UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ELIOT I. BERNSTEIN, et. al.	**MOTION**
	07 Civ. 11196 (SAS)
Plaintiffs,	
-against-	
APPELLATE DIVISION FIRST DEPARTMENT DEPARTMENTAL DISCIPLINARY COMMITTEE, et. al.	
Defendants	

SHIRA A. SCHEINDLIN, U.S.D.J.:

MOTION TO RECONSIDER PRIOR ORDER DENIALS IN PART, BASED ON NEW INFORMATION: RECONSIDER APPOINTMENT OF PRO BONO COUNSEL; ACCEPT REMOTE APPEARANCE OF PLAINTIFF BERNSTEIN FOR COURT PROCEEDINGS; PHYSICAL PROTECTION OF PLAINTIFFS FOR COURT APPEARANCES; AND REQUEST FOR EXTRAORDINARY CONFLICT CHECKS.

PLAINTIFFS, ELIOT I. BERNSTEIN, Pro se, individually and **P. STEPHEN LAMONT,** Pro se and Plaintiff BERNSTEIN together on behalf of shareholders of Iviewit Holdings, Inc., Iviewit Technologies, Inc., Uview.com, Inc., Iviewit Holdings, Inc., Iviewit Holdings, Inc., Iviewit.com, Inc., Iviewit.com, Inc., I.C., Inc., Iviewit.com LLC, Iviewit LLC, Iviewit Corporation, Iviewit, Inc., Iviewit, Inc., other John Doe companies (collectively, "Iviewit Companies"[1]) and patent interest holders, and, based on new information, move this Court to: (I) Order to appoint pro bono counsel; (II) Order to accept remote appearance of Plaintiff BERNSTEIN for Court proceedings; (III) Order for

[1] Plaintiffs cannot confirm or deny which companies, if any, are owned by the legitimate shareholders, as all of them are under investigation and part of what appears a corporate shell game. Defendant Proskauer controlled the corporate records and stocks and shareholders were never sent certificates for many of the entities found. The Iviewit Companies therefore will be added additionally as Defendants in the amended complaint.

physical protection of Plaintiffs for Court appearances; and (IV) Order to accept request for extraordinary conflict checks.

I. RECONSIDER APPOINTMENT OF PRO BONO COUNSEL & ALL PRIOR MOTIONS PARTIAL DENIALS

Based on new information, Plaintiffs are requesting this Court to appoint Pro Bono counsel for all the following reasons:

A. Background of the Alleged Crimes

Denial of Due Process and Procedure Evidenced in *Anderson*

This Courts initial denial in part of the request for Pro Bono counsel may be viewed differently with a bit more information than was provided in the hurried initial filing and so Plaintiffs will set about to more clearly explain the need in light of the Order by this Court. Where it is the Plaintiffs responsibility, perhaps, in most cases to secure counsel, this case departs wholly from the norm in that the system of law(s) where Plaintiffs have sought legal representations and legal protections in the past, have exhibited a pattern of conflicts of interests, violations of public offices to derail complaints and investigations that had they not been stripped would have otherwise resulted in due process and procedure long ago. Violations of attorney ethics in the handling of complaints filed by Plaintiffs, violations of Plaintiffs' civil rights, denial of due process and procedure, violation of attorney client privileges, violations of judicial cannons by justices involved, all to the detriment of the now indigent Plaintiffs as a result of these obfuscations of justice.

Had Plaintiffs been afforded due process when these events first entered the courts the situations would have had already reversed themselves with the result that Plaintiffs would be far from indigent or in need of anything extraordinary from this

Court; unfortunately, this is not the present situation. The indigent nature of the Plaintiffs is in part due to the damages done by former counsel and state officials and the system of laws they misused, as the *Christine C. Anderson v. the State of New York, et.al Docket No. 07 Civ. 9599(SAS) ("Anderson")* case so pointedly alleges of attorney complaint whitewashing at the First Department Departmental Disciplinary Committee ("First Department"). Such whitewashing of Plaintiffs complaints and written statements have, in numerous venues under ongoing investigation (Exhibit A[2]), already incurred enormous costs to Plaintiffs, all exacerbated by the above referenced diabolical actions of former counsel, public officials, and court officials in multiple states and internationally to deny and derail due process and procedure. Eight years of railroaded complaints, public officials and investigators ignoring such things as court orders for investigations, and other malfeasances to deny due process that have starved Plaintiffs through attrition since the evidence first surfaced that the attorneys retained to protect the Plaintiffs Intellectual Property ("IP") rights were actually sabotaging Plaintiffs' patent applications and committing, allegedly, including but not limited to, fraud upon the United States Patent and Trademark Office ("USPTO"), the United States Copyright Office ("USCO"), the Small Business Administration ("SBA")[3], the Iviewit Shareholders and Inventors; these are some of the crimes that have succeeded in causing financial ruin upon Plaintiffs, to be discussed further herein.

The delays caused by the alleged whitewashing of the complaints claimed in *Anderson*, coupled with the original crimes, have caused undue emotional hardship on Plaintiffs, wherein Plaintiff BERNSTEIN being forced to rely on welfare to feed his

[2] Exhibit A – List of Investigations and Investigators
[3] The SBA represents one of the largest investors in Iviewit Companies

family, has had his family minivan bombed, has fled for his and his family's life several times, while attempting to bring forth the crimes. Crimes, evidence and witnesses that certain of the investigators were consistently failing in their legal requirements to provide due process and procedure for and by failing to fully investigate and prosecute such former counsel, public officials, court officials and hosts of others named in the complaints. *Anderson* reveals the first indication from an insider, of just how due process and procedure was willfully and with intent circumvented to cause harm upon the complainants; it was her duty to protect the public, including Plaintiff Bernstein, and her claims are of the highest caliber, being from an attorney employee of the New York Supreme Court. *Anderson's* claims serve to further bolster Plaintiff's claims that these disingenuous schemes exist and can cause ruin upon the unsuspecting complainants, in this case almost death. For this Court to force Plaintiffs to secure counsel after knowing of the damages both financially and personally this denial of due process and procedure has already cost them, appears to put due process in these matters again beyond the means of Plaintiffs, as there is no way for Plaintiffs to afford qualified counsel as will be evidenced herein.

Certain Defendants Found to have Conspired to Steal IP prior to Iviewit

Hailing back to the 1990's, upon information and belief, several of the key Defendants in the present criminal cluster have a prior history together of patent theft. Based on statements made by Monte Friedkin of Florida ("Friedkin"), to Plaintiffs former counsel Caroline Prochotska Rogers, Esq. ("Rogers"), Friedkin reveals a similar fraud committed upon him by several of the original Iviewit conspirators, immediately prior to learning of the Iviewit inventions and being retained by the Iviewit Companies. An

attempt to remove valuable hydro mechanical IP from Friedkin's company, Diamond Turf Equipment, through, including but not limited to, similar false oaths to the USPTO for patent applications, again constituting fraud not only upon Friedkin but the federal offense of false patent oaths!

The Friedkin illustration demonstrates that the conspiratorial ring, consisting of, Christopher C. Wheeler ("Wheeler")[4] of Proskauer Rose LLP ("Proskauer")[5], William J. Dick ("Dick") of Foley & Lardner LLP ("Foley"), and Brian G. Utley ("Utley") former President of the Iviewit Companies who was placed by Proskauer with a materially false resume (Exhibit B[6]), was **not** formed solely (soullessly) to deprive Plaintiffs of royalties deriving from its technology, but was an ongoing criminal enterprise, perhaps hailing back to the late 1980's and early 1990's in circumstances involving the IBM Corporation.

Involving IBM? upon information and belief, this same cast of characters worked together at IBM where Dick was IBM far eastern patent counsel in Boca Raton, FL ("Boca"), Utley was GM of IBM Boca, and upon information and belief, Hon. Judith S. Kaye ("Judge Kaye") was also an IBM employee in the legal affairs department, the time and place of where and when, and whether she had known Dick or Utley fails to appear in any biographical information of Judge Kaye whom provides a variety of resume backgrounds some listing IBM and others not. How far back in time this group goes and

---

[4] Arrested in ____ for Driving Under the Influence with Injury, Case No. ____, a felony DUI.

[5] It will become important for this Court to note here that, on information and belief, Congressional records show that Joseph Proskauer, a founding partner of Proskauer and Supreme Court Justice at the First Department was involved in the 1933 coup to overthrow FDR and have the United States join forces with Nazi Germany. The coup was exposed and foiled by Smedley Butler, one of the most decorated war veterans of all time, a hero to this great nation whom the treasonous group tried to recruit to turn the US military against the People and suppress any rebellion. Congressional hearings were held into the matters and much of the plot was confirmed, the coup was thwarted but the treasonous traitors evaded prosecution. It will be presented herein, that the actual conspiratorial ring begins here and has been operating through secret cults, including but not limited to, Yale's Skull and Bones to plant members in prominent government posts to again plan a takeover of the United States government. It should also be noted that, on information and belief, Proskauer represents both Yale and Yale Law School.

