08-4873-CV

United States Court of Appeal for the Second Circuit

Eliot Ivan Bernstein

Plaintiff – Appellant

--v--

Appellate Division First Department Departmental Disciplinary Committee et al.

Defendants – Appellees

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK
CASE 07 CIV. 11196 (SAS)

RELATED CASE

07 CIV. 9599 (SAS-AJP) CHRISTINE C. ANDERSON V. THE STATE OF NEW YORK, ET AL.

CASES SEEKING OR RELATED TO ANDERSON

(07CV11612) ESPOSITO V THE STATE OF NEW YORK, ET AL.
(08CV00526) CAPOGROSSO V NEW YORK STATE COMMISSION ON JUDICIAL CONDUCT, ET AL.
(08CV02391) MCKEOWN V THE STATE OF NEW YORK, ET AL.
(08CV02852) GALISON V THE STATE OF NEW YORK, ET AL.
(08CV03305) CARVEL V THE STATE OF NEW YORK, ET AL.
(08CV4053) GIZELLA WEISSHAUS V THE STATE OF NEW YORK, ET AL.
(08CV4438) SUZANNE MCCORMICK V THE STATE OF NEW YORK, ET AL.
(?) JOHN L. PETREC-TOLINO V. THE STATE OF NEW YORK

EMERGENCY MANDAMUS TO HALT PROCEEDINGS PENDING RESOLUTION OF JURY TRIAL OF LEGALLY RELATED ANDERSON CASE and

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DECLARATION

As this Court is aware, a formal Motion to address Conflicts within this case was filed by myself, Eliot Ivan Bernstein (Appellant or Plaintiff), on Jan. 31, 2009 with such Motion referred to the Panel hearing the Appeal referred on Feb. 18, 2009. Yet, conflicts remain and actions prejudicial to Plaintiff's rights continue. These actions, include the conduct of United State Court of Appeals – Second Circuit (USCA) Judge, the Honorable Ralph K. Winter, Jr. (Winter) in denying a Motion for an extension of time and stay, pending formal appearance and involvement by the Office of the United States Attorney General (USAG) as petitioned by Plaintiff. The denial coming after United States District Court – Southern District of New York (USDC) judge, the Honorable Shira A. Scheindlin (Scheindlin) referred my case and the other cases marked "related" to the Whistleblower case of Christine C. Anderson (Anderson), to seek intervention by the Supreme Court of the United States, the appropriate USAG Attorney and the New York Attorney General (NYAG). From Scheindlin’s dismissal of the legally related cases to Anderson:

> As discussed below, the United States Constitution does not permit this Court to supervise the departmental disciplinary committees or review the

> decisions of the courts of New York State. Regardless of the possibility of corruption in the courts of the State of New York, the only federal court that may review their decisions is the United States Supreme Court[1]. Plaintiffs must direct their complaints to the state court system, the Attorney General for the State of New York, or the appropriate United States Attorney. Because the Court lacks jurisdiction to review the decisions of the departmental disciplinary committees, and for the other reasons stated below, these actions are dismissed. [ORDER August 08, 2008]

Winter took such action with Chief Clerk Catherine O'Hagen Wolfe's (Wolfe) involvement despite direct knowledge that Wolfe was a named Defendant and potential witness in Plaintiff's lawsuit.

This Court is fully aware that it has a duty and obligation to address conflicts of interest, violations of judicial cannons, violations of attorney conduct codes and violations of law, to notify all appropriate authorities. As indicated above, this Plaintiff has formally petitioned the Court to perform such duties and obligations. To fail these obligations is to break law and Obstruct Justice. As recognized by this Court in Dunton v Lawton cited in my motion, "there are at least two reasons why a court should satisfy itself that no conflict exists or at least provide notice to the affected party if one does. First, a court is under a continuing obligation to supervise the members of its Bar. E.g., In re Taylor, 567 F.2d at 1191; see Musicus v. Westinghouse Electric Corp., 621 F.2d 742, 744 (5th Cir.1980) (per curiam) (district court obligated to take measures against unethical conduct occurring in proceedings before it). Second, trial courts have a duty "to exercise that degree of control required by the facts and circumstances of each case to assure the litigants of a fair trial." Koufakis v. Carvel, 425 F.2d 892, 900-01 (2d

[1] Perhaps the Court should remand the case up to the Supreme Court as suggested by Scheindlin, for further review and analysis.

Cir.1970); see ABA Code of Judicial Conduct, Canon 3(A)(4)." As the US Supreme Court has held, due process violations may arise by the failure to address conflicts. See, Wood v. Georgia, 450 U.S. 261, 101 S.Ct. 1097, 67 L.Ed.2d 220 (1981) (divided loyalties of counsel may create due process violation).

The conflicts by Winter and Wolfe are now ever so prominent given the recent ruling by Scheindlin in the "related" whistleblower case of Anderson. Scheindlin has found a valid First Amendment claim for retaliation stated by Anderson for speaking out against the systemic public corruption within the Supreme Court of New York Appellate Division First Department (First Dept) and such case is now slated to be scheduled for a public trial with a Scheduling conference to be held this Friday May 8, 2009. Wolfe, a Clerk of this Court is intimately involved in such upcoming public trial; in fact, in the Original Complaint of Anderson she was a named defendant who will serve now as witness in the Anderson matter, working previously for the First Dept and intimately involved in the allegations by Anderson. Clearly, the actions by Winter in ruling against a stay of the appeal to seek intervention by the USAG were ripe with conflicts given Wolfe's star role in the upcoming Anderson trial, his relation to her professionally and likely or at least possible liabilities therein.

As noted by this Court in Dunton, "Where a conflict is serious and disqualification might be warranted, the district court is under a duty to ensure that the client fully appreciates his situation. This Court has stated that "[w]hen a potential or actual conflict of interest situation arises, it is the court's duty to ensure that the attorney's client, so involved, is fully aware of the nature of the conflict and understands the

potential threat to the protection of his interests." In re Taylor, 567 F.2d 1183, 1191 (2d Cir.1977)." Scheindlin herself had noted the **"substantive"** conflicts, yet in a bizarre ruling determined not to address the conflicts until after motions to dismiss. Scheindlin then never dealt with the **"substantive"** conflicts she points out, as if dismissing the case somehow relieved her of her judicial cannons to report the misconduct of attorneys practicing before her. This finding despite the fact the NYAG Assistant AG had indicated conflicts in the case should be resolved by the District Court, comments and actions, which are inherently contradictory and serve as basis for reversal of the Dismissal, and remand upon addressing the conflicts at play.

Beyond the prejudicial rulings of Winter, Plaintiff has suffered further prejudice due to the failure to address conflicts by being denied and deprived of due process in exercising rights to Second Circuit's Civil Settlement process. The denial particularly egregious in Plaintiff's case which involves multiple defendants under written and signed Non Disclosure Agreements and Confidentiality agreements which call out for the economies of true justice to be available in settlement. Yet, civil settlement has been railroaded by the conflicts for nine plus months into the Appeals process. Surely non-conflicted counsel would view the massive financial liabilities at issue in the light that true counsel should and thus the economies of the Court are deprived in failing to perform such duties.

First, Plaintiff, individually, comes to this Court with claims that this Court must remand the case back to the USDC for further adjudication and immediate assimilation into the trial of the related Anderson case. To fail to take such action would be a further

Obstruction of rights to Plaintiff, limiting the case(s) by preclusion of material facts that may reverse the prior opinions of the lower court.

Second, Plaintiff, individually, comes to this Court with claims that this Court cannot legally proceed with this case while having direct evidence and knowledge that conflicts exist in the representation of certain known and unknown defendants, violating judicial cannons, attorney codes of conduct and law, thereby creating and continuing the Appearance of Impropriety. Affirmations of conflicts come from both Scheindlin and First Dept. The First Dept who in the unanimous consent of five Justices in unpublished orders, ordered investigation of certain defendants in these matters for conflict, violation of public office and the appearance of impropriety in related matters to this case.

In Florida, further affirmed by the Florida Bar, certain defendants committed conflicts and violations of public offices and yet continue to represent themselves in these matters. These very same attorneys, with their entire lives at stake in these matters, including financial and prison time, remain representing themselves before this Court, in a myriad of conflict that this Court allows, even after acknowledgement of **"substantive"** conflicts by the federal court. Conflicts allowed despite the Court's judicial obligation to report violations to the proper authorities and despite ongoing federal and international investigations of these defendants and their law firms.

