petitioner any monetary and injunctive relief this Court deems just.
29. This Court should sanction and report to the appropriate Federal and State Criminal authorities and attorney regulatory agencies all those this Court finds to have acted in concert unlawfully and in violation of, fiduciary responsibilities, attorney conduct codes, public office rules and regulations (TS, Spallina and Tescher as Officers of this Court) and State and Federal law.
30. Under RULE 5.320. OATH OF PERSONAL REPRESENTATIVE, the Court should note that at no time before the granting of letters of administration, did Theodore, one of the "acting" Personal Representatives/Successor Trustee in the Estates, file an oath to faithfully administer the estate of the decedents with this Court or to the Beneficiaries or their Trustees and this Court should take all steps necessary to remedy this failure, including but not limited to making null and void any actions of Theodore as Successor Trustee in Shirley's closed estate, or Personal Representative/Successor Trustee in Simon's estate and any other relief this Court sees fit.
31. Under RULE 5.340. INVENTORY, the Personal Representatives Tescher and Spallina have failed to serve a copy of the inventory and all supplemental and amended inventories to each heir at law, each residuary beneficiary and did not serve a copy to Petitioner who requested it both orally and in writing for the Estates and as Guardian and Trustee for his children and therefore this Court should take appropriate actions for this violation and demand all inventories prepared by TS, Goldstein Lewin/CBIZ MHM, LLC, Theodore or any other party that has made or maintains an inventory of any assets of the Estates, be instantly turned over to this Court. That all inventories submitted to this Court

or any party that may be sealed or marked confidential in any way in the Estates be turned over to Petitioner and Petitioner's children's counsel Tripp Scott.

32. There is an inventory for the personal property of Simon and Shirley that was submitted by Theodore to Pamela, Jill, Lisa and Petitioner, whereby Theodore was acting in an unauthorized capacity as a Personal Representative to be handling the inventory. That this inventory was not verified by the Personal Representatives, Tescher and Spallina that were supposedly designated by Simon in the alleged 2012 Amended Trust and therefore this Court should take appropriate actions for this failure of the Personal Representatives to verify this inventory and discard the inventory by Theodore and have these items re-evaluated by a new firm and new Personal Representative(s).
33. That there is an inventory list and insurance policies for Jewelry and Jewelry that was removed from the Estates by Pamela, Jill and Lisa and these properties and inventories should be immediately secured by this Court from any parties in possession of them and all assets returned to the Court for proper distribution to the proper Beneficiaries.
34. That this Court should consider disregarding all estate planning instruments, trusts, wills, etc. that were prepared after the 2008 Wills and Trusts that Simon and Shirley did together that were long standing estate plans and the Beneficiaries and other Interested Parties of that 2008 plan should remain in force, unless other evidence of Fraud or Forgery or more is found in those documents that necessitate changes.

## 9. FLORIDA ESTATE RULES RELIEFS

35. Under RULE 5.341. ESTATE INFORMATION, the Personal Representatives Tescher, Spallina and Theodore have failed on reasonable and numerous requests in writing, to provide interested persons, including but not limited to, Petitioner and Petitioner's children's counsel information about the Estates and its administration and therefore this Court should take all actions necessary to rectify this violation and force them to immediately turn over all records in the Estates of Simon and Shirley and all of their records regarding any party named herein, in entirety, to review by this Court and Petitioner for further evidence of fraud, theft and forgery and more.
36. Under RULE 5.341. ESTATE INFORMATION, records this Court should demand and tender to Petitioner and Petitioner's children's counsel, include but are not limited to,
  1. 1995 Simon Bernstein Irrevocable Insurance Trust
  2. 2008 Trust of Simon
  3. Full documentation for Proskauer Rose's Will Exhibit in the Will of Simon and all estate work Proskauer has for Simon and Shirley their children and grandchildren and Petitioner and Candice and their children and grandchildren
  4. All trusts created by any party named herein for the Beneficiaries, children or grandchildren of the decedents Simon and Shirley.