[6] Exhibit B – Fraudulent Utley Resume

how many times this patent scam has been committed on inventors will take further discovery and perhaps investigation by criminal investigators. Have other inventors been robbed and perhaps then murdered prior to Friedkin and Iviewit? this will become an issue that this Court may have to review as discovery continues in these matters.

Proskauer Lawsuit & Involuntary Bankruptcy briefer

Iviewit was further denied due process and procedure through a skewing of the legal scale by those entrusted to uphold law, in two illegal legal actions that will emphasize further reasons for this Court to assign Pro Bono counsel instantly versus later, to prevent similar scams by Defendant counsel from occurring in and on this Court and to protect Plaintiffs from further complex illegal legal trickery. Plaintiffs must first provide a briefer to the two mysterious legal actions found by Rogers who was called by Plaintiff BERNSTEIN to investigate claims by Warner Bros. ("WB") and at that time AOL/Time Warner, Inc. ("AOL") senior investment, technology and patent employees, who discovered while performing due diligence to invest upwards of $25 Million for a Wachovia Securities Co. ("Wachovia") Private Placement, that certain Iviewit Companies were being sued by their counsel Proskauer and that certain Iviewit Companies were the subject of an involuntary bankruptcy suit, neither of these actions ever heard of before nor disclosed to any investors, management or the Board.

First, Rogers found a billing suit instigated by Proskauer in *Proskauer Rose LLP v. Iviewit.com, Inc. et. al., Case No. CA 01-04671 AB*[7] ("Proskauer Lawsuit") (Circuit Court of the 15th Judicial Circuit in and for Palm Beach County, Florida filed with Judge Jorge Labarga ("Labarga") and second she found there existed a federal involuntary

[7] Plaintiffs cannot confirm or deny that Labarga was the original Judge handling the case or that the case docket number provided was the original filing number, further discovery will be required to pursue this convoluted matter.

bankruptcy action at the U.S. Bankruptcy Court Southern District of Florida Case No. 01-33407-BKC-SHF ("IB")[8] filed this time by Proskauer referred management and Proskauer referred strategic alliance partners, including but not limited to, Intel Corporation ("Intel"), acting through Real 3D, Inc.[9] ("R3D") (R3D at the time, a consortium of Intel 10%, Silicon Graphics Inc.20% and Lockheed Martin Corp. 70%, later R3D wholly acquired by Intel, ***with the Iviewit technologies***) acting through their subcontractor, RYJO Inc., Proskauer referred Utley, Proskauer placed Iviewit employee Raymond Hersh, and Proskauer placed employee Michael Reale.

It should be noted here that, on or about this time, an audit of the financial records of the Iviewit Companies by Arthur Andersen ("AA") was already underway whereby while conducting such audit for the Iviewit Companies' largest investor, Crossbow Ventures ("Crossbow")[10], AA found Iviewit Companies that were identically named and other misleading corporate information, including missing stock for several entities, causing AA to request further information from, including but not limited to, Proskauer, Goldstein Lewin & Co., (the Iviewit accounting firm) and Erika Lewin, CPA, daughter of

[8] This action was dropped almost immediately after Iviewit retained new counsel, replacing the old unauthorized counsel by plaintiffs in that matter.

[9] Plaintiff Bernstein, along with Wheeler, Lewin, Utley, James F. Armstrong ("Armstrong"), Simon L. Bernstein and others were flabbergasted when in a meeting with over 10 engineers who were studying R3D's lead engineer, a one Rosalie Bibona, stated that the technologies, were "priceless" and when pressed further by R3D Chief Executive Officer, Gerald Stanley, Bibona claimed that the video inventions were worth hundreds of billions of dollars and the imaging hundreds more, or words to that effect. Immediately thereafter, R3D became Iviewit's first strategic alliance partner, the contracts however are under investigation as there appears to be massive fraudulent documents attempting to move the contract from the Iviewit company that originally signed such agreement. Evidence has been supplied to investigators.

[10] Crossbow instigated the audit for compliance with their own and the SBIC SBA loans they secured, their investment is approximately Four and One-Half Million Dollars ($4,500,000) with a two to one of monies from the SBA

the accountancy firms partner Gerald Lewin[11] who was simultaneously an employee for internal accounting at Iviewit.

Roger's, after finding that the two illegal legal actions were active terminated unauthorized counsel who were originally retained by unknown parties and the Iviewit Companies retained Steven Selz, Esq. ("Selz") to represent the Iviewit companies being sued and file a Motion to Amend Answer and Counter Complaint for Damages (See Exhibit C[12]) which was denied by Jorge Labarga presiding on the case, claiming that former counsel who represented the Iviewit Companies without authority had basically waived the right to counter sue and the circus court began. Labarga also refused to dismiss the case based on the fact that Proskauer had no retainers or any other contract with the companies they sued, their contracts with a separate Iviewit entity.

After taking depositions with Rubenstein and Wheeler whereby they both fled their depositions at their law suit, refusing to return, owing to the fact that at deposition evidence surfaced, contradicting their deposition statements and previous written statements made to that court, which constituted obvious perjury which will be further defined herein. The Iviewit Companies thus readied for trial armed with devastating evidence of perjured statements and depositions and Iviewit had even retained a new, equity based counsel in addition to Selz, Schiffrin & Barroway LLP ("Schiffrin"), as part

[11] Lewin introduced Plaintiff BERNSTEIN to Proskauer's Wheeler and Albert Gortz to find patent counsel for the Iviewit inventions, initially Wheeler stated that Proskauer had no patent department but that he would check with his New York constituents and partners to see if he could find such, or words to that effect. It is not known if yet and will take further discovery to find if Lewin knew of the patent scam committed upon Friedkin when choosing Wheeler, a real estate attorney and Gortz an estate planner, although Boca is a small town known to be a gossip sewing circle, especially amongst its Jewish community.

[12] Exhibit C - Motion to Amend Answer and Counter Complaint for Damages

and parcel of a Letter of Understanding ("LOU") (See Exhibit D[13]) to defend the Iviewit Companies in the upcoming trial combined with a variety of collateral suits to follow.

Accordingly, "all well and good you might say," but a funny thing happened on the way to the courthouse, where the powerful Proskauer was to enforce their bogus billing case against companies that they had no retainer agreements with, and after investigations are concluded, may prove to be companies formed without authorization from the Board of Directors or management. On the first day of trial, Plaintiff BERNSTEIN and Selz showed up at the courtroom to find the lights out and nobody home, the trial had been cancelled by Labarga the prior evening without notice to the Iviewit Companies or their counsel Selz or Schiffrin, another crime according to FBI investigators to deny due process rights to Plaintiffs.

"Impossible" you say, but true and then it became even more apparent that Labarga was not only part of the conspiracy but in the words of the just recent Supreme Court Justice, Sandra Day O'Connor, in relation to the Florida Supreme Court election recount in the Bush v. Gore presidential election that Labarga was central too, that he was "off on a trip of his own...,[14]". At the rescheduling hearing an even more bizarre court room fiasco unfolded. First, at the suggestion of new counsel Schiffrin, co-counsel Selz filed a motion to remove himself from the case based on the fact that Schiffrin had committed to take over as lead counsel when they signed their LOU to represent the Iviewit Companies. Schiffrin requested the removal of Selz and Labarga then granted Selz's motion which claimed Schiffrin was taking over.

[13] Exhibit D – Schiffrin & Barroway Letter of Understanding with Iviewit
[14] Insert Reference info

What follows next led to a complete denial of due process and procedure to prevent the Iviewit Companies from going to trial or even rescheduling one, as Labarga heard a motion filed the same day as the Selz motion to withdraw was granted, a surprise motion, submitted without notice to the Iviewit Companies, that Schiffrin had simultaneously alongside Selz, filed a motion to remove itself as counsel stating Selz was going to be counsel? To make things surreal, Labarga granted the Schiffrin motion to withdraw as counsel as well, despite having copies of their signed and binding LOU/Retainer to represent Iviewit in the matters before him and knowing he had just let go of counsel Selz. Labarga thus rendered the Iviewit Companies without counsel on the eve of trial. Labarga then gave the Iviewit Companies a few days to retain new counsel in a complex case that was already ready for trail and which Iviewit had spent their remaining monies to get too. Further, Schiffrin never performed on their binding LOU/Retainer and failed to put in their required investment funds, sending over approximately $7,000 dollars, including salary for Plaintiff Bernstein and leaving the Iviewit companies devastated financially, as Iviewit had turned away other interested investors at the time in favor of the Schiffrin LOU, and Schiffrin then violated the LOU in violation of law and their ethics rules.