ANDERSON WHISTLEBLOWER RELATED CASE SET FOR PUBLIC HEARINGS INTO ALLEGED PUBLIC OFFICE CORRUPTION

Based upon newly available information presented in the Decision and Order by Scheindlin, in the legally marked "related" case of Anderson, which has formally

judicially declared the validity of the Anderson case as a whistleblower suit, involving public corruption at the First Dept and First Dept - Departmental Disciplinary Committee (DDC) and where complaints and actions involving the law firm defendant Proskauer are directly at issue and the combined newly available information that attorney defendant Marc Dreier, who became involved in this lawsuit through Proskauer, has now formally plead guilty in federal court as being involved in a multi-million dollar financial fraud and upon all the information and allegations previously made herein, I formally move this Court to renew and reargue this Court's Denial of the emergency motion to investigate Proskauer Rose. Further, Proskauer is now at the center of the massive Ponzi scheme being investigated by the SEC and others of Allen Stanford and where the Proskauer attorney, Thomas Sjoblom, has been identified in an indictment against Laura Pendergest-Holt of Stanford Financial by the SEC as being part of a conspiracy to mislead federal authorities and obstruct justice. Proskauer also has the largest number of Madoff victims as clients and where all these schemes, Drier, Stanford & Madoff may be efforts by defendant Proskauer and their co-conspirators to launder the converted monies from Plaintiff's IP. Finally, and most recently, defendant Foley is being sued for their part in yet another massive Ponzi scheme regarding The 1031 Tax Group LLC schemed by Edward H. Okun who has already pled guilty to the crimes.

That this Court, based on the Scheindlin ruling for a trial in the legally related Anderson case, should remand this action instantly back to Scheindlin for inclusion into the related case trial for further discovery and trial. Anderson renders all prior conclusions of the lower court and disciplinary committees in this matter frivolous until

Plaintiff is afforded due process to such information that Anderson may shed light on and where this further proves Plaintiff's contention that Scheindlin erred in dismissing the case prematurely. Therefore, to prevent further Obstruction of Plaintiff's rights, Plaintiff must now be included in Anderson's trial and afforded all legal rights to her case. Scheindlin legally relates Plaintiff's case to Anderson and further Anderson names Plaintiff's companies Iviewit in her Original Complaint regarding the public office corruptions she exposes.

Plaintiff demands this Court issue orders for strict conflict of interest rules to be enforced immediately upon all Court justices, personnel, all attorneys representing all defendants, any court the case is remanded to, in the wake of Anderson's claims of insider public office corruptions aided and abetted by lawyers, New York Supreme Court officials and others. Anderson's revelations alone now demand thorough conflict checks by all lawyers, justices or court personnel handling the case from this instant forward and review of all those who have handled any aspect in the past. Many public officials are named in Anderson's complaints that are defendants in this case, for example defendant Thomas Cahill (Cahill), former Chief Counsel of defendant First Dept DDC and defendant Wolfe[2], former Clerk of the Court for the First Dept and now Clerk of this Court are named in this action as defendants. Wolfe will also be a witness for Plaintiff and whereby all these conflict issues act as further conflict, violations of attorney conduct codes, violations of public office rules and law in further denying due process to Plaintiff.

EVIDENCE OF CONFLICT IN SCHEINDLIN'S COURT & THIS COURT

[2] Wolfe was initially named in the Original Complaint of Anderson as a defendant and it is believed she was removed from that status on subsequent filings. Wolfe is a named defendant in this case.

CASE LAW

Because of the imminent threat of a serious conflict, disqualification would have been appropriate here even before any proceedings began. See Shadid v. Jackson, 521 F.Supp. 87, 88-90 (E.D.Tex.1981) (granting motion to disqualify in virtually identical case because of "high potential for conflicting loyalties"). Cf. Armstrong v. McAlpin, 625 F.2d 433, 444-46 (2d Cir.1980) (en banc) (disqualification appropriate when conflict will taint a trial by affecting attorney's presentation of a case), vacated on other grounds, 449 U.S. 1106, 101 S.Ct. 911, 66 L.Ed.2d 835 (1981).

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The County Attorney's multiple representation in this case was inconsistent with his professional obligation to Officer Pfeiffer. See Hafter v. Farkas, 498 F.2d 587, 589 (2d Cir.1974). It was also inconsistent with Canons 5 and 9 of the ABA Code of Professional Responsibility. A violation of Canons 5 and 9 of the Code, which call for exercising independent judgment on behalf of a client and avoiding any appearance of impropriety, provides ample grounds for disqualifying an attorney. Board of Education v. Nyquist, 590 F.2d 1241, 1246 (2d Cir.1979). As soon as the County Attorney began to undermine Officer Pfeiffer's good faith immunity defense by stating that Pfeiffer acted as an "irate husband" and not as a police officer, he was not only failing to act as a conscientious advocate for Pfeiffer, but was acting against Pfeiffer's interest. The seriousness of this conflict made disqualification appropriate. Shadid v. Jackson, 521 F.Supp. at 88-90.4 15

Where a conflict is serious and disqualification might be warranted, the district court is under a duty to ensure that the client fully appreciates his situation. This Court has stated that "[w]hen a potential or actual conflict of interest situation arises, it is the court's duty to ensure that the attorney's client, so involved, is fully aware of the nature of the conflict and understands the potential threat to the protection of his interests." In re Taylor, 567 F.2d 1183, 1191 (2d Cir.1977).

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There are at least two reasons why a court should satisfy itself that no conflict exists or at least provide notice to the affected party if one does. First, a court is under a continuing obligation to supervise the members of its Bar. E.g., In re Taylor, 567 F.2d at 1191; see Musicus v. Westinghouse Electric Corp., 621 F.2d 742, 744 (5th Cir.1980) (per curiam) (district court obligated to take measures against unethical conduct occurring in proceedings before it). Second, trial courts have a duty "to exercise that degree of control required by the facts and circumstances of each case to assure the litigants of a fair trial." Koufakis v. Carvel, 425 F.2d 892, 900-01 (2d Cir.1970); see ABA Code of Judicial Conduct, Canon 3(A)(4). When a litigant's statutorily appointed counsel is acting against the litigant's interests because of a conflict that the litigant has not been informed of and cannot be expected to understand on his own, the litigant is not receiving a fair trial. Cf. Wood v. Georgia, 450 U.S. 261, 101 S.Ct. 1097, 67 L.Ed.2d 220 (1981) (divided loyalties of counsel may create due process violation).

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In holding that the trial court had a duty to inform Pfeiffer of the conflict, we in no way excuse the conduct of the other attorneys here. Attorneys are officers of the court, Clark v. United States, 289 U.S. 1, 12, 53 S.Ct. 465, 468, 77 L.Ed. 993 (1933), and are obligated to adhere to all disciplinary rules and to report incidents of which they have unprivileged knowledge involving violations of a disciplinary rule. ABA Code of Professional Responsibility, DR 1-102(A), 1-103(A); see In re Walker, 87 A.D.2d 555, 560, 448 N.Y.S.2d 474, 479 (1st Dep't 1982) (as officers of court, attorneys required to notify parties and court of error in court order). The County Attorney had to know of the serious conflict his multiple representation created, see, e.g., App. at 1163, and knew or should have known that he could not fulfill his ethical obligations to the county without seriously undercutting Pfeiffer's legal position. The plaintiff's attorney should also have been aware of the problem and should have called it to the attention of the court. See Estates Theatres, Inc. v. Columbia Pictures Industries, Inc., 345 F.Supp. 93, 98 (S.D.N.Y.1972) ("[T]hose attorneys representing other parties to the litigation were obligated to report relevant facts [regarding conflict of interest of opponent's attorney] to the Court ....") (citing DR 1-102).

Scheindlin Court Order Dated March 21st 2008[3]

Scheindlin in this Order claims the following:

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3 http://www.iviewit.tv/CompanyDocs/United%20States%20District%20Court%20Southern%20District%20NY/20080321%20Order%20Scheindlin.pdf

> Any further consideration of the substantive issues raised by plaintiffs, including plaintiffs' requests regarding conflicts of interest, must await the resolution of anticipated motions to dismiss.

This statement affirms that there are **"substantive issues"** in the case and that these include **"substantive" conflicts**, which Scheindlin claims will have to wait for the resolution of Motions to Dismiss, which makes no sense. How could Scheindlin acknowledge conflict and allow the case to continue with motions from those in conflict, allowing them to move the case in any way?

Scheindlin, since dismissal of the case WITHOUT PREJUDICE[4], has failed to resolve the conflicts or identify whom the **"substantive"** conflicts were with and failed to follow judicial cannons in reporting such violations of attorney conduct codes and whatever other substantive issues she referred to in her Order, to the proper authorities. Plaintiff has complained about several distinct and separate issues of conflict against multiple conflicted lawyers, state agencies and law firms representing defendants and defendants counsel in the case extending back to the initial complaints filed in these matters.