5. All records for both Estates, including but not limited to, banking, investment, business, accounting, real estate, transfers, titles, deeds, insurance, IRA's, pensions, retirement plans and any other records necessary to ascertain the assets in the Estates.
6. All investment account records from Stanford, JP Morgan and Oppenheimer and any banking accounts or other asset accounts.
7. All medical records of Simon and Shirley from all doctors involved in their care for the years 2007-2012.
8. All post mortem medical records, coroner records and hospital records.
9. SIMON BERNSTEIN IRREVOCABLE TRUST U/A 9/7/06
10. SIMON L BERNSTEIN, Trustee of the SIMON L. BERNSTEIN TRUST AGREEMENT dated May 20, 2008
11. MARITAL TRUST and FAMILY TRUST created by SHIRLEY BERNSTEIN, Trustee of the SHIRLEY BERNSTEIN TRUST AGREEMENT dated May 20, 2008,
12. SIMON L. BERNSTEIN and SHIRLEY BERNSTEIN, Co-Trustees and ROBERT L. SPALLINA, Independent Trustee of the ELIOT BERNSTEIN FAMILY TRUST dated May 20, 2008,
13. SIMON L. BERNSTEIN and SHIRLEY BERNSTEIN, Co-Trustees, and ROBERT L. SPALLINA, Independent Trustee of the JILL IANTONI FAMILY TRUST dated May 20, 2008,
14. SIMON L. BERNSTEIN and SHIRLEY BERNSTEIN, Co-Trustees, and ROBERT L. SPALLINA, Independent Trustee of the LISA S. FRIEDSTEIN FAMILY TRUST dated May 20, 2008,
15. DANIEL BERNSTEIN IRREVOCABLE TRUST dated September 7, 2006
16. JAKE BERNSTEIN IRREVOCABLE TRUST dated September 7, 2006
17. JOSHUA Z. BERNSTEIN IRREVOCABLE TRUST dated September 7, 2006
18. Case: 502010CP003127XXXXSB IN RE JULIA IANTONI IRREVOCABLE TRUST DTD 09/07/06 07-JUL-10 0497381 ATTORNEY SPALLINA, ROBERT L
19. Case: 502010CP003123XXXXSB INRE DANIEL BERNSTEIN IRREVOCABLE TRUST 07-JUL-10 0497381 ATTORNEY SPALLINA, ROBERT L
20. Case: 502010CP003124XXXXSB INRE CARLY ESTHER FRIEDSTEIN IRREVOCABLE TRUST 07-JUL-10 0497381 ATTORNEY SPALLINA, ROBERT L
21. Case: 502010CP003125XXXXSB INRE JAKE BERNSTEIN IRREVOCABLE TRUST 07-JUL-10 0497381 ATTORNEY SPALLINA, ROBERT L
22. Case: 502010CP003126XXXXSB INRE MAX FRIEDSTEIN IRREVOCABLE TRUST 07-JUL-10 0497381 ATTORNEY SPALLINA, ROBERT L
23. Case: 502010CP003128XXXXSB INRE JOSHUA Z BERNSTEIN IRREVOCABLE TRUST 07-JUL-10 0497381 ATTORNEY SPALLINA, ROBERT L