Days to find replacement counsel in a case that would take months, if not years for a new legal team to investigate, digest, and present the information accumulated by former counsel, Schiffrin and Selz. Both Schiffrin and Selz took months to get up to speed, having to digest the enormous amount of evidence that existed at that time and get a handle on the magnitude of the crimes committed, to prepare for trial and Labarga had granted additional time to Selz even when he took the case from formerly illegally

retained counsel Sax Sachs & Klein yet he was unwilling to budge this time on an extension. Plaintiff Bernstein could not even represent the Iviewit Companies, as there was a law against Pro Se representation of corporations. At this point, Iviewit filed a request to have Labarga recuse himself from the case for this bizarre denial of due process and procedure and violations of the judicial cannons, of which he ruled on in his own favor and to stay on.

To further tip the scales of justice against the Iviewit Companies, former counsel Schiffrin and Selz refused to release the case files so that defendants could even attempt to timely secure new counsel or prepare for an appeal. After weeks of attempting to contact Selz and Schiffrin, at the advice of Rogers, Bernstein went to Selz's office where he was hiding from Bernstein and after heated conversation where Selz tried to preclude Plaintiff Bernstein from the records and further conferencing in Schiffrin who stated that Selz should stand fast and that they owned the files, Bernstein ignored their threats and removed approximately 20 banker boxes of trial materials. This fiasco came too late to secure counsel or file a timely appeal and Labarga instead of understanding what was unfolding and the need for more time to secure counsel, ruled a default judgment against defendants Iviewit Companies for failure to retain replacement counsel.

Labarga had evidence that Rubenstein had perjured himself in deposition and in sworn written statements to that court (Exhibit E[15]) whereby Rubenstein claimed in deposition testimony and written statements to Labarga that he never heard of Plaintiff BERNSTEIN or the Iviewit Companies (in fact, claiming he was the target of harassment and would not be deposed), and then in deposition, in diametric opposition to his initial deposition statements where he first denies knowing Iviewit and Eliot Ivan Bernstein, and

[15] Exhibit E – Rubenstein perjured deposition and perjured written statements.

then amidst a flurry of evidence contracting his statements at deposition, he breaks down and admits such knowledge of both the companies and Eliot Ivan Bernstein and then flees the deposition refusing to answer further questions, again inapposite of law. What scared Rubenstein so was evidence presented at deposition showing Rubenstein opining on the technologies for WB/AOL and others, billing statements with Rubenstein's name all over them submitted by Proskauer at their billing case, and other evidence that surfaced at his deposition clearly showing his former statements to Labarga and in deposition to be wholly perjurious.

This evidence was presented to Labarga prior to his default judgment ruling, making the ruling a highly suspect action by this Labarga not to mention a gross violation of his Judicial Canons, including his failure to report the perjurious statements to the proper authorities. Prior to Labarga's granting the default judgment though, Labarga was forced to rule that Rubenstein and Wheeler were to return to complete their depositions and answer the questions they refused at the first deposition (See Exhibit F[16]) and despite Rubenstein and Wheeler's pining that they were not going to return to further deposition **at their lawsuit.**

Intellectual Property Fraud Committed Upon the United States Patent & Trademark Office and the Iviewit shareholders.

In addition to these two legal actions that show cause that Plaintiffs should be granted Pro Bono counsel and this Court reconsider all of the prior denials in part of the prior motion, is another complex set of legal issues that arose at this time regarding the IP. It was stated by WB employee David Colter (Exhibit G[17]) that AOL/Time Warner,

[16] Exhibit F – Labarga order for Rubenstein and Wheeler to return to deposition.
[17] Exhibit G – WB/AOL Colter letters

Inc. patent counsel had found during due diligence that the patents that were displayed to their patent counsel for investment did not match up with patents on file at the USPTO and that Iviewit may have more serious problems than just the illegal legal actions, or words to that effect! Other evidence was surfacing at that time that Raymond A. Joao ("Joao"), patent counsel secured by Kenneth Rubenstein[18] ("Rubenstein") and Proskauer was patenting inventions faster than Edison, in his own name, while acting as counsel and retained by Iviewit for inventions he had learned from Iviewit IP disclosures and while retained by Iviewit.

Joao was then terminated for cause and upon termination, Proskauer's Wheeler and referral Utley recommended their "good friend" Dick from Foley (recall the Friedkin affairs), Douglas Bohem and Steven Becker also of Foley, who were all retained to investigate and correct what appeared at the time to be deficient work of Joao (later learned to be almost wholly fraudulent work), as well as, contacting the appropriate authorities regarding the possible crimes committed by Joao. Instead, we later learn that Foley attorneys further perpetrated the false filing of patents through falsified patent oaths with the USPTO (a federal offense), the European Patent Office, the Japanese Patent Office and the Korean Patent Office (through violation of international trade treatises) whereby Foley secretly continued the scam by further writing the IP into a series of fraudulent companies similarly and identically named to the Iviewit Companies and in other instances written with Utley's name as the sole ("soulless") inventor

[18] On information and belief, Rubenstein and Joao were partners together at the law firm Meltzer Lippe Goldstein Wolfe and Schlissel prior to meeting Iviewit, although Wheeler introduced them originally as Proskauer partners. It was later learned, as investors were doing due diligence that neither of them were with Proskauer at the time they took disclosures from the Iviewit inventors acting as Proskauer partners. Upon being confronted with the information learned from investors, Wheeler stated that Rubenstein and Joao were transferring over to Proskauer and immediately thereafter Rubenstein transferred to Proskauer to start their IP department, Joao never made it.

(Exhibit D[19]) with the filings being directed to his home address not the Iviewit offices. In other instances, where Utley never invented anything with the Iviewit inventors, Utley mysteriously is added on to other inventors' inventions, replacing original inventors, all this an almost exact repeat of the attempted theft committed upon Friedkin by Wheeler, Utley and Dick.

It was later learned, in a bizarre instance where Utley was found holding two varied sets of patent portfolios, where the Iviewit Companies had only been aware of one and that owners, assignees and inventors were all fraudulently misstated on IP dockets and other patent documentation when both sets of patent books were viewed together. Hmmm, two sets of patent books and two sets of corporations? This second set of patent books was never shown or submitted with investment documents, to the Iviewit Companies Board, management, inventors and/or shareholders, including the SBA. At the time, the recently prepared and disseminated by Proskauer, Wachovia Private Placement had no mention of these IP's and where they contradicted much of the information given by Proskauer, Utley, Lewin and Wheeler to Wachovia.

Damning, the mathematical claims made by Foley in the patents in one set were mathematically incorrect, the claims wrong and there were owner, assignment and inventor frauds, so meetings were held to confront Foley and Utley with the evidence found after analyzing the portfolios for one day. These irregularities in the filings were then supposedly corrected in the taped meetings, over three or four days, with Foley, Plaintiff BERNSTEIN, Armstrong, members of the Board and certain management and after exhaustive work (as the problems were discovered in the patents only days before they were to be filed from Provisional status to Pending status and inventors were given

[19] Exhibit D – Intellectual Property Docket showing Utley as sole inventor and copies of filing pages.

one day to review patents and some they had never knew existed before???) the problems were thought by Iviewit to be corrected by Foley before filing. These meetings were taped at the advice of certain Board and management of the Iviewit Companies, as these meetings where concerning to all shareholders (Exhibit E[20]) as it evidenced that assignments of the patents, the core assets investors invested in, although thought to be executed, were now admitted by Foley partners to not have been executed or filed at all. This evidence completely contrary to the prior statements and IP dockets that Proskauer, Meltzer and Foley had tendered to investors. Only later was it learned that Foley, despite taped calls whereby they agree to make the changes and file the assignments, etc., had instead filed the applications fraudulently anyway, disregarding the changes in certain instances and at the time apparently defying human logic. Still at this point the Iviewit Companies were wholly unaware that a major conspiracy was going on and since the attorney's and accounting professionals controlled all the documentation it was harder to penetrate the scam while being given wholly false information from the professionals that were hired to protect Iviewit Companies.

On another front, after the Proskauer Lawsuit and the IB ended, and upon presenting further evidence to Harry I. Moatz the USPTO's Director of Enrollment and Discipline ("Moatz"), it was learned that patents had been assigned to corporations that were contrary to what the attorney IP dockets from Meltzer, Proskauer and Foley had indicated to officers, shareholders, investors (including the SBA), the USPTO, the state bar authorities investigating several of the accused and the Board of Directors of the Iviewit Companies, leading Moatz to immediately form a specialized USPTO team to handle the Iviewit patent filings and to begin formal USPTO Office of Enrollment &

[20] Exhibit E – Letter from James F. Armstrong

former unauthorized counsel retained by those plaintiffs but the Labarga case did not go away so quickly, it had to be derailed using a complete denial of due process and procedure by that court, as Rogers secured new counsel Selz to prosecute the matters, again dismissing prior unauthorized counsel. Before Proskauer could complete its sham suit against its sham companies with illegally assigned backbone, enabling video and imaging technology in the illegitimate Iviewit companies they now faced counsel retained by the legitimate Iviewit companies. Plaintiffs shall argue that as the Arthur Anderson audit was beginning, Proskauer attempted to dispose of their sham entities with the wrongly assigned technology before the legitimate Iviewit companies knew the better and seize the illegally converted stolen technology by inserting themselves as the largest creditor of the illegitimate Iviewit sham companies, through the sham billing dispute case, with the illegally set up Iviewit companies with which they had no signed retainers agreements or other documents supporting their cause of action.

