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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X
ELIOT I. BERNSTEIN, et al.

Plaintiffs,

-against-

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

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

**EMERGENCY MOTION
FOR ADDITIONAL
EXTENSION OF TIME
TO FILE RESPONSIVE
PLEADINGS TO
MOTIONS TO DISMISS &
PARTIAL RESPONSE TO
MOTIONS TO DISMISS**

Defendants
-----X

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

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

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

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

2. In light of newer more extraordinary circumstances Plaintiff Bernstein respectfully asks for an extension of time commensurate with the time necessary to move a family of five to Florida which will then entail moving in with Plaintiff Bernstein's parents temporarily starting July 15, 2008, the soonest they could be ready. Then moving into a house that will be ready for tenancy on August 15, 2008. The Bernstein's are frantically calling friends from California to Florida to live with them for the next month until July 15, 2008 when they can move in with Bernstein's parents.

3. Time will also be required in addition to the two moves to get the children ages 5, 9 and 10 into new schools and situated with new curriculums, to get business services up and running again, in order to file pleadings in these matters. Plaintiff Bernstein's address is used for the continuation of the Iviewit Companies and the legal and investigative cases that remain ongoing including this one.

4. In approximately five day's Plaintiff Bernstein and his family will be locked out of home and have no permanent address, no phones, no facsimile machines, no email, no computer systems and other items necessary to file proper pleadings before the Court or even access case information. The timing of this eviction could not have been worse, or more calculated perhaps, to interfere with Plaintiffs filings in these matters, adding much more hardship. Plaintiffs will show that this eviction was calculated to interfere with these proceedings and the eviction process was flawed in a way to make the process highly suspect.

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

6. That as noted in the prior motion for an extension of time the eviction process has been used repeatedly and abusively to force Plaintiff Bernstein and his family into hardship, to make it impossible to file pleadings in other court proceedings that were happening at those times. The eviction today, June 18, 2008, was yet another example of the ongoing harassment of the Bernstein family caused by legal proceedings whereby Plaintiff Bernstein and his family are denied due process rights or any ability to assert any rights for that matter in court.

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

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

9. That Albright stated that his client, Chris Dittner ("Dittner") would have to approve any settlement upon his return, as Dittner had been stopped at the courts metal detector for a concealed weapon which he had to return to his car. Upon Dittner's return, Albright informed Dittner that a compromise and settlement was offered and without even hearing the terms he stated he wanted to go through with the proceeding. The Bernstein's could have offered a million dollars for two months and Dittner did not even

listen to the offer presented. Where there are no known confrontations with Dittner and the Bernstein's in any negative way prior, this seemed remarkable.

10. A few minutes later Candice and Eliot Bernstein were then sat down by the bailiff at the defendants table while opposing Counsel Albright and Dittner were seated at plaintiffs table.

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

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

13. Plaintiff Bernstein and his wife were in disbelief and where Candice had planned to have Plaintiff Bernstein handle the matters before the court or at minimum help her, she was now left in the courtroom with no one but Judge John J. Garaventa ("Garaventa"), the plaintiff Dittner, his counsel Albright, the bailiff, the stenographer and Candice and not a single other person from any case in the court or any other witness to what then transpired.

14. That Candice, realizing that Plaintiff Bernstein who had most of the information outside the courtroom, immediately asked the judge in light of this, to have one day to secure counsel to represent her as this would cause severe hardship on her children if she could not succeed to get adequate time to move and when that request was denied, she asked for just one hour to secure counsel and was further denied.

15. Payment for rent was tendered according to an oral agreement by Plaintiff Bernstein and Dittner that lasted over two years, to live under Ginger Stanger's (f.k.a. Ginger Ekstrand) ("Stanger") ongoing written lease. There was never any breach, no complaints for over two years, not once any late rent action occurred, not a single violation of the written lease or oral agreement by Plaintiff Bernstein, his family or Stanger was ever complained of.

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

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

18. A moment of the Court's time on the two baseless evictions that forced the move from Florida to the current unit as they paint a similar pattern of abuse of eviction process in those proceedings. In the initial filing in Florida no rent was originally claimed owed or any other reason for the eviction was stated, as with the current case.

19. The first Florida eviction filing was withdrawn by opposing counsel on the day of trial in that court, when Plaintiffs brought in evidence from a witness who worked at the apartment unit, that was asked to sign a materially false document by the buildings **lawyer** to enforce the eviction whereby the employee felt highly uncomfortable and told the Bernstein's so and stated she was willing to testify to that court of her knowledge of

the misdeeds and how that document was forced upon her to sign knowingly fraudulent at threat of her of termination of her employment. Where Bernstein's had such falsified document and witness as evidence in hand ready for trial.

20. Bernstein's had also filed a counter complaint that was denied to even be heard by that judge who immediately prior to trial in the court stated the case was over and that the other side had just withdrew their own action. She then told Bernstein's to re-file the counter complaint with a different court and dismissed the case without prejudice. The counter complaint stated similar to this case that attorney's were abusing process to force eviction to interfere with ongoing legal proceedings and that the document forgery proved such claim and the witness who signed it was willing to testify in open court as to its illegal signing under pressure not from her employer but directly from their lawyer.

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

22. Both Florida eviction cases were referenced with case numbers in the prior pleading for extension of time filed with this Court and both cases are hereby again included by reference herein in their entirety as further support that abuse of process is driving these eviction actions to interfere with Bernstein's ability to file in court whenever critical filing dates are due in cases that are related to the Iviewit Companies matters.

23. In the instant eviction action, after filing a 30 Day Notice to Quit ("30 Day"), Dittner then waived such filing by accepting two cashier checks after the date of the posting, as further described herein, voiding that 30 Day. California law is clear on the voiding of a 30 Day by rent acceptance, "Acceptance of Rent Beyond Notice Period: If the landlord served a 30-, 60-, or 90-day notice and then accepted rent covering a

period beyond the 30, 60, or 90 days he has implicitly withdrawn the notice. (Highland Plastics v. Enders, 109 Cal.App.3d Supp. 1 (1980)).”

24. That rent was due monthly on the first day of the month per the written agreement between Stanger and Dittner and rent had been paid not only in full but in advance for the periods of May 1, 2008 ending June 30, 2008. Payments were made approximately two weeks in advance of their due dates via cashier checks¹ and were accepted after the 30 Day was filed covering a period of two months. The May rent was paid two weeks in advance in April and the June rent was paid two weeks in advance in May as indicated on the cashiers’ checks.

25. That Albright filed the 30 Day on or about April 22, 2008² and where under the heading titled “persons served” it was listed as “Candice Bernstein and Elliott” as stated on the exhibited document. On the attached envelope³ it was made out to “Candice Bernstein and Elliot (last name unknown)” and where Dittner was absolutely aware of the Bernstein’s marriage and entered into the oral agreement with Eliot and Candice Bernstein. It appears calculated to leave Plaintiff Bernstein out of the eviction so it would not show up as harassment to him or in any court records appear to have been directed at him.

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

27. Dittner had drinks with the Bernstein’s several times at his restaurant discussing such and where the Bernstein’s even recently have seen Dittner at karate classes with their children and all appeared to be friendly and no mention was made that proceedings were being continued. Both Chris and his wife Corey Dittner know who the Bernstein’s are and their marital relationship and the court should take notice that Dittner and his attorney claim suspiciously that they do not know who Eliot Bernstein is when filing pleadings for the eviction matters; certainly this could not have been a mistake.

¹ Exhibit – Cashiers Checks

² Exhibit – 30 day notice to quit

³ Exhibit – Envelope

28. That Dittner had accepted **two** rent checks 30 days apart, after posting the 30 Day and this negated his April 22, 2008 notice, as rent was paid in full for the entire period after the 30 Day and then 30 days beyond. What is most suspect is, the day after the eviction was filed in Court on May 28, 2008, the rent checks Dittner had constructive receipt of for both May and June's rent were returned in an envelope⁴ dated by the United States Post Office on May 29, 2008. That Dittner had held in his possession the May cashiers check for approximately 43 days and the June's rent check for approximately 14 days before returning them and with no prior correspondence that such checks were being returned for any reason.

29. That Bernstein's believe that by accepting the rent payments in cashier checks, Dittner had accepted the rent for periods after his posting his 30 Day, legally mooting the posting on April 22, 2008 and any time frame it may have contained. Bernstein's were flabbergasted on May 28, 2008 when an eviction proceeding was filed based upon such 30 Day in light of his constructive receipt of the two months of rent paid in a cash equivalent after the date of posting of April 22, 2008.

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

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

32. Nowhere in the filing did Dittner or Albright acknowledge that they had constructive receipt of rent past the May 22, 2008 period and that they were planning on returning such rent in favor of the eviction pleading. Perhaps knowing that having accepted rent for two months would have negated their original 30 Day and forced them to file another such 30 Day to enforce any legal claim. This cannot go overlooked by the

⁴ Exhibit – return rent check envelope

Court as this was done obviously with a malicious intent to deceive that court. Where no legal standing to evict was available without misleading that court to believe that rent was due on May 22, 2008 and rent had not been paid after that on the date the action was filed on May 28, 2008. In fact, almost through admission, if Dittner had filed a 30 Day on April 22, 2008 and had not accepted any rent, Albright's filing would have stated rent was owed from April 22, 2008 forward, not May 22, 2008 which proves they had taken May's rent after the 30 Day.

33. It is key to understand that the Bernstein's had begun plans to move August 1, 2008 and believed that no action was being taken after the 30 Day on April 22, 2008. Dittner agreed to accept rent after April 22, 2008 and for the following month, so it was shocking news and has left Bernstein's little time to plan a move instantly. A trickery that now forces Bernstein's basically to the streets until living and working arrangements can be re-established. If this abusive eviction had not occurred with such timing, Plaintiff Bernstein would not have needed any time extensions from this Court and now must beg for 120 days to protect the matters before the Court from failing due to this extraneous hardship that came about without warning through legal debauchery. Already, much of the time necessary to focus on the hundreds of pages in each MTD a response is due on, has been wasted being forced to deal with moving his family, including this filing and last.

34. Where it should be noted that there is a possible link to explain why Garaventa's actions are suspect here as well. Months prior to the eviction, Garaventa was contacted through a letter sent directly to him by Plaintiff Bernstein on January 30, 2008 and copied to Inspector General of the Department of Justice, Glenn Fine⁵ ('Fine'). The letter asked Garaventa for his help in releasing from custody on a traffic infraction, Plaintiff Bernstein's brother-in-law, Lucas Simpson ("Simpson"), who had just been recently stabbed three times in an attempted murder in a public restaurant with countless eye witnesses and was now incarcerated with those who had stabbed him by order of Garaventa.

35. That Plaintiff Bernstein's letter to Garaventa copied to Fine (all contained in the previous exhibit to Fine herein), contained all of the information of how the

⁵ Exhibit – Glenn Fine letter.

stabbing could be related to the Iviewit Companies affairs and the proceedings before Your Honor and how Garaventa's ordering Simpson's arrest could be fatal to Simpson.

36. Thus, Garaventa certainly knew who Plaintiff Bernstein was in the eviction proceeding, as it is not every day one gets a letter pleading for the life of a traffic offender and is informed that an attempted murder may be part of the ongoing Iviewit Companies matters and a federal RICO lawsuit and copied directly to the Inspector General Fine, the letter in fact pointing Garaventa to this Court proceeding and the ongoing RICO case, as a possible motivation for the attempted murder.

37. That Simpson in the attached letter to Fine's letter, a week earlier to his arrest, on January 21, 2008 had written Garaventa, **voluntarily** requesting a meeting or hearing with Garaventa to prevent any possible warrant for his arrest. Simpson offered to pay or work off any fines due, to avoid any chance of arrest and confinement that could endanger his life, as exhibited in the Fine exhibit herein. Simpson had been paying the tickets off and appearing in court with Garaventa over several years and wrote Garaventa that the reason for any delay in payments at the time was that he was disabled under doctors orders due to the multiple stabbing wounds and would need some form of relief on the payments until he could recover and go back to work.

38. Garaventa despite this request and the voluntary willingness of Simpson in fear of his life from being jailed with the group of people who had attempted to kill him, who were in jail for various other charges, instead nine days later ordered a task force of no less than three squad cars to go to Simpson's home and arrest Simpson for the traffic fines???. This action to arrest Simpson disregarding the danger it posed and Simpson's willingness to voluntarily come to the court to work it out was unbelievable and defied logic.

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

his life to contact Garaventa to have him released due to the clear and present danger he was in or offer protective custody at minimum, as he did not want to get killed over a ticket.

40. Finally, it should be noted by this Court that as of this date, on information and belief, months after the attempted murder which occurred on September 15, 2007, there is still no investigation or charges that have been filed by the Red Bluff Police Department or the district attorney's office against any of the suspects involved and named in the attached Fine exhibit herein.

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

42. That in the instant eviction, the Bernstein's prepared for court and paid the \$180.00 filing fee to respond and where assigned a hearing date of June 18, 2008 not knowing until after the hearing that it was Garaventa who was involved. That based on the information regarding the eviction, the Bernstein's believed that the court would at minimum allow Bernstein's to stay until their requested departure day of July 22, 2008 which would have given Plaintiff Bernstein time to finish the responsive pleadings to each MTD and adequate time to move his family safely as well.

43. Based on the fact that false pleadings were submitted regarding not one but two rent checks that had been collected after the 30 Day was originally filed, which would most likely under fair and impartial due process, have forced another 30 Day to be filed, seeing that rent had been constructively received after such time negating the original 30 Day. This would most likely have resulted in forcing a new eviction filing to be served 30 days after service of a new 30 Day and whereby this would have resulted in

Bernstein's being evicted 45-60 days from June 18, 2008 on or about August 15, 2008 at the earliest, taking into account the new filing time and court scheduling.

44. Based on the fact that Bernstein's were willing instead to pay rent to a reasonable period of time to move their family out of the dwelling and save everyone and the court the need for additional filings, asking for approximately only 40 days, the Bernstein's felt confident that a fair and impartial judge, affording due process, would have granted in favor of the Bernstein's by merely looking at the deficiencies in the pleadings and accepting a compromise that would have had Bernstein's out sooner than new filings with the court would have forced.

45. That there was no imminent danger or threat or any other stated reason by Dittner or Albright in the pleadings for needing an immediate eviction of Bernstein's or to have forced such hardship on their family with small children, that such a compromise by the court, with rent paid in advance and a promise to move out in this short period of time could not have been granted.

46. Unless by now, this Court is beginning to believe that Plaintiff Bernstein and his family are the victims of a conspiracy against them by countless thousands of lawyers composing the law firm defendants alleged to have abused legal process to steal the trillion dollar inventions. Then, through further legal abuse and conflict after conflict, those lawyers have interfered illegally in civil court and disciplinary proceedings to derail due process rights wherever Plaintiff Bernstein has tried to assert any rights. Finally, the further abuse of process by those lawyers who know their entire lives are at risk if Bernstein is successful in court, to use such abuse of process to continuously evict the Bernstein's to derail any efforts of Plaintiff Bernstein in the related matters before this Court and prior courts, were proceedings were underway, to make filing pleadings nearly impossible under such duress.

47. That Plaintiff Bernstein submits, the sworn statement⁶ of Candice to give direct information to this Court regarding the proceedings in support of the statements herein, as Plaintiff Bernstein was forbidden by a bailiff for no reason to even be near the courtroom during part of the proceeding and thus can only provide second hand information to parts he observed.

⁶ Sworn statement of Candice Bernstein.

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

49. That Plaintiff Bernstein began to state that the eviction would cause great hardship and interference with the matters before this Court and before the sentence could even be completed or even explained, Albright objected and the judge granted the objection stating not relevant. Garaventa then gave the Bernstein's no real chance to state anything else, blocking any further questions by Candice to Plaintiff Bernstein and ruled for immediate eviction to be executed five days after posting by a Marshal on the door. Garaventa stopped Plaintiff Bernstein from attempting to explain the correlation and the harm it could cause Plaintiff Bernstein in responding to this Court and where Garaventa stated it was not relevant despite his earlier knowledge of the Iviewit Companies matters before this Court through the Lucas Simpson matter. Garaventa had not even heard why the eviction could be related before shutting the Bernstein's down.

50. That stunned, Candice then asked Garaventa what this meant and when she had to be out and he told her to work that out with Albright and Dittner, who had left the court already or else eviction would be five days after service by a Marshal of a writ. That Candice then approached Albright and Dittner to ask for additional time due to the hardship this would cause her and whereby Albright stated "welcome to the streets" and that no time would be allowed by Dittner and that he was going immediately to the Marshal to have notice posted. Where Candice further broke down, stunned by the callousness of the remark.

51. That based on this most astonishing case, unless you have been involved with the Iviewit Companies affairs for the last 10 years and understand that all of these events are beyond coincidence regarding legal process abuse and where solid evidence and witness stand in every case to verify the veracity of Plaintiff Bernstein's claims from stolen patents, to claims of conflicts and violations of public offices interfering with due

process rights and all the way to abuse of process used to continuously force hardship on Bernstein's when critical court proceedings are due. Yet, Bernstein's are never allowed due process and procedure to make their claims in court.

52. In fact, Garaventa, when confronted by Candice regarding the return of the rent checks on May 29, 2008 to show that Dittner had constructive receipt of rent for two months negating his 30 Day, quickly shut her down stating it was no defense and could not be proved.

53. That the timing of this eviction and the way it was "Jimmy rigged" to afford Bernstein's no legal rights, including denying to have an attorney represent the matters in an hour, is believed to be to force eviction proceedings that would interfere exactly with the 30 days that Plaintiff Bernstein had to file responsive pleadings to each MTD filed with this Court.

54. That the eviction proceeding was filed two days before Plaintiff Bernstein's time clock to respond began and almost lasts until days before the responses were originally technically due. That this eviction has already caused Bernstein to lose valuable time preparing the pleadings due with this Court having to switch legal gears to defend yet another baseless eviction.

55. That based on the earlier request for extension of time, whereby the Court may have thought that such request did not clearly show the elements of how these evictions were executed through abuse of process, as there was no court action at the time of the filing for extension that would have imparted that due process was being denied to interfere with this Court proceeding or had yet caused a catastrophic event. An event such as being forced to relocate under duress with virtually no time, due to trickery through the check holding and returning scheme, a family of five, and, causing Plaintiff Bernstein to lose business services, mail and residency all necessary to file timely responsive pleadings in the matters before this Court.

56. That the eviction would not have worked its magic well in causing hardship for Plaintiff Bernstein to respond, if Garaventa had allowed the 30 Day to be stricken due to the constructive receipt of rent for two months after its posting as proscribed by law and forcing Albright and Dittner to refile the Unlawful Detainer action a month later. So where the law appeared to favor Candice's position, her rights were

then denied and not even considered so that right or wrong, legal or illegal, the eviction would prevail on the dates necessary to interfere.

57. That the case in Florida where a witness was ready to testify that she was forced by loss of job threat by the **attorney** for the landlord in those matters, unless she signed a knowingly fraudulent document to effectuate that eviction action to make that filing interfere with court proceedings at that time is solid support for abuse of process in these evictions.

58. All of these cases also have severely hampered the Bernstein's credit to no end, making it harder and harder to find new digs each time, thus the mother-in-law thing and now the mother-father thingy. This has reeked continuous havoc upon the Bernstein's as the evictions have occurred for now almost 7 years (since discovering the evidence that the Iviewit Companies attorneys were stealing the patents) and now if this Court does not grant more time, it may act to deny Pro Se'r Bernstein's ability to file and severely prejudice this case and possibly allow defendants out based on missed filings or other notices from the Court that get lost in transit during the transition over the next 60 days.

59. That based on the instant eviction case and judge Garaventa's possible involvement for reasons not yet fully known, and certainly subject to further discovery if these eviction matters, through discovery, are proven to be part of the racketeering type activities of the law firms described in the AC. Legal abuse of process to force evictions certainly would qualify as at minimum as a severe form of harassment.

60. That due to the fact stated herein that Plaintiff Bernstein will have no legal address until at minimum August 15, 2008, and will have no way to file with the Court timely, even when considering the extra 14 days allotted already by this Court. Where such extraordinary circumstances stand to not even allow Plaintiff Bernstein to file the responsive pleadings with a valid address for the Court or for the defendants to respond to. This loss of residency will also affect the ability to receive any filings that may be sent to the current address and lost or returned with no forwarding address to send such to yet. Once residence is established it will take even more time to have prior mail redirected across country after a change of address is filed with the United States Post Office, this Court and the defendants, all which could cause Plaintiff Bernstein to miss

vital filings or responses to the Court including the July 14, 2008 responsive pleadings. In fact, Plaintiff Bernstein will again have to put into storage their entirely worldly possessions including the court records, court filings and computers with data necessary to complete the responses until August 15, 2008 when new residence will be ready to occupy.

61. That considering that Plaintiff Bernstein is not asking and was not asking for additional time prior to these life altering events being heaped upon him in surprise and with no mercy from the court involved, evidencing possible collusion with these matters, the extension of time is not a request caused by any factors in Bernstein's control. Plaintiff Bernstein therefore does not see this delay as advantageous in any way to himself other than having enough time to file properly in light of the fact that on or about 6/22/2008 his family is homeless for at minimum 60 days.

**DISMISS ALL FILED MOTION'S TO DISMISS PRIOR TO ANY RESPONSIVE
FORMAL PLEADING AND IN THE EVENT THAT SUCH RESPONSIVE
PLEADINGS ARE NOT FILED TIMELY DUE TO THE EXTRANEOUS AND
EXTRAORDINARY EVENTS DESCRIBED ABOVE**

INTRODUCTION

62. That unless the Court chooses it does not need a more formal responsive pleading to dismiss each MTD filed, accepting the following pleading as satisfactory under the circumstances. Each MTD was filed far too early in these matters in light of the *Anderson* and other related cases, and, the new affidavits under seal from the state of New York judges in *McKeown*. The Court must allow Plaintiffs discovery of the information offered by these three whistleblowers' claims of public office crimes, to see how and who directed such activity and how they affect Plaintiffs case, rights and complaint.

63. Until such time that discovery of the *Anderson* and *McKeown* issues can be fully explored, all claims raised in the Motions to Dismiss, such as immunity, statute of limitations claims, etc. would not be able to be determined until such time that the various who and how, relating to the state actors and agencies, committed such abuses of process described by *Anderson* and how they may have acted to deny Plaintiffs due process rights and other rights in their prior attorney complaints, civil proceeding and other proceedings.

64. That *Anderson* offers enough substantive facts to cause investigation of all related agencies that are included as defendants in the Amended Complaint ("AC") and where Plaintiffs had already complained of similar obfuscations of due process in similar fashion as *Anderson* to, including but not limited to, the 1st DDC⁷, 2nd DDC⁸, TFB⁹, VSB¹⁰ and the FSC¹¹. Discovery in *Anderson* may point to the various connections and

⁷ Exhibit 1 – Evidence Links 460, 461, 433, 430, 429, 407, 398, 396, 395, 394, 391, 387, 386, 385, 384, 466, 470.