**DOCUMENTS ALREADY REQUESTED BY TRIPP SCOTT IN THREE LETTERS  
ATTACHED ALREADY HEREIN AS EXHIBIT**

24. Copies of all estate planning documents including all Wills and Trusts for Shirley Bernstein and Simon Leon Bernstein, whether qualified or contingent.
25. Copies of all estate planning documents including all Wills and Trusts that the children, Joshua, Jacob and/or Daniel, are named as beneficiary, whether qualified or contingent.
26. Copies of all documents executed in May and June 2012 regarding the Last Will and Testament of Shirley Bernstein.
27. Estate Accounting for Shirley Bernstein.
28. Estate Accounting for Simon Bernstein.
29. Trust Accountings for any Trusts that Petitioner, his spouse, or his children are a beneficiary, whether qualified or contingent.
30. Copies of any claims filed in the Estate of Shirley Bernstein and Simon Bernstein.
31. Copy of the Inventory filed in the Estate of Shirley Bernstein.
32. Copy of the Inventory filed in the Estate of Simon Bernstein, or if none, please provide the approximate date you expect the Inventory will be prepared and filed with the Probate Court.
33. Allocation of the tangible personal property of Shirley and Simon Bernstein. Specifically, is the jewelry being divided among the ten grandchildren?
34. Appraisals of tangible personal property, specifically the jewelry, artwork and collectibles.
35. All documents relating to the life insurance policies owned by Shirley and/or Simon, insuring Shirley and/or Simon's life, or for the benefit of Shirley and/or Simon Bernstein.
36. Documentation concerning the allocation and division of all companies owned by Simon and/or Shirley at the time of their deaths and copies of any partnership, operating, or stockholders agreements.
37. Status of the ongoing litigation involving Stanford.
38. Status of the Iliewit [Iviewit] company stock. Were the issues with Gerald Lewin resolved?
39. Status of the funding of Telenet Company and Candice's employment with Telenet and monies owed to Eliot Bernstein.
40. Any information you have with regards to the, grade school, middle school, high school and college funds created by Simon or Shirley Bernstein for the benefit of Joshua, Jacob and/or Daniel.
41. A copy of Simon Bernstein's Trust and accounting.
42. A copy of Shirley Bernstein's Trust and accounting.
43. A copy of Bernstein Family LLC's Trust.

44. A copy of Bernstein Holdings and Family Corporation.
45. Objections to claims filed in Estate of Simon Bernstein.
46. Exempt Property Petition filed.
47. Personal Property Inventory for Estate of Simon and Shirley Bernstein,
48. Status of the ongoing litigation involving the Estate Substitution in Stanford - Case status and attorney handling.
49. Limited Power of Appointment executed by Simon.
50. Inventory for Shirley Bernstein.
51. Inventory for Simon Bernstein.
52. LIC Holdings corporate Documents.
53. Mortgage documents relating to Eliot's children's home and documents pertaining to first mortgage.
54. Accounting of each child's Trust.

37. Under RULE 5.350. CONTINUANCE OF UNINCORPORATED BUSINESS OR VENTURE, Petitioner requests this Court for an order regarding the operation of, accounting for, and termination of any and all unincorporated businesses and ventures in regards to Simon and Shirley's interests in business ventures, including but not limited to,

1. Bernstein Simon and Shirley – A company in Boca Raton, FL.
2. LIC Holdings, Inc.
3. Life Insurance Concepts Inc.
4. Life Insurance Connection Inc.
5. Life Insurance Innovations, Inc.
6. Arbitrage International Management LLC
7. Arbitrage International Marketing, Inc.
8. Arbitrage International Holdings, LLC
9. Bernstein Holdings, LLC
10. Bernstein Family Investments, Llp
11. Bernstein Family Realty LLC
12. Shirley Bernstein Family Foundation Inc.
13. Cambridge Financing Company
14. Cambridge Companies
15. TSB Holdings, LLC
16. Total Brokerage Solutions LLC
17. National Service Corporation
18. National Service Association, Inc.
19. S.T.P. Enterprises
20. ALPS
21. SB Lexington

22. NSA, Inc.
23. National Service Association, Inc.
24. Arbitrage International Management LLC
25. Arbitrage International Marketing, Inc.
26. Syracuse Partners Incorporated
27. Bernstein & Associates, Inc.
28. Cambridge Associates Of Indiana, Inc.
29. Telenet Systems, LLC
30. Telenet Systems, Inc.
31. I.C., Inc.
32. Iviewit Holdings, Inc. – DL
33. Iviewit Holdings, Inc. – DL (yes, two identically named)
34. Iviewit Holdings, Inc. – FL (yes, three identically named)
35. Iviewit Technologies, Inc. – DL
36. Uviewit Holdings, Inc. - DL
37. Uview.com, Inc. – DL
38. Iviewit.com, Inc. – FL
39. Iviewit.com, Inc. – DL
40. I.C., Inc. – FL
41. Iviewit.com LLC – DL
42. Iviewit LLC – DL
43. Iviewit Corporation – FL
44. Iviewit, Inc. – FL
45. Iviewit, Inc. – DL
46. Iviewit Corporation
47. and all other businesses that Simon and Shirley have or had any interest in or that are part of any Estates assets or records.