This Court must now address the question of whom the **"substantive issues"** and **"substantive"** conflicts involve that Scheindlin has identified and failed to regulate

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[4] Proskauer in their conflicted response to Plaintiff's Brief, acting as counsel for themselves and against their former client Plaintiff Bernstein and his companies, attempt to mislead the Court that Scheindlin had dismissed the case with Prejudice. A non-conflicted court will strike such conflicted representations adhering to attorney code of conduct rules, judicial cannons and law, providing a forum where Plaintiff may have Due Process rights in a conflict free forum. It should be noted that such misrepresentations by the defendants who act in conflict, is not surprising and has continued endlessly as each court has failed to uphold or enforce their own rules and regulations regarding conflicts, violations of public offices, the appearance of impropriety and law.

before further adjudication in the case can be made free of the prejudicial influence of such conflicts. Scheindlin erred in failing to resolve the conflicts before or after making determinations in the Motions to Dismiss, and this further constitutes reason for judicial complaints. All determinations influenced by the **"substantive"** conflicts of interest by defendants counsel, renders all prior conflicted legal actions filed inadmissible, illegal, dismissible and punishable under law, attorney ethical codes of conduct and judicial cannons. For failure to report the misdeeds of others, this acts not only as a violation of both judicial cannons and attorney conduct code rules but act together to Obstruct Justice in violation of law.

Action to resolve the **"substantive"** conflicts must be taken immediately to remove the influence of the conflicts over all past proceedings and enable moving forward in a judicially ethical manner in compliance with judicial cannons, attorney conduct codes and law. The conflicts are clear, in mass and violate numerous attorney codes of conduct, judicial cannons and law for many of the opposing counsel in this case, whom are also the defendants in this case. Despite Scheindlin's flawed and perhaps culpable actions, to dismiss the case prior to conflict resolution, when bound by ethical and judicial cannons and law to remove "conflict" in any proceeding and report all such conflicted parties to the proper authorities for disposition, leaves this Court with resolving the conflicts prior to further adjudication.

Failure to eliminate conflict prior to any adjudication by this Court, or any court the matters are transferred to, immediately prejudices the rights of Plaintiff and thus in fact, already has already prejudiced this case in this Court, further denying due process

and procedure rights to Plaintiff. For this Court to continue to let multiple defendants be represented by counsel and judicial officers acting outside the established judicial cannons, attorney conduct codes and law, having multiple conflicts, further denies due process and further acts to aid and abet the efforts to subterfuge Plaintiff's rights through Obstruction. This Court has therefore become not only a Kangaroo Court but also an acting party to such continued conspiracy to deny Plaintiff's rights in the New York Courts and Federal Courts, through continued subterfuge achieved by further violations of attorney codes of conduct, judicial cannons and law, obstructing Justice at every step of the way through such violations.

As such, this Court must halt the case immediately and no decisions can be legally rendered forward while this Court is aware that defendant counsel is acting in conflict and must cease allowing such conflicted counsel to continue to move the case and this Court. Until every instance of conflict, violation of attorney conduct codes of conduct, violation of judicial cannons and violations of law obstructing fair and impartial due process are fully resolved, according to attorney codes of conduct, judicial cannons and laws, and, all conflicted parties (both attorneys and justices) removed from the case with any filings or decisions submitted in conflict removed from the record, other than as evidence of the corruption, can this Court proceed under law.

All prior court cases and decisions influenced by those in conflict, including this Court and the USDC, must then proceed with non-conflicted parties representing the defendants and adjudicating the case. Once conflicts are removed this Court, the USDC or perhaps their replacements can proceed without an overwhelming Appearance of

Impropriety and Obstruction, violations of judicial cannons and laws. This Court must now wait for resolution from the herein oversight Plaintiff is calling into these matters to review the overabundance of evidence proving the misconduct and violations of law of those beholden to upholding such laws, including this Court.

If the conflicted parties continue representing the case in violation of well-established cannons, rules and law, then claim their actions are immune under the laws they violate, then they are acting above the law, in a country where no person is above the law. This loophole therefore would allow dirty lawyers and justices to evade prosecution by illegally violating their own rules to deny due process against victims of their crimes. In this case, providing a recipe for dirty lawyers to commit fraud on the USPTO, steal inventors' inventions by violating their client obligations and then simply violate public office rules to deny due process wherever a victim may go, misusing their legal powers and legal process. As long as the denial of due process exceeds for example the statute of limitations, they would then have committed the perfect crime or further, if they commit the crimes through public offices they can then claim immunity. This failure to uphold the Court's own rules becomes a recipe for attorneys, working with and within the courts, to steal Intellectual Property from inventors, bomb an inventor's car and violate public offices ad infinitum and then hold no one accountable, as if they were above the law through their control of the law. If this Court acts not within the law to stop such unethical violations of judicial cannons, attorney codes of conduct and laws, then this Court is not a Just Court but more like Don Corleone's house, a court of criminals and Plaintiff spits upon on it and its illegally tendered orders.

If this ethical ethics cleansing cannot be self-imposed by this Court, take this as OFFICIAL notice that we are seeking oversight of this Court's actions from numerous authorities and refuse to continue forward in these proceedings that are tainted and a waste of taxpayers and Plaintiff's hard earned money and time. To continue to provide confidential information to those acting in violation of laws and in conflict serves adversely to Plaintiff and thus Plaintiff will file no other document with this Court until such time that all demands for Justice have been met and all those involved in these matters comply with law. Further submissions will not be submitted until all oversight authorities have rendered final decisions on the possible illegal actions of this Court, the USDC, the law firms and lawyers involved, the disciplinary committees and more.

SAMPLING OF VIOLATED JUDICIAL CANNONS, ATTORNEY CODES OF CONDUCT AND LAWS CURRENTLY ALLOWED BY THIS COURT

In defining the legal and ethical violations of defendants, the following attorney codes of conduct, judicial cannons and laws are some of those violated in this Court currently, in previous courts and the disciplinary agencies that have handled these matters.

Violations of Judicial Canons

Canon 1. A Judge Should Uphold the Integrity and Independence of the Judiciary

By failing to adhere to the judicial cannons, attorney conduct codes and law this Court, the District Court and others named in the AC have failed to uphold the integrity of the Judiciary.

Canon 2. A Judge Should Avoid Impropriety and the Appearance of Impropriety in All Activities

By failing to adhere to the judicial cannons, attorney conduct codes and law this Court, the USDC and others named in the AC have caused an overwhelming Appearance of Impropriety.

> Canon 3. A Judge Should Perform the Duties of the Office Impartially and Diligently

This Court, the USDC and others named in the AC, by failing to adhere to the judicial cannons, attorney conduct codes and laws, have failed to perform their duties impartially by violating their own judicial cannons, attorney conduct codes and laws and then further failed to regulate and report those they are charged with regulating further violating judicial cannons, attorney codes of conduct and laws.

> Canon 5. A Judge Should Regulate Extra-Judicial Activities To Minimize the Risk of Conflict with Judicial Duties
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> 2. Procedural questions will be addressed to the Office of the General Counsel, Administrative Office of the United States Courts, Thurgood Marshall Federal Judiciary Building, Washington, D.C., 20544, (202-502-1100)

This Court should await further direction from all oversight authorities being sought including the Office of the General Counsel, Administrative Office of the United States Courts before proceeding with further violations of ethical conduct and laws by issuing further Orders infected by conflicts and casting an overwhelming Appearance of Impropriety.

If this Court, or any Panel of this Court, continues to make decisions that are based on arguments by attorneys and Orders from justices that have been tendered in conflict, through violation of judicial cannons, attorney conduct codes and laws, the overwhelming Appearance of Impropriety becomes self evident. This constitutes reason

for further complaints under the Judicial Conduct and Disability Act of 1980 as amended and new complaints to law enforcement regarding Title 18 Violations relating to Obstruction of Justice. Take this Mandamus as FORMAL notice that formal complaints will be formally filed and this Court must grant Plaintiff enough time for all such reasonable and sound complaints to be reviewed and decided by all oversight authorities these complaints are being appealed with.

Specifically, I ask this Court and all members of the Court, including all attorneys of record handling these matters in anyway to submit a completed Checklist for Conflicts found @ http://www.uscourts.gov/guide/vol2/checklist.pdf before continuing further with any handling of the case or case information. That all lawyers, law firms, public officials, court officials or others handling the case, submit proper conflict checks as required by judicial cannons, attorney conduct codes and laws.

Conflicts of Interest and Recusal

> As a federal judge, you have the authority to resolve significant public and private disputes. Sometimes, though, a matter assigned to you may involve you or your family personally, or may affect individuals or organizations with which you have associations outside of your official duties. In these situations, **if your impartiality might reasonably be questioned, you must disqualify or recuse yourself** from the proceeding (the terms "disqualify" and "recuse" are commonly used interchangeably).

This Court and the USDC must address involvement in any of the organizations being sued by Plaintiff, personally or professionally, including any attorney disciplinary organizations, courts, etc. This Court and all of its members handling these matters in any way must address any relations, personal or professional, to any of the thousands of defendants in these matters and any stocks owned in any of the named defendants companies, other interests, etc. Any affiliation or relation to any of the law firms or

lawyers named as defendants, the thousands of attorneys who work at the firms and any defendant as so named in the AC must also be disclosed. Further, conflicting companies should include all companies' who are licensors and licensees of defendant MPEGLA LLC., located at the website, www.mpegla.com . Any membership or affiliations to any defendants or other unknown conflicted parties must force recusal of anyone involved in this case and the related cases to a non-conflicted party. As this case is unique in that it involves a large mass of the legal community, especially in New York, this Court and all of its members handling these matters, to provide a fair and impartial hearing, must disclose any iota of conflict with any of the defendants.