Following along, Proskauer now had their friends and strategic alliance partners filing the IB suit with the intent of their friends in that action becoming the other largest benefactors of the sham companies, and "a batta bing", it would have been all over in hocus pocus New York minute, with Proskauer and their friends having gained control of the stolen assets in the bogus companies with the stolen intellectual properties, effectively walking the backbone, enabling patents out the back door and reaping the spoils of their soon to be ill-fated bungled crime. It is presumed and will take further discovery to confirm but it appears that all Proskauer would have had to then do to complete the scam was get rid of the legitimate Iviewit companies through a billing dispute with the legitimate Iviewit companies and then forcing a bankruptcy to mirror the illegal

bankruptcy and it would all get lost in the confusion, no one ever knowing the sham companies and patents existed. One more element that may have then been considered was to get rid of the inventors, slowly and methodically, so that no one would be able to make claims against the stolen patents.

The reason presumably, again a bit more discovery should prove out these claims, that it was critical for Proskauer to steal the original inventions was that they needed the inventions and their original filing dates, to gain future royalties from the patents once they were converted in the scam to their patent pools, patent pools they now controlled. Patent pools are designed as a revenue share amongst inventors of the pool making up a standard; certainly the crimes were not committed for only the attorney fees they were generating from the proliferation of the technologies through the pools, again illegally in violation of their attorney client privileges with Iviewit. No, Proskauer wanted the bigger slice of pie that owning the stolen technologies would have yielded in a revenue share plan; this was the whole enchilada they were after.

Fortunately for Plaintiffs, executives at WB and AOL/Time Warner, Inc., stumbled onto the fraudulent legal actions and bizarre patent filings and all the while through the Proskauer Lawsuit and the IB, new counsel Selz and Schiffrin appeared to have no idea that the illegitimate Iviewit companies they were defending were not the legitimate Iviewit companies but instead the illegally set up shell companies with stolen IP, certainly most shareholders not involved in the scam had no idea. Plaintiffs will argue how hindsight would serve a conspiracy well here, yet like all effective conspiracies, it is the secretive nature that allows the crimes to be committed while the victims are often at first unaware of how the pieces all inter-relate. Selz, Schiffrin and

Labarga were all further reported for their actions to a variety of investigators including the Judicial Qualifications Commission (to be re-opened upon submission of the new evidence and the Anderson matters), The Florida Bar and the Pennsylvania Bar, all investigations which will have to be re-instigated especially in light of Anderson's claims. It is interesting to note here, that Anderson's assertions will cause domino effect in this house of cards to allow cause to re-investigate a multitude of derailed investigations that were relied upon in part by information gained from the First Department investigations.

Plaintiffs further state that the beginnings of a conspiracy were exposed at this time with AA's initial exposure of the corporate crimes and missing stocks, the Joao investigations and discovery of Joao writing Iviewit Companies' patents into his own name, and other evidence surfacing such as two set of patents with different inventors, Utley as a soulless inventor, all this further revealed that technologies were being converted and stolen out the back door through a number of unauthorized technology transfers that were occurring. Upon information and belief, one of the unauthorized technology transfers that was being attempted at that time was to a brand new Internet company, Enron Broadband (see Exhibit G[22]). Enron Broadband, who was found by federal investigators, on information and belief, to be booking revenue in advance of constructive receipt of the revenue on a scheme to deliver movies via the Internet using the Iviewit Companies' technologies, technologies they may have thought were soon to be theirs. Ah, to have counted the chickens before they had hatched, so gluttonous with their soon to be ill-fated success that they had walked the backbone, enabling technology out the back door, Enron booked enormous revenue through Enron Broadband without a

[22] Exhibit G – Enron Articles

single movie to distribute and the technology not yet converted wholly in the scam. Comfortable enough however to begin an Enron/Blockbuster (it is notable that Wayne Huizenga of Blockbuster was the Iviewit Companies' seed investor secured by Proskauer) deal, with full press and full accounting for the scheme for Internet movie delivery, which prior to the Iviewit Companies' technologies distributing Internet movies in full screen at real time frame rates was thought impossible. Without the Iviewit technologies, using prior technologies as was common at that time such as MPEG, the movies to be sold would have been far to large in file size to transfer with limited Internet bandwidth for the public and to stream them as Enron/Blockbuster was claiming, using MPEG technology prior to its adopting the Iviewit scaling inventions, would have left consumers with a postage stamp size video, at 4-6 frames per second far below the 29.97 required for the user to experience real time video and certainly using old MPEG technology would have not sold many movies, at least to anyone who had ever watched television.

As such, Enron Broadband was now caught with revenue that was never realized due to suddenly losing the technologies they promised investors used to deliver such and as the audit and investigations of the Iviewit Companies began to dig deeper, the Enron/Blockbuster deal collapsed over night causing massive losses to Enron investors. Subsequently, Enron and AA were instantly tangled up in other scandals that brought both of them down and out of the picture almost overnight, stymieing investigations into what really happened at Enron Broadband, where it may be advisable that this Court notify Enron's federal investigators of the possible connections to the Iviewit Companies and invite them into this action, where Plaintiffs have already tried and failed to be heard.

Such a tangled web Defendants have now wove, that all these matters too can only be fully investigated and presented by qualified Pro Bono counsel to this Court, taking far more legal expertise than Plaintiffs BERNSTEIN and LAMONT could ever possibly hope to possess in securities and criminal law.

The Cover Up Conspiracy

As the scams against the Iviewit Companies were quickly unraveling, there was the need to cover up the crimes with people more powerful than merely the original conspirators alone, wherein enter stage right, among others, the Hon Judith S. Kaye, the central figure on the "daisy-chain" of events in New York with her deceased Proskauer husband Stephen R. Kaye (who became a Proskauer IP partner late in his career, after Proskauer formed their IP group instantly after learning of the Iviewit inventions, an Iviewit shareholder (and now Judith Kaye presumably a shareholder through their estate), yet far from the most prominent figure these allegations may rise to. In order to stave off the multiplicity of complaints filed by the Iviewit Companies, not only in New York, following discovery of the ever growing list of Federal, State, and International laws violated to commit such monumental crimes, the need now arose for requisite top down control of certain Federal agencies too to thwart exposure and keep the matters from all courtrooms and derail all investigations.

Incidentally, and to raise the bar even higher on extraordinary claims this case will expose the Court to perhaps, as the case evolves and the Amended Complaint filed (Exhibit J[23]), some would attribute the Labarga influenced 2001 Presidential election that led to the Supreme Court decision to choose the President for the people, George Bush, may have been part of an engineered plan to gain such top down control of the Executive

[23] Exhibit J – Draft Amended Complaint for the case before this Court

Branch and Justice Department, in order to prevent the Plaintiffs' complaints from elevating – a veritable, 21st century "Patentgate", with top down control. Such claims have been levied with investigators showing the relations to certain of the leading figures of the Iviewit crimes and certain high level Executive Branch and Legislative Branch figures[24].

Moreover, to block complaints would require cover ups of crimes that could only be controlled by the highest ranking officials, officials that would have to be planted through Executive selection. Planting which may still be occurring today as the accused law firms have both the ways and the means (including billions of dollars of Plaintiffs converted royalties) to easily extend into government positions by planting people in any public office or courtroom, in which such top down control of complaints is still necessary as they cannot face in a fair and impartial courtroom providing due process and procedure the already "extraordinary" existing evidence and witness against them.

"How might the siege on the government have occurred?" you might ask, and "Who has that kind of political leverage to siege the government?" Enter stage far right, Defendant Michael C. Grebe ("Grebe") of Foley, who at the time was the Chief Counsel for the Republican National Committee ("RNC") and whom some claim is the powerhouse behind the Bush campaign in 2001 and again in his successful reelection effort and who has everything to lose if found culpable in the RICO matters. "How much to lose is enough to have risked everything to block due process and commit the cover up

[24] One need only look at the riveting number of scandals in the years since the Bush regime may have stolen two elections to see and know what happened when the fox entered the henhouse. Further, to make these claims by Plaintiffs alone would seem paranoid or words from a conspiracy theorist but it is the words of former Supreme Court Justice Sandra Day O'Connor immediately after leaving the bench, whereby she stated that this country is in throws of a dictatorship that is better to stop now than later, or words to that effect, that should scare this Court. The question everyone wants to know is what role this Court will have in stopping it now?

crimes" you ask, well Grebe alone has an estimated personal worth of a billion dollars and the law firm Foley, another one or more billion to boot.