38. Under RULE 5.370. SALES OF REAL PROPERTY WHERE NO POWER CONFERRED, the Personal Representatives Tescher and Spallina and the unauthorized Personal Representative Theodore have not followed this rule in listing and attempting to sell real property proposed to be sold and where authorization and confirmation of the sale of real or any property is now required as it is unknown if any Trust provisions negating such notice are valid until further review by this Court, as the Personal Representatives have failed to file a verified petition setting forth the reasons for the sales, a description of the real property sold or proposed to be sold, and the price and terms of the sale and may be acting in unauthorized capacities gained through forged and fraudulent documents and self-dealings may be taking place with adverse effect to the Beneficiaries and Interested Parties.

39. Under RULE 5.385. DETERMINATION OF BENEFICIARIES AND SHARES, Petitioner being an interested person remains in doubt and further is unable to determine with certainty the true and proper Beneficiaries entitled to the Estates for the reasons set forth already herein and the shares due any Beneficiaries of the Estates and the Beneficiaries entitled to all assets and interests in the Estates. Therefore, Petitioner petitions this court to determine the true and proper Beneficiaries in the Estates and what documents govern the administration, as it is wholly unclear who the Beneficiaries are to Petitioner and Petitioner's children's counsel until this Court makes determination as to what documents are valid in the Estates and determines who the Beneficiaries are and should be based on the information herein.
40. Under RULE 5.401 OBJECTIONS TO PETITION FOR DISCHARGE OR FINAL ACCOUNTING and based on the new evidence of alleged Forged and Fraudulent documents and violations of Fiduciary Duties by the Personal Representatives of the Estates, Petitioner objects to discharge and final accounting of either Simon or Shirley's estate, without the Court first ruling on this Petition and the effect these allegations and evidence will have on the outcome of the Estates.
41. Under RULE 5.404 NOTICE OF TAKING POSSESSION OF PROTECTED HOMESTEAD, the Personal Representatives failed to File Notice with the Beneficiaries that they were taking possession of what appears reasonably to be protected homesteads that were pending a determination of their homestead status. No notice of this act was given for the properties at 7020 Lions Head Lane, Boca Raton, FL 33496-5931 and 2494 S. Ocean Boulevard, Unit C5, Boca Raton, FL, 33432 and therefore there was no notice of the,
- i. legal description of the property;
  - ii. statement of the limited purpose for preserving, insuring, and protecting it for the heirs or devisees pending a determination of the homestead status;
  - iii. the name and address of the personal representative and the personal representative's attorney;
  - iv. if known, the location, date, and time the petition to determine homestead status will be heard, and
  - v. if the personal representative is in possession when the notice is filed, the date the personal representative took possession.

Therefore there was no Service of Notice that was served in the manner provided for service of formal notice on interested persons and on any person in actual possession of the properties.