For example, Winter is an alumni of Yale University and currently is Professor (Adjunct) of Law at Yale Law School. The Plaintiff's AC specifically points to a not so secret anymore cult, the Yale "Skull and Bones" as one of the main conspiratorial groups involved in the RICO action and where defendant Proskauer lists as their client Yale University, this area of possible conflict must be explored through full disclosure. Any relation to Yale that Winter has must be analyzed for conflict, as an example, it is unknown if he sits on any boards, etc. that may influence the contracting of Proskauer as Yale counsel or if he has any relations with Proskauer whatsoever. At minimum, such potential conflicts would have to be affirmed or denied.

Another example would be the overwhelming Appearance of Impropriety of Wolfe, Clerk of this Court, who is a named defendant and a material witness to Plaintiff. A China Wall from here to the moon might enable this Court to continue with the case with a Clerk in Conflict, who is a defendant and witness, but would have to remove any

access, including any of her subordinates, accessing case file information. Wolfe and her staff have already tainted this case through reviewing documentation submitted to the Court as insiders in conflict. Plaintiff fears submitting further evidentiary information or legal strategy to a Court with such illegal activity ongoing and defendants having access to confidential court files obstructs the ability to prepare proper defenses with an unbiased and uncorrupt court. Earlier requests via Motions to this Court and the USDC to force disclosure of all conflict from Wolfe went wholly ignored thereby acting yet as another subterfuge to Plaintiff's due process and procedural rights through further Obstructions of Justice. Plaintiff formally asked Winter and Wolfe to identify any/all conflicts, prior to rendering any further Orders or taking any actions in these matters and they have failed to either confirm or deny and continued to act. Both then continued to act without affirmation or denial, despite overwhelming evidence of conflict thereby causing the Appearance of Impropriety and violating Judicial Cannons, attorney conduct codes and laws further acting to Obstruct Justice.

Grounds for Disqualification

> Disqualification is required under Canon 3C(1)(a) to (e) in several situations: you have personal knowledge of disputed facts…

Wolfe, as defendant and as material witness of disputed facts in these matters, definitely causes all the Justices of this Court to come into conflict with Plaintiff, as every member of this Court has personal and professional involvement with the affairs of Wolfe. Thus, for this reason alone the case most likely cannot be heard further by this Court or any of its staff, according to Judicial Cannons.

> You should also disqualify under Canon 3C(1) if the circumstances would cause a reasonable person to question your impartiality.

Financial interests: financial interests that result in mandatory disqualification include — **service as an officer, director, or active participant in the affairs of a party.**

This section forces recusal of virtually all members of this Court, as impartiality has been evidenced already herein with a defendant, witness and employee of the Court, Wolfe. Further, most of this Court, the law firms and lawyers may be officers, directors and active participants in organizations that are defendants in these matters and further have failed to allow Plaintiff the chance to evaluate those potential conflicts through required disclosures.

Full financial disclosure is also required by all those handling this case either affirming or denying financial conflict to, including but not limited to, the defendant law firms, the thousands of lawyers in defendant law firms, the hundreds of corporations named in the AC and the public agencies. Again such disclosure and checks should have already been done and certainly again Anderson's claims support immediate conflict checks prior to any other action by this Court or anyone involved currently or in the future. Conflict screening should most likely include conflict checks against all legally related cases and their defendants.

Another problem arises in that many of the Court Justices, members of the Court and counsel representing the parties may also be officers or directors of defendant organizations. An example would be holding membership or officer status at the First Dept or New York Supreme Court Appellate Division Second Department (Second Dept), the First Dept DDC, the Second Dept DDC and/or the New York State Bar

Association[5] all of which would cause insurmountable conflict. Undisclosed membership or affiliations in any defendant organization would again impart the Appearance of Impropriety and again violate well-established judicial cannons, attorney conduct codes and laws.

Conflicts Screening

> The following checklists can help you create a conflicts list for monitoring purposes (See appendix):
> Checklist for Financial Conflicts (Form AO-300)
> Checklist for Other Conflicts (Form AO-301)
> Conflicts List (Form AO-302)

Use and Misuse of Judicial Office — Areas of Concern

> Granting access or preferential treatment to special, private groups.

The fact that this Court allows members of the legal community to act with total disregard to their own rules and regulations, failing to report the misconduct of their legal brethren or take any corrective actions, as proscribed by judicial cannons, attorney conduct codes and laws and where further the Court is charged with self-regulation of those same judicial cannons, attorney conduct codes and laws but fails instead fails to uphold them, imparts preferential treatment to special private defendant groups, such as the law firms, attorneys and judicial officers, constituting Misuse of Judicial Office.

Outside Activities

> Your life before judicial appointment was filled with a wide variety of personal and professional activities. You may continue to participate in these activities, as long as they don't interfere with judicial duties, cast doubt on your impartiality, or detract from your office.

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[5] Defendant Steven C. Krane former President of the NYSBA was found in conflict, violation of NYSBA rules and imparting the appearance of impropriety, resulting in a court order for his and Proskauer's investigation, making membership or other capacities in this association potentially conflicted.

To remove doubt as to this Court and its members impartiality, with regard to personal and professional activities that conflict them, such as bar affiliations or other officer roles within the judicial systems on trial and defendants in these matters, which they may or may not still be involved with, affords Plaintiff every right to request disclosure and be given answers by everyone requested all whom are obligated to disclose such information under judicial cannons, attorney conduct codes and laws. Undisclosed conflicts, which have been discovered and affirmed with defendants already in these matters, are further wholly supported by Anderson's claims that preferential treatment of special groups of lawyers and Supreme Court of New York officials have occurred. This Court has already failed to comply with judicial cannons by ignoring the prior Motions requesting disclosure and further handling of these matters without such disclosures. Therefore, this Motion again serves as further legal notice that the appropriate authorities are being noticed of these ongoing violations of judicial cannons, attorney codes of conduct and laws and again Plaintiff demands this Court halt the proceedings pending resolution from all oversight authorities.

Violations of Title 18

§ 1505. Obstruction of proceedings before departments, agencies, and committees

> Whoever, with intent to avoid, evade, prevent, or obstruct compliance, in whole or in part, with any civil investigative demand duly and properly made under the Antitrust Civil Process Act, willfully withholds, misrepresents, removes from any place, conceals, covers up, destroys, mutilates, alters, or by other means falsifies any documentary material, answers to written interrogatories, or oral testimony, which is the subject of such demand; or attempts to do so or solicits another to do so; or
>
> Whoever corruptly, or by threats or force, or by any threatening letter or communication influences, obstructs, or impedes or endeavors to influence, obstruct, or impede the due and proper administration of the law under which any pending proceeding is being had before any department or agency of the United States, or the due and proper exercise of

> the power of inquiry under which any inquiry or investigation is being had by either House, or any committee of either House or any joint committee of the Congress—
> Shall be fined under this title, imprisoned not more than 5 years or, if the offense involves international or domestic terrorism (as defined in section 2331), imprisoned not more than 8 years, or both.

One example of many of Obstructions comes in the fact that two federal investigations of document tampering remain ongoing with no resolution in the Scheindlin court, pertaining to improper service of this lawsuit by the United States Marshal. Whereby the removal of the Original Complaints filed by Plaintiff in this case from the US Marshal Office remains the subject of ongoing investigations, which materially affected what was served, review of the docket at the USDC evidences defendants claiming improper service by the US Marshal and missing documents. Prior Motions to the USDC to resolve the theft of documents was wholly ignored and where the outcome of the investigations with the U.S. Marshal and US Post Office may materially affect the case, again depicts an err in the dismissing the complaint prior to resolution of these Obstructions of Justice via removal of official documents in a federal proceeding.

Another example of Obstruction is the fact that in the related Whistleblower case of Anderson it is alleged that proceedings relating to these matters were influenced by defendants who used threats, physical and mental abuse, whitewashing of complaints, official document destruction, all in effort to subterfuge proper administration of law and protect "favored" law firms and attorneys. Whereby these actions that diffused legal proceedings, allowed domestic terrorism to occur, through the planting of a car bomb against a United States citizen, for had justice not been Obstructed as described by Anderson in the handling of proceedings this may have been prevented.

§ 1506. Theft or alteration of record or process; false bail

> Whoever feloniously steals, takes away, alters, falsifies, or otherwise avoids any record, writ, process, or other proceeding, in any court of the United States, whereby any judgment is reversed, made void, or does not take effect; or
> Whoever acknowledges, or procures to be acknowledged in any such court, any recognizance, bail, or judgment, in the name of any other person not privy or consenting to the same—
> Shall be fined under this title or imprisoned not more than five years, or both.
> § 1509. Obstruction of court orders
> Whoever, by threats or force, willfully prevents, obstructs, impedes, or interferes with, or willfully attempts to prevent, obstruct, impede, or interfere with, the due exercise of rights or the performance of duties under any order, judgment, or decree of a court of the United States, shall be fined under this title or imprisoned not more than one year, or both.