The RNC, the very organization now under investigation by Glenn Fine, Inspector General of the Department of Justice, for millions of missing emails sent on a back channel through the RNC to circumvent the Whitehouse and Presidential record requirements for communications, including those involving the exposed spy Valerie Plame Wilson (Exhibit ??[25]) and, perhaps, the Iviewit Companies. An election of a President that was legally engineered to ensure a Bush/Cheney victory, the pinnacle of "extraordinary" claims that this Court will have to deal with as this case evolves, although one need only watch the Judiciary Committee hearings over the last two years to know that even more "extraordinary[26]" issues are under immediate and ongoing investigations, albeit not yet related. Finally, what could the many secretive meetings by the Bush administration and Enron executives been all about, perhaps about how to bury the Iviewit information and then the inventors, of course while trying to derail investigative efforts?

It then follows that with the "fox in the henhouse," Plaintiffs will argue that Alberto R. Gonzales, the just former Attorney General of the United States and a new Defendant in Plaintiffs Amended Complaint, may have been planted to succeed John Ashcroft, by the Bush/Cheney regime, to, inter alia, stymie Plaintiffs complaints from elevating through to the U.S. Attorney Office and the Federal Bureau of Investigation, and why the Iviewit files dating back to our first contact in 2001 including FBI written

[25] Exhibit – Article relating to missing Whitehouse emails

[26] Articles of Impeachment drafted by Dennis Kucinich are now before the House Judiciary Committee after a congressional vote sent them there and the charges of "high crimes and misdemeanors" include war crimes and violations of human torture treatises!!! Again, not conspiracy theory, fact.

statements, evidence in thousands of pages, and the lead investigating Special Agent, Stephen Lucchesi, have disappeared. This has led new investigators at the FBI to instantly refer these "extraordinary" matters to the highest levels of the department, to the office of Glenn A. Fine, Department of Justice, Inspector General and H. Marshall Jarrett (Exhibit ??[27]) of the Federal Bureau of Investigation, Office of Professional Regulation for further investigations, extra-extraordinary.

B. Discussion

The New York conspiracy as described herein that tentacles to Anderson, is part of an even more "extraordinary" set of events that need "extraordinary" evidence whatever that may be, evidence of which has already been supplied to hosts of investigators worldwide and that now unfold in this Court. Anderson, alone should provide irrefutable, undeniable, factually provable and credible "extraordinary evidence" strong enough to have this Court reconsider its entire denials in part within the prior Order and overturn them wholly in Plaintiffs favor.

Indigent as Plaintiffs are, the likeliness of our claims being proven would be greatly enhanced in this instance with the addition of Pro Bono counsel where not only New York officials are involved but hosts of other members of other Federal agencies, State courts, and International agencies will be newly named Defendants in the Amended Complaint. Where with this Court granting not only Pro Bono counsel but over sighting such Pro Bono counsel in the many specialized areas of law this case will require as described herein, will the granting of Pro Bono counsel even level the playing field, just a bit. Moreover, the "extraordinary" claims against the legal community make the need for professional counsel even more important to the successful prosecution of the case before

[27] Exhibit ?? – FBI OPR letter

this Court to ensure fair and impartial due process and without it put Plaintiffs at a severe disadvantage inapposite of the Hodges ruling. Plaintiffs bring this suit against law firms that are comprised of thousands of partners, high ranking government and court officials, State bar associations across several States, and, absent Pro Bono counsel, this skews the playing field unfairly in arguing the case before this Court; approximately six thousand attorneys, judges, court officials, disciplinary officials and other state, federal and international figures will be named defendants in the Amended Complaint and the civil crimes are far less serious than the criminal. For the accused professional firms this suit pierces through their limited liability partnerships, and where the winner takes all and the losers have with everything to lose under a successful prosecution of, as outlined in the Amended Complaint: Article 1, Section 8, Clause 8 of the Constitution of the United States, Fifth Amendment to the Constitution of the United States, and Fourteenth Amendment to the Constitution of the United States; 15 U.S.C.A. §§ 1 and 2; Title VII of the Civil Rights Act of 1964 (as amended); and 18 U.S.C. § 1961 through 18 U.S.C. § 1968, in these matters and all against two indigent Pro Se Plaintiffs denied Pro Bono counsel would seem that the scales of Justice are tipped to the floor rendering equal justice under law almost impossible. Either way though, Plaintiffs are prepared to take them all on, with all their supposed power and our converted royalties, in the greatest David v. Goliath since biblical times, with or without Pro Bono counsel, here and now in this Court, as we, "fear no evil".

These law firms have already committed gross violations of public offices and violated almost every ethical cannon they are bound by in order to keep these matters from surfacing publicly and in court, including those that *Anderson* states have occurred

at the First Department. This Court should be on notice these law firms, and others, will stop at nothing to protect themselves from prosecution and that this Court has a duty to further ensure these law firms play no more games which may further entangle others, including our cherished court system and political system, in their desperate attempt to evade prosecution. Collaterally already, all those who have aided and abetted in even the slightest way, may now be implicated under law in the possible attempted murder charges that may follow. Hence, Pro Bono counsel and more importantly prosecutorial counsel for the hosts of Federal, State and International crimes committed in this case and more locally the criminal acts alleged under *Anderson* and related to this case, could be further prevented with qualified counsel that could see the dirty legal tricks coming and prevent them, where indigent Pro Se'ers like Lamont and Bernstein, lacking the requisite legal knowledge would only be able to stop them after the fact, as has historically been the case.

Therefore, and based on what already exists in the multitude of investigatory files and the support from the hero *Anderson* alone, in regard to the allegations against this conspiratorial community, this Court should find several reasons to grant Pro Bono counsel according to its cited *Hodges v. Police Officers* test that requires the litigants claims "seem likely to be of substance":

a. Very real shareholders have been bled dry, their monies and their stocks are missing and the companies are under a host of state, federal and international investigations, many already mired in conflicts.

b. In New York, very real conflicts of interest and the appearance of impropriety have already been discovered at the First Department, prior to *Anderson's*

claims of gross whitewashing of First Department investigations in the handling of perhaps the Iviewit complaints filed. Those conflicts prior to *Anderson* led to a New York State Supreme Court Appellate Division First Department's court order ("First Department Orders") (Exhibit ??[28]) for investigation of Proskauer, Meltzer, Rubenstein of Proskauer and MPEGLA LLC; Steven C. Krane of the New York's First Department Departmental Disciplinary Committee who also was (i) former New York State Bar Association President, (ii) Proskauer partner in the newly formed (after learning of the Iviewit inventions) IP group, (iii) an Iviewit shareholder, (iv) former clerk to Hon. Judith S. Kaye's and (v) partner with Judith Kaye's recently deceased husband Stephen R. Kaye, (another partner in the newly formed Proskauer IP group and Iviewit shareholder) and, upon information and belief, First Department member, and finally, Raymond A. Joao, all for their part in a multitude of violations of First Department rules.

c. Another substantive fact to aid this Court in granting Pro Bono counsel is that Rubenstein, Joao and many other intellectual property attorneys, and for several years running, are already the subjects of ongoing substantive investigations by Moatz of the USPTO, the Commissioner of Patents and the FBI (or at least until the case files and investigator went missing). It should be noted that Moatz upon receiving similar evidence to the complaints at the First Department requested that Cahill and The Florida Bar contact him as to why the New York and Florida disciplinary investigations had languished under the preponderance of evidence and why no charges had been brought or formal investigations undertaken. Cahill and the Florida Bar counsel refused to contact Moatz, which led the Iviewit Companies to begin investigation into Cahill's actions, which further revealed that Cahill and Krane were acting in violation of their public

[28] Exhibit – First Department Unpublished Orders

offices in many ways. This led to discovery that Krane was wholly conflicted and violating First Department public offices rules by representing his firm, his partners and even himself (Exhibit ??[29]), as he was a Proskauer partner and at the same time a First Department member, as well as, the leading disciplinary figure in the whole New York attorney disciplinary system along with Judge Kaye, failing to even mention his multitude of conflicts. Cahill, later subject of an attorney complaint presently under review by Defendant Martin R. Gold in Special Inquiry #2004.1122 that has languished endlessly, unless of course Mr. Gold can aid us in understanding where his investigation has led him. When Cahill was pressed on Krane's roles in the disciplinary and First Department he claimed he did not know Krane and that he had no affiliation with the First Department. These statements by Cahill were refuted later that day by Defendant Catherine O'Hagan Wolfe ("Wolfe") who sat on a First Department committee with both Cahill and Krane and was attending a First Department meeting with them later, claiming that they were all good friends and there had to be some mistake, or words to that effect. Upon hearing the outrageous statements made by Cahill, Wolfe directed Plaintiffs to file a motion with the First Department demanding investigation into the conflicts and violations of public offices. Plaintiff's filed such motion with the New York State Supreme Court Appellate Division First Department ("First Department Court") and the Defendant Justices named in this action, after thorough review of the approximate eighty page motion pointing to the several thousand pages of attorney complaints submitted to Cahill, granted, in their Unpublished Orders that the complaints against all those complained of be moved and immediately investigated; this Court should secure such files of the First Department Court and the original several thousands pages of complaints

[29] Exhibit ? – Krane Suicide Letter

filed with the First Department and determine if the existence of file thinning and other crimes alleged in *Anderson* have already occurred and certainly to prevent such if not already the case. Similar conflicts of interests and violations of public offices were found with Defendant The Florida Bar committed again by Proskauer Rose partners, Wheeler and Matthew Triggs, and led to a series of similar complaints and similar derailing of complaints by that state authority. Their actions for these obfuscations of justice have been reported to all of the proper authorities and the information contained therein will prove invaluable to this Court in further determining how this criminal network works within the state court systems, thus those records should be demanded by this Court.