42. Under RULE 5.405. PROCEEDINGS TO DETERMINE PROTECTED HOMESTEAD REAL PROPERTY, Petitioner petitions this Court as an interested person to determine protected homestead real property owned by the decedents.
43. Under RULE 5.406. PROCEEDINGS TO DETERMINE EXEMPT PROPERTY, Petitioner petitions this Court to determine exempt property within the time allowed by law.
44. Under RULE 5.407. PROCEEDINGS TO DETERMINE FAMILY ALLOWANCE, Petitioner petitions this Court as an interested person to determine family allowance.
- i. That support was being rendered by Simon Bernstein to pay for Petitioner and his wife and children's ongoing education and living expenses, while they are in a unique position involving an ongoing RICO and ANTITRUST lawsuit with many Defendants in those desiring to cause physical, emotional and financial harm to Petitioner's family, including a Bomb that exploded in their family MiniVan in Del Ray Beach, FL.
  - ii. That in order to protect Petitioner and his family, Simon and Shirley took elaborate legal steps to protect the assets in the Estates that were going to fund Petitioner and his children and where TS, Spallina, Tescher and Theodore through their unlawful actions alleged herein, attempt to defile the intricate planning steps Simon and Shirley took with Spallina to protect Petitioner and his family.
  - iii. That some of this support by Simon and Shirley of Petitioner and his immediate family was contracted into in an August 15, 2007, Advancement of Inheritance Agreement ("AIA") between Petitioner and Candice and Simon and Shirley, executed by John A. Herrera, M.Acc., J.D.,LL.M., CPA of Boca Raton, FL., which provided for \$100,000 year advancement of inheritance. That Spallina connived Petitioner that the monies for the AIA were coming as usual through the Legacy Bank accounts and did not notify Petitioner that he switched the payments to his children's school trust funds.
  - iv. That Simon and Shirley also funded the children's school directly through other established trusts for Petitioner and his children.
  - v. That Simon and Shirley paid for and renovated entirely the home that Petitioner and his family reside in, using funds from Petitioner's children's trust as evidenced already herein and additionally other monies set aside for Petitioner from the sale of a condominium at Townsend Place in Boca Raton several years earlier, whereby Simon and Shirley retained the monies from the sale of Petitioner's condominium when it sold, as Petitioner and his family were forced to flee from the property they owned and abandon it overnight to go into hiding in California and Nevada, as death threats were made upon Petitioner by a one, Brian G. Utley ("Utley"), acting on behalf of Proskauer Rose, Foley and Lardner and others, to force Petitioner not to notify authorities of the crimes discovered that are all defined in Petitioner's RICO and Antitrust action, State, Federal and International Ongoing Criminal Complaints and investigations.

45. That RICO and Antitrust lawsuit case # 1:07-cv-11196-SAS, Bernstein, et al. v Appellate Division First Department Disciplinary Committee, et al., the related Anderson case and the other cases related to Anderson all hereby be incorporated by reference in entirety herein, all pleadings, orders, etc.
46. That Petitioner and Candice and their children are interested persons in the Estates and file petition to have this Court determine family allowance so as to not force hardships, resulting from the misdeeds already described herein and other misdeeds, upon Petitioner and his family.
- i. Decedent has no surviving spouse and the decedent's lineal heirs who were being supported by the decedent and are therefore entitled to be supported by the decedent at the time of his death are,
  - ii. Eliot Bernstein, son
  - iii. Candice Bernstein, daughter in law
  - iv. Joshua Ennio Zander Bernstein, grandson DOB 08/27/1997
  - v. Jacob Noah Archie Bernstein, grandson DOB 01/01/1999
  - vi. Daniel Elijsha Abe Ottomo Bernstein, grandson DOB 11/26/2002
  - vii. The allowance is claimed based on the AIA and other allowances paid for by Simon and Shirley for Petitioner and his family for almost a decade prior to their deaths and set up for immediately after their deaths and the amount is to be split equally among Candice and Petitioner and/or their children.
47. Under RULE 5.440. PROCEEDINGS FOR REMOVAL OF PERSONAL REPRESENTATIVE, this Court on its own motion may instantly commence a proceeding to remove the personal representatives. The herein stated claims constitute the facts constituting the grounds upon which removal is sought.
48. This Court should demand the removed personal representatives to file an accounting within 10 days after removal.
49. Under the March 6, 2013 Florida Probate Rules 120, this Court should mandate Delivery of Records and Property by the removed personal representatives, immediately after removal or within such time prescribed by Court order, delivering to the to the successor fiduciary or this Court all of the records of the Estates and all of the properties of the Estates.
50. Under RULE 5.460. SUBSEQUENT ADMINISTRATION is sought in the Estates. The estate of Shirley appears in the Court record to be recently closed but as further administration of the estate of Shirley is now required for the reasons stated herein, including Fraud, Forgery and Revocation of Petitioner's Waiver in Shirley's estate attached herein, Petitioner petitions this Court for further administration of the estate of Shirley based on its findings in these matters and other relief this Court may deem appropriate.