⁸ Exhibit 1 – Evidence Links 460, 466, 474, 496, 497, 507, 514, 518, 531, 537, 542, 545 & 546.

⁹ Exhibit 1 – Evidence Links 293, 294, 300, 306, 309, 331, 335, 339, 340, 341, 344, 351, 389, 393, 400, 402, 404, 405, 411, 416, 417, 420, 421, 431, 435, 439, 440, 442, 446, 452, 458, 488, 491, 529, 666 & 739.

¹⁰ Exhibit 1 – Evidence Links 283, 291, 319, 320, 322, 323, 333, 352, 357 (2,881 pages with patent evidence) 462, 464, 471, 680, 681, 691, 827 & 828.

¹¹ Exhibit 1 – Evidence Links 389, 402, 411, 416, 419, 421, 423, 424, 425, 426, 427, 428, 431, 435, 439, 440, 442, 443, 444, 446, 449, 452, 454, 455, 457, 458, 475, 476, 477, 478, 480, 481, 484, 488, 491, 494, 500, 503, 504, 507, 512, 519, 521, 524, 525, 526, 529, 534, 548, 551, 555, 563, 577 & 666.

how they functioned, if and how the agencies and their agents acted in collusion, etc. making any MTD at this time moot until further discovery can be had to explore all the possible tentacles.

65. Each MTD filed is far too early in light of startling new evidence that a former judge of the New York courts and a sitting justice of the State of New York Supreme Court, have submitted affidavits¹² in the related case (08cv02391) *McKeown v. The State of New York, et al. ("McKeown")*, hereby incorporated in its entirety by reference herein, and agreed to come forth with testimony before the Court of widespread systemic corruptions in the New York court and disciplinary systems that may have direct bearing on all of the *Anderson* related cases.

66. Until such time that this new evidence can be fully explored to see how and who again have interfered with Plaintiffs' due process rights, any claim under a MTD is moot, as this evidence could negate those claims entirely, or even partially and this Court could not in good conscience allow anyone out of these matters until this evidence is fully explored through discovery. If after such discovery, defendants still feel their rationale behind the MTD they filed remains sufficient, they can of course re-file such pleadings based on the information these critical eye witnesses can provide perhaps against them.

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

68. Claims by defendants in each MTD of time barred claims would certainly not stand and should not stand in light of Anderson's claims of public office corruption impeding due process rights, as this Court would again be forced to review the statutes of limitations arguments being claimed, in light of the fact that Plaintiffs had followed all rules in civil and disciplinary proceedings to assert their rights timely but were denied due process and does this stop the statute clock until due process is afforded?

69. Anderson offers solid substantive evidence that such due process rights were being violated for favoritism, etc. and carried out through threat and in *Anderson's*

¹² Exhibit 1 – Evidence Link 865 – *McKeown* Order by the Hon. Shira Scheindlin dated June 10, 2008.

case even physical abuse by her superiors. Any claim of time barred claims would then have to be analyzed using a similar fact set where denial of due process led to the clock expiring or influenced in any way Plaintiffs ability to receive due process under law to timely assert their claims.

70. That no MTD cites a case reference for such time barred claims that deal with a denial of due process affecting the statue clock and every MTD filed, entirely failed to even mention the *Anderson* case, the reason all defendants are before this Court. The reason, even a whisper of Anderson's name is not mentioned, as it would make invalid the claims in the MTD.

71. Certain of the MTD's are filed by lawyers who are acting in conflict of interest and whereby this Court in its own Order¹³ has stated that Plaintiffs have not only substantive issues but substantive conflict issues that it will deal with after each MTD is decided giving credence to the conflict claims. The only decision that can logically be made, if any MTD was filed by conflicted lawyers violating well established rules of professional conduct and constituting contempt of this Court, would be to throw them in the garbage and rule a default for failing to file a proper answer or MTD and to sanction both those who knowingly choose representative counsel that was in conflict and those that acted in such conflicted capacity before this Court who filed the frivolous MTD pleadings.

CONFLICTS AFFECTING EACH MTD

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

a. Proskauer representing Proskauer in conflict before this Court as clearly defined in letters¹⁴ to this Court dated March 05, 2008 whereby many of the violations of the attorney professional code are cited in detail as proof of such conflict. That Proskauer's MTD filed in conflict should thus be dismissed entirely and count as a default and at minimum. No decision in favor of Proskauer's MTD should be made until

¹³ Exhibit 1 – Evidence Link 638

¹⁴ Exhibit 1 – Evidence Link 630 & 631

conflict matters are entirely decided by this Court and the 1st DDC where complaints¹⁵ have now been filed against the Proskauer and Foley attorneys who acted in conflict in these matters and are now named defendants in the AC.

b. Foley found representing itself in conflict initially in these matters, acting as counsel self counsel, in order to gain access to the NYAG Connell strategies and using such legal position to direct strategies against Plaintiffs original complaint together with Connell. Once it was learned that Foley was self representing, Plaintiffs immediately contacted Your Honor, in a March 05, 2008 letter to the Court, regarding the conflicts of Foley and Proskauer acting as self counsel and noticing this Court and those attorneys involved that bar complaints had been filed. Foley then rushed to get independent counsel after learning that disciplinary complaints were filed for the conflicts and violations of well established rules, regulations and procedures of the attorney conduct codes in New York against their partners and associates who had acted in such capacity in contacting the NYAG.

c. Foley's replacement counsel, Kent Kari Anker ("Anker") then attempted to con the Court to believe upon entering the case that Foley had not acted as counsel since they had not appeared before the Court¹⁶. Certainly appearing before a Court is not the only test of if counsel acted in a legal matter and where this statement by new counsel for Foley appears to be a false pleading to the Court to attempt to exonerate the Foley partners who were filed upon with the 1st DDC for their conflicted representation as counsel to the NYAG offices in the case against them. That Connell affirms the Foley attorneys' role as acting counsel for themselves by carbon copying the Proskauer and Foley partners she had interacted with as **"attorney for defendants"** in her letter to this Court dated February 29, 2008¹⁷. This conflict and the attempted cover up to the Court by Foley's new counsel Anker should negate any pleadings on their behalf until after the conflict issues are fully resolved, thus negating the prematurely filed MTD by Anker until such time that these relevant conflict matters are fully explored by Plaintiffs, this Court and the 1st DDC.

¹⁵ Exhibit 1 – Evidence Link 631 pages 25-27.

¹⁶ Exhibit 1 – Evidence Link 649-650.

¹⁷ Exhibit 1 – Evidence Link 866

d. The VA Commonwealth & VSB may have conflict¹⁸ being represented by the Virginia AG in that it has just been learned that the Virginia AG hired Foley as counsel to their agencies, including the VA Commonwealth and the VSB. Now these agencies are Foley clients, “Foley & Lardner, a law firm headquartered in Washington, D.C., has been appointed by Virginia Attorney General Jerry W. Kilgore to provide legal services to the Commonwealth of Virginia and its agencies...” (Press release)¹⁹. To find the Virginia AG now representing these agencies, failing to disclose the fact that their offices hired Foley as counsel for these state agencies who are defendants, again imparts an appearance of impropriety and conflict this Court that cannot be allowed to prevail, until Plaintiffs have the opportunity to explore how this relationship may have had impact on decisions made at the VSB and decisions currently being made by the Virginia AG. The fact that the Virginia AG who hired Foley on behalf of the Virginia Commonwealth and VSB failed to disclose this fact to the Court prior to acting as counsel or even seeking approval from the Court to represent in light of this very real potential conflict of interest that begets an overwhelming appearance of impropriety, acts to further the appearance of improprieties and conflicts being carried forward before this Court. Where Dick of Foley is central to the complaint filed at the VSB and Foley is counsel to the VSB makes the need for further discovery imperative and certainly precludes any MTD filed by the Virginia AG from succeeding until this relationship is wholly explored to discovery all possible effects this relation may have had on Plaintiffs rights to fair and impartial due process, again this could negate any arguments made in the Foley MTD, if not negate it entirely and causing another default for tendering knowingly conflicted responses.

e. The NYAG representing itself Pro Se now and the thirty-nine state of New York defendants appears in conflict of interest now in these matters. The NYAG’s MTD fails possibly for conflict, in that the NYAG astutely notes in their MTD that in the AC their offices and former New York AG defendant Spitzer, have been added as defendants in these matters for violations of well established rules, regulations and

¹⁸ Exhibit 1 – Evidence Link

¹⁹ Sourced from Virginia Business Online: For the Record, January 2004 and located at the url {
HYPERLINK
"http://www.gatewayva.com/biz/virginiabusiness/magazine/yr2004/feb04/record/record_deals.shtml" }

procedures regulating their public office in regards to formal and procedural disposition of complaints. That as defendants, the NYAG should have sought non conflicted counsel to represent them in the MTD and should have noticed their defendant clients that they were conflicted in the matters and could no longer represent the thirty-nine defendants they represent both personally and professionally on public funds. The NYAG has become a defendant for reasons dating back to defendant Spitzer's reign as AG. That Spitzer's personal and perhaps professional counsel is --- you guessed it --- Proskauer²⁰.

f. The NYAG and Spitzer received complaints against public officials from Proskauer²¹, defendants Krane and Rubenstein, who were ordered for investigation in these matters by the First Department Court²² but instead buries them and never even responds formally or procedurally to direct requests for the NYAG's office involvement in the matters. These actions resulted in the inclusion in the AC of defendant NYAG and defendant Spitzer not for bad decisions as their MTD pleads but rather from a total dereliction of duties and failure to make any decision or even tender a response to formal written complaints.

g. In light of the claims of *Anderson* as they relate to Plaintiffs complaints at the 1st DDC, until such time that Anderson is fully explored to learn how the public office corruptions were being achieved by the various department officials and the counsel for the complained of attorneys, one can only presume that any counsel involved in the 1st DDC complaints may be involved in the crimes alleged in *Anderson* in her complaint. Thus, it appears improper for defendant Joao to have secured counsel that represented him at the 1st DDC in these matters and who may become a defendant in these matters. The Court already noted in response to Plaintiffs letter to the Court regarding the conflicts of Joao's counsel, "If at a later point in the proceedings it appears that Fried [John W. Fried ("Fried")] is not able to represent his client fairly, the Court will address the conflict at that time."²³ Again, this possible conflict which may be further revealed by discovery in *Anderson* or through discovery of the judges who have

²⁰ From the Wallstreet Journal on April 27, 2007, 6:28 pm ~ "Former NY Deputy AG Moves to Proskauer" ~ Posted by Amir Efrati - "Dieter Snell, a former deputy attorney general under former AG Eliot Spitzer, now the governor of New York, has joined the New York office of law firm Proskauer Rose as a partner in its white-collar defense and internal-investigations group."

²¹ Exhibit 1 - Evidence Link 70, 867, 611, 614, 615, 635

²² Exhibit 1 - Evidence Link 460, 430, 433, 466, 470, 475

²³ Exhibit 1 - Evidence Link 633 page 2.

signed affirmations of corruptions and are willing to testify and give eye witness accounts that may show that certain attorney's were favored and complaints against their clients were dismissed through illegal activities also stands to block any prematurely filed MTD, including Fried's, until these matters are fully explored by Plaintiffs.

h. Until discovery can be heard to determine if Joao's counsel Fried was one of those favored attorneys or if he used possible Proskauer favoritism or any other act that may have interfered with Plaintiffs due process rights in the handling of disciplinary complaints, Fried's representation without his formal affirmation that he has no conflict can only be presumed to be conflicted. This Court cannot dismiss Joao at this time based on the MTD filed by Fried as it may have been tendered in conflict that is unknown at this time but where the evidence and discovery of relevant new evidence could quash any claims in the MTD filed, invalidating it entirely if Fried and Joao are found acting in conflict. Again this Court should move to dismiss the prematurely filed MTD.

i. Greenberg Traurig representing The Florida Bar defendants when Greenberg Traurig was former counsel for Plaintiff Bernstein as fully described in a motion to this Court dated April 1, 2008²⁴ and ²⁵. This matter is fully described in the AC and the incorporated and incorporated by reference exhibits and again incorporated herein.

²⁴ Where the Motion in Opposition to the Motion to Dismiss filed by Greenberg clearly showed these conflicts of Greenberg's representation of the TFB defendants but was recently returned several months later by this Court as incomplete and unsigned. Where Plaintiff Bernstein not only sent in the pleading with original signatures but with original fingerprinting, those copies returned by the Pro Se desk appear to be copies without original signature and without original fingerprints, indicating again that mail tampering may be occurring between Plaintiff Bernstein's home and this Court to interfere with these proceedings. Recent conversations with the Pro Se desk have resulted in Plaintiff Bernstein being told to seek formal investigation from federal authorities regarding the mail tampering problem, similar to those already filed and under ongoing investigations of mail fraud regarding the original complaint filed whereby the complaints sent to this Court for service, totaling approximately 20 pounds of the 22 pound package sent, were missing from the package upon receipt by the US Marshal and/or the Pro Se desk and where some defendants received them and others did not. That service was then done by the US Marshal improperly to certain defendants, missing the complaint and where it remains unclear what anyone received.

²⁵ Exhibit 1 – Evidence Link 641 & 643.

OTHER CONFLICTS DISCOVERED IN THE MATTERS BEFORE THIS COURT

a. Kelly Overstreet Johnson, former President of the TFB and her conflict with James Wheeler, brother to Christopher Wheeler, one of the main defendants from, you guessed it, Proskauer, as defined thoroughly in the AC. While failing to disclose a working relation with Wheeler's brother, Johnson received complaints pertaining to Wheeler's TFB complaint and failed to perform her duties to investigate claims contained in the documents she received or return the items knowing she was conflicted. This matter fully described in the AC and the incorporated and incorporated by reference exhibits and again incorporated herein²⁶.

b. Krane in representing his Proskauer partners, his firm Proskauer and himself in disciplinary complaints while having irrefutable vested interest in the outcome of the matters and also in violation of clearly established rules, regulations and procedures regarding public office positions he held that also conflicted and precluded his representations. This matter fully described in the AC and the incorporated and incorporated by reference exhibits and again exhibited herein²⁷.

c. Triggs in representing his Proskauer partners and his firm Proskauer in a disciplinary complaint while having irrefutable vested interest in the outcome of the matters and also violating clearly established rules, regulations and procedures of his public office position with TFB that specifically forebode his representations of any person for a period of one year after his service, which he violated. This matter fully described in the AC and the incorporated and incorporated by reference exhibits and again exhibited herein²⁸.

d. Triggs in representing his Proskauer partners, his firm Proskauer and himself in the Proskauer Civil Billing Lawsuit, while having irrefutable vested conflicting interest in the outcome of the matters and again violating his public office position that precludes such cross representation of civil proceedings when handling bar

²⁶ Exhibit 1 – Evidence Links 417, 440, 452, 488, 666 & 719.

²⁷ Exhibit 1 – Evidence Links 225, 384, 391, 394, 396, 397, 398, 407, 408, 415, 430, 433, 447, 460, 466, 468, 474, 487, 496, 517, 518, 537, 543, 545, 557, 725, 726, 727, 728 & 752.

²⁸ Exhibit 1 – Evidence Links 221, 228, 230, 233, 235, 405, 411, 428, 431, 439, 440, 441, 446, 452, 458, 471, 476, 534, 719 & 739.

complaints with similar parties, as fully described in the AC and the incorporated and incorporated by reference exhibits.

RESPONSE TO MTD CLAIMS

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

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

74. That any MTD that claim a lack of subject matter jurisdiction through a 12(b)(1) motion, Plaintiffs claim there are numerous claims wholly recoverable under federal laws (which may or may not be plead properly due to Pro Se status but could be corrected in an amended AC, hopefully with some Pro Bono counsel) and thus this argument fails. Certainly, in light of the *Anderson* case and now the judges coming forward in *McKeown*, no defendant can claim a factual argument claiming that the claims are frivolous or should not be heard before this Court, unless of course they close their eyes to *Anderson* and *McKeown* and the mounds of evidence and witness presented in the AC and the incorporated and incorporated by reference exhibits against them.

75. The exhibits in the AC include several thousand pages of factual complaints with factual evidence and witnesses incorporated, that every premature MTD filed failed to even address. For example, the patent suspensions issued by the USPTO²⁹ or ongoing federal and international investigations, including many of the IP lawyers under USPTO OED investigation.

76. Proskauer, in their MTD, even claims that Plaintiffs did not state the outcome of the 1st DDC complaints in the AC, certainly they ignored the evidence of the

²⁹ Exhibit 1 – Evidence Links 472, 486, 522, 515, 365, 369, 370, 1, 179, 282, 343, 350, 359, 362, 371, 383, 445, 528, 552, 556, 559, 560, 569, 588, 805 & 807.

First Department Court orders for investigation of Krane, Rubenstein, Joao, Proskauer and MLGWS³⁰ and the ensuing evidence of how those investigations were derailed. All of this factual evidence warrants a hearing before this Court.

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

77. Any lack of jurisdiction over a person claimed in a 12(b)(2) motion filed by any defendant claiming that the Court does not have jurisdiction over one or more of the parties in the suit is unfounded. The parties are in a multitude of states and several trillion dollars in damages are being claimed. All parties should be under the jurisdiction of this Court where if any are not, Plaintiffs seek leave to amend the AC. No immunity can be granted at this time until the discovery of the three whistleblowers takes place to determine if immunity should be granted in any regard, again making the MTD premature. At maximum, since the AC asks for monetary damages against the officials, if the Court feels that this is unfounded, then Plaintiffs will still continue to plead for injunctive relief to force corrections in the departments and relegate discipline to those who have failed in their duties through violating the well established rules, regulations.

78. The real argument of any immunity is first a policy argument where immunity was not intended to give blanket protection to those who are using judicial, legal or public office powers to commit illegal acts for personal pecuniary gain. The source, amount and who received what interests in the acts to deny due process will be further learned through further discovery. It has been learned that in a related case, (08cv02391) McKeown v The State of New York, et al (“McKeown”) that there are at minimum two witnesses, a retired judge and a state of New York sitting Supreme Court Justice that have eye witness accounts of wide spread systemic corruptions at the First Department Court. That it is known that this Court has allowed the affirmations to be submitted and this Court has ordered them to be submitted under seal. Again, further possible factual evidence that supports Plaintiffs claims of corruption in the handling of their complaints at the 1st DDC and whereby until this is fully explored no immunity should be granted until after discovery of now three whistleblowers.

³⁰ Exhibit 1 – Evidence Link 460

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

80. If the Eleventh Amendment Immunity were to bar the Plaintiffs' claims against the state defendants by this Court, then Plaintiffs will have to seek a Congressional abrogation of the immunity. It is clear that if the state defendants are blocking due process in any way that has caused a loss (now going on the tenth year) of rights to patentable matter, than Congress whose ultimate duty under the Constitution is to protect the rights of inventors, at all costs to ensure free commerce versus dictatorial ownership, will have to remove such protection from any state defendants and retry them free of any immunity from involvement for their part in aiding and abetting the theft of patents from inventors through blocking due process.

12(b) (3) - Improper venue

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

12(b) (4) - Insufficiency of process

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

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

83. Any insufficiency of service of process claims in a 12(b)(5) motion filed in any MTD deemed by this Court to be successful would cause Plaintiffs to seek leave to amend the AC to correct any defect. If service in any way was improper, the US Marshal would presumably be allowed to correct such and certainly where mail tampering may

already have interfered, this Court may have to correct such to prevent any error from allowing any defendants out.

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

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

85. “When resolving a Motion to Dismiss under Rule 12(b) (6), a Court must accept the factual allegations contained in the complaint as true, and draw all reasonable inferences in favor of the non-moving party. *Still v. De Buono*, 101 F. 3d 888, 891 (2d Cir. 1996); In order to survive a Motion to Dismiss a Plaintiff must assert cognizable claim and allege facts that if true would support such a claim. See *Boddie v. Schneider*, 105 F. 3d 857, 860 (2d Cir. 1997). Ultimately, in the context of such a motion, “[t]he issue is not whether a Plaintiff will or might ultimately prevail on her claim, but whether she is entitled to offer evidence in support of the allegations in the Complaint”. *Hamilton Chapter of Alpha Delta Phi, Inc. v. Hamilton Coll.*, 128 F. 3d 59, 62 (2d Cir. 1997) (citation omitted) “Recovery may not appear and unlikely on the mere face of the pleading, but that is not the real test for dismissal. *Gant v. Wallington Bd. Of Educ*, 69 F. 3d 669, 673 (2d cir 1995) (citing *Scheuer*, supra, 416 U. S. at 236). Furthermore, the “standard is applied with even greater force when the plaintiff alleges civil rights violations..” *Id.* (quoting *Hernandez*, supra, 18 F. 3d at 136)”. Additionally, we must construe Plaintiff’s argument liberally because she is pro-se. *Haines v. Kerner*, 404 U. S. 519, 520 (1972).

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

87. Plaintiffs also claim that the other evidence and witnesses contained in the AC, and in the incorporated and incorporated by reference exhibits, is additional evidence that warrants remedies under law and would be presentable at trial. Based on these facts, evidence and witness already cited in exhibits, any reasonable judge or jury, in a conflict free court affording due process and procedure to the parties, could rule for Plaintiff based on the facts in the AC and *Anderson*. Certainly, some court and jury will sooner or later have to hear the entire patent matters either in this Court or elsewhere to ensure that inventors' rights were not denied due to this macabre blasphemy of justice.

88. Despite efforts to convince the Court by several attorneys in these matters that the AC is prolix, is to proffer smoke up ones proverbial arse as a smoke screen, as it is not the AC that suffers from prolixity but the number of crimes committed and ethical violations that continue to flourish that call for a lengthy and highly intelligible account of the matters in the AC.

89. Some of the MTD's are calling for even more detail to be added to the AC to further define the criminal and civil violations of rights and the who, what and where to each violation with specificity which will certainly force the AC to become more loquacious. In fact, to completely list each and every act with specificity will add hundreds of pages but only as a necessity to fully describe one of the largest bungled crimes ever attempted in the United States, against the United States government and its agencies, the courts and its disciplinary agencies and Plaintiffs.

90. That Plaintiffs AC is short and sweet for the amount of crimes and civil violations of law committed giving the adverse parties notice supported by facts and witnesses of the asserted claims when viewed in light of the massive amount of crimes and cover up crimes that it deals with. If the argument to dismiss were to succeed on length, as an out for any defendant, the logical conclusion would be that crime pays when one commits so many injurious acts to another that a complaint would become lengthy describing them all. This is more ridiculous and unsubstantiated circular logic begging the question and where not an instance of repetitive language or jabberwocky is cited in support of such nonsense defenses, the defense is mere smoke and mirrors. This cherry picking of baseless arguments in favor of dealing with the factual evidence is an attempt to suppress the very real evidence supporting the factual allegations against the

defendants that is incorporated in the AC and is again a mere smoke screen to hide from the facts.