At this juncture, Plaintiffs argue that the series of events alleged herein, already provides this Court with an overly substantive enough case that the claims being made are in fact real, further supporting the need for Pro Bono according to *Hodges v. Police.* Showing further that these matters also require highly specialized Pro Bono counsel to investigate and properly present and argue this case and its complex legal matters, including public office corruption. Plaintiffs beg that this Court enjoin criminal investigators and prosecutors to instantly join the Pro Se indigent litigants Lamont and Bernstein to begin, (i) criminal proceedings, (ii) investigate the criminal charges *Anderson* levies and their relation to Iviewit and (iv) enforcing the orders of the First Department Court.

d. Another irrefutable fact that substantiates Plaintiffs claims is the fact that Anderson cites Plaintiffs' and the Iviewit Companies' matters as support for her case. Moreover, the Anderson connection provides solid support to substantiate Plaintiffs' claims as not only substantive but prosecutable. Iviewit as part and parcel of a

"whistleblower" suit by an insider at the First Department is undeniable, the cases of which are now "associated" by this Court, and therefore fully satisfies the *Hodge's* test to have reasonable belief that Plaintiffs claims are substantive in nature and this Courts other cited tests for Pro Bono counsel.

e. Additionally, another highly substantive set of facts in these matters is that very real patent applications of the Iviewit Companies have been factually suspended by the United States Patent and Trademark Office based on allegations of Fraud upon the United States Patent and Trademark Office (Exhibit L[30]). This Court should also note that Patent, Copyright, and Trademark law alone, without the convolution of the racketeering charges, requires highly specialized and licensed attorneys, certainly licensed by the USPTO patent bar. Clearly, Plaintiffs BERNSTEIN and LAMONT possess no such skills in these highly specialized areas, and are not licensed with the USPTO patent bar, factors which again lend support under the tests of Hodges and other of this Courts tests for the need for Pro Bono counsel to "would be more likely to lead to a just disposition."

f. More substantiation of the Plaintiffs' claims and lending further support to Anderson's claims of "file thinning" is the ongoing investigation by Chris P. Mercer, President of the Institute of Professional Representatives Before the European Patent Office ("Mercer") that evidences "file thinning" of the Plaintiffs' files at the European Patent Office and the response of Iviewit (Exhibit M[31]). Moreover, the Mercer investigation now substantiates the claims in Anderson, claims that these type of case file tampering occurs not only in New York and in Florida but similarly across the pond.

---

[30] Exhibit ?? – Patent Suspensions
[31] Exhibit ?? - Correspondences with the EPI and EPO

Moreover, the nature of the Mercer investigation substantiates that these matters involve not only the highly specialized art of patent law, but now violations of international trade treaties that serve to entangle over thirty countries that comprise the EPO, the situation of which will also require highly specialized international legal counsel to "likely to lead to a just disposition" in this matter. Again, this international legal expertise is far outside the capabilities of indigent Plaintiffs BERNSTEIN and LAMONT and this Court's continued denial of specialized Pro Bono counsel will severely limit Plaintiff's ability to "likely to lead to a just disposition ;" it should also be of note at this juncture that Plaintiff BERNSTEIN and LAMONT, in some instances especially the patent files at the USPTO, are not privy to their patent files, contrary to law and it is unclear whether the subpoena power of the Court is sufficient to gain access to such files. Let alone Plaintiffs attempting to investigate the Moatz and Commissioners investigatory files, in fact, Moatz has advised Plaintiffs to seek an "act of Congress" to aid in gaining access to their files and other issues that confounds current law, of which Plaintiffs have been working with Senator Dianne Feinstein's offices to begin. This Court, and for all of the above reasons, should not only provide Pro Bono but overrule the prior denials in part of the last Order in favor of Plaintiffs and again should bring about investigations by all Federal, State and International criminal authorities for those matters beyond the reach of Plaintiffs.

g. Wherein there is also a very real investigation ongoing at the House Judiciary Committee, chaired by The Honorable John Conyers, who was sent the Iviewit matters by The Honorable John Dingell of the House Energy and Commerce Committee, who acted upon information from Nita Lowey, who acted on information sent to her by

Plaintiff LAMONT regarding his personal shares in the Iviewit Companies and what exactly was being done by any of the investigators in these matters.

Wherein, either individually, but certainly collectively, all of the above are facts that there are very real ongoing investigations into many of the claims presented to this Court and in that very real investigators are investigating very real evidence, wholly satisfying the Second Circuit's threshold requirement in Hodges of "seems likely to be of substance, " where not only are the allegations substantive, may it please the Court, but factual in its acceptance by a multiplicity of investigators from Washington to Munich, and many places in between.

Plaintiffs could stop here but, may it please the Court, allow us to continue and that, despite this Court's initial read of the case, and as will be claimed in the First Amended Complaint (See Exhibit ©), Plaintiff's respectfully disagree with the Court's position that "there is no indication that plaintiffs lack the ability to investigate the facts of the case. Plaintiffs seem reasonably able to present their case," while being honored at this Court's confidence in the abilities of Plaintiffs, but for all of the reasons stated herein Plaintiffs beg this Court for specialized legal counsel including but not limited to: Copyrights (for failure of counsel to file), Corporations (corporate shell game to move patent assignments away from Plaintiffs), Anti-Trust (for hosts of violations of Anti-Trust laws including Sherman and Clayton, Entertainment (for following the technology applications), Media, Information & Technology (ubiquity of Plaintiffs technology), Finance (for the massive securities frauds alleged), Intellectual Property and Patent Law (obvious) and Non-Compete and Trade Secrets (sabotage of Plaintiffs patent applications), Trademark (obvious), Securities Litigation and Enforcement, Taxation (for

the multitude of alleged crimes in reporting and accountancy prepared and disseminated by certain Defendants to the Internal Revenue Service and others) and finally criminal prosecutors and investigators, all needing those skilled in the art of law, all beyond the means of indigent Pro Se Plaintiffs LAMONT and BERNSTEIN.

Moreover, due to the lack of legal expertise in all of the above highly specialized legal fields by Plaintiffs BERNSTEIN and LAMONT, and without Pro Bono counsel, this Court hampers Plaintiffs ability to investigate the facts of the case and reasonably present this case, whereby in light of the Plaintiffs' lack of abilities, by appointing Pro Bono counsel, this Court satisfies the extraneous factors of the Second Circuit in Hodges for the allegations to "likely to lead to a just disposition".

Furthermore, in being able to present the case in all of the required complex areas of law, Plaintiffs argue that it would take several large law firms specialized in the numerous complex legal areas to bring this case properly before the Court and where the Schiffrin LOU illustrates, the cost would be astronomical, and upwards of Five Million Dollars ($5,000,000). Millions of dollars that Iviewit had which have been illegally misappropriated and converted already by certain of the Defendants, including several million dollars of stolen funds including possibly Small Business Administration funds. These stolen funds have been reported to the Boca Raton PD where evidence of case tampering exists, that led to Internal Affairs investigations, that led to the SEC, that led to SBA OIG, that led to FBI, that led to the DOJ, that led to the DOJ OIG, that led to FBI OPR and we still await the answers as to what the outcome of those investigations are and where the missing money is, where evidence and witnesses were provided to all those involved. We have been waiting on that outcome since, on or about, 2001 when

Iviewit and witnesses first filed those complaints. Still further, where most of the counts include criminal penalties as well as civil penalties, to force Plaintiff's to do the criminal legal work in the areas of civil racketeering, especially where corruption has already allegedly stymied criminal investigatory efforts, puts Plaintiff's at a severe disadvantage in investigating the facts and presenting the case, and where the crimes alleged in Anderson complain of public office corruptions, it should be the State of New York and Federal Investigators that investigate corruption in public offices, not Plaintiffs and, to say the least, certainly Pro Bono counsel would be invaluable in these civil/criminal matters as well.