It may be viewed that the this Court is under court orders and decrees via the Judicial Cannons, attorney conducts codes and laws, which all act as decrees issued by the courts of the United States. Failure to uphold such judicial cannons, attorney conduct codes and laws, acts forcefully to prevent, obstruct, impede and interfere with Plaintiff rights to due process and thus imparts not merely Obstruction but active participation in the crimes of the larger RICO conspiracy alleged through knowingly failing to report the misconducts, thereby creating a shield for the defendants.

> No injunctive or other civil relief against the conduct made criminal by this section shall be denied on the ground that such conduct is a crime.

§ 1510. Obstruction of criminal investigations

> (a) Whoever willfully endeavors by means of bribery to obstruct, delay, or prevent the communication of information relating to a violation of any criminal statute of the United States by any person to a criminal investigator shall be fined under this title, or imprisoned not more than five years, or both.

Anderson again provides factual evidence of forms of bribery including (i) threatened and effectuated job loss if she would not play along and prevent public corruption information from being exposed, (ii) would not allow changes to her investigation reports that she was charged with, (iii) pressure to whitewash official

complaints and (iv) favoritism for favored attorneys, all actions violating hosts of criminal Obstruction statutes and other law. Anderson's information being that it alleges Obstruction of Justice by public officials should all have been turned over to criminal investigators that should be filing criminal charges and at minimum investigating those Anderson alleges to have been involved in the public office corruption.

The USDC and this Court's failure to allow Plaintiff full discovery of the Anderson Obstruction claims by dismissing and delaying this case through legal process abuses, further adversely affects Plaintiff's due process rights, again acting as another Obstruction charge in these matters. This Court's further failure not to report Scheindlin and the others for violations of statues, codes of conduct and judicial cannons, is a further violation of judicial cannons further acting to conceal such violations with intent, make it accessory in aiding and abetting felonious actions.

§ 1511. Obstruction of State or local law enforcement

(1) Whoever kills or attempts to kill another person, with intent to—
(A) prevent the attendance or testimony of any person in an official proceeding;

At the time Plaintiff's family minivan was blown up in a car bombing that blew up three cars next to it, Plaintiff was filing a complaint with the United States Supreme Court, case No. 05-6611 and was in a lawsuit with certain defendants in West Palm Beach County FL[6]. The car bombing is still under investigation and most likely was an attempt to preclude Plaintiff from testimony and appearance in the legal proceedings, yet this Court ignores these facts, in attempts to rush to justice or more aptly, injustice. The car bombing following death threats that were also reported to federal investigators that

[6] Proskauer v. Iviewit Civil Case No. 502001CA004671XXCDAB

were levied by a former Proskauer referred management placement, in my companies Iviewit, Brian G. Utley (Utley), levied on behalf of defendant Proskauer. Utley's comments came in the form of a threat that if Plaintiff contacted authorities regarding certain stolen patents found in Utley's name and written by defendant Foley & Lardner LLP (Foley), patents currently in suspension by the Commissioner of Patent pending ongoing investigations, that they would murder Plaintiff Bernstein, "they" refer to Proskauer, Foley, and Utley.

> (B) prevent the production of a record, document, or other object, in an official proceeding; or

Anderson provides evidence that certain First Dept and this Court officials and defendants in these matters prevented the production of records, documents and other objects in official proceedings violating Obstruction laws.

> (2) Whoever uses physical force or the threat of physical force against any person, or attempts to do so, with intent to—

Anderson provides evidence that certain First Dept and this Court officials and defendants in these matters used force to compel her to interfere in official proceedings.

> (A) influence, delay, or prevent the testimony of any person in an official proceeding;

Anderson provides evidence that certain First Dept and this Court officials and defendants in these matters influenced, delayed and prevented testimony in official proceedings.

> (B) cause or induce any person to—
> (i) withhold testimony, or withhold a record, document, or other object, from an official proceeding;

Anderson provides evidence that certain First Dept and this Court officials and defendants in these matters attempted to induce her to withhold testimony, withhold records, documents and other objects from official proceedings.

> (ii) alter, destroy, mutilate, or conceal an object with intent to impair the integrity or availability of the object for use in an official proceeding;

Anderson provides evidence that certain First Dept and this Court officials and defendants in these matters altered, destroyed, mutilated and concealed evidence with intent to impair the integrity and the availability of such to interfere in official proceedings and attempted to induce her to do same.

> (iii) evade legal process summoning that person to appear as a witness, or to produce a record, document, or other object, in an official proceeding; or

Scheindlin's court stolen service papers and interference with US Marshal Service of the Original Complaint may have been an effort to delay and stymie summoning the defendants, including high-ranking public officials. Scheindlin failing to serve the AC properly to all NAMED defendants in such AC may also be considered an act that evaded proper and just service of the AC and another err in the Order to dismiss the complaint prior to proper service of the AC.

> (iv) be absent from an official proceeding to which that person has been summoned by legal process; or
> hinder, delay, or prevent the communication to a law enforcement officer or judge of the United States of information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, supervised release, parole, or release pending judicial proceedings;

The Obstructions caused by this Court and all courts of the prior related proceedings has hindered, delayed and prevented communication to law enforcement and judges of the United States information relating to the commission or possible

commission of Federal, State and International violations of Law and International Treatises.

shall be punished as provided in paragraph (3).
(3) The punishment for an offense under this subsection is—
(A) in the case of murder (as defined in section 1111), the death penalty or imprisonment for life, and in the case of any other killing, the punishment provided in section 1112;
(B) in the case of—
(i) an attempt to murder; or
(ii) the use or attempted use of physical force against any person;
imprisonment for not more than 20 years; and
(C) in the case of the threat of use of physical force against any person, imprisonment for not more than 10 years.
(b) Whoever knowingly uses intimidation, threatens, or corruptly persuades another person, or attempts to do so, or engages in misleading conduct toward another person, with intent to—
(1) influence, delay, or prevent the testimony of any person in an official proceeding;
(2) cause or induce any person to—
(A) withhold testimony, or withhold a record, document, or other object, from an official proceeding;
(B) alter, destroy, mutilate, or conceal an object with intent to impair the object's integrity or availability for use in an official proceeding;
(C) evade legal process summoning that person to appear as a witness, or to produce a record, document, or other object, in an official proceeding; or
(D) be absent from an official proceeding to which such person has been summoned by legal process; or
(3) hinder, delay, or prevent the communication to a law enforcement officer or judge of the United States of information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation [1] supervised release,,[1] parole, or release pending judicial proceedings;
shall be fined under this title or imprisoned not more than ten years, or both.
(c) Whoever corruptly—
(1) alters, destroys, mutilates, or conceals a record, document, or other object, or attempts to do so, with the intent to impair the object's integrity or availability for use in an official proceeding; or
(2) otherwise obstructs, influences, or impedes any official proceeding, or attempts to do so,
shall be fined under this title or imprisoned not more than 20 years, or both.
(d) Whoever intentionally harasses another person and thereby hinders, delays, prevents, or dissuades any person from—
(1) attending or testifying in an official proceeding;
(2) reporting to a law enforcement officer or judge of the United States the commission or possible commission of a Federal offense or a violation of conditions of probation [1] supervised release,,[1] parole, or release pending judicial proceedings;
(3) arresting or seeking the arrest of another person in connection with a Federal offense; or
(4) causing a criminal prosecution, or a parole or probation revocation proceeding, to be sought or instituted, or assisting in such prosecution or proceeding;
or attempts to do so, shall be fined under this title or imprisoned not more than one year, or both.

(e) In a prosecution for an offense under this section, it is an affirmative defense, as to which the defendant has the burden of proof by a preponderance of the evidence, that the conduct consisted solely of lawful conduct and that the defendant's sole intention was to encourage, induce, or cause the other person to testify truthfully.
(f) For the purposes of this section—
(1) an official proceeding need not be pending or about to be instituted at the time of the offense; and
(2) the testimony, or the record, document, or other object need not be admissible in evidence or free of a claim of privilege.
(g) In a prosecution for an offense under this section, no state of mind need be proved with respect to the circumstance—
(1) that the official proceeding before a judge, court, magistrate judge, grand jury, or government agency is before a judge or court of the United States, a United States magistrate judge, a bankruptcy judge, a Federal grand jury, or a Federal Government agency; or
(2) that the judge is a judge of the United States or that the law enforcement officer is an officer or employee of the Federal Government or a person authorized to act for or on behalf of the Federal Government or serving the Federal Government as an adviser or consultant.
(h) There is extraterritorial Federal jurisdiction over an offense under this section.
(i) A prosecution under this section or section 1503 may be brought in the district in which the official proceeding (whether or not pending or about to be instituted) was intended to be affected or in the district in which the conduct constituting the alleged offense occurred.
(j) If the offense under this section occurs in connection with a trial of a criminal case, the maximum term of imprisonment which may be imposed for the offense shall be the higher of that otherwise provided by law or the maximum term that could have been imposed for any offense charged in such case.
(k) Whoever conspires to commit any offense under this section shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.