91. Circular reasoning is apparent in the MTD's in the false premise that Plaintiffs have no protectable property or liberty interests in the handling of complaints. This is untrue in that Plaintiff Bernstein and Lamont through dealings with Bernstein's IP have interests in the protected IP rights as guaranteed in Article 1, Section 8, Clause and where the denial of due process claimed through violations of clearly established rules and regulations governing the state defendants individual and professional duties clearly interferes with Plaintiffs rights to life, liberty and property, all absolute rights guaranteed under the Constitution we find a substantial interest. In regard to life, it may be evidenced that such dereliction of duties claimed in the AC has allowed someone to plant a bomb in inventor Bernstein's family minivan³¹ in attempts presumably to murder them and that such dereliction of duties aided and abetted that crime and all others, as if they had done their duties this may have been prevented.

92. The claims in *Anderson*, in and of themselves, are claims asserted that have definite impact on the Iviewit Companies matters, as Anderson names Iviewit in her original complaint and this validates the violations of the Fourteenth Amendment to the Constitution, showing that the States, through the direct actions or inactions of their agencies and actors, have deprived Plaintiffs of property, including constitutionally protected IP, by failing to afford due process and in fact misusing their public offices to do so. Obviously Anderson's claims show that the processes afforded Plaintiffs were less than due and have criminal overtones to the civil violations. Every premature MTD is wholly devoid these substantive facts in efforts to assert a failure to state a claim by avoidance of key facts, evidence and witness.

93. And this aversion is telling. For example, the NYAG, in efforts to derail the substantive information from the testimony of eye witness justices mentioned in the *McKeown* case and whose affirmations have been submitted under seal, is found attempting to derail the affirmations in the related *McKeown* case by submitting such

³¹ Exhibit 1 – Evidence Link 538 & 540

request³² to this Court to attempt to suppress the information, reeking of further public office corruption taking place even now.

94. If Connell, who is representing the NYAG and the state defendants in this case, is seen blocking damning evidence against public officials by inside whistleblowers, information that would typically gleefully enjoin her offices to investigate such public officials it seems strange how they now try and suppress such evidence against their clients they now represent and it appears this action may be an attempt to suppress evidence that could harm her defendants, interfering with the NYAG choice to prosecute them.

95. The appearance of impropriety this action to suppress material information regarding public office corruption entails is outrageous and when viewed in light that such defense of defendants comes on public funds that should be used to eradicate such corruption is beyond belief. Connell's rush to dismiss the justices testimony and statements, instead of embrace them for the juicy truth of the possible public office corruptions it exposes, that the NYAG should normally be frothing over and want to prosecute, reveals far more than merely trying to fairly represent those she should now be compelled to investigate.

96. The claims in *Anderson* are claims asserted that have definite impact on the Iviewit Companies due process rights, as *Anderson* even names Iviewit in her original complaint³³. Anderson's allegations indicate violations to the Fourteenth Amendment of the Constitution, as the States, through direct actions and inactions of their agencies and their actors, acted to deprive Plaintiffs of property, including IP rights protected under the Constitution, by failing to afford due process by violating well established rules, regulations, procedures and laws and misusing their public offices to achieve such.

97. Anderson's claims show that the processes afforded Plaintiffs were less than due and maybe criminal, in addition to civil violations such as in the claims of file thinning, document thinning, fraudulent document tampering, public office favoritism, the threat to comply or else, and, other insidious behavior that affected attorney

³² Exhibit 1 – Evidence Link 868

³³ Exhibit 1 – Evidence Link 616, specifically pages 24-25.

disciplinary complaints in violation of well established rules, regulations, procedures and law.

QUALIFIED IMMUNITY

98. The defendants can argue that they are entitled to Qualified Immunity for any action they may or may not have taken in connection with these alleged crimes. “Government Officials may enjoy a privilege of Qualified Immunity from liability for damages arising out of their performance of discretionary official functions so long as their conduct “does not violate clearly established statutory or Constitutional Rights of which a reasonable person would have known”. Doe v. Phillips, 81 F. 2d 1204, 1211 (2d Cir. 1996). “The Doctrine of Qualified Immunity “shields government officials from liability for damages on account of their performance of discretionary official functions...insofar as their conduct does not violate clearly established statutory rights”. “The Doctrine of Qualified Immunity entitles public officials to freedom from suit for acts undertaken in their official capacity if “(1) their conduct does not violate clearly established constitutional rights, or (2) it was objectively reasonable for them to believe their acts did not violate those rights”. Weyant v. Okst, 101 F. 3d 845, 857 (2d Cir.1996). “Private entities can be sued under 1983 when they have jointly engaged Freedman v. Coppola 206 A. D. 2d 893, th Dennis v. Sparks Dennis v. Sparks “Entitled to Punitive Damages, must show the Defendants conduct to be motivated by evil motive or intent or reckless or callous indifference to a federally protected right”. Smith v. Wade Newport v. Fact.

FOURTEENTH AMENDMENT

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

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

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

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

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

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

QUALIFIED IMMUNITY

103. "In the alternative, the defendants can argue that they are entitled to Qualified Immunity for any action they may or may not have taken in connection with these alleges crimes". "Government Officials may enjoy a privilege of Qualified

Immunity from liability for damages arising out of their performance of discretionary official functions so long as their conduct “does not violate clearly established statutory or Constitutional Rights of which a reasonable person would have known”. Doe v. Philips, 81 F. 2d 1204, 1211 (2d Cir. 1996).

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

QUASI- JUDICIAL IMMUNITY

105. “(2) Quasi judicial immunity, this, unlike judicial immunity, extended only to government servants, protecting their "quasi judicial" acts that is, official acts involving policy discretion but not consisting of adjudication. Quasi judicial immunity, however, was qualified, i. e. , could be defeated by a showing of malice. See, e. g. , Billings v. Lafferty , 31 Ill. 318, 322 (1863) (clerk of court); Reed v. Conway , 20 Mo. 22, 44 52 (1854) (surveyor general); Weeks, supra, at 210 and n. 8; J. Bishop, Commentaries on Non Contract Law § 786, pp. 365 366, and n. 1 (1889); Cooley, supra, at 411 413.

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

106. That any claim of a failure to join a party through a 12(b)(7) motion filed in any MTD, may be true, as Pro Se Plaintiffs may have to amend the AC to include several hundred or perhaps thousands of defendants that violated agreements and contracts. Plaintiffs have already noticed the Court that these additional defendants may need to be added and will seek leave to amend the defect if this Court deems it necessary at this time. Certainly enough parties have been sued to garner a fair resolution, although those left off would make such resolution fairer (as many are Non Disclosure Agreement violators and other deep pocket license violators³⁴ & ³⁵) and thus Plaintiffs beg the Court to leave open the option to add additional necessary parties as the matters proceed.

³⁴ Exhibit 1 – Evidence Links 21, 42, 46, 102, 146-149 & 747.

³⁵ Exhibit – Extended List of Defendants @ { HYPERLINK "http://www.iviewit.tv/CompanyDocs/Appendix%20A/index.htm#MPEGLALIST" }

107. That any ruling by this Court to let anyone out prior to discovery in *Anderson* and the whistleblower justices willing to come forward in the related *McKeown* case, would be a great miscarriage of justice as that information would be critical to determining valid claims of any properly filed non conflicted MTD. With so much conflict prevailing in this Court already and new evidence of conflicts surfacing as defined herein, a ruling in favor of any defendant that filed a conflicted MTD would convey an appearance of impropriety and could be construed as a suppression of evidence that could materially affect any favorable ruling on a MTD ruled on prematurely.

108. If the herein defined conflict issues that would invalidate any MTD filed in known violation of professional conduct codes making a default ruling almost a must, is somehow overcome, the Court would then need to deal with the many other problems with the MTD pleadings, including, their being wholly premature in light of the witnesses and evidence that would quash any claims presented, the failure to deal with *Anderson* by even whisper in every MTD (attempting to hide it from the Court as it would make their arguments fail in each MTD), to the MTD being wholly void of any true legal basis for the assertions, to the obvious attempt it conveys that defendants are frivolously trying to hide from trial through such false pleadings that deny the factual matters before this Court in hopes of a miracle miscarriage of justice in their favor by this Court.

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

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

110. The municipalities cited as defendants in the AC are all subject to prosecution in this suit as; "To state a claim under 42 U. S. C. § 1983, a complaint must aver that a acting color of state law committed acts that deprived the Plaintiff of a right, privilege, or immunity secured by the Constitution or the laws of the United States." See

Parratt v. Taylor, 451 U. S. 527, 535 (1984). In order to hold a municipality liable as a “person” within the meaning of § 1983, the Plaintiff must establish that the municipality was at fault for the constitutional injury he or she suffered, See Oklahoma City v. Tuttle, 471 U.S. 808, 810 (1985); Monell v. New York City Dep’t of Social Serv., 436 U.S. 658, 690-91 (1978), in that the violation of the Plaintiff’s constitutional rights resulted from a municipality policy, custom or practice, See Monell, 436 U. S. at 694; Vann v. City of New York 72 F. 3d 1040 (2d Cir. 1995). “A Plaintiff may satisfy the “policy, custom or practice” requirement in one of four ways. See Moray v. City of Yonkers, 924 F. Supp. 8, 12 (S.D.N.Y, 1996). “The Plaintiff may allege the existence of (1) a formal policy officially endorsed by the municipality, See Monell, 436 U. S. at 690; (2) actions taken by government officials responsible for establishing the municipal policies that caused the particular deprivation in question, see Pembaur v. City of Cincinnati; 475 U. S. 459, 483-84 (1986) (plurality opinion); Walker v. City of New York, 974 F. 2d 293, 296 (2d Cir. 1992); (3) a practice so consistent and widespread that it constitutes a custom or usage sufficient to impute constructive knowledge of the practice to policy making officials, see Monell, 436 U. S. at 690-191; or (4) a failure by policymakers to train or supervise subordinates to such an extent that it amounts to deliberate indifference to the rights of those who come into contact with municipal employees”. See City of Canton v. Harris, 489 U.S 378, 388 (1989).

111. Section 1983 provides, in relevant and in part: “Every person who, under the color [of law]...subjects, or causes to be subjected, any citizen of the United States...to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceedings for redress”.

COLOR OF LAW RIGHTS

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

113. “Civil Rights Act of 1871 is found in Title 42 § 1983 of the United States Code, and is so commonly referred to as section 1983. It provides that anyone who,

under color of State or local law, causes a person to be deprived of rights guaranteed by the U.S. Constitution, or federal law is liable to that person”. *Monroe v. Pape*, 365 U. S. 167 (1961)

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

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

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

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

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

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

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

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

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

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

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

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

xii. Plaintiffs have a Constitutional right to a fair and impartial, honest judicial system, free from corruption and bias, with impartial arbiters of the law. Through the conduct set forth herein and through Anderson, including but not limited to their conduct in denying Plaintiffs access to fair and honest court proceedings, all defendants, collectively and each one of them individually, have engaged in actions and abuses which violate and Plaintiffs their Constitutional rights, including rights to due process and equal protection of the law, as provided under the Fourteenth Amendment of the United States Constitution.

xiii. Through the conduct set forth herein, including but not limited to their conduct to deny Plaintiffs access to fair and honest proceeding, and by colluding in bad faith through various acts, all, including but not limited to, Cover Up Participants, collectively and each one them individually and through the use of State court agencies, engaged in actions and abuses which violate and deny Plaintiffs of their Constitutional rights, including the right to petition the government under the First Amendment to the Constitution of the United States.

xiv. As a direct and proximate result of said acts, Plaintiffs have suffered and continue to suffer extreme financial loss, extreme loss of security in the Legal System and Judicial Process, emotional pain and suffering, loss of enjoyment of life, and lost trust of the legal system and lawyers and those charged with upholding ethical standards within the legal system, and in the courts.

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

xvi. That immunity for any of the State actors and agencies should not be granted in any capacity as they acted directly through their organizations to commit the acts stated herein, using the agencies and courts letterheads to deny due process through violations of official duties and where both officially and individually acting to deny due process through the capacity of their official organizations and where the organizations should also be held accountable and culpable.

xvii. State agencies were directly involved in the denial of due process and are directly responsible for their employees and officers.

xviii. State agencies must not be dismissed, nor their actors as if this were the case, it would allow state agencies to commit crimes with no oversight claiming personal, absolute and 11th amendment immunity any time crimes were committed by the state agencies through their employees and officers inapposite the Constitution which claims that no one is above the law.

INDIVIDUAL RESPONSES

PROSKAUER

i. Response to Introduction

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

116. Proskauer, the firm, its partners, associates and of counsel, and all the following partners not listed as represented in the Proskauer MTD have all defaulted. Proskauer in their MTD, ONLY represents "Attorneys Pro Se [Mashberg & Smith] and attorneys for Kenneth Rubenstein, Steven Krane, and the estate of Stephen Rackow Kaye". Thus a default should be ruled for all of the following for failing to file a timely answer or MTD; the firm Proskauer is not listed as being represented nor are the partners, associates, of counsel that were listed in both the OC and the AC, including those mentioned by name such as, ALAN S. JAFFE, in his professional and individual

capacities, ROBERT J. KAFIN, in his professional and individual capacities, CHRISTOPHER C. WHEELER, in his professional and individual capacities, MATTHEW M. TRIGGS in his official and individual capacity for The Florida Bar and his professional and individual capacities as a partner of Proskauer, ALBERT T. GORTZ, in his professional and individual capacities, CHRISTOPHER PRUZASKI, in his professional and individual capacities, MARA LERNER ROBBINS, in her professional and individual capacities, DONALD “ROCKY” THOMPSON, in his professional and individual capacities, GAYLE COLEMAN, in her professional and individual capacities, DAVID GEORGE, in his professional and individual capacities, GEORGE A. PINCUS, in his professional and individual capacities, GREGG REED, in his professional and individual capacities, LEON GOLD, in his professional and individual capacities, MARCY HAHN-SAPERSTEIN, in her professional and individual capacities, KEVIN J. HEALY, in his professional and individual capacities, STUART KAPP, in his professional and individual capacities, RONALD F. STORETTE, in his professional and individual capacities, CHRIS WOLF, in his professional and individual capacities, JILL ZAMMAS, in her professional and individual capacities, JON A. BAUMGARTEN, in his professional and individual capacities, SCOTT P. COOPER, in his professional and individual capacities, BRENDAN J. O'ROURKE, in his professional and individual capacities, LAWRENCE I. WEINSTEIN, in his professional and individual capacities, WILLIAM M. HART, in his professional and individual capacities, DARYN A. GROSSMAN, in his professional and individual capacities, JOSEPH A. CAPRARO JR., in his professional and individual capacities, and, JAMES H. SHALEK, in his professional and individual capacities.

117. Further, for the defendants that are represented, no MTD of Proskauer's should be decided or heard until the matters of conflict are addressed before the Court or the 1st DDC to conclude if Proskauer has acted again in violation of well established rules and regulations of the professional code of conduct in New York regarding conflict of interest which would preclude and negate any pleadings before the Court. That this response beyond this point is merely an exercise in pointless waste of time if conflicts are discovered in the tendering of the Proskauer MTD.

118. That Proskauer counts for the Court the volume of pages of the AC but most revealing is that their accounting fails to account for the evidence and exhibits incorporated and incorporated by reference in the AC totaling thousands of pages, which are chalk full of evidence and witness against them in support of the claims of the OC and AC and clearly stating with specificity the allegations against Proskauer and its partners, associates and of counsel in the various exhibit documents. This attempt to deny those facts and sell this Court that “we will not challenge Plaintiffs’ factual allegations or otherwise be drawn into their bizarre and confused claims of conspiracy and criminality” attempts to deny the facts in favor of hoping this Court will believe their claims that Plaintiffs are “confused” and conspiracy theorists. Factually, Proskauer offers no proof or evidence to such conspiracy against them, more hot air.

119. Proskauer fails in their MTD to deal with any of the facts of the case as cited in the OC and AC and its incorporated and incorporated references, herein again attached in Exhibit 1 and this may be due to Proskauer’s wish to avoid the facts in these matters. These documents containing volumes of related complaint data, with exhibits that contain separate detailed claims against defendant Proskauer for almost all of the crimes committed by their firm and partners, associates and of counsel, contradict their misleading statements and defamatory statements that this is a conspiracy of two madmen who have no evidence, despite the overwhelming evidence and witness against them contained in Exhibit 1.

120. Where paranoid and delusional behavior is steeped in failure to comprehend reality, it will be proven herein that Proskauer is truly the delusional party who cannot see the realities before them and thus the reason for their psychotic attempt to con this Court and skirt the evidence and witnesses against them and slip out on a technicality versus taking their case to Court and winning against Plaintiffs or suing with a counter complaint for the alleged harassment by Plaintiffs, etc.

121. Proskauer complains they are target of “a defamatory and harassing campaign” by Plaintiffs. If this is so, why have they not sued Plaintiffs for such, to stop such abuse? The answer is clear, there is only one defense for slander and defamation and that is truth. Since Proskauer cannot prove that Plaintiffs statements are either

defamatory or harassing and fear the truth, that Plaintiffs claims are valid, they have taken no legal actions to such claimed harassment etc. despite their whining to this Court

122. In fact, Plaintiffs will show that Proskauer is defaming and harassing them instead with their baseless claims that no evidence or witness exist to support what they claim a “fantastic conspiracy” charge (Plaintiffs claim it is a legal conspiracy with evidence and witness) and attempting to dispel an aura that Plaintiffs are victimizing them.

123. What proof of such does Proskauer put forth in support of this crazed claim, not one single piece of proof to support their contentions. Due to such defamation and harassment of Plaintiffs, continued in Proskauer’s MTD, in any second amended AC or by motion or new lawsuit, will include the charges of defamation of character and harassment, with request from the Court to have Proskauer cease and desist their campaign of defamation of Plaintiffs’ attempting to paint them as crazed, that is wholly unfounded when the facts are reviewed.

124. Plaintiffs will show that even in their MTD, tendered in a very real conflict of interest³⁶, Proskauer continues in a campaign of defamation and harassment, as they can find no attorney to represent their ludicrous and unsupported defense to this case in the face of such evidence, fact and witness against them, instead we again find them representing this hallucination as their own counsel, a fools counsel especially where one is a large leading law firm.

125. Proskauer states that Plaintiffs claim the “technology allegedly invented by Bernstein”. There is overwhelming evidence that Proskauer Rose opined to shareholders³⁷, their clients³⁸ and certain patent interest holders³⁹ that Bernstein had invented the technologies and where Proskauer, who was originally retained by Eliot & Simon Bernstein to protect the technologies, then formed approximately 13 companies to protect such inventions, it is ridiculous to hear them claim this as a merely alleged claim. Yet it is telling in that it shows that Proskauer is trying to distance themselves from their knowledge or involvement with the inventions, despite overwhelming evidence to the

³⁶ Where attorney misconduct actions have been filed at the 1st DDC and are pending formal docketing and disposition and Iviewit waits Monica Connell’s letters regarding these matters.

³⁷ Exhibit 1 – Evidence Links 22, 23, 25, 28, 33, 37, 44, 45, 47, 75, 167, 207, 732, 733, 834

³⁸ Exhibit 1 – Evidence Links 75 & 837.

³⁹ Exhibit 1 – Evidence Link 784

contrary showing their direct involvement in all phases of the IP and their directing co-counsel MLGWS and Foley.⁴⁰

126. Further, in support of the contention that Proskauer is attempting to mislead this Court regarding their involvement in the IP, Kenneth Rubenstein claimed to have no information regarding inventor Bernstein or the Iviewit companies or inventions both in a deposition⁴¹ and an affirmed statement in the Proskauer Civil Billing Lawsuit⁴². These claims were wholly disproved in Rubenstein's own deposition by both contradictory evidence and his own perjurious statements refuting his original claims⁴³. In fact, Rubenstein had prior written to Judge Jorge Labarga that he was the target of harassment (sound familiar) and knew nothing about Iviewit and was requesting to not be deposed in Proskauer's own billing lawsuit, where Rubenstein is mentioned throughout several years of billings.

127. Labarga ordered Rubenstein to deposition despite his pinning and Rubenstein in deposition wholly contradicted his prior affirmed statement to Labarga and in deposition contradicts his own deposition statements. Rubenstein at his deposition is confronted with contradictory evidence to his statements at which point he leaves his deposition, refusing to answer questions and demanding Iviewit Companies take the matter of forcing his continued deposition up with Labarga for his failure to answer direct questions of the deposer, in violation of Florida law. Iviewit Companies did petition the judge⁴⁴ and Rubenstein was ordered to return to answer the questions he refused at his first deposition. That continued deposition never occurred because the case was thrown by Labarga prior to Iviewit Companies being able to complete the deposition as described in the AC or cross examine Rubenstein at the trial which was thrown and never occurred.

128. It is also interesting to note that Labarga, despite having evidence of the contradictory and wholly perjurious statements of Rubenstein did nothing with such

⁴⁰ Exhibit 1 – Evidence Links 128, 131, 133, 136, 137, 138, 761, 762, 770, 6, 12, 52, 97

⁴¹ Exhibit 1 – Evidence Link 198

⁴² Exhibit 1 – Evidence Link – 196.

⁴³ Exhibit 1 – Evidence Link 166 - Warner Bros. technology letter stating Rubenstein was called and opined favorably. This secured Warner Bros. entering a technology licensing deal with Iviewit. Later Rubenstein when requested to reconfirm his prior opinion by Warner Bros. and Iviewit executives, Rubenstein refused claiming he now had a conflict of interest talking to his client Warner Bros??? This caused the Warner Bros. deal to collapse along with other issues discussed in the AC.

⁴⁴ Exhibit 1 – Evidence Link 767 & 768

evidence of false statements to the Court in an official court proceeding both while under oath in deposition and in a sworn written statement and instead Labarga quickly moved to remove Iviewit Companies counsel (two firms at the time) and throw the case for Bernstein's failure to find replacement counsel, further discussed in the AC, leading to his involvement as a defendant as Proskauer astutely points out in their MTD.

129. That Proskauer claims that Plaintiffs claim that the technologies are owned by "Plaintiff Iviewit companies" where this statement is wholly untrue, Plaintiffs claim that the inventions are owned first by Plaintiff Bernstein and other inventors and then at the direction of Proskauer, companies were opened by Proskauer, whereby assignment of the inventions to Proskauer formed companies was granted. Proskauer and their referred co-counselors controlled all facets of the corporate formations and IP assignments and which Plaintiffs claim clearly in the AC was not done according to what shareholders and certain patent interest owners were told was going to happen.

130. In the event that the corporate scheme invalidates the shareholders interest or the companies collapse, the technologies would presumably transfer back to the inventors, to redistribute accordingly. The former Iviewit Companies shareholders will be able to take individual or joint shareholder actions against their former counsel to recover damages as well. This action has been taken on the shareholders behalf as it was unknown how legally these rights could even be asserted, the reason the known Iviewit Companies are also defendants. If the Court refuses such additional Plaintiffs, those additional Plaintiffs will perhaps file their own suits in relation or some other way. The case would still remain under Plaintiff Bernstein, individually and as a shareholder of whatever companies and would still remain under the rights to his inventions in all other regards. In fact, this is why Plaintiff Bernstein has sued personally.