51. Under Title XLII ESTATES AND TRUSTS Chapter 732 PROBATE CODE: INTESTATE SUCCESSION AND WILLS, 732.5165 that the effect of fraud, duress, mistake, and undue influence may invalidate the Will of Simon, as a will is void if the execution is procured by fraud, duress, mistake, or undue influence. That this Court now determine if any part of the will is void as so procured and if the remainder of the will not so procured shall be valid if it is not invalid for other reasons. The court must also determine if the revocation of a will, or any part thereof, is procured by fraud, duress, mistake, or undue influence, such revocation is void.

52. Under Title XLII ESTATES AND TRUSTS Chapter 733 PROBATE CODE: ADMINISTRATION OF ESTATES 733.504 regarding removal of personal representative for cause and where the Court must determine if the Personal Representatives should be removed and the letters revoked for any of the following causes and those already evidenced and alleged herein, and the removal shall be in addition to any penalties prescribed by law:

- i. Failure to comply with any order of the court, unless the order has been superseded on appeal. Where the Court ordered that certain documents be returned to the Court by the Personal Representatives notarized and wherefore by submitting Fraudulent and Forged documents to this Court would be a failure to comply, a fraud on the Court and more.
- ii. Failure to account for the sale of property or to produce and exhibit the assets of the Estates when so required, as evidenced already herein, and whereby failing to file inventory for Simon's estate as ordered by this Court due "60 days after January 14, 2013 and where it has not been filed with the court as of May 02, 2013.
- iii. Wasting and maladministration of the Estates as evidenced already herein.
- iv. Holding or acquiring conflicting or adverse interests against the Estates that interfere with the administration of the Estates as a whole.
- v. Revocation of the probate of the decedent's will that authorized or designated the appointment of the personal representatives.
- vi. The personal representatives would not now or have ever been entitled to appointment.

53. Under Title XLII ESTATES AND TRUSTS Chapter 733 PROBATE CODE: ADMINISTRATION OF ESTATES that this Court under 733.508 demand an accounting and discharge of removed personal representatives whereupon removal,

- i. a removed personal representative shall file and serve a final accounting of that personal representative's administration,
- ii. after determination and satisfaction of the liability, if any, of the removed personal representative and upon receipt of evidence that the Estates assets have been

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delivered to the successor fiduciary, the removed personal representative shall be discharged.

54. Under Title XLII ESTATES AND TRUSTS Chapter 733 PROBATE CODE:  
ADMINISTRATION OF ESTATES 733.509 this Court enter an order removing the personal representatives and have them immediately deliver all Estates assets, records, documents, papers, and other property of or concerning the Estates in the removed personal representative's possession or control to the remaining personal representative or successor fiduciary or this Court and this Court turn relevant documents over to the appropriate state and federal authorities for further investigation of alleged forgery and fraud.
55. Under Title XLII ESTATES AND TRUSTS Chapter 733 PROBATE CODE:  
ADMINISTRATION OF ESTATES 733.609 Improper exercise of power; breach of fiduciary duty, the Court will note that,
- i. a personal representative's fiduciary duty is the same as the fiduciary duty of a trustee of an express trust, and a personal representative is liable to interested persons for damage or loss resulting from the breach of this duty. In all actions for breach of fiduciary duty or challenging the exercise of or failure to exercise a personal representative's powers, the court shall award taxable costs as in chancery actions, including attorney's fees.
  - ii. When awarding taxable costs, including attorney's fees, under this section, the court in its discretion may direct payment from a party's interest, if any, in the Estates or enter a judgment which may be satisfied from other property of the party, or both.
56. Under Title XLII ESTATES AND TRUSTS Chapter 733 PROBATE CODE:  
ADMINISTRATION OF ESTATES 733.619 Individual liability of personal representative should be considered by the Court where,
- i. a personal representative is individually liable for obligations arising from ownership or control of the Estates or for torts committed in the course of administration of the Estates if personally at fault.
  - ii. claims based on contracts, except a contract for attorney's fee, entered into by a personal representative as a fiduciary, on obligations arising from ownership or control of the Estates, or on torts committed in the course of Estates administration, may be asserted against the Estates by proceeding against the personal representative in that capacity, whether or not the personal representative is individually liable.



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