§ 1519. Destruction, alteration, or falsification of records in Federal investigations and bankruptcy

Whoever knowingly alters, destroys, mutilates, conceals, covers up, falsifies, or makes a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the investigation or proper administration of any matter within the jurisdiction of any department or agency of the United States or any case filed under title 11, or in relation to or contemplation of any such matter or case, shall be fined under this title, imprisoned not more than 20 years, or both.

Violations of Attorney Code of Conduct – New York Law, similar alleged violations have occurred by defendants counsel in Florida and Virginia

Every attorney for any defendant should be forced to file with this Court verified and affirmed conflict checks, according to the attorney conduct code rules and

regulations for attorneys and law firms[7], to determine the validity of their representation and disclose any and all conflicts. Conflict parties then removed, anything short of this request being completed will result in immediate further disciplinary and other complaints against all parties for conflict and violations of judicial cannons, codes of conduct for attorneys in the State of New York, Florida and Virginia and law. New complaints will now be filed with all appropriate federal and state bar authorities and others for resolution. Failure by this Court to allow such oversight requested to come to conclusions regarding the complaints filed and continued action in the matters, prior to full resolution by such oversight, will render this Court's actions as further proof of continued violations of judicial cannons, attorney codes of conduct and law.

These proceedings must be halted until all Obstructions of Justice, judicial misconducts and attorney misconducts are removed, and, all those that are found to have been in violation of judicial cannons, attorney codes of conduct and law are prosecuted to the fullest extent of the law. Judicial and Attorney misconduct is at the heart of the cover-up to the crimes alleged in the Amended Complaint and where evidence supporting this is further confirmed by the legally related Whistleblower case of Anderson and other related cases. These cases support that attorney misconduct was occurring at the highest levels of the New York courts and this therefore demands oversight of the New York courts and instant investigation of the allegations of criminal Obstruction levied by Anderson. Especially, where upon repeated requests to the courts in these matters by

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[7] Again, Plaintiffs demand that all codes of conduct used in these matters be grandfathered from the date of the original conspiracy in 1998 due to certain defendants influence over the regulatory bodies.

Plaintiff for conflict disclosure they have gone largely unanswered by any of those involved.

Scheindlin addressed the conflicts as **"substantive"** and the First Dept ordered "investigation" of those involved yet due process again was denied, although the conflicts were serious enough for court ordered transfers and court ordered investigations in one instance, and where the conflicts were verified in the other by a federal judge. Looking at the very strange Order by Scheindlin concerning the multiplicity of attorney misconducts, whereby instead of asking counsel involved if they have conflict, Scheindlin instead answers for the conflicted on their behalf, as if she were their legal counsel. In an Order Dated, March 10, 2008, she claims,

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

What more could warrant an investigation by the NYAG then Anderson's damning public office corruption and obstruction claims, yet they are to busy preparing the defense of those they should be investigating on taxpayers dollars, obscene.

Scheindlin errs by failing to ask the NYAG if they have conflict, perhaps conflicts she was not aware of and where Plaintiff asked for attorneys involved to state if they had conflict, yet Scheindlin usurps such legal request and attempts to answer for defendant NYAG, shielding them from conflicts checks required under the attorney code of

conduct. Scheindlin also fails in her Order to mention the fact that defendant Proskauer also represented the NYAG during the time of alleged wrongdoings and Scheindlin fails to seek disclosure of this material fact or even check with the NYAG to assure that Proskauer no longer represents the NYAG. In fact, several of the former NYAG employees have recently taken positions at Proskauer and conflict would again exist if they were involved in these matters while at the NYAG. Yet, since no party is following the well-established judicial cannons, attorney code codes and law, no one is forced to disclose these material facts, again acting to Obstruct Plaintiff's rights.

These obstructive actions of Scheindlin's will be part of the judicial complaint against her requesting oversight and determination as to if Scheindlin acted within her legal authority and if she has violated state and federal law and judicial cannons and attorney conduct codes. If Scheindlin did not act within legal authority, all orders should be rescinded and full investigation begun into the NYAG/Proskauer violations and the Scheindlin violations and these matters immediately turned over to the proper authorities and a non conflicted court, one that affirms or denies conflicts according to the rules, prior to taking action in the matter before them.

New attorney ethics complaints will be filed against each member of the NYAG that has entered filings in these matters with the First Dept and the Federal Bar. A way around the conflicts of the First Dept handling new and old complaints filed with them against defendants, while they are a simultaneously named as a defendant in the case must be found, such as a non-conflicted third party who can perform investigation without bias. Until such time this Court cannot continue forward legally.

Another NYAG conflict is that they are acting as counsel to many of the NY State defendants, including themselves, as they answer to the AC in their own defense presumably, of which they are a named defendant. The NYAG should therefore be seeking counsel for themselves at this point and having their defendants find new non-conflicted counsel. Further, after withdrawing representation of the state defendants, the NYAG should consider based on Anderson's allegations, investigating all of those they were representing for public office violations.

Next, in the same Order, Scheindlin again acts as counsel for now defendant former Chief Judge Judith S. Kaye (Kaye) and instead of demanding disclosure by Kaye and the NYAG in relation to Plaintiff request for conflict disclosure, Scheindlin states:

> Plaintiffs also argue that it is inappropriate for the Attorney General to represent the Hon. Judith S. Kaye on the ground that Judge Kaye was appointed to the bench by the father of the current Attorney General. While the Chief Judge was appointed many years ago by the Attorney General's father, this does not create either a conflict of interest or an appearance of impropriety in permitting the current Attorney General to represent the Chief Judge in this lawsuit.

Here again Scheindlin errs as the request from Plaintiff was for conflict disclosure from Kaye and the NYAG on their own behalf of any conflicts they may have, conflicts perhaps that Scheindlin did not know about or fails to state.

Another conflict arises in that Proskauer also is in partnership with defendant Kaye, who has financial interest in the Iviewit companies through defendant, Estate of Stephen R. Kaye, a former Proskauer partner in the IP department of Proskauer. The IP department started immediately after Proskauer learned of the inventions of Plaintiff and then attempted the theft of the technologies as described in AC. Proskauer is a

shareholder of unidentified Iviewit companies, thus the stock in the Iviewit companies owned by defendant Stephen R. Kaye may have transferred to Judith Kaye upon his death, and again disclosure would be mandatory.

Again, neither the NYAG nor Kaye is asked by Scheindlin to disclose conflict or run conflict checks as proscribed by the attorney code of conduct, as Scheindlin instead answers for them, yet only in relation to Andrew Cuomo's father's potential conflict in appointing Kaye to Chief Judge. Again, Scheindlin errs more by failing to ask defendants to disclose any conflicts and run internal conflicts checks according to well-established attorney conduct codes and acts to Obstruct Justice by failing to do so.

Scheindlin then answers for the attorneys and law firms Plaintiff requested to disclose any conflicts from, skirting the appropriate action of asking the attorneys and law firms to run internal conflicts checks as proscribed by the attorney code of conduct. Law firms have to run conflicts checks under regulatory guidelines and instead Scheindlin answers for them, wholly outside her authority, as if she runs the conflict departments for the law firms. In her Order, Scheindlin states:

> Plaintiffs request that the Court direct the two law firm defendants to retain independent counsel on the ground that conflicts of interest prevent their attorneys from representing the firms. Plaintiffs have shown no ground for disqualifying attorneys at the defendant law firms from representing the firms.

Of course, this statement was made prior to her later statement that **"substantive"** conflicts exist but then Scheindlin still fails to take any actions proscribed by the attorney code of conduct or judicial cannons concerning the conflicts she becomes aware of.

In fact, Scheindlin fails to address in her Order, the very disqualifying grounds presented to her regarding defendants Proskauer and Foley's self-representations, in the very fact that there are ongoing federal, state and international investigations of the attorneys and their law firms who are representing themselves before the court and this Court. Investigations also are underway by the Federal Patent Bar and the Institute of Professional Representatives before the European Patent Office (epi), of the very same law firms and lawyers that the state bar and state disciplinary agencies refuse to investigate. Scheindlin fails to address the absolute conflict these investigations of certain counsel/defendants poses to continued self-representations. Had Scheindlin not acted outside her scope of authority and answered conflict questions for others versus asking them to disclose, as requested legally by Plaintiff who acts as Pro Se counsel with rights to request disclosure from all opposing counsel and justices involved in these matters, the results from the law firms' conflict checks would have precluded their self-representations.