131. Instead of forming companies according to the Board of Director directives and what shareholders were told, Proskauer formed numerous unauthorized companies. Shareholders have no stock in those companies and for the most part hold no stock in almost all of the companies Proskauer formed. Thus Plaintiffs cannot ascertain what or who is owner of the companies or IP until investigations are completed at the USPTO and congressional intervention releases the information for the IP that was supposed to be owned by the Iviewit Companies and inventors but is not.

132. The Plaintiffs, inventors and shareholders are now forced to seek to get information on patents that are not theirs through such measures per the advice of Moatz whose officers could not release information on IP that Proskauer had stated was the inventors and shareholders. Plaintiffs make no claims as to who actually owns the IP at this point in Proskauer's corporate scheme but claims that ultimately, the Plaintiffs and Iviewit Companies shareholders, the legitimate ones, will own the IP as was intended.

133. What is known about the IP owners is that the USTPO has stated that the information Proskauer, Foley, MLGWS and BSTZ told shareholders and investors, is false and misleading and that certain of the IP listed as IP owned by Iviewit Companies is not owned by Iviewit Companies⁴⁵ and is found in some instances in Iviewit companies shareholders and investors were never notified of and in other instances the IP has been put in other inventors names, as is the case with defendants Joao and Utley where shareholders and investors were never told of these fraudulent IP applications.

134. Plaintiffs beg this Court to have Proskauer clearly show this Court, as they were unable too for an Arthur Andersen audit⁴⁶ or under specific requests from the shareholders⁴⁷, who owns what companies and where the IP is in relation to that corporate scheme. Further, the Court should order Proskauer to provide documentation that they transferred shares of the companies to all the appropriate shareholders and notified them of all such transactions that affected their interests, as well as, provide the patent assignment documentation they directed and controlled either directly or through co-counsel they brought to the companies.

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

⁴⁵ Exhibit 1 – Evidence Links 1, 363, 369, 346, 349, 350, 359

⁴⁶ Exhibit 1 – Evidence Links 668, 108, 112 & 114.

⁴⁷ Exhibit 1 – Evidence Links 392, 380, 383

Proskauer chose to avoid this reality which would negate most of their delusional claims that they are victims of harassment from conspiracy theorists.

136. That Moatz, as clearly stated in the AC with supporting exhibits incorporated and incorporated by reference and again incorporated herein in Exhibit 1, upon commencing his investigations, further directed Plaintiff Bernstein to (i) move through formal written request to the USPTO to remove all prior patent counsel from the applications, file inventor change forms, reply to any outstanding actions, revive abandoned patent applications and correct any other defects (ii) directed Plaintiff Bernstein to only deal with a specialized team at the USPTO he formed to aid Plaintiff Bernstein in getting the IP revived and/or corrected so that it could be suspended by the Commissioner of Patents, and then, (iii) directed Bernstein to petition the Commissioner of Patents to suspend the IP, referring the Commissioner directly back to Moatz at his bequest in support of the claim of fraud upon the USPTO and Plaintiffs, the Iviewit Companies shareholders and ask that suspensions could be granted while ongoing investigations were had. These facts, clearly defined in the AC with supporting evidentiary exhibits again refutes claims by Proskauer that Plaintiffs are baselessly harassing them in a wild conspiracy theory, is Proskauer claiming that the Commissioner of Patents is also in on the conspiracy against them?

137. Plaintiffs do allege that Rubenstein was retained Iviewit Companies and Plaintiff Bernstein's individual patent counsel whom directed the filings of the patents. Further, that Proskauer then brought in as co-counsel defendants Meltzer & Foley to handle various aspects of the IP filings under Rubenstein's direction, as described in the Wachovia Private Placement⁴⁸. In fact, Rubenstein is on an Advisory Board of Directors for the Iviewit Companies, on an advisory board that controlled the IP direction and is almost in every business plan ever generated by Iviewit Companies and co-authored, reviewed and disseminated by Proskauer. Again, a fact that damns their delusional conspiracy theory with stark reality. This fact also damns Rubenstein's delusions that he knows nothing about the Iviewit Companies or inventors or inventions that he claimed in sworn statements and his own deposition constituting perjury, amongst other things.

⁴⁸ Insert link to Rubenstein in Wachovia PPM

138. Plaintiffs do not allege “that every lawyer, law firms, court and government entity Plaintiffs have approached for help has instead joined the conspiracy” and this statement again tries to pull the wool over this courts eyes with further false defamatory statement and harassing claims, in attempts to make Plaintiffs appear crazed conspiracy theorists, as Plaintiffs in fact claim quite the contrary.

139. Plaintiffs claim that only certain lawyers, law firms, courts and government entities have joined their conspiracy, mostly at the state level. There are many ongoing investigations by many government organizations that have several year investigations ongoing both in the United States and abroad, including the USPTO OED and the USPTO, whereby the IP of Plaintiff Bernstein has been suspended as stated herein pending formal investigation of the many IP attorneys.

140. Plaintiffs complain that there are additional conspirators and this typically where Proskauer or their co-conspirators have been found influencing complaints in violation of well established rules, regulations, procedures and public office duties, resulting in the need to involve only very specific government agencies and courts as defendants. In the matters of defendants Triggs and Krane, both Proskauer partners who were found violating public offices rules and regulations in their official capacities that in both instances led to the need for further cover ups once they were caught at higher and higher level blocks were needed.

141. In fact, another fact exhibited in the AC, are the unpublished orders of the First Department Court whereby Proskauer partners were found in conflict and ordered for investigation. The complaints were transferred by the First Department Court for investigation, to the 2nd DDC, whereby further Proskauer conflicted parties were found handling those matters⁴⁹, further complaints were then filed, further cover-ups were then necessary, as further defined in the AC regarding the 2nd DDC, resulting in the need for a host of new complaints.

142. Proskauer’s argument that Plaintiffs have included as conspirators “every lawyer, law firm...Plaintiffs have approached for help has instead joined the conspiracy” is misleading and unsupported by any fact, mere hot air, in that many of the Plaintiffs sued on behalf of Lamont and Bernstein are lawyers and law firms, including many of the

⁴⁹ Exhibit 1 – Evidence Links 460, 466, 474, 496, 501, 514, 518, 531, 537, 542, 545 & 546.

Iviewit Companies shareholders and patent interest holders. In fact, Plaintiffs will call as witness all of the following law firms, lawyers and professionals on their behalf who have information regarding these matters which disprove Proskauer's conspiracy theory or have acted directly in these matters: (i) Caroline Prochotska Rogers, Esq., acted on behalf of Plaintiff Bernstein and Iviewit in certain of these matters before the Court⁵⁰, (ii) Steven Selz, Esq., acted on behalf of Plaintiff Bernstein and Iviewit in certain of these matters before the Court, (iii) Marc R. Garber, Esq., acted on behalf of Plaintiff Bernstein and Iviewit in certain of these matters before the Court⁵¹, (iv) Michele Marlene Mulrooney Jackoway, Esq., acted on behalf of Plaintiff Bernstein in certain of these matters before the Court^{52and53}, (v) Alan J. Epstein, Esq., acted on behalf of Plaintiff Bernstein in certain of these matters before the Court⁵⁴, (vi) James R. Jackoway, Esq.,

⁵⁰ Rogers is a personal friend of Plaintiff Bernstein's for over 25 years. She hired counsel Selz to represent Iviewit Companies before Labarga, hired counsel for the Involuntary Bankruptcy, hired Greenberg Traurig to review the patents for Bernstein and the Iviewit Companies, structured the Schiffrin & Barroway LOU, and is a patent interest holder. Rogers has eyewitness account for much of the Iviewit Companies matters, after discovery of the initial patent thefts going forward and will be called as witness to corroborate the matters she has knowledge of.

⁵¹ Garber has acted in the Iviewit Companies matters for approximately 4 years and continues to advise Bernstein personally. Garber's firm, Flaster Greenberg P.C. represented Plaintiff Bernstein personally in the Schiffrin & Barroway Letter of Understanding and again in the failed Proskauer Rose proposed settlement. Garber was introduced to the companies and Plaintiffs by Mitchell Welsch, an Iviewit Companies shareholder, a 30 year friend of Plaintiff Bernstein, an insurance client of Plaintiff Bernstein's former insurance business and a former investment banker for the Iviewit Companies. Garber has eyewitness account for much of the Iviewit Companies matters after discovery of the initial patent thefts going forward and will be called as witness to corroborate the matters they have knowledge of. Welsch has information from initial discovery of the patents until 4 years ago.

⁵² Mulrooney is a personal friend of Bernstein for approximately 15 years, her firm, the premier entertainment law firm in Los Angeles, represented the interests of Plaintiff Bernstein under retainer in the matters of the patents. The firm Jackoway Tyerman Wertheimer Austen Mandelbaum Morris & Klein, A Professional Corporation is Bernstein's client for almost twenty years. The firm, formerly known as, Armstrong Hirsh Jackoway Tyerman & Wertheimer LLP, and through a separate company they formed, are founding shareholders of the Iviewit Companies. Mulrooney also acted as personal counselor to Bernstein, estate advisor for the patent interest of the Bernstein family. Many of the firm partners are clients of Bernstein's former insurance business for over twenty years. The firm also introduced the Iviewit Companies to some of their finest client relations to form several of the business arrangements that Proskauer handled, including leading major motion picture studios and other multimedia companies. Mulrooney has eyewitness account for much of the Iviewit Companies matters, from the day of discovery going forward and will be called as witness to corroborate the matters she has knowledge of.

⁵³ Mulrooney recommendation for law school of Bernstein @ { [HYPERLINK "http://www.iviewit.tv/inventor/mulrooney%20recommendation.htm"](http://www.iviewit.tv/inventor/mulrooney%20recommendation.htm) }

⁵⁴ Epstein is a personal friend of Bernstein's for approximately 15 years and was an Iviewit Companies advisor, personal counsel to Bernstein relating to his personal interest in the patents via his firms retainer agreement and instrumental in first hand meetings of the companies and board meetings. Epstein is also with Jackoway Tyerman Wertheimer Austen Mandelbaum Morris & Klein, A Professional Corporation.

acted on behalf of Plaintiff Bernstein in certain of these matters before the Court,⁵⁵ (vii) Armstrong Hirsch Jackoway Tyerman & Wertheimer, P.C. acted on behalf of Plaintiff Bernstein and Iviewit in certain of these matters before the Court, (viii) Richard R. Rosman, Esq.,⁵⁶ acted on behalf of his personal clients in certain of these matters before the Court, (ix) Anthony Lewinter, Esq., (x) Irell and Manella, Esq., acted on behalf of Plaintiff Bernstein and Iviewit in certain of these matters before the Court⁵⁷, (xi) Kenneth Anderson, a lawyer and accountant whom acted on behalf of Iviewit in certain of these matters before the Court⁵⁸, (xii) Mark W. Gaffney, Esq., acted on behalf of Plaintiff Bernstein, Lamont and Iviewit in certain of these matters before the Court and is also a former Department of Justice Antitrust Division attorney⁵⁹, (xiii) Antonio “Tony” Castro. Esq.⁶⁰, and, (xiv) Schiffrin & Barroway, whom are defendants now but who believed strongly in the Iviewit claims after thorough due diligence into the evidence and witness, so much so, as to sign a binding Letter of Understanding⁶¹ to represent Plaintiffs and Iviewit Companies against many of the defendants, in almost all of the claims of the AC. Is Proskauer going to claim that all these witnesses are part of the grand delusion of a

⁵⁵ Jackoway is a personal friend of Bernstein’s for approximately 12 years, as a senior partner in the firm, Jackoway Tyerman Wertheimer Austen Mandelbaum Morris & Klein, A Professional Corporation, he has extensive knowledge of the events described herein and has eyewitness account for much of the Iviewit Companies matters, from the day of discovery going forward and will be called as witness to corroborate the matters he has knowledge of.

⁵⁶ Rosman is a personal friend of Bernstein’s for over twenty years and represented his clients in Iviewit Companies matters and has extensive knowledge of the events described herein and has eyewitness account for much of the Iviewit Companies matters, from the day of discovery going forward and will be called as witness to corroborate the matters he has knowledge of.

⁵⁷ Bernstein has a twenty year relation with Irell & Manella and many partners were personal clients of Bernstein’s former insurance business. Irell & Manella was hired via retainer, by Crossbow Ventures on behalf of Iviewit Companies following the loss of Proskauer and their co-counsel Foley, due to the discovery of the patent malfeasances and in efforts to save ongoing licensing deals at the time. Irell prepared licensing agreements after Proskauer failed to complete those deals, including AOL/WB for licensing and servicing. Irell referred BSTZ to Plaintiff Bernstein and Crossbow Ventures to evaluate the evidence of the stolen patents when it was discovered by Iviewit & Crossbow. Certain of the Irell partners have knowledge of certain of the events described herein and will be called as witness to corroborate the matters they have knowledge of.

⁵⁸ Anderson, formally a leading partner with Arthur Andersen’s Personal Financial Planning Group in Los Angeles, is a friend of Bernstein for over 12 years. Anderson is a founding Iviewit Companies shareholder and has knowledge of certain of the events described herein and will be called as witness to corroborate the matters he has knowledge of.

⁵⁹ Gaffney is a personal friend of Lamont, advised Lamont and Bernstein on several key meetings and attended a meeting personally in West Palm Beach, FL with Special Agent Stephen Luchessi on behalf of Plaintiffs. Gaffney is a patent interest holder. Gaffney has knowledge of certain of the events described herein and will be called as witness to corroborate the matters he has knowledge of.

⁶⁰ A personal friend of Lamont and a patent interest holder.

⁶¹ Exhibit 1 – Evidence Link 251, 250, 252, 259, 262, 264, 265, 267, 269, 272, 273, 315 & 829

conspiracy of undefined motive of Bernstein and Lamont against Proskauer and the other defendants? Why is Proskauer, the only law firm with founding shares in the Ivievit Companies that does not want to know the answer to what has happened to their shares?

143. The attorneys above willing to testify before the Court to the matters they have knowledge are accused by Plaintiffs of being ethical and honest and attempting to do the right thing to get the claims heard, protect the former shareholders and inventors and will act as witness to the events. Many are current patent interest owners for their efforts, who worked on the promise of pay when we could find a fair and impartial court to hear the claims and return the IP to the rightful owners, assignees and inventors.

144. With due process blocked at the highest levels, who needs friends? When the blocking includes the claims of intimidation and other harassment endured by *Anderson* to keep the lid on it or else, people, including good honest lawyers, become fearful of trying to help due to the fear of retaliation. A car bombing adds yet another level of intimidation to those wanting to help. Whistleblowers even become fearful and thus hero's are hard to find even where one wants to help, Plaintiffs have often refused help from anyone else, as until Plaintiffs are assured of fair and impartial due process, free of conflict of interest, to ask a good honest lawyer or friend to help is to jeopardize her/his life, future, family etc.

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

146. Then there was *Anderson*, whom Proskauer must also claim is in on the conspiracy to harass them, who confirms in part the contention that the 1st DDC was corruptly handling complaints, supporting almost identical claims that Plaintiffs made prior to ever hearing of *Anderson* or her insider claims regarding the conduct of the 1st DDC in regard to Proskauer partner Krane.

147. The very 1st DDC we find Proskauer involved in conflicted self representation in public office proceedings in violation of public office duties which imparts the appearance of impropriety by none other than Krane, Proskauer's ethics lead

partner, an intellectual property partner and gaming expert⁶². Krane acts to use his disciplinary public office influence, including directly at the 1st DDC, to represent Rubenstein and Proskauer in 1st DDC complaints⁶³ failing to even mention that he might have conflict due to; his vested interest in the matters as a Proskauer partner with everything to lose, his interest as an Iviewit Company shareholder through the Proskauer founding shares, to his conflicting public office positions that prohibit such conflicted representations, etc.

148. Taking *Anderson* to represent only a fraction of the corruptions, Plaintiffs can only conclude until further discovery is had, that similar blocks were instituted in Florida, where yet again, Proskauer partners are found acting in conflict of interest and violating public offices of The Florida Bar in almost identical pattern to New York. This will be further explored through discovery of *Anderson* necessary to explore how and who issued the orders and how that transcended between the various players in various states. By the look of the letters tendered in response to the complaints by Krane⁶⁴ and Triggs⁶⁵ and their almost identical nature, it is presumed that they coordinated such activities at minimum through their official capacities at the 1st DDC in New York and TFB in Florida to effectuate an almost identical series of events. Where the state defendants are claiming there was no collusion amongst state actors, perhaps it is because they fail to recognize or defend Krane and Triggs as officers in their official capacities with those organizations, again very telling.

149. Then there is Monte Friedkin, is he a conspiracy theorist? Are his claims to Rogers and Bernstein that Utley, Wheeler and Dick attempted to lift his IP immediately prior to meeting Bernstein and in almost identical fashion that of a madman? The Friedkin allegations are further confirmed in part under deposition by Utley and Wheeler⁶⁶ by their admissions inapposite a fraudulent resume that Wheeler and Utley presented to the Iviewit Companies and shareholders misrepresenting their past at

⁶² Exhibit 1 – Evidence Links 384, 70, 225, 386, 387, 391, 394, 396, 397, 407, 408, 415, 430, 433, 447, 460, 466, 468, 470, 471, 474,

⁶³ Exhibit 1 – Evidence Links 215, 225, 247, 279, 286, 324, 384, 391, 407, 430, 460, 466, 471, 474, 487, 496, 518, 679, 744, 752, 761, 777, 778, 779, 782, 783, 798, 852 & 855

⁶⁴ Exhibit 1 – Evidence Link 226

⁶⁵ Exhibit 1 – Evidence Link 235

⁶⁶ Exhibit 1 – Evidence Links 823, 190, 191, 320, 321, 323, 679, 680, 681, 809, 810, 811, 813, 815, 817, 818, 821, 822, 832, 54, 130, 185, 187, 188, 190, 191, 206, 219, 220, 229, 233,

Friedkin's and what happened, whereby their own depositions contradict the statements of the resume! Plaintiffs believe, after review of the outstanding philanthropist Monte Friedkin of Florida, that he too will be found to be credible by this Court and expose such facts as he did for both Rogers via a phone conversation and with Bernstein personally, regarding how he fired Utley for attempting to have his company's IP written in his name, sent to Utley's home and in violation of his fiduciary duties to Friedkin. Friedkin has agreed under subpoena to testify to his knowledge in these matters, yet another reason for further discovery to learn more about the criminal enterprise history of patent thefts.

150. Also learned from Friedkin was how Wheeler was connected to Utley in the attempted IP theft, as Friedkin knew both Utley and Wheeler well from the board of Florida Atlantic University that they all were once on, after the scandals which Wheeler was involved in⁶⁷, Plaintiffs are unclear if Wheeler remained on the board. On information and belief, after learning of the Iviewit Companies patent thefts and how Utley had tried to put the patents in his own personal name and send them to his house, aided and abetted by Foley and Dick and oversighted by Rubenstein, Utley fled Florida and resigned his post as the scandals broke involving FAU at the departments Utley and Wheeler were involved with. Wheeler, Proskauer's star witness to their conspiracy theory, was after the Fusion and FAU scandals arrested for felony drunk driving with injury and later convicted for that offense⁶⁸, Wheeler's credibility shattered by these events.

151. Even more astonishing is Plaintiffs then find Wheeler being defended by defendant Turner from TFB who misleads the press that Wheeler's DUI is a misdemeanor and may be punished by TFB, failing to truthfully report to the press that Wheeler's arrest report clearly shows at the time a felony charge. Perhaps, Turner (as illustrated in the incorporated Exhibit 1 – Evidence Link 526) involved in the Wheeler bar complaint did not want things to get out of control to protect his personal interest and used the TFB offices to circulate false information to the press?

⁶⁷ Exhibit 1 – Evidence Links 275 & 830.

⁶⁸ Exhibit 1 – Evidence Links 512, 525, 526, 835, 830 & 275.

152. Proskauer’s argument that Plaintiffs have included as conspirators “every...court and government entity Plaintiffs have approached for help has instead joined the conspiracy” is misleading in that the following government agencies investigating these matters, mostly federal and international, have not been included as conspirators, nor become defendants and remain investigating with no known influence of Proskauer or their co-conspirators affecting such investigations at this time: (i) United States District Court - Southern District of New York, (ii) House Judiciary Committee⁶⁹, (iii) The Honorable Senator Dianne Feinstein, (iv) Department of Justice – Office of Inspector General, Glenn Fine, (v) Federal Bureau of Investigation – Office of Professional Responsibility, (vi) Federal Bureau of Investigation West Palm Beach Florida (although this office is currently under investigation for missing Iviewit case files and investigators into both the Iviewit matters and the car bombing), (vii) Boynton Beach Fire Department & Florida Fire Marshal, (viii) United States Attorney General Southern District Florida (although this office is currently under investigation for missing Iviewit case files and investigators into both the Iviewit matters and the car bombing), (ix) United States Patent & Trademark Office, (x) United States Patent & Trademark Office ~ Office of Enrollment & Discipline, (xi) Federally Backed United States Small Business Administration Office of Inspector General, (xii) United States Supreme Court, (xiii) Securities & Exchange Commission, (xiv) Florida Judicial Qualifications Commission, (xv) Institute of Professional Representatives Before the European Patent Office, and, (xvi) the Japanese Patent Office

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

a. Eliot Spitzer, New York Attorney General – Counsel to Spitzer is Proskauer⁷⁰. Spitzer receives complaints against public officials but buries them and never even responds formally or procedurally to direct requests for his involvement in the matters, perhaps to busy in aiding young woman into prostitution and transporting them

⁶⁹ Exhibit 1 – Evidence Links 566, 581, 584, 585 & 586.