Where the risks of sabotage by counsel are likely and already apparent in past representation of the Iviewit Companies, as illustrated by the Schiffrin affairs described herein, unless Pro Bono counsel is not only offered but over sighted by this Court, and forced to adhere to the strictest of ethics, attorneys may again be acting inapposite to Plaintiffs legal rights and in concert with the accused conspirators to further sabotage and derail fair and impartial due process under the law, again, similar to the Schiffrin and Selz debacles and the multitudes of conflicts and violations of public offices those matters created. This Court must act to stop these legal debaucheries committed by Porksour and others involved, here and now, those who appear studied in law but whom practice the art of crime.

Where the Krane and Cahill matters already pose a severe credibility threat to the ethics departments of New York and may lead to a complete loss of confidence in the legal system and its flawed, if not criminally liable, self regulatory disciplinary system by the people of the State of New York, the Court would serve the people of New York well

by providing Pro Bono counsel to prevent further malfeasances that expose the State courts and their agencies to further corruption. This Court should be compelled by the evidence cited within this Motion, as well as in Anderson, to afford Plaintiffs the best legal counsel the Court can offer for the necessary legal services and alert, if not compel criminal prosecutors and investigators to enjoin the case, to ensure that no further public office violations occur to derail Plaintiff's constitutional rights, civil rights, fair markets, all free of racketeering practices, thus contributing to a fair and impartial due process, lest the lack of could cause further lack of confidence in the New York State courts and this Court. In fact, the decision by this Court to not provide Pro Bono counsel, where the Hodges tests are fully satisfied, could be construed, albeit, perhaps, wrongly, of a further denial of due process and procedure under law.

C. Summary

The Court's Carl Sagan analogy (paraphrasing David Hume) that "extraordinary claims require extraordinary evidence " confuses Plaintiffs, yet the Court seems to use that theory to deny Plaintiffs previously filed Motion to appoint Pro Bono counsel; Plaintiffs request this Court's declaration as to what case law has to say about allegations against a State Supreme Court Chief Judge, rather than the philosophizing of the 18th century academic about which has been roundly critiqued by the likes of John Earman , where in essence, Earman claims that Hume is vague about what he says, and that his arguments can be interpreted in a fashion that ranges from the trivial (one ought to be careful about accepting eyewitness testimony in the case of miracles) to the absurd (no testimony will ever be sufficient to establish a miracle). Moreover, Earman couches his critique in terms of Bayes's Theorem on conditional probability , claiming that Bayes's

Theorem can be interpreted as a devastating blow to Hume's "pompous" opinion on the matter; in short, Plaintiffs, and insofar as the views on Hume are mixed, ask this Court to stick to what case law says about allegations against high ranking jurists, and to what level of "extraordinary," evidence needs to arise to be substantive, and only for a court to appoint Pro Bono counsel. In fact, our cherished Declaration of Independence states:

> We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. — That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed, — That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness. Prudence, indeed, will dictate that Governments long established should not be changed for light and transient causes; and accordingly all experience hath shewn that mankind are more disposed to suffer, while evils are sufferable than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same Object evinces a design to reduce them under absolute Despotism, it is their

right, it is their duty, to throw off such Government, and to provide new Guards for their future security.[32]

It then should follow that if all men are equal, all evidence is equal and no more or less evidentiary requirement should be necessary depending on the stature of the accused in this or any other case before this Court and whereby public servants who are alleged to have committed crime are no more or less under law owing to their rank in public offices as they are merely replaceable servants to the People[33], not the other way around. Plaintiffs added the additional text from the Declaration of Independence as it will soon be apparent to this Court that these matters herein may pose a grave threat from terrorists within our government to the great People of the United States of America, who would then be moved to "abolish" and "throw off" these rogue elements of our government.

May it please the Court, what should not apply to the Court's decision for Pro Bono counsel is a statement in the Order that infers that this logic extends a greater burden of proof is necessary when allegations are against high ranking public officers, an illogical leap that appears to claim that "extraordinary" claims, against "extraordinary" people, require "extraordinary" evidence to secure Pro Bono counsel, where it has already been pointed to above that Hon Judith S. Kaye is only one of many conspirators, albeit a central figure in the "daisy-chain" of conspiracy in New York, but relatively small when compared to the others involved.

Finally, Plaintiffs move this Court that, no matter how high in the political and legal chain these allegations may rise, Plaintiffs respectfully beg this Court to cite what

[32] Declaration of Independence, ¶ 2 (July 4th 1776)
[33] Some would argue that public servants need to conversely be upheld to higher standards not less under law and thus would require even less evidence, again Plaintiffs argue "all men..."

case law exists, when determining what such case law holds as the required evidence for a court to appoint Pro Bono counsel; it is unclear why this Court assigns the class of Defendants, rather than abiding to "We hold these truths to be self-evident, that all men are created equal."

(II) ACCEPT REMOTE APPEARANCE OF PLAINTIFF BERNSTEIN FOR COURT PROCEEDINGS

Based on what little confidence, if any, Plaintiff BERNSTEIN has in the courts at this time, Plaintiff BERNSTEIN respectfully begs this Court to reconsider its denial to accept telephonic appearances, whereby he can remain close to his family to protect them personally and cannot afford to bring them to New York for all these proceedings. Moreover, Plaintiffs request this Court to provide security, much like in the United States Federal Witness Protection Program, rather than a promise of the Courts faith in the system once and if Plaintiff Bernstein makes it to the Courtroom.

Plaintiffs request until the protections of (III) below are in place, this Court to hear Plaintiff BERNSTEIN by conference call for his safety and due to his poverty caused by Defendants, including public officers of the State of New York.

(III) PHYSICAL PROTECTION OF PLAINTIFFS FOR COURT APPEARANCES

Plaintiff BERNSTEIN, and others deemed in need by this Court, are asking for protection not only during proceedings at the Court but more akin to the United States Federal Witness Protection Program offered to other "whistleblower" witnesses against high ranking government officials and criminal enterprises. Whereby these corruption charges may elevate to senior ranking officials of the United States government, the court system and to corruption allegedly committed by United States Justice Department

officials and Executive Branch members, all now being collaterally related to the attempted murder and reported death threats against Plaintiff BERNSTEIN.

Plaintiffs ask this Court to review early notifications on or about May 13, 2002 to both FBI officials in Long Beach, California and the County of Los Angeles – Sheriff's Department ~ File No. 402-02059-1799-339 to the Detective Bureau concerning threats made by Utley on behalf of Proskauer and Foley, that "if information discovered regarding a second set of patents found was told to anyone else, that Bernstein should watch his and his family's back when returning from California to Florida, in fear of their lives," or words to that effect. Where in light of this threat, Plaintiff BERNSTEIN promptly called his wife Candice and told her to pack their children and a suitcase, whereby Candice Bernstein packed and fled overnight, abandoning their home and possessions to reside incognito in several hotels for several months with their infant children, while preparing a case to take to federal authorities on the evidence in possession at that time. Bernstein immediately began to interface with a variety of Federal, State and International authorities, including but not limited to, those mentioned herein.

Later, the same "pack the children and flee for their lives" situation was created when their minivan was bombed, this time moving to California to live with Candice Bernstein's mother and sister in a two bedroom, one bathroom flat: seven people, again leaving their possessions behind. Moreover, at each juncture, pleas to the legal system, the courts and investigators fell on deaf ears or were derailed, continuing the exposure and risk to Plaintiff BERNSTEIN and his family's lives, that now need this Court to intervene and issue orders for their safety by instituting protections similar to the United

States Federal Witness Protection Program, considering the already existing attempts and threats made, all very substantive claims with "extraordinary" evidence such as the minivan bombing; Plaintiff BERNSTEIN is not asking for protection solely at the Court house, but in every step of the way to and from it.

That, these almost deadly series of events and their factual reporting and investigations by authorities, combined with the *Anderson* inference of her being physically assaulted to suppress corruption, the missing case files at the FBI and US Attorney's office and missing investigators, all reveal a classic pattern of racketeering that includes tampering with investigations, tampering with documents, violating public offices, death threats, attempted murder to cover up the hosts of Title 18 crimes Defendants' find themselves accused of, all requiring a more complete protection of Plaintiff BERNSTEIN so that he may live to get to this Court and testify against the accused.

That Plaintiff BERNSTEIN should be entitled to witness protection in the full meaning of the word, not merely for court appearances and not only in regard to the New York set of facts in the conspiracy but as a witness in possibly one of the largest public office corruption cases ever brought in this Court, perhaps in this country. Moreover, as this Court so astutely noted, the allegations in New York contain charges that the Chief Judge of the New York Court of Appeals may be implicated as an attempted murderess, and, therefore, this makes travel into and out of New York potentially deadly for Plaintiff BERNSTEIN and his family and although Plaintiff BERNSTEIN respectfully notes the Courts confidence in the U.S. Marshall service for protective services, Plaintiff BERNSTEIN's confidence in the courts for protection is not existent, or not substantial

enough to feel his appearances, except where necessary to confront the accused, are worth his life and respectfully requests that this Court reconsider protections according to this new information.