Further, defendant Proskauer, Foley and Meltzer Lippe Goldstein Wolfe & Schlissel (Meltzer) law firms are former counsel to Plaintiff, further precluding their self-representations under the attorney code of conduct. Proskauer is also a shareholder of Iviewit and thus a defendant with an interest in the Plaintiff companies Iviewit, another area of conflict that cannot be overcome precluding self-representation. All of these material and factual conflicts overlooked by Scheindlin who prevented Proskauer, Meltzer and Foley counsel from having to address their conflicts by answering for them versus forcing conflict checks to be run according to well-established attorney conduct

codes and thus allowed them to continue to act in conflict in her court. This disregard for judicial cannons, attorney codes of conduct and law, act to Obstruct Justice through an incestuous orgy of unregulated conflicts that act to deny Plaintiff due process and procedure rights.

Scheindlin fails to address in the Order disqualifying grounds presented to her by Anderson, in relation to defendant attorneys who are or have been involved with the First Dept, as Anderson mentions Iviewit in her original complaint and claims that Obstruction of Justice and tampering with case files was ongoing at the First Dept at the time of Plaintiff's complaints. There may be information learned in Anderson that further confirms the conflicts and public office violations claimed in the AC by Plaintiff and certainly, anyone with current or former First Dept affiliations would be excluded from representing anyone in these matters. Defendants Proskauer, Rubenstein and Krane were also found directly interfering in complaints at the First Dept in complaints directly related to these matters, while Krane held positions with the First Dept and throughout the Disciplinary community that conflicted him from representing his firm, his Partner and himself in complaints filed with the First Dept. Further, Krane as former President of the NYSBA was further precluded from handling complaints for a period of one year after his service and yet handled complaints in that time period for Proskauer, Rubenstein and himself.

Further support of disqualifying grounds comes from defendant and Plaintiff witness and defendant, Clerk of this Court, Wolfe and the defendant Justices from the First Dept whose actions led to Unpublished Orders for investigation of Proskauer

attorneys, FOR CONFLICT AND THE APPEARANCE OF IMPROPRIETY. The First Dept has officially rendered no proper court resolution to their orders for investigations and therefore these same attorneys cannot be allowed to continue representation of themselves or others until those orders are wholly resolved. Scheindlin may have erred further in tendering her Order, acting well outside her proper authority in attempting to exonerate the law firms from conflict herself. Scheindlin again failing to ascertain procedurally if the law firms were in conflict, which could only be legally achieved by asking them to run formal in house and procedural conflicts checks and submitting them to the court and Plaintiff, not answering on their behalf outside the scope of her authority and prejudicing the case and Plaintiff rights through Obstruction.

Finally, and in an about face from her former March 10, 2008 Order, Scheindlin, changes course as to the substance of the conflict matters before her and in a March 21, 2008 Order, states:

> Any further consideration of the **substantive issues** raised by plaintiffs, **including plaintiffs' requests regarding conflicts of interest**, must await the resolution of anticipated motions to dismiss.

Scheindlin errs again by failing to notify authorities that she is aware of **"substantive"** conflict and violations of attorney codes of conduct and where judicial cannons and attorney conduct codes regarding reporting the knowing violations of the codes committed by members of the legal community mandate it. This failure to report the actions of those violating the attorney conduct codes is another area that complaints will be filed against Scheindlin and will be reported to all oversight authorities. This Court will also be charged with similar complaints for failing to report the conflicts found

in Scheindlin and continuing to allow Obstruction via the same pattern of failing to adhere to judicial cannons, attorney conduct codes and law relating to conflict. Again, Plaintiff asks the Court to halt the proceedings until all of these complaints can be fully resolved by all oversight being legally sought.

New York First Department Rules

§603.2 Professional Misconduct Defined

Any attorney who fails to conduct himself both professionally and personally, in conformity with the standards of conduct imposed upon members of the bar as conditions for the privilege to practice law and any attorney who violates any provision of the rules of this court governing the conduct of attorneys, or with respect to conduct on or after January l, 1970, any disciplinary rules of the Code of Professional Responsibility, as adopted by the New York State Bar Association, effective January 1, 1970, as amended, or with respect to conduct on or before December 31, 1969, any canon of the Canons of Professional Responsibility, as adopted by such bar association and effective until December 31, 1969 or with respect to conduct on or after September l, 1990, any disciplinary rule of the Code of Professional Responsibility, as jointly adopted by the Appellate Divisions of the Supreme Court, effective September l, 1990, or any of the special rules concerning court decorum, shall be guilty of professional misconduct within the meaning of subdivision 2 of section 90 of the Judiciary Law.
Any law firm that fails to conduct itself in conformity with the provisions of the Disciplinary Rules of the Code of Professional Responsibility pertaining to law firms shall be guilty of professional misconduct within the meaning of subdivision 2 of section 90 of the Judiciary Law.

NEW YORK LAWYER'S CODE OF PROFESSIONAL RESPONSIBILITY

DR 1-103 [1200.4] Disclosure of Information to Authorities.

A. A lawyer possessing knowledge, (1) not protected as a confidence or secret, or (2) not gained in the lawyer's capacity as a member of a bona fide lawyer assistance or similar program or committee, of a violation of DR 1-102 [1200.3] that raises a substantial question as to another lawyer's honesty, trustworthiness or fitness as a lawyer shall report such knowledge to a tribunal or other authority empowered to investigate or act upon such violation.
B. A lawyer possessing knowledge or evidence, not protected as a confidence or secret, concerning another lawyer or a judge shall reveal fully such knowledge or evidence upon proper request of a tribunal or other authority empowered to investigate or act upon the conduct of lawyers or judges.

DR 1-104 [1200.5] Responsibilities of a Partner or Supervisory Lawyer and Subordinate Lawyers.

A. A law firm shall make reasonable efforts to ensure that all lawyers in the firm conform to the disciplinary rules.

B. A lawyer with management responsibility in the law firm or direct supervisory authority over another lawyer shall make reasonable efforts to ensure that the other lawyer conforms to the disciplinary rules.
C. A law firm shall adequately supervise, as appropriate, the work of partners, associates and non-lawyers who work at the firm. The degree of supervision required is that which is reasonable under the circumstances, taking into account factors such as the experience of the person whose work is being supervised, the amount of work involved in a particular matter, and the likelihood that ethical problems might arise in the course of working on the matter.
D. A lawyer shall be responsible for a violation of the Disciplinary Rules by another lawyer or for conduct of a non-lawyer employed or retained by or associated with the lawyer that would be a violation of the Disciplinary Rules if engaged in by a lawyer if:
1. The lawyer orders, or directs the specific conduct, or, with knowledge of the specific conduct, ratifies it; or
2. The lawyer is a partner in the law firm in which the other lawyer practices or the non-lawyer is employed, or has supervisory authority over the other lawyer or the non-lawyer, and knows of such conduct, or in the exercise of reasonable management or supervisory authority should have known of the conduct so that reasonable remedial action could be or could have been taken at a time when its consequences could be or could have been avoided or mitigated.
E. A lawyer shall comply with these Disciplinary Rules notwithstanding that the lawyer acted at the direction of another person.

Law firms have continued to force attorneys within their firms to act in violation of well-established attorney codes of conduct and law, those in supervisory capacities who ordered these illegal activities to flourish should be charged with violating this section of code. Further, for failure to report those already violating disciplinary rules and law, further charges will be forthcoming, against every member of the firms involved.

DR 1-105 [§1200.5-a] Disciplinary Authority and Choice of Law.

A. A lawyer admitted to practice in this state is subject to the disciplinary authority of this state, regardless of where the lawyer's conduct occurs. A lawyer may be subject to the disciplinary authority of both this state and another jurisdiction where the lawyer is admitted for the same conduct.
B. In any exercise of the disciplinary authority of this state, the rules of professional conduct to be applied shall be as follows:
1. For conduct in connection with a proceeding in a court before which a lawyer has been admitted to practice (either generally or for purposes of that proceeding), the rules to be applied shall be the rules of the jurisdiction in which the court sits, unless the rules of the court provide otherwise; and
2. For any other conduct:

a. If the lawyer is licensed to practice only in this state, the rules to be applied shall be the rules of this state, and
b. If the lawyer is licensed to practice in this state and another jurisdiction, the rules to be applied shall be the rules of the admitting jurisdiction in which the lawyer principally practices; provided, however, that if particular conduct clearly has its predominant effect in another jurisdiction in which the lawyer is licensed to practice, the rules of that jurisdiction shall be applied to that conduct.

DR 2-110 [1200.15] Withdrawal from Employment.