⁷⁰ Exhibit 1 – Evidence Links 869, 870 & 871.

across state lines to be concerned with public office corruptions against his law firm. It is believed that Dietrich L. Snell of Proskauer Rose is representing Spitzer in criminal matters that forced his resignation including the Troopergate scandal.

b. From the Wallstreet Journal on April 27, 2007, 6:28 pm ~ Former NY Deputy AG Moves to Proskauer ~ Posted by Amir Efrati - Dieter Snell, a former deputy attorney general under former AG Eliot Spitzer, now the governor of New York, has joined the New York office of law firm Proskauer Rose as a partner in its white-collar defense and internal-investigations group. Ah, “birds of a feather...” Snell further is supervised at Proskauer by “Bob Cleary, who supervised Snell at the U.S. Attorney's Office and now heads Proskauer's white-collar defense practice.”

c. New York Supreme Court Appellate Division First Department - Departmental Disciplinary Committee Member – Proskauer partner Steven C. Krane who was found directly handling disciplinary complaints against Proskauer, Rubenstein and himself, while having a vested interest in the matter as a Proskauer IP partner and also simultaneously a senior official in the 1st DDC and other conflicting office positions involving the NY disciplinary system as already defined herein.

d. New York Supreme Court Appellate Division Second Department - Departmental Disciplinary – Kearse has conflict with Proskauer partner Steven C. Krane who is found directly handling disciplinary complaints against Proskauer, Rubenstein and himself, while having a vested interest in the matter as a Proskauer IP partner and a senior official in the 1st DDC and other conflicting office positions involving the NY disciplinary system as already defined herein.

e. Florida Supreme Court - The Florida Bar – Florida Bar Official Matthew Triggs, a Proskauer partner, is found directly handling disciplinary complaints against Proskauer and Wheeler, while having a vested interest in the matter as a Proskauer partner while in a blackout period that precluded his representation of anyone before The Florida Bar in a bar complaint, due to his official role with TFB⁷¹.

f. Fifteenth Judicial District, Florida - Judge Jorge Labarga – Where Proskauer partner Triggs is found again violating attorney conduct codes and violating

⁷¹ Exhibit 1 – Evidence Links 235, 221, 228, 233, 405, 411, 426, 428, 431, 439, 440, 441, 446, 452, 458, 471, 476, 519, 534 & 719.

his The Florida Bar offices when found handling the Proskauer Billing Lawsuit before Judge Labarga, while handling the bar complaints simultaneously against his firm and partners. Again, this is a direct violation of the Rules Regulating the Florida Bar. Triggs was found to have a mass of ethical violations in his representations, complaints were filed against Triggs but they were blocked from even being docketed or disposed of according to well established procedure and were instead trashed as already evidenced herein. For knowingly allowing Triggs to act in violation of his public offices, for his knowingly dismissing the case with evidence of perjury by Rubenstein and Wheeler to his Court and failing to take action or report such and finally for his dismissing counsel immediately prior to a trial, Labarga has earned his stripes in these matters⁷². The Labarga case files of Proskauer v. Iviewit are hereby incorporated by reference in their entirety.

g. Kelly Overstreet Johnson is found having direct involvement for months regarding the Proskauer, Wheeler and Triggs bar complaints⁷³, while working directly under James Wheeler, brother to Proskauer partner Christopher Wheeler at the law firm of Broad & Cassell, failing to disclose her conflict. After discovering the conflict, Johnson had TFB counsel call Plaintiff Bernstein stating not to send her further information and that she could not be involved any longer.

h. Recently learned information also shows that the former Solicitor General of the FSC during Plaintiffs case in that court was upon retirement made a partner of Foley and Lardner with a special position within the Florida's Governor offices. This may have aided and abetted the denial of due process in that court, further discovery will be necessary.

i. Virginia State Bar – It has recently been learned that the Commonwealth of Virginia and its agencies have retained Foley & Lardner as counsel⁷⁴. That this information will need to be explored further in discovery in these matters. This conflict should have excluded the VA Attorney General (“VAAG”) who hired Foley, to recuse from representation of these matters directly involving Foley partner William J. Dick. Again, this imparts an appearance of impropriety, especially where the VA AG did

⁷² Exhibit 1 – Evidence Links 195, 196, 212, 218, 244, 259, 262, 263, 281, 293, 295 & 304.

⁷³ Exhibit 1 – Evidence Links 417, 440, 452, 488, 666 & 719.

⁷⁴ Exhibit 1 – Evidence Link 872

not mention this relationship to this Court, seeking approval of the Court regarding the conflict prior to representation. The VAAG also contacted Plaintiffs prior to even joining as counsel through the proper Court procedures, what was supposed to be a call to confirm a document transfer via facsimile turned into a threatening phone call as noted to the Court via letter⁷⁵.

j. United States District Court ~ Southern District of New York – Proskauer, Foley and now several others are once again found acting in conflict of interest in matters they have wholly vested interests in and a myriad of conflicts that preclude their self representation according to well established rules of professional conduct, with absolute disregard for such rules making mockery of yet another Court. Due to their direct involvement as counsel for themselves, additional complaints have been filed against counsel and now defendants Mashberg, Smith, Norbitz, Sekel, Proskauer and Foley for their ethics violations before this Court with the 1st DDC.

k. Michael A. Cardozo, Corporation Counsel, City of New York; formerly Partner, Proskauer Rose LLP; past President of the Association of the Bar of the City of New York; former Chair, New York State Committee on Judicial Administration; former Chair, New York State Appellate Division Task Force may have been involved in the blocking of complaints filed with Robert Morgenthau's office that Iviewit filed regarding the public offices corruptions and similar to Spitzer, Cardozo's role may have had impact on that offices decision to not respond entirely, this link will need further discovery.

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

⁷⁵ Exhibit 1 – Evidence Link 646

m. All those collateral state actors, in the departments where Foley and Proskauer appear to have influenced the outcome, who have been named as defendants in the AC and OC, are implicated due to the covering up for Proskauer partners once caught, through direct violations of well established rules of their agencies and thus part of a very real “legal conspiracy”, not a conspiracy theory as Proskauer would have it. These actions of the state actors were not mere bad decisions but direct acts to cover up the actions of Proskauer and Foley through violation of their public office duties as evidenced herein.

154. The real test of if Proskauer is delusional in putting forth their delusional conspiracy theory defense in the face of the evidence and witness against them, is in their failure to find a qualified non conflicted lawyer to assert their crazed conspiracy theory defense for them. There is no lawyer or person who looks at the evidence objectively that will proffer false defenses before this Court in an effort to aid and abet Proskauer or Foley in their fantasy, so Proskauer and Foley⁷⁶ represented themselves in a matter they have a mass of vested conflicting interests in, the case before this Court, interests such as their jobs, their assets and the very real prospect of the rest of their lives in some instances in federal prison. Every person at Proskauer and Foley is at some degree of risk, from affected by job loss if Plaintiffs are successful, to being found accomplice, to losing all assets from being tied to their partnerships, to being found in the construction of the legal conspiracy and racketeering enterprise before this Court that is steeped in evidence, facts and witnesses, not a conspiracy theory, just a typical racketeering conspiratorial enterprise to steal IP from inventors. These risks preclude self representation, yet Proskauer and Foley fear no ethics violations or laws in utter contempt, as usual, of legal ethics and their sworn oaths to uphold law and the attorney conduct codes.

155. Another false statement in the Proskauer MTD is the claim that MPEGLA did not do anything. That Plaintiffs’ allege that MPEGLA took actions through the

⁷⁶ After their call with the NYAG Connell who fingered them to this Court as acting counsel in the matter, Foley then after learning of bar complaints, Foley hired counsel to additionally represent them and Proskauer sent a letter to the Court confirming Connell’s claim that they were acting as self counsel. Foley, tries to deny that they were acting as counsel when contacting Connell to discuss legal strategy but their arguments to the Court by their new counsel are false pleadings attempting to exonerate them versus honestly represent the truth of the matters.

direction of Rubenstein, a founder of the patent pool, chief counsel to the pool and sole reviewer and gatekeeper of the patents that get included or in this case, excluded.

156. Plaintiffs further allege that MPEGLA LLC, which prior to the Iviewit inventions was represented by Rubenstein who was at Meltzer at the time is the largest infringer now of Plaintiffs technologies that Rubenstein was retained by Iviewit Companies as patent counsel to get the Iviewit Companies IP included in the pool.

157. Plaintiffs allege that Proskauer then represented Rubenstein as part of a New York IP department of Proskauer⁷⁷ to early Iviewit Companies investors and potential investors. Proskauer and Rubenstein then acted under false pretenses in claiming he was part of a Proskauer IP department⁷⁸ at the time and that when discovered by Iviewit investors that he was with Meltzer, Wheeler claimed that they were acquiring Rubenstein, who controlled the MPEGLA patent pool and would get the IP included in the pool. Prior to Rubenstein, Proskauer Rose LLP did not have an IP department and with the acquisition of Rubenstein, Proskauer acquired direct control and interest in MPEGLA and so uses MPEGLA as one of the store fronts for laundering the stolen royalties from the Iviewit inventions, creating a monopolistic power in violation of antitrust laws and whereby it is claimed in the AC that MPEGLA is one of the largest infringers of the scaling technique, which prior to Iviewit they did not have.

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

⁷⁷ Exhibit 1 – Evidence Links 3, 4, 6, 9, 12, 13 & 18.

⁷⁸ Prior to Rubenstein joining Proskauer, Proskauer was a real estate law firm with no IP department whatsoever, this was learned much later by Iviewit Companies. It is interesting to note that immediately after Bernstein's inventions Proskauer staffed up and IP department by acquiring Rubenstein and other of his associates from Meltzer and became the leading law firm in technology centered upon Bernstein's inventions. This is as interesting as Proskauer's sudden appetite for NYAG's with white collar defense practice joining their firm.

159. Plaintiffs claim that through not only Rubenstein's position as counsel for MPEGLA and simultaneous counsel for Iviewit Companies, but also through Proskauer's position as counsel for MPEGLA while counsel for Iviewit Companies, that both Rubenstein and Proskauer have illegally directed the technologies to MPEGLA for tying and bundling into their anticompetitive licensing scheme and thus proliferated Plaintiff Bernstein's inventions through MPEGLA as their counsel. Since Proskauer and Rubenstein now inures direct benefit from MPEGLA, it is claimed that MPEGLA acts as one of the main sources of income, mainly from the proliferation of Plaintiffs technologies, for the criminal racketeering enterprise spearheaded by Proskauer and Foley, composing this very real legal conspiracy.

160. Plaintiffs allege that Proskauer formed the Proskauer IP department headed by Rubenstein, who replaced no one, as there was no prior IP department and brought in his other co-counsel from MLGWS when he transferred to form the Proskauer IP department, in order to steal the technologies. Proskauer again was a NY real estate firm for a few hundred years with no IP department and Proskauer does not deny this claim and this Court should take note of that.

161. The Court should note several factors in considering the statements made by Proskauer in the MTD regarding a retainer agreement with Iviewit Companies and Plaintiff Bernstein, as Proskauer appears to make the Court think that Plaintiffs have failed to exhibit such and are hiding such. Where Plaintiffs claim the only document recovered⁷⁹, due to a mass document and evidence tampering that occurred when Iviewit Companies was first alerted to the crimes being committed and reported to federal authorities, is a quasi retainer that appears fraudulent, the document comes almost a year after Proskauer began services for Eliot and Simon Bernstein, individually on behalf of the inventors and where the original retainer agreement appears missing. Perhaps Proskauer can explain where it is or why they failed to put it forward for their billing lawsuit or in this case. It almost appears that Proskauer is claiming that they do not have copies of the retainer agreements, so they claim that is an alleged claim they were retained both by Plaintiff Bernstein individually and the Iviewit Companies, not a factual event. Is Proskauer stating they represent clients with no retainer agreements, bill for

⁷⁹ Exhibit 1 – Evidence Link 50 – Note this is only with Iviewit LLC

services without a retainer and sue for bills for legal services they preformed without retainer?

162. The document retainer letter exhibited above was done by Utley and Wheeler. After it was found that Wheeler had submitted a fraudulent resume for Utley, no document these two created can be trusted, especially when reviewed under the very real claims of the very real Monte Friedkin, showing they have a prior history of fraud together. The Court should finally note that Proskauer has agreement in the fraudulent retainer submitted with the Proskauer Civil Billing Lawsuit, with only Iviewit LLC. Yet Proskauer sues companies they have no agreement with in the billing case, failing to sue the Iviewit company they are retained by, how very telling when viewed in the light of the very real information that patents were in wrong companies (fraudulently created according to Plaintiffs and the ones that Proskauer sued) confirmed by the USPTO and Greenberg Traurig through analysis of where the IP was versus where Proskauer and their co-conspirators had fraudulently misstated to investors, including the SBA. Proskauer sued IVIEWIT.COM, INC., a Delaware corporation, IVIEWIT HOLDINGS, INC., a Delaware corporation and IVIEWIT TECHNOLOGIES, INC. in their billing lawsuit and not Iviewit LLC⁸⁰ whom the bogus retainer is with.

163. In fact, Proskauer bills a variety of companies they appear to have no retainer with for services⁸¹ and fails to sue some of these companies while asserting bills for them in their billing lawsuit. This is not a coincidence or an error and the Court must remember that the initial filing was done in secrecy, with counsel Iviewit Companies never retained or hired and was only exposed through Warner Bros. due diligence regarding a twenty million dollar plus investment they were preparing to make in accordance with the Wachovia Private Placement Memorandum. The entire Labarga case, which records for the original filing appear missing, must still be further explored through discovery to ascertain exactly how this hoax was originated and how the various players came together in secrecy to commit this crime using legal process abuse to attempt to steal the IP, in conjunction with the felonious Federal bankruptcy filing⁸² both actions on bogus companies with stolen IP. The Federal bankruptcy action also was done

⁸⁰ Exhibit 1 – Evidence Links – 764 & 768.

⁸¹ Exhibit 1 – Evidence Links – 7, 41, 759, 761, 762, 769, 770, 50

⁸² Exhibit 1 – Evidence Link 669

in secrecy until discovered by Warner Bros. in their due diligence and again, it was filed on companies that none of the plaintiffs in that matter had any contracts with and on a company that was not supposed to have IP in it, according to MLGWS, Foley & Proskauer but did. It appears the legal actions were more legal process abuse in efforts to gain the stolen IP hidden in the fraudulent companies that resembled the Iviewit Companies shareholders knew of and were further discovery is still necessary to figure out how the counsel that represented these bogus companies in the Federal bankruptcy were retained, by whom, etc. Plaintiffs have reported all of this and documented it to federal authorities and investigations remain ongoing, except in certain instances where complaint files are missing and investigators are now missing, currently under review by the USDOJ, Inspector General Fine and the FBI OPR.

164. Where yet another document incorporated by reference that serves to show a legal relationship existed between Proskauer and Bernstein and is not merely alleged, can be found at, { HYPERLINK "http://iviewit.tv/CompanyDocs/1999%2002%2018%20Wheeler%20letter%20regarding%20Rubenstein%20" }. This letter shows Rubenstein is reviewing the patents for patentability, yes the guy who never heard of Iviewit under deposition and in a sworn statement and where such letter again is factual evidence that Rubenstein under deposition was delusional when claiming he never heard of Bernstein, the Iviewit Companies and knew nothing of the technologies. The letter discusses fees and billings for the patent work, which Wheeler and Rubenstein claim to have had no part in the Iviewit IP, despite the IP billings already exhibited herein. Where Rubenstein's IP department and the IP partners he manages bill throughout the relationship with Plaintiff Bernstein and the Iviewit Companies for various IP work, including copyrights (that were never filed), trademarks, patent meetings and now claim they have no retainer?

165. This retainer shtick reeks as bad as the deposition of Rubenstein and Wheeler regarding Proskauer and their failure to run a conflicts check⁸³ that would have certainly found conflict with Rubenstein and MPEGLA and arrangements would have needed to be made to protect Plaintiff Bernstein and the Iviewit Companies from such conflict but this too was never done, violating well established rules, regulations and

⁸³ Exhibit 1 – Evidence Links 199 & 203.

procedures governing attorney and law firm conduct. The exhibited Wheeler deposition states in fact, that Proskauer after Iviewit Companies tightened procedures regarding retainers and conflicts, which from this case appears to be a loosening, as certainly this Court should demand Proskauer and their Pro Se partners who represent the firm? to tally up the conflicts check that was ran before they began representing themselves in these matters. In fact, if one looks carefully, from beginning to now, Proskauer's failure to uphold the fundamental duty of an attorney to remain conflict free in representation as if this does not exist, is the basis for their continuing illegal conduct from the stolen patents to this Court and everywhere in between that have all of the defendants involved in their bungled attempt to violate Plaintiff Bernstein's rights to his inventions, as constitutionally guaranteed. Where an attorney violates conflicts at will, it is obvious that the intent is to commit acts which are prohibited and this case proves the reason conflict must be avoided or the attorney's interests, including thinking their clients patents are their own⁸⁴,

166. Where document fraud is claimed in many complaints filed with state, federal and international agencies that still are investigating through formal investigations such document tampering and further supported by Anderson's claims of document tampering, it is Plaintiffs request to the Court to have Proskauer, as with all defendants, procure their original records and any copies of all their documents relating to these matters, so as to be compared to any copies Plaintiffs maintain, for further fraud inspection first. Then Plaintiffs will turn over any of their copies or originals, not already contained in Exhibit 1 and all Exhibit 1 Links are available online at the { HYPERLINK "http://www.iviewit.tv" } website's homepage. Where there are documents that relate to patent documents, currently under investigation, Bernstein will feel more comfortable submitting these to the Court under seal or protections or in trial but prefer not to proffer here publically as Proskauer requests, unless so ordered by the Court to produce these confidential materials relating to the IP in further support of the response to the MTD.

167. The Court should demand that all documents relating to the IP be immediately tendered to the Court by all defendants and order them protected and under seal, until investigations are completed and all appeals exhausted in those matters before the USPTO, the USPTO OED, the Japanese Patent Office, the soon to be added Korean

⁸⁴ Exhibit 1 – Evidence Link 47

Patent Office, and the Institute of Professional Representatives before the European Patent Office or until the Court deems that they are necessary to exhibit publically.

168. There was a set of documents copied by Plaintiff Bernstein which were part of the Labarga case but those documents were held hostage by former counsel Selz and Schiffrin and Barroway as described in the AC to disable Bernstein's chances to find replacement counsel in the Proskauer Civil Billing Lawsuit or appeal the matter at that time. When recovered by Bernstein, these documents were merely copies of files Bernstein had formerly copied at Proskauer which represented only a handful of copies of the over one hundred banker boxes of original and copied materials Proskauer had⁸⁵ at their offices during their billing lawsuit discovery. Since Bernstein was under a time constraint in copying them, only documents pertinent to the billing case were collected.

169. Proskauer states that Plaintiffs allege a fraudulent bankruptcy but do not offer any affirmation or denial that such is not true and this should be noted by the Court. The bankruptcy documents already have been exhibited herein and offer factual information in support of Plaintiffs claims in the OC and AC regarding the fraudulent filing by Proskauer planted Iviewit Companies management and Proskauer referred defendant Real 3D, Inc.

170. Proskauer cites the counter complaint filed by competent counsel attorney Selz with the aid of Rogers⁸⁶ in the Proskauer Civil Billing Lawsuit as evidence in some way that they were vindicated of the allegations contained therein, yet Proskauer fails to mention that the counter complaint filed, the evidence and witnesses behind it were never heard by defendant Labarga who claimed he was limiting the case to billing matters only and told Iviewit to seek redress against the attorney's in the state bar associations or in another court as it was not relevant to the billing case. Without it being heard, this is no victory for Proskauer in those charges or that counter complaint and one wonders what

⁸⁵ These documents of Proskauer's and approximately 50 other bankers boxes of evidentiary materials that are not contained in Exhibit 1, will also be used as exhibit at any trial of these matters and can be made available online if and when the Court determines they must be exhibited. An additional 20 to 30 boxes of IP documents can also be made available when the Court determines they must be and under any protection the Court deems fit.

⁸⁶ Both Selz and Rogers must be conspiracy theorists as well and in on the conspiracy by Plaintiffs' Bernstein and Lamont to harass Proskauer as they claim in their MTD, for no stated reason, as Selz filed the counter complaint after reviewing the evidence and witness against Proskauer at that time. It should cause one to wonder if Proskauer is being harassed here and in the billing lawsuit as they claim, why there is no Rule 11 filing here for frivolous filings and seeking sanctions against Plaintiffs?

the inference they are trying to draw from such. Perhaps in combination with the bar review letters they exhibit in their favor in the MTD, that were dismissed on review with no formal investigation in any conducted⁸⁷ and now are all subject to review based on Anderson's claims that corruption plagued internal procedures, the discovered conflicts that remain unprosecuted, and, in certain instances even un-docketed, the ordered investigations that were never completed, Proskauer is somehow attempting to claim that these matters have been investigated and tried in apposite reality.

171. If Proskauer or any defendant could proffer the results of even one untainted investigation where due process and procedure was had, why did they not state so in their MTD and Anderson provides new evidence to how the conspiracy to deprive rights is operated within the disciplinary. Why did Proskauer not choose to focus, in fact wholly ignoring the ongoing investigations cited in the OC and AC by federal authorities and why are they trying to hide from the Court through a ridiculous MTD, if they have a solid case to present in Court they would bring it on and stop the "harassment" of the conspiracy they claim against them by Plaintiffs.

172. Proskauer claims Utley was CEO in their MTD, Utley was never the CEO of any Iviewit company the shareholders are aware of, although he may have been in the Proskauer fraudulent companies, companies which filed patent applications through Foley in Utley's name, where he was the sole inventor of "zoom and pan on a digital camera" and the image applet technology⁸⁸, wholly fraudulent applications in wholly fraudulent companies or elsewhere, as this is still pending investigations at the USPTO and USPTO. In fact, those investigations and the resulting suspensions pending investigations is substantive evidence that cannot be ignored regarding Proskauer's role

⁸⁷ Plaintiffs are aware that certain of the disciplinary letters achieved through conflict and violation of public offices and governing rules attempt to claim investigation was preformed and it is clearly the intent of Plaintiffs to challenge such in this case, as no formal and procedural investigation was ever conducted in favor of letters of dismissal on review and we will challenge any state investigator or agency that claims such was done. No evidence was tested, no witnesses contacted, the accused in many instances never had to even respond, including to First Department Court Orders for investigation. We would welcome the opportunity for those agencies to state their case before this Court, of the work they did in these matters but they are all trying to get out through ill fated MTD, where if they were confident of their work product they should proud to present their cases to this Court. Why would one seek immunity if they followed all the rules or had a case that was solid to respond with?

⁸⁸ Exhibit 1 – Evidence Link 664, 56, 57, 80, 82, 98, 103-107, 118, 119, 122, 125, 141, 151, 158, 160, 164, 171, 183-192, 206, 219, 308, 320-323, 333, 358, 359, 601, 661, 662, 663, 672, 675, 679-681, 687, 707, 717, 805, 809-826, 832 and there are several additional patent boxes with information pertaining to these patents to be presented to the Court upon the Court's decision.

and yet they offer only the conspiracy against them to counter this damning fact covered and exhibited in the OC, AC and further in exhibits herein presented.

173. Utley was factually the President and COO of any companies the investors were told of, which Proskauer should know, as they did Utley's employment agreement and represented Utley and Iviewit in that matter, further evidence of conflict. Evidence of the feloniousness of the patent applications is further supported by contradictory deposition statements of Utley whereby he claimed there were no such inventions in his name and if there were they would have been assigned to the companies, which they are not, per the USPTO and Moatz as exhibited in exhibits referenced already herein.

174. Proskauer claims that after the counter complaint and after the bar actions Iviewit has basically done nothing to assert its rights, which even if true, which of course it is mere delusion, *Anderson* would allow Plaintiffs to reassert ALL of their prior claims in Court, despite any statute of limitations, based on the fact that *Anderson* mentions Iviewit in her original complaint, exposing new evidence and information to get that clock running again as in her complaint she refers to; political favoritism, physical abuses to keep the lid on public office corruptions, whitewashing, complaint tampering and other criminal acts in the handling of complaints, exactly what Plaintiffs described almost prophetically was going on, prior to *Anderson's* claims and those related cases now offering further substantive evidence.