Equally, Plaintiffs request that should Plaintiff BERNSTEIN travel to court proceedings with protection akin to the United States Federal Witness Protection Program, therefore we beg this Court that such protection according to the United States Federal Witness Protection Program be afforded to Plaintiff BERNSTEIN's wife and children also, as Plaintiff BERNSTEIN has not been secure leaving them out of earshot for almost eight years now. In light of his potential testimony as a witness not only in this case, but as a potential witness to the associated *Anderson* "whistleblower" case, fans the fears of Plaintiff BERNSTEIN, his family and all who care about and love him, especially for his efforts to defend our great nation.

Lastly, with the financial hardship, regular trips to this Court would cause Plaintiff BERNSTEIN, in poverty for almost eight years now, and lack of telephonic hearings for basic hearings places even more undue financial pressure, especially where Plaintiff BERNSTEIN would bring his wife and children back and forth as well for their safety.

Finally, regular trips for hearings also promotes medical problems for Plaintiff BERNSTEIN as flying causes severe head trauma resulting from an entire face smashing, neck breaking, spinal unit coma auto accident as a young man, although certainly for major Court appearances, he would fly and endure the trauma, he will more often be forced to drive from California to New York with his family for mundane hearings, if this

Court so demands by denying to overturn the former Order and thus such timing issues would need to be taken into account.

(IV) REQUEST FOR EXTRAORDINARY CONFLICT CHECKS

Plaintiffs request this Court to order all participants in these proceedings to sign an affirmed statement that no conflicts exist with their involvement in these matters. Plaintiffs have included as an exhibit (Exhibit ??[34]) and in the original case filing, a statement of no conflict and we urge this Court to institute a mandatory signing of such document or one similarly agreed to, whereby all (i) Judges and Magistrates, (ii) Court officers and employees, (iii) Defendant Counsel (an absolute to prevent further Proskauer styled legal subterfuge through legal and professional conflicts causing everyone involved thus far further suffering and more importantly preventing the entangling of others as new Defendants, G0d knows from the Draft Amended Complaint exhibited herein there are already enough), (iv) Plaintiff Counsel (if one can be found who is willing to risk life, limb and their legal license), (v) Other Interested Parties and (vi) everyone privy to any information regarding this case, sign and affirm such statement of absolutely no conflict with any of the thousands of Defendants to be named, affirmed to this Court under penalty of law.

That such request while seeming egregious at first, is merely to ferret out any would be conflicted individuals from attempting to further subterfuge or derail the due process rights of Plaintiffs as evidenced through Anderson. Further, where other conflicts of interest of Supreme Court of New York officials exists and some may be unknown at this time, and many officers of the court system are already named as Defendants, some who have already been complained of by *Anderson* and Iviewit prior,

[34] Exhibit ?? - COI

and where some were found violating public offices and then using conflict to evade prosecution, finds more than just precautionary cause but factual cause to preclude such actions further in this Court by a simple conflict of interest check affirmed by all parties. Without such, Plaintiffs again may be in a position whereby conspiracy continues to exist that could be prevented with such a simple tool, one that should be done anyway, despite the "extraordinary" claims herein, as a matter of fundamental jurisprudence and where the lack of such exposes the proceedings of this Court to such conflict tests, sooner or later. Where Plaintiffs were unclear from the Order where the Court stands on the request for affirmed conflict checks by all parties as begged for in the prior Motion, as the Order failed to address this concern.

The information cited herein should establish Plaintiffs as the "poster boys" for Pro Bono counsel and if truly Pro Bono counsel is to be revered as a means of protecting New York's indigent Pro Se parties, this case will stand as the litmus test as to its value as a public service, especially where the integrity of the courts of the great State of New York are at risk.

WHEREFORE, Plaintiffs, and based on new information, beg this Court to reconsider and: (I) Order to appoint Pro Bono counsel; (II) Order to accept remote appearance of Plaintiff BERNSTEIN for Court proceedings; (III) Order for physical protection of Plaintiffs for Court appearances, (IV) Order for Extraordinary Conflict Checks and such other relief as this Court deems just and equitable.

Further, Plaintiffs request this Court to review and oversight all present investigations and the evidences presented in them and call into these matters all criminal investigators to aid in the discovery and prosecution of the criminal allegations. After

reviewing the materials and evidence presented to investigators world wide this Court should be overwhelmed with supporting evidence to further substantiate the claims. Further, we are asking this Court to call in criminal investigators into the civil racketeering allegations of this case, as the bulk of the racketeering allegations fall under criminal sections of the United States Code; therefore, these claims should be investigated first and/or simultaneously to test and prosecute the evidence presented.

Moreover, Plaintiffs argue that this Court need take an oversight role of all investigations to prevent further obfuscations of justice, to prevent further file thinning and other crimes by any investigators, as suggested in *Anderson* and illustrated further by recent events at the EPO, and to prevent further file erasing or case investigator erasing as illustrated by the missing case files and investigator at the FBI and U.S. Attorney offices.

Lastly, the New York part of this allegation and the senior ranking officials implicated becomes outranked as this Court will soon become aware of, as the case evolves more to a crime against the USPTO and the United States, and to a larger possible ring of racketeering individuals operating under the cloak of legal degrees, public offices, and court robes attempting to infiltrate and steal inventions filed with the USPTO, wherein, again, the Hon. Judith S. Kaye, even becomes a lower link in the "daisy-chain" of events. Finally, what will become apparent, as it does to those involved for almost a decade, is that this crime involves an existing criminal enterprise that was robbing the USPTO and inventors in a very elaborate attempt to raid the national treasure of the United States, the backbone to free commerce, the USPTO, whereby through the use of patent pooling schemes and other anticompetitive practices, a criminal group of lawyers, judges and politicians may be similarly operating to commit similar crimes on

other inventors and the USPTO, perhaps the road to the patent office is now paved in dead inventors. In the most extreme case, this case may prove to expose and even greater threat to the sanctity of this great nation as it may have allowed this group of criminals to penetrate US policy making departments and commit other high crimes and misdemeanors in even more horrific treasonous acts such as, including but far from limited to, (i) war crimes, (ii) falsifying war documents to take the country to war, (iii) exposing CIA operatives and their counterparts across the world, (iv) violation of international treatises on torture (v) election fraud, and finally (vi) murder of troops and others that may have been led to their deaths by the acts just mentioned.

Plaintiffs pray that this Court, based on the new information provided for herein and supporting documents attached, finds sufficient substance to immediately appoint Pro Bono counsel and to reconsider and grant fully in favor of Plaintiffs, all the items that this Court in the last Order limited through partial denial. May G0d speed be with this Court as the sanctity of this great nation rests partially on the shoulders of those who are beholden to uphold justice.

Attorney for Petitioners

Eliot I. Bernstein, Pro se
39 Little Avenue
Red Bluff, Cal. 96080
Tel.: (530) 529-4410

By:
Eliot I. Bernstein

P. Stephen Lamont, Pro se
35 Locust Avenue
Rye, N.Y. 10580
Tel.: (914) 217-0038

By:
P. Stephen Lamont

AFFIDAVIT OF SERVICE

I hereby certify that a true and correct copy of the foregoing will be furnished by facsimile or other methods approved by this Court, to the aforementioned Defendants with the original Complaint.

Eliot I. Bernstein, Pro se

P. Stephen Lamont, Pro se

CERTIFICATE OF AFFIRMATION

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

X

ELIOT I. BERNSTEIN, et al. DOCKET NO:
07 CV 11196 (SAS)
Plaintiffs,

-against-

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

Defendants

X

PLAINTIFF, Eliot Ivan Bernstein, affirms under the penalty of perjury that all of the foregoing is true and accurate, and allege upon knowledge as to my own facts and upon information and belief as to all other matters.

Dated: January __, 2008

Red Bluff, California

Respectfully submitted,

by:

Eliot Ivan Bernstein (Pro-se Plaintiff)

39 Little Ave.

Red Bluff, California 96080
(530) 529-4110 (o)

(530) 526-5751 (c)
Email: iviewit@iviewit.tv
URL: http://www.iviewit.tv

CERTIFICATE OF AFFIRMATION

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

X

ELIOT I. BERNSTEIN, et al. DOCKET NO:
07 CV 11196 (SAS)
Plaintiffs,

-against-

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

Defendants

X

PLAINTIFF, P. Stephen Lamont, affirms under the penalty of perjury that all of the foregoing is true and accurate, and allege upon knowledge as to my own facts and upon information and belief as to all other matters.

Dated: January __, 2008
Rye, New York

Respectfully submitted,

By:

P. Stephen Lamont (Pro-se Plaintiff)

35 Locust Avenue
Rye, New York 10580
(914) 217-0038