175. Proskauer's claim that after the legal actions civilly were denied and at the bars dismissed on review, amidst countless conflicts and violations of public offices discovered, Plaintiffs just walked away from their claims until *Anderson*. Of course, this is wholly delusional too and anyone looking at the facts realistically can see that once due process was denied, Plaintiffs began a systematic elevation of the complaints both to attempt to get due process or discover how high up the blocking emanated from. The conflicts already exhibited herein and in the AC at the state bars took years to both uncover (the extent of the conspiracy being learned further each year as new evidence has been uncovered) and the complaints have timely been elevated and then it took month after month, day after day, for years, of filing additional complaints wherever conflicts or violations were found blocking due process.

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

a. death threats by defendant Utley on behalf of himself, Proskauer and Foley which forced the immediate move of Bernstein's from their Florida home almost overnight to California,

b. a car bombing, causing the Bernstein's to run for their lives for the second time, the first after defendant Utley threatened Bernstein and his family if they exposed patents found in his name that were unknown to shareholders as further defined in the AC and exhibited herein (this forced Bernstein's to file in the FSC & the US Supreme Court on bike,

c. four baseless evictions where legal abuse of process may have been interfering, making Bernstein's filing in these various court proceedings nearly impossible when being forced out of home and business, as may be the case with the instant eviction action interfering with this filing,

d. forced on state welfare for their family due to the SB breach of their LOU⁸⁹ which Plaintiffs had forsaken other deals in lieu of the SB deal and immediately after the Labarga debacle, where SB failed to fund their LOU other than a few thousand dollars, they effectively and allegedly in conspiracy with Proskauer, crippled Plaintiffs financially at the time, leaving them no legal defense as agreed, no funds as agreed to and set them back financially in addition to the damages already levied by Proskauer et al., including the reported theft of perhaps millions of dollars⁹⁰.

e. Plaintiff Lamont lost his wife immediately following the birth of their son P. Stephen Lamont Jr. to a devastating bout of cancer.

177. Yet, in the face of those obstacles, Plaintiffs have been ever consistent attempting to pave the way to have the matters heard in a fair and impartial venue free of conflict, Plaintiff Bernstein every night and day since the car bombing has worked almost 20 hour days to retain their patent rights by filing, including but not limited to, all of the following actions (by ignoring and claiming Plaintiffs did nothing to assert their rights,

⁸⁹ Exhibit 1 – Evidence Link 250 & 251.

⁹⁰ Exhibit 1 – Evidence Link 276, 277, 475,

Proskauer again ignores reality and the fact that each complaint cited contains enormous volumes of evidence), included wholly by reference herein;

a. filings to get the patents suspended by the Commissioner with Moatz's USPTO team which forms the basis for that ongoing investigation into fraud on the USPTO and USPTO OED as exhibit already herein, these submissions constituting several thousand more pages of documentary evidence, incorporated in entirety by reference herein and whereby Plaintiffs request for this information at the USPTO has been refused by failing to respond to formal written requests for copies of the files and file wrappers. Plaintiffs will seek injunctive relief from the Court to release these files to the Plaintiffs and this Court and on the patents that were filed in Utley's name that Plaintiffs have been advised to get a congressional action from Moatz to have released as they are not in our names or owned or even invented by the true inventors and thus cannot be released to even Plaintiff Bernstein, per Moatz,

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

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

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

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

f. filing enormous volumes of evidence, in volumes of CD's and original documentation, with Special Agent Stephen Lucchesi of the Federal Bureau of Investigation for their ongoing or lost currently investigation that has yielded no determination yet. Attending meetings with Lucchesi and his partner whom handled crimes committed by law firms, in investigations at the Justice Department that have disappeared⁹¹,

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

h. filing enormous volumes of evidence, including over two thousand pages of complaint with evidence, fact and witness to the First Department Court after learning of Proskauer and Krane's conflicts of interests and violations as exhibited already herein in the Rubenstein exhibits and additionally Joao⁹² and Cahill⁹³,

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

j. filing enormous volumes of evidence, including over two thousand pages of complaint with evidence, fact and witness to the VSB in the Dick complaint⁹⁴,

k. filed enormous complaints with evidence at the Pennsylvania Bar against defendants SB, Barroway and Narine⁹⁵, and,

l. filed a complaint with the Judicial Qualifications Commission on defendant Labarga,

178. Proskauer states that Iviewit's counsel withdrew after the counter complaint was denied. Not true, in fact, the counter complaint which was filed by attorney Selz had nothing to do with the withdrawal of counsel and in fact counsel Selz

⁹¹ Exhibit 1 – Evidence Link 645

⁹² Exhibit 1 – Evidence Links 214, 223, 227, 238, 278, 430, 460, 466, 498 & 508.

⁹³ Exhibit 1 – Evidence Links 70, 324, 385, 396, 407, 408, 409, 410, 429, 433, 447, 466, 470, 487, 606, 607, 608, 611, 614, 617, 619 and incorporated by reference in their entirety, *Anderson* and all related cases naming Cahill as a defendant.

⁹⁴ Exhibit 1 – Evidence Links 357 (chalk full of information on the IP crimes with USPTO exhibits, etc.), 283, 291, 298, 319, 320, 321, 322, 323, 333, 352, 462, 464, 471,

⁹⁵ Exhibit 1 – Evidence Link 272, 315,

was then later joined by SB as co-counsel after signing their binding LOU to represent Iviewit in the Proskauer Civil Billing Lawsuit and many other suits. After the original trial date was cancelled without notice by Labarga, SB had Selz submit a withdrawal as counsel as they were taking over the case per the LOU. Selz submitted such notice stating SB was taking over and the judge granted it. Then, SB on the same day, submitted a surprise motion to withdraw as counsel stating Selz was handling the matters, after having directed Selz to withdraw and Labarga granted that moments later, demanding Iviewit find immediate replacement counsel as further defined in the AC. Needless to say, this usurping of Iviewit's right to counsel, further supports Plaintiffs contentions and the case is rife with attorney and judicial misconduct⁹⁶.

179. Plaintiffs note to this Court that again in diametric opposition to Proskauer ludicrous claim that this is a baseless conspiracy theory to harass Proskauer and defendants by Bernstein and Lamont, the counter complaint was filed not by Plaintiffs but by competent, at the time, counsel Selz, who had reviewed enormous evidence with Rogers, also competent counsel. Are Selz and Rogers in on the conspiracy and filing false pleadings merely to harass Proskauer and if so, why has the almighty Proskauer failed to file actions against them for false pleadings to a Court.

180. SB committed to millions of dollars of funding to Iviewit Companies and Plaintiffs, and to fund representation of all the matters here before this Court against many of the defendants, in their binding LOU. They did not sign such LOU on their law firms letterhead without a thorough review of all the evidence, speak to many of the eye witness involved and rush into signing away their lives without proper due diligence. Does Proskauer claim SB is part of the harassment and conspiracy claim against them? Plaintiffs do complain to the Court that for yet undiscovered reasons SB went to the "dark side" and further discovery will be needed.

181. Proskauer states that Plaintiffs failed to state the outcome of the disciplinary complaints in NY at the 1st DDC. Exhibited already herein and within the AC are many of the documents showing the outcome which was a unanimous decision by five Justices of the First Department Court to move the complaints for immediate "investigation" for conflict and the appearance of impropriety. Perhaps Proskauer choose

⁹⁶ Exhibit 1 – Evidence Link 212, 259, 262, 263, 264, 281, 295 & 304.

to ignore these factual exhibits relating to the outcome of the disciplinary matters in the AC and the fact that after reviewing the motion filed by Plaintiffs to the First Department Court, it ordered, not Bernstein and Lamont, formal investigations of Rubenstein, Proskauer, Joao, Meltzer and Krane. Perhaps they were in on the conspiracy against Proskauer too? On the other hand, as the justices are defendants, they may have been in on the conspiracy to deny Plaintiffs due process rights and other constitutionally protected rights with Proskauer. Anderson certainly bolsters the claims that the corruption was deep and emanated far and wide in political and professional favoritism, again further discovery will aid in pinpointing further how the very legal conspiracy she describes in her complaint was executed and whom was involved.

182. Another factual outcome of the disciplinary complaints also stated in the AC and factually exhibited therein and herein already, but again overlooked in delusion by Proskauer in their pleading that Plaintiffs failed to state the outcome⁹⁷, is the factual Cahill complaint that was moved to Martin Gold where it remains endlessly ongoing.

183. Proskauer states The Florida Bar case was dismissed and it should be noted that despite thousands of pages that were exhibited with evidence and witness in those matters, that only the Wheeler complaint was dismissed on review, again no formal investigation to make a determination or to hang ones hat on one, especially again, where Proskauer is found achieving the ill fated victory of a dismissal, at the expense of being caught red handed violating public offices.

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

185. Proskauer claims that this action comes five years later and it is good to see that in their delusional state they can count time, yet based on Anderson and new links into the conspiracy exposed as new evidence it could have come 20 years later. Plaintiffs, until the heroic efforts of Anderson had other plans for a different court room and as new evidence has been learned through investigations and the IP matters worldwide are still unresolved, it just was not the time and New York certainly was not the intended venue for our complaint but supporting Anderson is a moral and ethical

⁹⁷ One wonders why Proskauer failed in their MTD to state the outcome and hang their hat on it?

issue that leaves on little choice but to join her efforts with the knowledge we have of the public office corruptions in support.

ii. Response to ARGUMENT

1. Plaintiffs Claims Against Proskauer Defendants Are Time Barred.

186. Proskauer claims Plaintiffs have not asserted their claims properly and in so calculating the time clock have forgot to account for the denial of due process caused by their continued conflicts of interest and violations of public offices that have acted as subterfuge to Plaintiffs efforts, pushing that clock forward until such time that due process is afforded by a fair and impartial court.

187. Further, Proskauer forgot to mention how *Anderson* affects the clock and as it is new evidence of conspiracy to deny rights, it starts the statue clock all over. Further, it will force new complaints and requests for reinvestigations to occur on every filed complaint with a similar pattern of violation of public offices claimed.

188. For this Court to allow such time barring based on the overwhelming preliminary evidence of *Anderson* that due process has been comprised by criminal acts, at minimum at the 1st DDC, then the statue of limitations cannot be started as Plaintiffs did everything in their power to bring forth timely claims through civil remedies and criminal remedies but were successfully derailed through a continuing trail of conflicts and violations of public offices spearheaded by Proskauer and Foley, designed to prevent prosecution of their actions by keeping the matters out of court or any proceedings. Again, why, if there is nothing to hide, why hide in hidden conflicts, well not so hidden any more, yet they delayed Plaintiffs rights for years while they were undiscovered.

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

a. Sherman Act

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

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

192. It is alleged that the legal conspiracy being explored before this Court and in worldwide investigations, continues to operate today to deprive Plaintiffs of rights to their inventions and has operated in a continuous pattern of new acts that defy law and ethics through such racketeering and other behavior and continue to derive illegal profit from such inventions, making any clocks perpetually restart for each new act discovered in the conspiracy.

b. RICO

193. For the same reasons relating to denial of due process as supported in *Anderson*, no time bar can be established until fair and impartial due process under law is had and the blocks removed in a conflict free court. Again, Proskauer cites useless cases which fail to deal with the reality of the denial of due process caused by their partners violations of public offices that stops any typical tolling of the statue of limitations especially with RICO and the elements of RICO in relation to the tolling of statues in a conspiracy. Needless to say *Anderson* would restart the RICO clock and certainly shows a conspiracy to deprive rights through favoritism and actual crimes in violation of public offices and adds substantive value of Plaintiffs claims beyond refute.

194. Proskauer attempts to mislead the Court by falling back on the counter complaint filed in the Proskauer Civil Billing Lawsuit which again was denied to even be heard at that time. Based on the felonious activities discovered after the default judgment in the billing matter, that companies were sued by Proskauer that shareholders have no

shares in or any other interest in, that harbor stolen and fraudulent IP, all under ongoing investigations which will cause appeal of that billing case after ongoing investigations are completed and new information is filed.

195. In fact, based on recent information learned from the ongoing investigations of corporate fraud and patent fraud and continuing to be learned by Plaintiffs, the RICO clock cannot even begin and where the juicy RICO public corruption crimes that impede civil violations and protect the racketeering organization through abuse of process or payola, as typical in RICO cases, is just now being learned through *Anderson* and next the two justices.

196. Proskauer's recent acts before this Court and attempting to influence this Federal Court through conflicted representation in violation of well established rules of this Court, proffering fanciful claims they are being harassed, is to spit in the face of Your Honor and justice to continue a pattern of abusive pleadings that harass and slander the victims, again in typical RICO style. The violations of these well established rules, regulations and procedures may very well restart the RICO clock and the bar complaints filed against the attorneys who acted are just the beginning of new complaints if not fully resolved before this Court.

197. Conspiracies as complex as this and involving people who are supposed to be using the Art of Law for societal good take years to be unraveled even when committed by the best mobsters and prosecuted by the best prosecutors and why the statue clock is adjusted differently. In this instance where the alleged conspirators are mainly law firms and who infiltrated public office with ease and use their influence politically as described in *Anderson* it adds yet a further complexity to unraveling not so typical as regular RICO cases where a dirty cop, or dirty politician or three are found being solicited by the organization for favor, the defendants with legal clout could penetrate personally almost any area or justice or the courts, whereas most mobsters are not lawyers or law firms.

198. Many of the crimes alleged to violate Plaintiff Bernstein's constitutionally protected rights to his inventions that were used against Plaintiff Bernstein to stymie and delay Plaintiffs' legal rights, perhaps in were direct efforts to evade their crimes, until

they would become time barred and what is the legal precedence in a case like that for the statue clock on any claim

199. Plaintiffs brought the claims of both the crimes and now public office corruptions to block due process to federal authorities immediately after learning of them and these remain the subject of ongoing investigations. Again, if you block due process long enough through violations of due process rights, all one needs to do to commit crime free of prosecution is use one's legal degree to infiltrate various disciplinary agencies, violate public office rules, influence peddle and bribe public officials and deny total due process long enough to claim a violation of the statue of limitations, a recipe for using law to commit crime and then try to evade it.

c. Plaintiffs' Tort Claims

200. The same argument to defeat the statue of limitations above, applies here as well. All cases cited fail to take into account the ongoing investigations, new information such as *Anderson* and that due process has been denied when Plaintiffs asserted their timely civil claims and continue to do so. (work this better)

d. Malpractice etc.

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

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

203. That even more tortuous interference occurs through MPEGLA licensors and licensees that number now in the thousands, after Plaintiff Bernstein's inventions were tied and bundled to MPEGLA's licensing "standards" scheme, preventing Bernstein from those relations he would have had if Rubenstein and Proskauer had approved the IP

for inclusion into the pools or if the pools were not blocking. Instead, through Rubenstein's position as gatekeeper to the technology to block Plaintiff from market Plaintiffs will prove that this exhibits for the Court the essence of antitrust behavior caused by illegal monopolistic patent pooling schemes that have historically been broken up by the DOJ.

204. Throughout their MTD, Proskauer refers to Iviewit as a general term but fails to ever claim what entity with specificity they claim their defense for. Since there is no known Iviewit company, unless it is yet another company Proskauer illegally formed, Plaintiffs complain that the entire MTD is confused and that any ruling by the Court would have to be made knowing what each reference to Iviewit refers to, of twelve known entities Proskauer lumps into one. Proskauer, if allowed to re-file another MTD to correct this or any other pleading forward must be forced to state with specificity which Iviewit company they refer to in each and every claim in order for Plaintiffs to properly respond. Due to this error the MTD cannot stand as is, as it is impossible to decipher which Iviewit entities their claims are directed at and what claims relating to which Iviewit entity they are making.

205. Proskauer is confused again in their MTD with what Iviewit Companies is claiming regarding Rubenstein and falls back to information known at the time of the counter complaint. To be clear, Rubenstein in a Wachovia Private Placement is listed under the Board of Directors sections as an Advisor to the Iviewit Companies, and is listed as "retained" patent counsel for the companies, in the capacity of lead patent counsel, this appears in almost every business plan ever generated by Iviewit Companies.⁹⁸

206. The Wachovia PPM was constructed by Proskauer partner Wheeler, with his cohort Utley, and, disseminated to prospective investors by Proskauer who billed for such services. Perhaps the counter complaint mistook such but since it was denied it has little bearing on the matter before this Court; needless to say the Wachovia PPM exhibited in the AC and again herein, shows clearly that **RUBENSTEIN WAS RETAINED PATENT COUNSEL**. This completely defeats Proskauer's half truth that

⁹⁸ Exhibit 1 – Evidence Links 761, 762, 777, 778, 779, 782, 783, 798, 97, 128, 131, 133, 135, 136, 138, 167, 184, 196, 200, 207, 679, 731, 744, 820, 841, 843, 852, 855, 769 & 770.

the charges emanate solely from Rubenstein's role on the Board of Directors but in fact, these claims emanate from his and Proskauer legal representation as intellectual property counsel, not merely his fiduciary duties to shareholders as an Advisor to the company controlling the direction of the IP.

207. It should also be of note to the Court that Rubenstein denies in his rebuttal to his 1st DDC complaint tendered in conflict by Krane, already exhibited herein, that he was patent counsel to Iviewit, did not know Iviewit at all and knew nothing of the inventions. For that argument of lies, Krane launches a conflicted but blistering account of Bernstein and Lamont as crazed failed dot.com executives looking for someone to blame and harassing poor Rubenstein, who knows nothing, never heard of Iviewit Companies, etc. This at a time that Proskauer thought they had destroyed most of the incriminating corporate records with Utley and others who were found shredding documents immediately after it was learned that the board was terminating them for cause. The point being that in order to cover up Rubenstein's involvement, they portrayed this crazed conspiracy theory (whereby Bernstein and Lamont were again victims of a slanderous assault with no facts behind the premises) and by proving that Rubenstein was patent counsel this theory fails. Of course, it appears that since the fix was in already at the 1st DDC with Cahill and Krane that it did not matter if they lied.

208. The same theory that Bernstein and Lamont were crazed was advanced almost identically by Triggs at The Florida Bar again claiming Wheeler and Rubenstein were victims of this baseless harassment and that Rubenstein had no involvement in the Iviewit Companies. As with the 1st DDC, the conflict of Triggs in his violating his public office position with TFB worked its magic and the evidence submitted to both TFB and the 1st DDC, showing Rubenstein and Wheeler lied and directly perjured themselves to those authorities in their own depositions and sworn statements was wholly ignored. In fact, both the 2nd DDC and TFB made statements in favor of the position that Proskauer did not do patent work, despite the overwhelming evidence submitted and inapposite of well established rules, regulations and procedures that prohibit the agencies from advancing opinion on matters for either side without formal investigation. These violations of the rules are part of the reason for the inclusion of those investigators who

made such claims as defendants and for the disciplinary complaints filed against them, as already all exhibited herein.

e. Fraud

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

210. Proskauer attempts to assert that the fraud occurred at some point in time and that it has since ended, when in fact the fraud continues daily and where new evidence has been discovered far after their claims of it starting or ending to start the tolling of statutes. *Anderson* being a perfect example of conspiratorial information being recently learned that would restart any prior clocks, especially where *Anderson* exhibits a conspiratorial group of 1st DDC actors directly violating the well established rules, regulations, procedures of the 1st DDC and violations of law to boot in the accounts of document destruction, document forgery, etc.

211. That Plaintiffs are still waiting for federal and international investigations to be concluded in full, including any appeal to any decisions to confirm much of the information timely brought to such investigators, again eliminating statute claims where Plaintiffs have been denied due process and due process has taken far longer due to the complexity of the crimes and cover ups that typical statute claims would apply to where no complex legal conspiracy exists.

212. Plaintiffs point Proskauer to the factual evidence of the letters incorporated by reference in the AC, exhibited already herein, that point to Moatz directing Plaintiffs to file claims of fraud on the USPTO in seeking patent suspensions from the Commissioner of Patents, signed by both Plaintiff Bernstein and defendant Stephen J. Warner, former CEO and current Managing Director of Crossbow Ventures. Is Proskauer now claiming that their referred investor Crossbow and Warner are “conspiracy theorists” in the plot for no stated reason to harass Proskauer or is this just another piece of evidence they wish to wholly ignore, as it again solidifies the “legal conspiracy” before this Court that is steeped in very real evidence.

213. Moatz directed Plaintiff Bernstein and Warner to file the document alleging fraud on the USPTO while referring the Commissioner of Patents back to Moatz, at Moatz's request, in the letter seeking suspension that led to suspensions. Again patents remain in a legal limbo, outside well established procedural laws and certainly causing the statute of limitations to be tolled at minimum until all those investigations are completed which as with all patent matters may take twenty years.

214. Inventor change forms have been submitted with the information exhibited herein already in order to change the inventors back to the true and proper inventors and where those change forms appear held up pending the ongoing investigations at the USPTO and USPTO OED, again Proskauer fails to acknowledge these facts, in fact, utterly ignoring these facts and praying their baseless harassment conspiracy theory will hold as it did with the 1st DDC and TFB where their conflicts and violations of public office allowed for such, hopefully this Court will not be influenced by such delusional claims and will simply look at the exhibits herein that completely refute these pipe dream assertions of Proskauer.

215. As the fraud continues daily, as the IP has not been returned and continues to be licensed illegally by MPEGLA and others who violated contracts, the fraudulent acts continue daily with every new license or royalty collected and the criminal enterprise continues to flourish on such stolen royalties. Thus, the statute clock for fraud starts anew almost daily.

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

a. Response to Introduction

216. Proskauer's argument that the AC fails to state a claim is again more a function of psychotic delusional behavior versus fact. Proskauer appears to claim that the AC is lacking facts, when combined with the exhibits and the incorporated exhibits at { [HYPERLINK "http://www.iviewit.tv"](http://www.iviewit.tv) }, the AC is steeped in fact.

217. The first fact is *Anderson*. Of course, in order to avoid such fact, Proskauer attempts to fool the Court that *Anderson* does not exist by failing to mention the very real stated claims of *Anderson* even once.

218. Factually, the USPTO has suspended IP that appears to be fraudulent and additionally acts as a fraud against the USPTO, Iviewit Companies and Plaintiffs. This

very real claim of the AC is replete with factual documentation from the USPTO regarding such.

219. Factually, the USPTO OED has reviewed IP applications that Proskauer and Rubenstein controlled, through their co counsel Meltzer and Foley they brought and recommended to the Iviewit Companies and Plaintiff Bernstein, which are now suspended and which started formal investigations of all attorneys involved in these matters that are licensed with the OED, investigations which remain ongoing, again facts that can be overlooked in delusion. There are many claims for relief, clearly stated from these acts alone in the AC, that have led to a denial of rights and property guaranteed under the Constitution and which Plaintiffs have the right to seek relief from this Court for.

220. For example, of stated claims with evidence included in the AC and its supporting documents, we will focus on the claim of perjury and false statements under oath and in legal proceedings. Proskauer brought to Iviewit Companies on their recommendation both Meltzer and Foley, to aid Rubenstein who had the main oversight role of the IP of Iviewit Companies and Plaintiff Bernstein. As stated in the Wachovia PPM, “The Company has retained Foley & Lardner to shepherd its patent development and procurement. In addition the Company has **RETAINED** [emphasis added] Kenneth Rubenstein of Proskauer Rose, LLP to oversee its entire patent portfolio – Mr. Rubenstein is the head of the MPEG-2 patent pool.” Later, in Wachovia PPM we find Rubenstein on The Board of Directors on a Technology Advisory Board where it states “Mr. Rubenstein is a partner at Proskauer Rose LLP law firm and is the **PATENT ATTORNEY FOR IVIEWIT** [emphasis added].”

221. It already has been evidenced herein that Rubenstein perjured himself in official proceedings, at the 1st DDC and in the Proskauer Civil Billing Case⁹⁹, directly affecting the civil rights of Plaintiffs to their property, with the intent of derailing those proceedings to deny due process. Is Proskauer now accusing Wachovia Securities of

⁹⁹ Such perjured statements in official proceedings will be cause for those proceedings to be appealed once a fair and impartial court is found, free of the conflicts already found influencing these proceedings and until such time that this court of justice can be found, if this Court continues in the usurping of rights through allowing conflicts to prevail instead of regaling out sanctions against those lying again in official proceedings and proffering false and misleading arguments that are merely more harassment of Bernstein and Lamont, again another claim that relief can be claimed under.

fraud for claiming Rubenstein was patent counsel or are they too in on the plot to harass and defame Proskauer, are they too conspiracy theorists or does this stand as evidence that again Proskauer is not cognizant of the facts supporting the AC's claims and therefore acts in delusion to deny that claims are stated clearly and succinctly against them that are deserving of relief?

222. Again, unless one is delusional it is apparent that Rubenstein represented the Iviewit Companies and its IP portfolio, unless you are as delusional as Rubenstein and Proskauer who in a signed statement to judge Labarga, claim, "...Defendants are now putting forth and eleventh hour attempt to turn this matter into a malpractice claim...and are attempting to harass a Proskauer attorney (who lives in New Jersey and works in New York) who never billed any time to the Iviewit matter." Further it states perjuringly to that court, "The Motion is misleading and misrepresents the discovery in this matter. Citing no particular deposition testimony, defendants' motion at paragraph 1 states that prior testimony of deponents in this matter has revealed that "Rubenstein was involved directly in the providing of services to the defendants... Nothing could be further from the truth." Yet, from a Warner Bros. letter already exhibited in the AC and again herein, we find further evidence that Rubenstein and Proskauer are putting false defenses forward in legal proceedings when the letter states in diametric opposition to their letter to Labarga, "We checked with Ken Rubenstein and others who provided some solid support for Iviewit, and Chris Cookson asked Greg and I to continue to work with Iviewit in an R&D capacity." Now to show how delusional Rubenstein is, one only need look at his perjurious deposition where he claims:

Q. Do you know of any patenting of inventions for IViewIt?

A. Like I say, I was not involved as their patent counsel, other people served as their patent counsel.

Q. Are you aware of any particulars of any of those patents?

A. I was not.

223. Yet one look at a letter from Proskauer partner Wheeler to Proskauer partner Rubenstein, disproves this wholly, turned over by Proskauer to Selz after

Rubenstein's deposition whereby Wheeler states on August 25th, 2000, "Enclosed is a copy of iviewit's Patent Portfolio."¹⁰⁰ Whereby we then see in Rubenstein's deposition more perjury as he denies he has any patent files of Iviewit's:

Q. Do you maintain any files or any documents pertaining to IViewIt?

Mr. Pruzaski [Rubenstein's conflicted Proskauer lawyer]:
Him personally?

Mr. Selz: In his business records or in his records for Proskauer Rose at the offices in New York?

A. Not that I know of. No.

224. Finally, Utley under deposition claimed:

Q. Was he [Rubenstein] ever part of an advisory board or was he an advisory board member to Iviewit? And we are talking about Mr. Rubenstein.

A. I have never used him as an advisory board member.

Utley's statements are proved wholly perjurious when one looks at the minutes of an April 14, 2001 minutes of the board, written by Utley to the Board of Directors, whereby he claims, "Ken Rubenstein as our advisor was also copied."¹⁰¹

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

Q. Did you ever have a discussion with Mr. Bernstein about Proskauer Rose providing an opinion with regard to the patentability of any of these processes?

A. No.

Then from a letter dated April 26, 1999 from Wheeler, on Proskauer letterhead, to attorney Richard Rosman on behalf of his Earthlink client we find direct evidence that Wheeler has perjured himself:

¹⁰⁰

<http://www.iviewit.tv/CompanyDocs/2000%2008%2025%20Wheeler%20to%20Rubenstein%20PATENT%20BINDER.pdf>

¹⁰¹

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

“As you know we [Proskauer] have undertaken the representation of Iviewit, Inc.¹⁰² (“iviewit”) and are helping them coordinate their corporate and intellectual property matters. In that regard, we [Proskauer] have reviewed their technology and procured patent counsel for them. We [Proskauer] believe the Iviewit technology is far superior to anything presently available with which we [Proskauer] are familiar. We [Proskauer] are advised by patent counsel [Rubenstein] that process appears novel and may be protected by the patent laws. While in all matters of this sort, it is far too early to make any final pronouncements, we [Proskauer] do believe that there is an extremely good prospect that Iviewit will protect their process which is novel and superior to any other format which we [Proskauer] have seen.¹⁰³

226. These perjuries act as evidence in support of the underlying counts and claims seeking relief in the AC and are wholly evidenced in the many exhibits attached to the AC and again evidenced herein and throughout Exhibit 1 and are factual perjuries that cannot be denied. What these perjuries show is a pattern of lying to courts, lying in official proceedings and lying under sworn deposition in efforts to hide from their crimes through these lies. In these instances cited of perjury, the intent was to distance themselves from the fact that they were patent counsel who are responsible for directing the patent frauds against the Iviewit Companies, Plaintiff Bernstein, the USPTO and foreign patent offices. Needless to say, it would take more than a novel to point to the many instances of perjury that support the stated claims in the AC but the fact that Proskauer appears to claim that claims are not stated logically or clearly in the AC and deserving of relief is again attempting to assert false defenses to this Court through continued baseless and harassing defenses such as they are victims of harassment and there are no facts supporting the Plaintiffs contentions.

¹⁰² Note that Proskauer claims here they have undertaken representation of Iviewit Inc. a company they failed to sue in their civil billing case.

b. Response to Sherman Act

227. Inapposite of Proskauer's claims here, Plaintiffs do allege: (1) a combination or conspiracy in the AC between Proskauer and MPEGLA and Proskauer and others, such as NDA violators and strategic alliance partners they recruited in most instances, whereby the proliferation of the technologies violated attorney/client protections and contractual obligations by and between the conspirators (2) the willful conspiracy was to deny Plaintiffs their IP with scienter which resulted in a restraint on interstate and foreign commerce and acts to preclude Plaintiffs from the relevant market; and (3) has caused injury to the Plaintiffs businesses and property, including not only the constitutionally guaranteed rights to the IP but the rights to life (almost lost in a car bombing attempt) and liberty.

228. That through the intentional and fraudulent damaging of the IP directed and controlled by Proskauer and Rubenstein, these acts have caused the IP to either be lost or suspended, as already exhibited herein and this acts as part of the conspiracy to restrain trade by precluding Plaintiffs from receiving their IP from the USPTO and worldwide patent authorities, acting as direct interference and certainly deserving of relief by this Court.

229. That the AC is replete with claims and evidence of injury to business and property, including the IP being suspended which is protected under Article 1 of the Constitution and acts to block Plaintiffs from enjoying the royalties of their inventions.

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

231. Proskauer attempts to claim that since they are a law firm, they do not participate in the market for “video imaging encoding, compression, transmission and decoding,” the “relevant market”. This may appear on the surface true but after knowing that Rubenstein controls the market through the monopolistic patent pooling schemes he developed and maintains legal control over and where Proskauer has obtained control of Rubenstein through acquisition and further inures benefit from the pooling schemes, it becomes apparent that they are far more involved in the market than they claim to this Court. Including the following statements from their own website, “The [IP] practice works with a diverse group of industries, with special emphasis in consumer

electronics, video processing, DVD and CD technology, circuit design, semiconductor processing technology, computer hardware and software, telecommunications... Further, "Some examples of litigation that Patent Law Practice has worked on: • Representation of Columbia University, Motorola, Philips, Matsushita, Mitsubishi, France Telecom, and Japan Victor Corporation in a 26-patent lawsuit against Compaq for infringing patents related to MPEG technology." Finally, regarding licensing work they claim, "**We** [Proskauer] [emphasis added] have **worked on the formation** [emphasis added] of a pioneering patent pool for MPEG-2 technology, first on behalf of CableLabs, the research and development consortium of the cable TV industry, and now on behalf of MPEG LA LLC, an entity set up to license MPEG-2 essential patents. MPEG-2 is an important digital video compression standard with applications in cable TV, satellite TV and packaged media. **We** [Proskauer] [emphasis added] were instrumental in selecting those patents which are "essential" to the MPEG-2 standard and therefore suitable for inclusion in the pool. **We** worked with major consumer electronics companies and set top box makers in doing this job. Under this arrangement, the MPEG-2 "essential" patents of a number of major companies are being made available in a single license. The pool has been operational since July 1997 and now has over two hundred and fifty licensees. **We** [Proskauer] [emphasis added] are presently working with major consumer electronics and entertainment companies on patent pools relating to DVD technology. **We** [Proskauer] [emphasis added] have also been retained to apply this pioneering approach to licensing to the IEEE 1394 standard related to the Firewire system and to DVB-T (Digital Video Broadcast - Terrestrial)." Finally, Ken [Kenneth Rubenstein] has worked on the formation of a patent pool for MPEG-2 technology, first on behalf of CableLabs, the research and development consortium of the cable TV industry, and now on behalf of MPEG LA LLC, an entity set up to license MPEG-2 essential patents. In particular, **Ken worked on selecting those patents which are "essential" to the MPEG-2 standard and therefore suitable for inclusion in the pool** [emphasis added] worked with major consumer electronics companies and set top makers in doing this job. Under this arrangement, the MPEG-2 essential patents of a number of major companies are being made available in a single license. The pool has been operational since July 1997 and now has over one hundred and fifty licensees and royalty revenues in nine figures. This

pioneering approach to licensing has been utilized in other contexts. Ken and his associates are now working on another patent pool involving large consumer electronics and entertainment companies concerning DVD technology¹⁰⁴. Ken's group is also working on evaluating patents for a pool for the IEEE 1394 standard which is related to interconnecting PCs and various peripherals and a pool for the HAVi standard which is related to interconnection of home audio/video devices. Ken counsels his clients with respect to the validity and infringement of competitors' patents. Such clients include Standard Microsystems, an IC and local area network component company; C-Cube Microsystems, a developer of video encoder and decoder chips; Divicom, a developer of video encoders and decoders; Starlight Networks, a developer of video server software; and Maker Communications, Inc., a developer of telecommunications integrated circuits. In the area of cryptography, Ken represents Telcordia and CableLabs. He has in the past also represented Tele-TV, a joint venture of NYNEX, Bell Atlantic and Pacific Telesis. Ken is also heavily involved in licensing, technology transfer and joint development. Ken has successfully concluded a number of license and technology transfer agreements for his clients with companies such as Lucent and Intel.”

232. These self proclaimed claims of Proskauer show far more participation in the relevant market than their claim that they are not in that relevant market as stated in their MTD, in fact, we find through their own admission Proskauer controlling the IP in multiple pools through their legal work, in the relevant markets of Plaintiffs' inventions, again evidence of delusional behavior and reeking of false pleadings now to this Court.

233. Further discovery is necessary to determine the complex arrangements between Proskauer and MPEGLA. Rubenstein refused to answer questions regarding his relationship with MPEGLA under deposition as already exhibited herein, other than to tell the deposer to go to a website { HYPERLINK "http://www.mpegla.com" }, as they tell this Court to do in their MTD, despite questions directed at his relationship which is nowhere on such website. Rubenstein's refusal to answer direct deposition questions is inapposite Florida law, as referenced by attorney Selz in the deposition transcripts, exhibited in the AC and again already herein and where Rubenstein was ordered by the

¹⁰⁴ The inventions of Plaintiff Bernstein have directly affected the creation of DVD's and without the inventions the DVD patent pool would suffer from a lack of competitive technology to those Plaintiff Bernstein would license his inventions too, again motive for blocking Bernstein from market.

Labarga, as already exhibited herein, to return to answer those questions, certainly the Court wants to hear those answers before relieving Proskauer on their baseless MTD claims.

234. While Plaintiffs claim that Proskauer spearheaded the sabotage of the IP in order to misappropriate the inventions, Plaintiffs clearly show in the AC that they were misappropriating them to control the markets for the IP in violation of the Sherman and Clayton acts, to establish through their illegal monopolistic patent pooling scheme, market domination with their alleged co conspirators, a market they control inapposite of their false pleading to this Court, again falsely plead in conflict, most likely because in the face of the facts, Proskauer is unable to find non conflicted counsel to put forth such a pipe dream defense in the face of reality, facts and witnesses against them.

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

236. That Proskauer's claim that the AC is poorly written supports the Pro Se request to have Pro Bono counsel, so that the AC is not dismissed on a technicality that could have been prevented by competent counsel. The chances of successful prosecution in these highly complex legal areas and specialized legal areas of law, such as intellectual property law, almost certainly would be far more likely to succeed based on competent counsel preparing the documents.

c. RICO

237. In regard to Proskauer's claim that the predicate acts to the RICO claim are not intimately defined in the AC, which if the Court agrees that such specificity is necessary at this point, Plaintiffs request time to amend the AC, in light of the fact that to plead these acts with particularity in a complaint that Proskauer already has trouble reading do to its length, would make the document hundreds of pages longer just in attempting to cite the hundreds of violations of mail and wire fraud, that occurred with specificity.

238. It should be clear to the Court that Proskauer in transferring fraudulent IP documents between them and their co counsel Foley and Meltzer via mail and fax that then went to the USPTO and foreign offices further by fax or mail constitute hundreds of fraudulent documents being transferred through mail and wire to perfect the fraud. That further, in transferring fraudulent IP statements to investors, transferring fraudulent documents to state departments for bogus corporations and transferring fraudulent information to securities firms, Proskauer again violated hundreds of mail and wire fraud transactions. To list them in an AC or even a RICO statement would take considerable effort and Plaintiffs will do such over the course of the case or if this Court orders that it must be done to survive this MTD claim Plaintiffs beg the Court to reserve the right to amend the AC and RICO statement if necessary and give sufficient time to fully list the thousands of events and who did what and when in the myriad of crimes committed.

239. Proskauer claims that Plaintiffs simply cited statute, failing to state the RICO predicate acts. The RICO predicate acts are stated in the AC under the RICO section and do relate directly to the crimes alleged and in most instances specify the known defendants to the acts. In fact, most notably, Proskauer fails to point to the car bombing and extortion claims (via the threats of Utley on their behalf) and points to a citing of a contempt charge instead. The AC points to the RICO predicate acts at no. 732-755, where despite Proskauer's claim that Plaintiffs just recited boilerplate law this is wholly wrong, as the AC describes the predicate acts generally and who committed the violations where known, further discovery of conspiracy will most likely further define the who, where, what and when of each defendants involvement in the alleged crimes.

240. Proskauer states evidence was not given to prove these claims and Plaintiffs argue that the AC and the incorporated and incorporated by reference exhibits, again re-exhibited herein, that Proskauer wholly ignores, more than adequately point to factual data regarding the claims. Perhaps Proskauer did not see the Iviewit homepage exhibited in the AC, with its over eight hundred exhibits and images of the car bombing, as evidence to support the RICO claims and predicate acts.

241. Proskauer claims they are confused by Plaintiffs statements when Plaintiffs point to certain defendants as having committed the predicate acts because Plaintiffs then say that the allegation may not be limited to those defendants. As with all

legal conspiracies, many of the issues are not learned until the discovery phase of who actually did what. Many times through discovery, other actors that are unknown become learned and added as defendants; certainly Plaintiffs did not want to conclude that they definitively knew all the players and how the conspiracy worked entirely and listed those acts that we did know and the actors committing them yet kept open the right to add new claims and defendants based on discovery, discovery such as will come from *Anderson* and the two justices in *McKeown* and thus based on that discovery and other necessary discovery Plaintiffs left open the option to add new John Does who become known to those already involved and known at this time.

242. Proskauer alleges that Plaintiffs did not obstruct criminal investigations and where Plaintiffs cited criminal investigations at the Boca PD had been obstructed in order to bury criminal investigations, which Plaintiffs believe is still under investigation by the Internal Affairs of the Boca PD and the Chief of that department. No conclusions have been reached in those investigations as of this date. Plaintiffs are also claiming that Proskauer interfered in investigations with the New York Attorney General's office and the former AG Spitzer, as Spitzer when confronted with investigating the public office corruptions in a formal complaint filed and multiple calls, failed to respond, to even notify Plaintiffs that he and his offices may have been conflicted with his personal and possible professional relationship with Proskauer.

243. Additionally, as discovery progresses, based on the status of certain ongoing investigations and a look into those affairs, may reveal even further interference in criminal investigations and *Anderson* certainly supports having a very thorough review of each and every investigation for similar public office crimes. As certain investigations remain ongoing, as they conclude, there may be both additional defendants and additional crimes violated.

244. Another criminal investigation that may have been interfered with is the ongoing FBI investigation which is under internal affairs review with both Inspector General Fine's office and the FBI OPR.

245. Pro Se Plaintiffs may have also cited this statute with the misunderstanding that the First Department Court orders for investigation of Proskauer and their partners was an investigation of the criminal activities alleged in the violations of public offices at

the 1st DDC which may constitute instead a USC §1503 Obstruction of Justice. Where *Anderson*, a factual matter, is wholly ignored by Proskauer in their MTD and that fact that she claims justice was obstructed through public office violations in official proceedings.

246. Proskauer claims Plaintiffs failed to allege properly any acts of racketeering activity and claim two related acts in a ten year period and that they pose a threat to continued criminal activities. While to even a novice legal reader, Plaintiffs alleged many racketeering activities in the AC with supporting evidence and claimed they posed a threat to continued criminal activities in the RICO section and elsewhere. It is interesting to note how Proskauer focuses mainly on mail and wire fraud here, instead of dealing with the stated racketeering activities relating to the claimed arson related terroristic styled car bombing of the Bernstein's family minivan, murder threats by Utley on behalf of Proskauer and Foley, the use of those methods to be construed as extortion, the robbery and embezzlement of equipment and funds from the Iviewit Companies shareholders and Plaintiff Bernstein by Utley and Reale, as confirmed in the exhibited police report already exhibited herein.

247. Based on Plaintiffs factual claims involving the prior conspiratorial rings existence, proved by the Friedkin affairs described in the AC and evidenced already herein, to their next victim Plaintiff Bernstein, the other inventors and the Iviewit Companies immediately after Friedkin, to the continued involvement in the MPEGLA illegal monopolistic patent pool described in the AC designed to deny inventors rights to their inventions, Plaintiffs have shown this Court that the continuing activities of the criminal enterprise represent an ongoing threat to worldwide inventors.

248. Proskauer claims a "laundry list" of predicate acts was given which maybe true, as there are so many dirty crimes to give that impression, yet the laundry list of crimes is backed up with factual evidence, again ignored entirely by Proskauer, and there are probably hundreds more crimes that enable the civil violations, that Plaintiffs are unlikely to know about yet, without full discovery, due to both limited legal knowledge and limited knowledge of all the activities of the conspiratorial enterprise but suffice it to say that Plaintiffs carefully went through the various state, federal, state and international laws, judicial cannons and attorney ethics rules and chose those claims that related to

crimes committed against Plaintiffs. Each crime on the dirty laundry list of crimes and civil violations were alleged as predicate acts of the RICO claim if they constituted RICO predicate acts only. It should be clear to the Court by review of the AC and the exhibits therein and herein, including the criminal organizational charts in the AC, that Proskauer spearheads and initiated the entire conspiracy, so they are guilty by either direct act or through control of co-conspirators, of every single crime listed in the AC, no matter whom it was committed by and this should leave them less confused as to which crimes they are being accused of, as it is every single one.

249. Proskauer fails to take notice that in addition to sending fraudulent patent applications to the USPTO, which they claim does not constitute mail and wire fraud, yet those applications were transferred by mail and fax to the USPTO to perfect their fraud. Again, Proskauer skirts the other instances of crime cited at no. 733 A in the AC and focuses only on this one.

250. Proskauer claims that Plaintiffs have only shown a single scheme to deprive them of their technologies, which again is a claim steeped in delusion. Friedkin, as described in the AC shows another prior scheme, evidencing a conspiratorial scheme to deprive others of their inventions. The scheme to defraud the investors is yet another scheme or artifice to defraud. The scheme to fraud Wachovia Securities is yet another scheme. The scheme to fraud state departments in corporate record formations is yet another scheme. The scheme to abscond with stolen funds from the company, including the SBA funds, is yet another scheme. The continuing operation and control of MPEGLA through illegal actions is yet another scheme to defraud and commit antitrust violations against inventors, which may force further investigations to explore if other inventors may have been harmed prior or after Plaintiff Bernstein and Friedkin by such criminal activity. *Anderson's* claims point to yet another scheme involving public office corruptions to interfere with official proceedings showing again that there is ongoing criminal activity that continues even today, in a multiplicity of schemes violating hundreds of laws to perfect their crime of robbing inventors.

d. Fraud

251. Proskauer claims the fraud was not defined clearly alleging who committed what acts and when, due to the sheer number of crimes committed by the

numerous defendants, the AC may not have covered each and every act in thorough detail as it would have added yet another several hundred pages to the complaint as already stated. If the Court wishes to have this exercise done now, prior to further discovery, Plaintiffs request additional time to submit an AC whereby Plaintiffs will do exactly that, ad nauseam.

252. In regard to Proskauer's claim that Plaintiffs have failed to clearly define who did what crime and when, as this is a legal conspiracy, not conspiracy theory, much of this will become further learned through discovery. Needless to say, Proskauer directed and controlled every single crime alleged at this point as the center of the criminal conspiracy, the ringleader of the bungled crimes. For example, Rubenstein is claimed in the AC to control Plaintiff Bernstein's and the Iviewit Companies IP portfolio and that through his commands¹⁰⁵ to his referred co counsel Foley and Meltzer, Rubenstein directed the fraud on the USPTO and Iviewit Companies shareholders, with Wheeler executing the bulk of the corporate crimes through his group.

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

254. According to Moatz of the USPTO OED, Plaintiffs now need an "Act of Congress" to get certain information, as Plaintiffs, Iviewit Companies and the inventors are not listed as owner, assignee or inventors of certain IP applications that Proskauer and

¹⁰⁵ Rubenstein's direct control of the IP criminal acts, like directing his underling and referred former associate Joao, in the filing of fraudulent applications, is similar to Charlie Manson's control of his underlings and commissioning of their crimes, which similarly should lead to Rubenstein's accountability and culpability, like Manson, for the crimes committed at his direction and control.

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

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

256. Of course, information is still being learned from the ongoing USPTO and USPTO OED cases and certain information is still necessary to fully complete the who, what and where of these cases, although based on information already learned from Moatz at the USPTO, patents were found in companies that were illegally sued by Proskauer in the billing case and where illegally formed by Proskauer as defined in the AC and exhibited therein and herein again. Regarding the bankruptcy filed by Proskauer referred management Utley and Reale, Proskauer referred strategic alliance partner Real 3D, Inc. via defendant RYJO and other Proskauer referred defendants, are all listed clearly in the AC and it is factually exhibited that those who filed such had no claims to the company they sued, and that IP was found by Moatz's team at the USPTO to be in the company sued that was fraudulently transferred to this company without board or shareholder knowledge.

257. Neither Proskauer in the billing case or those who sued in the fraudulent involuntary Federal bankruptcy action had any agreements or claims against the companies they took these legal actions against as already exhibited in the AC and again herein. Proskauer sued companies they had no legal agreements with and all the players in the Involuntary BK also had no contracts with the Iviewit Companies company they

sued. Further discovery in the matters must be had and Plaintiffs certainly plan appeals of the matters as the matters are completed through investigations.

e. Breach of Contract

258. Proskauer assumes that New York law should prevail in their response, where although the IP work was wholly done in NY, the remaining work including any retainers or oral agreements was conducted in Florida. That this claim regarding the retainer should be analyzed in terms of any retainer agreements Proskauer tenders for their relationship to this Court and the terms within it, again this Court needs to have Proskauer also resubmit their MTD to distinguish between the twelve or more companies that Plaintiffs have uncovered in these matters, with particularity to their referenced agreements and what state rules govern.

259. Since Plaintiffs claim that due to the corporate fraud alleged they are uncertain of “whose on first”¹⁰⁶ in regards to what rights shareholders may or may not have in the event of such corporate crime and violations of their shareholder rights. Until further discovery and the completion of all investigations, Plaintiffs refrain from making claims of what happened and who owns what, as the basis of the complaint filed is exactly that, we are not certain of all the minutia, especially where patent interests invested in, are not correctly in the company or companies they are supposed to own interest in and they need congressional intervention to have any information on those released.

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

261. Proskauer is being accused of breaching hundreds of NDA’s, strategic alliances and other binding contracts they handled legally for Plaintiff Bernstein and the Iviewit Companies. Many early NDA’s were executed between the NDA signor and Simon and Eliot Bernstein through Proskauer, as no companies were formed at the original time of engagement and Proskauer was representing the Bernstein’s patent interests individually and the other inventors and were referred by other interested party

¹⁰⁶ Bud Abbott and Lou Costello 1945 film "The Naughty Nineties" { [HYPERLINK "http://www.youtube.com/watch?v=sShMA85pv8M" }](http://www.youtube.com/watch?v=sShMA85pv8M) }

in these matters, Gerald Lewin for patent protection according to Lewin's deposition testimony already exhibited herein, in the exhibit link 679 in Exhibit 1.

262. Proskauer directed and controlled the NDA's and other contracts, maintains the originals, created the corporate agreements, introduced many of the clients in these agreements and billed for all such services and with scienter failed to enforce violations of them that they were fully cognizant of. One need only review the various agreements¹⁰⁷ and look within the Wachovia PPM to see how many contracts existed and where Plaintiffs claim that once patent crime was discovered every contract and potential contract died on the table.

263. Again, there are several hundred agreements with various entities, whereby Plaintiffs are requesting the Court leave open the right to amend the AC if necessary, to include all the various contract violators as new defendants. Through MPEGLA and through the breaches of contract, and further breach of contractual attorney client privileges to illegally proliferate the technologies, several thousand additional defendants may be included through the inclusion of both licensors and licensees of MPEGLA licenses alone. Again, Plaintiffs beg the Court to leave open to amend the AC with these additional defendants if necessary.

264. Proskauer proffers the following delusional statement that need be noted to the Court, "A breach of contract claim against an attorney based on a retainer agreement may be sustained only where the attorney makes an express promise in the agreement to obtain a specific result and fails to do so." **PUT IN MARC STUFF** In retaining Proskauer, either orally or in retainer, as reflected in the already exhibited herein billing statements, it can be seen that Proskauer was engaged and retained to do IP work, corporate work, immigration work, estate work, etc. which was preformed and billed for. Thus, it is obvious that under some terms Proskauer was hired to obtain and secure the IP for Plaintiff Bernstein and Iviewit Companies and where most certainly were not hired to convert the technology as their own or patent in their referred co counsels name Joao or patent in their referred managers Utley's name through directing their co conspirator Foley to do so or create corporations for others and not the

¹⁰⁷ Exhibit 1 – Evidence Link 853, 854, 856, 857, 837, 667, 746, 747, 748, 756, 772, 773, 780, 781, 784, 23-33, 37, 39, 42-49, 52, 55-66, 69, 75, 82-96, 99-115, 126, 131,

shareholders (whom almost all shareholders do not have the shares in companies promised them by Proskauer) or form other corporations whereby the records are wholly missing from the corporate record yet have patents assigned into them. Needless to say they breached their retainer, whether oral or written and their promised functions, and instead embarked on a large conspiracy to convert the technologies through violations of various forms of contracts.

265. Proskauer states the Court should dismiss the malpractice claim as it is repetitive to the breach claim when in fact the breach of contract issues are for mainly the other breaches of contracts Proskauer formed and controlled on behalf of Plaintiffs described above. They are two separate claims for the reason that one refers to their retainer, or lack thereof for services billed for and failed to be preformed and further with criminal intent and resulting in civil rights violations as described by Plaintiffs in the AC. They are not duplicative and not arising from the same set of facts or giving rise to the same damages, this argument thus fails.

266. Proskauer fails to direct in the MTD the Malpractice count and slip out of addressing the overwhelming and perhaps precedent setting Malpractice claims which will arise. Proskauer certainly reported this malpractice claim to their carrier, who has allowed them to represent themselves versus fund qualified counsel and the carrier has choose to keep the attorney's of a claim of a trillion dollars plus out of sight. It certainly makes no sense other than as possible insurance fraud, yet another continuing crime to be looked into throughout discovery to see if compliance laws have been met since Proskauer's knowledge of the possible liabilities against them, especially if the IP is lost in even one instance from their numerous malpractices cited herein and in the AC.

f. Tortuous Interference

267. Plaintiffs do allege that there were numerous contracts between Iviewit Companies, Plaintiff Bernstein and third parties and that Proskauer intentionally interfered with such contracts as part of their attempt to convert Plaintiffs technology and preclude them from market, whereby all or most of the contracts would have been monetized and adhered to if it were not for the intentional and with scienter actions of defendants, coordinated by Proskauer, against the Iviewit Companies and Plaintiffs that led to catastrophic loss of businesses, loss of IP inapposite, loss of contracts and whereby

without proper IP, in fact suspended IP, no claims can be asserted by Plaintiffs to protect their IP or monetize it, as we are having trouble even getting information on them yet.

268. Regarding footnote 14, Proskauer uses Florida law instead of New York law and whereas previously in the MTD they used New York law and again Proskauer will need to specify for the various contracts they formed with various companies and various Iviewit Companies entities used, which laws they are referring to for every deal claimed herein interfered with, as with several hundred NDA's and other contracts already exhibited herein. Plaintiffs claim the existence of many business relationships, that not only did the Proskauer defendants have knowledge of but had formed the business relationships in most instances, including with many of their clients and friends who still use the technologies Proskauer signed under NDA and again Proskauer defendants intentionally and unjustifiably interfered with all the relations either directly or by destroying the IP of the company; making it impossible to raise capital or enter licensing agreements. The damages claimed was loss of constitutionally protected IP of the inventors, loss of royalty from such inventions and as a result of such IP loss, total business loss, including all business relations both ongoing and in development at time, best portrayed in Wachovia PPM exhibited already herein.

269. If the Court feels we have plead this improperly, please allow to seek leave to amend.

g. Remaining Counts in the AC Proskauer failed to request to be dismissed which must stand.

3. Plaintiffs Lack Standing to Bring this Action

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

271. The suit is brought individually by Bernstein and by Bernstein and Lamont on behalf of the Iviewit Companies former shareholders, whoever they may be¹⁰⁸ and current patent interest holders. As the Iviewit Companies Board of Directors,

¹⁰⁸ Proskauer should be forced by the Court to evidence who the shareholders of each entity are, when their shares were delivered to the each shareholder for each company so that Lamont and Bernstein can adequately represent those individuals or seek to enjoin them in this action.

disbanded without proper procedure according to law due to the actions of Proskauer and Proskauer failed to issue shares of the Iviewit Companies properly to the interested parties, and the Iviewit Companies fell into a legal limbo that prevents shareholders from asserting rights properly, Lamont and Bernstein are attempting to enjoin their rights.

272. However, it is not essential to this lawsuit that those interests get protected here, as long as inventor Bernstein's rights to his IP are maintained through this action personally, Bernstein can later divvy his interests to the others and then when this action is resolved and it is determined what rights those shareholders have to sue those responsible under, they can sue individually or jointly or enjoin this action. Many do not have information on the information learned by Plaintiffs and upon notice of the action may join or file their own separate actions.

273. In no way can Bernstein and Lamont bring a shareholder suit while the shareholders of the entities are in question and Proskauer has the controlling documentation of those transactions with the former accountant, Gerald R. Lewin, an other interested party listed in the AC. Plaintiff Lamont and Bernstein were similarly advised by several lawyers during the failed Proskauer settlement agreement, that failed because counsel for Bernstein individually, Garber retained by Bernstein and paid for by Schiffrin and Barroway under their binding LOU, and other attorneys, stated that signing any corporate document in any capacity, especially a settlement with a notorious clause attempting to waive any legal rights of such shareholders if the patents failed for any reason, including fault of Proskauer's and their accomplices, again, how telling. By signing the settlement document that Proskauer proffered and controlled every facet of, allowing no sharing or editing with the Plaintiffs and Iviewit Companies attorneys involved, the signor would have become responsible for the loss of IP, great offer.

274. As the settlement calls for all parties to be represented by counsel, Bernstein was advised to retain individual counsel, as Schiffrin & Barroway was already representing their own interests in the settlement as they were now large owners of Iviewit Companies under their signed LOU and they were representing Iviewit Companies in the transactional capacity of the settlement acting under the LOU's retainer like provisions and were negotiating all those interests, perhaps conflicted interests, and Bernstein would not accept the offer for their representation of his personal interests as

well. Schiffrin & Barroway agreed and Flaster Greenberg was retained as Bernstein, individually was being requested to sign it. There were many other problems with the document that were also deemed by counsel to pose serious risk to both shareholders and Plaintiffs. The idea to release Proskauer came from Schiffrin & Barroway as they claimed the patents could be fixed according to their patent counsel, Christopher & Weisberg and they wanted to move on and not get caught up in litigation.

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

4. Plaintiffs Remaining Claims Cannot Stand

276. Plaintiffs have stated that Proskauer defendants cannot be held liable for the alleged Constitutional violations as they are not state actors is wholly false when viewed in the actions of Matthew Triggs and Steven C. Krane who both acted as state officials in denying due process through conflict and violations of the rules regulating their public office conduct. Since Triggs did not respond to the AC it is presumed he choose to default in response to the charges, as well as Proskauer the firm and all those others who failed to respond.

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

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

279. Claims are stated against both the estate of Stephen Kaye and Krane, wherefore Krane is alleged to have done far more than Proskauer's void of reality response in the MTD indicates. Proskauer maintains that Plaintiffs failed to make any other claim against Krane other than he represented himself, his firm and Proskauer partners. Delusional it appears they forgot to state that Plaintiffs claim that Krane made those representations in conflict and violation of clearly established attorney disciplinary

codes, already exhibited herein, in violation of Krane's public office rules and in violation of law and Plaintiffs clearly and repeatedly claim and evidence throughout the OC and AC.

280. Plaintiffs state that the AC and its incorporated and incorporated by reference exhibits, again exhibited herein already, are replete with both evidence, witness and stated claims against Krane. The AC sections specifically with Krane and pointing of to thousands of pages of evidence incorporated and incorporated by reference in those sections no.'s 610-679, 681, 682, 684, 686, 687, 689, 691, 694, 704 and 733. Plaintiffs take Proskauer and Krane's decision to mislead the Court that such evidence and claims are missing and not included against Krane, in utter hallucinatory behavior, as evidence that Proskauer is the delusional party that cannot face the very real criminal and ethical claims against Krane, so they ignored them and claim they do not exist so no need to address them.

281. What about the investigation of Cahill, that remains ongoing and wholly involves Krane's conspiratorial activity and Cahill's cover up for Krane directly leading to filing a complaint on Cahill, still under investigation. Of course all the information in AC with regard to Krane and Cahill's violations of public offices in violation of law and legal ethics are wholly ignored as non-existent, although fraught with claims and evidence full of more claims substantiated by more evidence, all again which defendants refuse to acknowledge and a default should be ruled for lack of a proper response.

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

283. Anderson is yet another claim that involves Krane and until full discovery of Anderson's claims, no immunity can be granted to any party in virtually any capacity until the inner workings of the favoritism and public office violations are had.

284. Proskauer defendant the estate of Stephen Kaye, nor defendant Judith Kaye, file a lawsuit or counter complaint to condemn their inclusion in the OC and AC or assert a claim for court sanctions, and instead claim, not seek, that Plaintiffs should be condemned for such. Yet they fail to even ask the Court for such relief, as it is a baseless claim that Plaintiffs have included anybody who was not deserving of being filed on and

again they would have to prove this claim true to request relief. If Proskauer could support this ridiculous claim they would certainly assert their rights but that would put them in the uncanny position they are trying to avoid, as a MTD indicates, that position of being in a courtroom and having to admit or deny the evidence against them or show the evidence they have against Plaintiffs, which is none, to support their psychotic claims and veiled threats of ill fated filings against them. Proskauer states there are scores of examples of falsely filed upon defendants but fails to list one, again mere puffing of the chest, as if there were such, those parties would also be asserting legal rights to stop their inclusion but there are none at this point. In fact, where is Proskauer's action in their own behalf and would they represent themselves in that too?

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

iii. CONCLUSION DISCUSSION

286. That the Proskauer MTD was filed unconscionably and in grand delusion in conflict, in violation of ethics rules, in violation of law, in contempt of this Court and should not be considered other than to stand as further evidence against them.

287. That the Proskauer MTD cannot be asserted to claim any law to aid their cause, unless of course it is factored first to account for all the legal rights that have been time after time after time usurped by defendants, all spearheaded by Proskauer acting in utter disregard for law and public office regulations, in fact, running a criminal organization cloaked as law firm. For them now to look to the law for protection from even being tried for the alleged crimes committed by undermining law is humorous.

288. It would seem that the only way for Proskauer to now ask for legal relief, is after all the matters of denial of due process are heard before a conflict free forum to assess the impact the loss of due process rights had on the Plaintiffs, in both civil and public proceedings and how that relates to their rights going forward.

289. The arguments are so weak that it appears that the firm Proskauer, its associates and of counsel did not want to join the MTD rendering the proper response of a DEFAULT.

290. That the Court should sanction this conflict tendered Motion to Dismiss and the counsel who prepared it and the lawyers that hired them, sanctioning them all, and ruling for a Default Judgment in favor of Plaintiffs for such contemptuous behavior.

291. This Courts rulings on motions and actions of conflicted parties already boggles the mind, in fact, Proskauer's plea for a stay on the AC should have been cited as contemptuous and denied as it was tendered in conflict. For that matter, any Proskauer plea while in conflict should be cited as contemptuous and in violation of attorney conduct codes and should serve as nothing more than proof of those claims. To hear the plea from a non-conflicted lawyer is the only way to hear the plea at all. Again, for the Court to allow such pleadings to influence the case gives an uncomfortable feeling of the appearance of impropriety and conveys that this Court, MAY become only further evidence of top down control to eliminate rights of Plaintiffs through legal proceedings steeped in unregulated conflict. Plaintiffs do not yet believe this claim true and it will be more telling once motions to dismiss are ruled to see how the conflicts and pleadings in conflict will be dealt with or not and what influence that has and if all that was legal to the letter of the law. Plaintiffs have faith in Your Honor but have been so disillusioned by justice in the past that they tread hesitantly until having proof one way or the other.

292. That Plaintiffs apologize to this Court for even having to paint such picture but under the claims of *Anderson* of high level politicization and favoritism of a Supreme Court of New York agency and where the matters already include a car bombing attempt on Plaintiff Bernstein's family, it is obvious that "better safe..." is the prevailing concern and that this Court in no way has made rulings to deprive, at this point, rights of Plaintiffs. No correlation has been drawn in that regard, at this point in the proceedings, and, Plaintiffs have faith that despite their very real and substantive concerns and being hamstrung by the Court's denial of Pro Bono counsel to this point, which may prejudice the responses to the Motions to Dismiss, that this Court will serve justice impartially and fairly to allow due process to prevail free of conflict.

293. MARC COMMENTS Discovery rule period is calculated wrong by Proskauer, this case is centered on conspiracy, and Anderson explained how the inner conspiracy worked making the statue start based on that discovery. Complaints are also

294.

295. Why has Proskauer not filed a rule 11 against Plaintiffs for frivolous suit.

296.

297. Why has Proskauer not filed an insurance claim and had counsel afforded under their policy. Concurrently why has the insurer not got counsel to monitor these matters as would be typical in a malpractice or liability policy?

298.

299. Why is Proskauer representing Pro Se when they are lawyers at the firm, why is law firm Proskauer not representing Mashberg and Smith.

300.

301. Submit judgement form against partners that did not get representation.

302.

NYAG STATE DEFENDANTS AND NYAG

303.

FOLEY

304.

MLGWS

305.

TFB

306.

WHEREFORE, based on the above extraordinary circumstances, Plaintiffs request this Court to issue an order granting an extension of time until August 30, 2008 when new residence and services can realistically be up and running and the Bernstein's possessions can shipped to such new residence. That further, Plaintiffs seek this Court to order each MTD filed refused at this premature time, until further discovery of critical evidence and witness in all related cases is wholly explored by Plaintiffs and Defendants

to determine if a MTD can properly be filed with valid claims at some later more appropriate time. That Plaintiffs wish this Court to keep open the option for Plaintiffs to file timely with the Court's current deadline of July 14, 2008, unless extended, a supplemental, point by point, detailed responses to each individual MTD; that is if the Court finds it needs such detailed individual pleadings after hearing the reasons to quash each MTD as already described herein. Where if the herein response is deemed in any way deficient or insufficient for causes stated in any MTD, or pled improperly in an amendable way, Plaintiff respectfully request more time make leave to amend the AC to correct such defect.

EXHIBIT 1 – EVIDENCE LINKS

{ HYPERLINK "RESPONSE%20TO%20MOTION%20DISMISS%20-%20EXHIBIT%201%20-%20EVIDENCE%20LINKS.pdf" }

1	{ HYPERLINK "http://www.iviewit.tv/CompanyDocs/EXHIBITS/09%20522%20721%20Change%20of%20Inventorship%20Form%20ALL%20PATENTS%20CROSSBOW%20S.pdf" }
2	{ HYPERLINK "http://www.iviewit.tv/CompanyDocs/PATENT%20APP%20DATED%20in%201900%20and%202020.pdf" }
3	{ HYPERLINK "http://www.iviewit.tv/CompanyDocs/Copy%20of%20MPEG%20Articles/1997%2007%20Rubenstein.pdf" }
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43	{ HYPERLINK } "http://www.iviewit.tv/CompanyDocs/1999%2006%2024%20Lewin%20to%20Wheeler%20regarding%20conflict%20of%20interest%20vi.pdf" }
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252	{ HYPERLINK "http://www.iviewit.tv/CompanyDocs/Labarga%20Court%20-%20PR%20v%20lviewit/2003%2009%2019%20Labarga%20Evidence%20for%20Motion/Schiffrin%20&%20Barroway%20Signed%20Contract/Weisberg%20Letters/2003%2007%2018%20-%20Krishna%20taking%20over%20patents%20to%20Weisberg.pdf" }
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284	{ HYPERLINK "http://www.iviewit.tv/CompanyDocs/Certified%20Letter%20Harry%20Moatz%20and%20William%20Dick.pdf" }
285	2003 09 26 - Iviewit letter to The Florida Bar, that civil case was over which is why the failed to investigate originally, although Florida Bar rules prohibit delaying investigation into bar complaints because of civil cases.
286	{ HYPERLINK "http://www.iviewit.tv/CompanyDocs/2003%2009%20New%20York%20Bar%20Response%20Joao%20and%20Rubenstein.pdf" }
287	2003 10 02 - Letter to Florida Bar – Missing
288	{ HYPERLINK "http://www.iviewit.tv/CompanyDocs/2003%2010%2002%20Lorraine%2

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289	{ HYPERLINK "http://www.iviewit.tv/CompanyDocs/2003%2010%2002%20Lorraine%20Hoffman%20Re%20File%20Wheeler%20Complaint%20Civil%20Case%20Ended.pdf" }
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353	 { HYPERLINK "http://www.iviewit.tv/CompanyDocs/2004%2003%2016%20-%20AICPA.pdf" }
354	 { HYPERLINK "http://www.iviewit.tv/CompanyDocs/2004%2003%2017%20FBI%20letter%20Lucchesi.pdf" }
355	Filing with the United States Patent & Trademark Office claiming that per the direction of Harry I. Moatz, Director of the Office of Enrollment & Discipline, Iviewit & Crossbow Ventures were seeking the Commissioner of Patents to suspend the Iviewit patents based on evidence of Fraud on the United States Patent & Trademark Office by Iviewit former Intellectual Property attorneys, Kenneth Rubenstein, Proskauer Rose LLP, Meltzer Lippe Goldstein Wolf & Schlissel, Raymond Anthony Joao, Foley & Lardner, William J. Dick, Douglas Boehm, Steven Becker, Blakely Sokoloff Taylor & Zafman, Thomas Coester, Norman Zafman, Farzahn Ahmini, Christopher & Weisberg PA, Krishna Narine, Andrew Barroway, Schiffrin & Barroway and others. This led to the Commissioner of Patents suspending certain of the Iviewit patent applications into an infinite black hole. The form also included inventor change forms which have gone wholly unresolved while patents are in black hole at the United States Patent & Trademark Office.
356	 { HYPERLINK "http://www.iviewit.tv/CompanyDocs/Patents/Patent%20Portfolios/2004%2003%2022%20Portfolio%20Compilation%20MLGS%20Foley%20&%20BSZT.xls" }
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439	{ HYPERLINK "http://www.iviewit.tv/CompanyDocs/2004%2007%2022%20boggs%20receipt%20of%20triggs%20complaint.pdf" }
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865 McKeown Order { HYPERLINK
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869 NY Times Article, NYAG officials transfer to Proskauer and then later represent Spitzer in his affairs, literally @

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870 Law.com – Schnell and Cleary of NYAG join Proskauer

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871 New York Daily News - Spitzer Hires Proskauer for his Troopergate Scandal

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