A. In general.
1. If permission for withdrawal from employment is required by the rules of a tribunal, a lawyer shall not withdraw from employment in a proceeding before that tribunal without its permission.
2. Even when withdrawal is otherwise permitted or required under section DR 2-110 [1200.15] (A)(l), (B), or (C), a lawyer shall not withdraw from employment until the lawyer has taken steps to the extent reasonably practicable to avoid foreseeable prejudice to the rights of the client, including giving due notice to the client, allowing time for employment of other counsel, delivering to the client all papers and property to which the client is entitled and complying with applicable laws and rules.
3. A lawyer who withdraws from employment shall refund promptly any part of a fee paid in advance that has not been earned.
B. Mandatory withdrawal.
A lawyer representing a client before a tribunal, with its permission if required by its rules, shall withdraw from employment, and a lawyer representing a client in other matters shall withdraw from employment, if:
1. The lawyer knows or it is obvious that the client is bringing the legal action, conducting the defense, or asserting a position in the litigation, or is otherwise having steps taken, merely for the purpose of harassing or maliciously injuring any person.
2. The lawyer knows or it is obvious that continued employment will result in violation of a Disciplinary Rule.
3. The lawyer's mental or physical condition renders it unreasonably difficult to carry out the employment effectively.
4. The lawyer is discharged by his or her client.

In Scheindlin's court where defendant Foley was self-representing initially, as indicated in a court filing by Monica Connell, the NYAG representing many of the state defendants, Foley then withdrew as counsel after confrontation by Plaintiff in a Motion regarding the conflict. Prior to notifying the Court of their reasons for withdrawal or seeking permission from Scheindlin for withdrawal and further failing to report their prior actions of contacting the NYAG as self counsel in conflict creates evermore conflict and violations of the attorney code of conduct. Foley, seeking to evade such prosecution for their conflicts, hired counsel to replace their conflicted representation once caught.

Foley's new counsel then attempted to fool the Court and Plaintiff that Foley had not been acting as their own counsel, yet the damning evidence Connell submitted to Scheindlin clearly shows they contacted the NYAG as their own counsel to formulate strategies against Plaintiff prior to retaining replacement counsel. New counsel for Foley thereby committed another attorney conduct violation by both lying to a tribunal and failing to report the misconduct of its new client. Complaints will be further filed against Foley and their new counsel for these actions and again we ask this Court to halt the proceedings until these complaints can be fully and legally resolved.

CANON 4. A Lawyer Should Preserve the Confidences and Secrets of a Client
DR 4-101 [1200.19] Preservation of Confidences and Secrets of a Client.

A. "Confidence" refers to information protected by the attorney-client privilege under applicable law, and "secret" refers to other information gained in the professional relationship that the client has requested be held inviolate or the disclosure of which would be embarrassing or would be likely to be detrimental to the client.
B. Except when permitted under DR 4-101 [1200.19] (C), a lawyer shall not knowingly:
1. Reveal a confidence or secret of a client.
2. Use a confidence or secret of a client to the disadvantage of the client.
3. Use a confidence or secret of a client for the advantage of the lawyer or of a third person, unless the client consents after full disclosure.
C. A lawyer may reveal:
1. Confidences or secrets with the consent of the client or clients affected, but only after a full disclosure to them.
2. Confidences or secrets when permitted under Disciplinary Rules or required by law or court order.
3. The intention of a client to commit a crime and the information necessary to prevent the crime.
4. Confidences or secrets necessary to establish or collect the lawyer's fee or to defend the lawyer or his or her employees or associates against an accusation of wrongful conduct.
5. Confidences or secrets to the extent implicit in withdrawing a written or oral opinion or representation previously given by the lawyer and believed by the lawyer still to be relied upon by a third person where the lawyer has discovered that the opinion or representation was based on materially inaccurate information or is being used to further a crime or fraud.
D. A lawyer shall exercise reasonable care to prevent his or her employees, associates, and others whose services are utilized by the lawyer from disclosing or using confidences or secrets of a client, except that a lawyer may reveal the information allowed by DR 4-101 [1200.19] (C) through an employee.

CANON 5. A Lawyer Should Exercise Independent Professional Judgment on Behalf of a Client

DR 5-101 [1200.20] Conflicts of Interest - Lawyer's Own Interests.

A. A lawyer shall not accept or continue employment if the exercise of professional judgment on behalf of the client will be or reasonably may be affected by the lawyer's own financial, business, property, or personal interests, unless a disinterested lawyer would believe that the representation of the client will not be adversely affected thereby and the client consents to the representation after full disclosure of the implications of the lawyer's interest.

Here we have the crux of the continued attorney conflict situation whereby the firms, Meltzer, Foley and Proskauer have irrefutable evidence that their judgment on behalf of their client, themselves, cannot be unbiased, as their lives depend on the outcome, financially, through their business and personal property interests and personally in avoiding lengthy federal sentences for their crimes. The absurdity of self-representation in this instance where everything rests on the outcome adversely affects their ability to get sound unbiased legal advice.

DR 5-102 [1200.21] Lawyers as Witnesses.

A. A lawyer shall not act, or accept employment that contemplates the lawyer's acting, as an advocate on issues of fact before any tribunal if the lawyer knows or it is obvious that the lawyer ought to be called as a witness on a significant issue on behalf of the client, except that the lawyer may act as an advocate and also testify:
1. If the testimony will relate solely to an uncontested issue.
2. If the testimony will relate solely to a matter of formality and there is no reason to believe that substantial evidence will be offered in opposition to the testimony.
3. If the testimony will relate solely to the nature and value of legal services rendered in the case by the lawyer or the lawyer's firm to the client.
4. As to any matter, if disqualification as an advocate would work a substantial hardship on the client because of the distinctive value of the lawyer as counsel in the particular case.

B. Neither a lawyer nor the lawyer's firm shall accept employment in contemplated or pending litigation if the lawyer knows or it is obvious that the lawyer or another lawyer in the lawyer's firm may be called as a witness on a significant issue other than on behalf of the client, and it is apparent that the testimony would or might be prejudicial to the client.

C. If, after undertaking employment in contemplated or pending litigation, a lawyer learns or it is obvious that the lawyer ought to be called as a witness on a significant issue on behalf of the client, the lawyer shall not serve as an advocate on issues of fact before the tribunal, except that the lawyer may continue as an advocate on issues of fact and may testify in the circumstances enumerated in DR 5-102 [1200.21] (B)(1) through (4).

D. If, after undertaking employment in contemplated or pending litigation, a lawyer learns or it is obvious that the lawyer or a lawyer in his or her firm may be called as a witness on a significant issue other than on behalf of the client, the lawyer may continue the representation until it is apparent that the testimony is or may be prejudicial to the client at which point the lawyer and the firm must withdraw from acting as an advocate before the tribunal.

The law firms Foley, Meltzer and Proskauer and all their partners are prohibited from representation, not only in that they are named defendants but also in the fact that many of their attorneys will be called as Plaintiff witness. Same for Wolfe who also is a defendant and witness and now possibly Scheindlin who may be called as witness for Plaintiff.

DR 5-103 [1200.22] Avoiding Acquisition of Interest in Litigation.

A. A lawyer shall not acquire a proprietary interest in the cause of action or subject matter of litigation he or she is conducting for a client, except that the lawyer may:
1. Acquire a lien granted by law to secure the lawyer's fee or expenses.
2. Except as provided in DR 2-106 [1200.11] (C)(2) or (3), contract with a client for a reasonable contingent fee in a civil case.
B. While representing a client in connection with contemplated or pending litigation, a lawyer shall not advance or guarantee financial assistance to the client, except that:
1. A lawyer representing an indigent or pro bono client may pay court costs and expenses of litigation on behalf of the client;
2. A lawyer may advance court costs and expenses of litigation, the repayment of which may be contingent on the outcome of the matter; and
3. A lawyer, in an action in which an attorney's fee is payable in whole or in part as a percentage of the recovery in the action, may pay on the lawyer's own account court costs and expenses of litigation. In such case, the fee paid to the attorney from the proceeds of the action may include an amount equal to such costs and expenses incurred.

DR 5-104 [1200.23] Transactions Between Lawyer and Client.

A. A lawyer shall not enter into a business transaction with a client if they have differing interests therein and if the client expects the lawyer to exercise professional judgment therein for the protection of the client, unless:
1. The transaction and terms on which the lawyer acquires the interest are fair and reasonable to the client and are fully disclosed and transmitted in writing to the client in a manner that can be reasonably understood by the client;
2. The lawyer advises the client to seek the advice of independent counsel in the transaction; and
3. The client consents in writing, after full disclosure, to the terms of the transaction and to the lawyer’s inherent conflict of interest in the transaction.
B. Prior to conclusion of all aspects of the matter giving rise to employment, a lawyer shall not negotiate or enter into any arrangement or understanding:

1. With a client or a prospective client by which the lawyer acquires an interest in literary or media rights with respect to the subject matter of the employment or proposed employment.
2. With any person by which the lawyer transfers or assigns any interest in literary or media rights with respect to the subject matter of employment by a client or prospective client.

DR 5-105 [1200.24] Conflict of Interest; Simultaneous Representation.

A. A lawyer shall decline proffered employment if the exercise of independent professional judgment in behalf of a client will be or is likely to be adversely affected by the acceptance of the proffered employment, or if it would be likely to involve the lawyer in representing differing interests, except to the extent permitted under DR 5-105 [1200.24] (C).
B. A lawyer shall not continue multiple employment if the exercise of independent professional judgment in behalf of a client will be or is likely to be adversely affected by the lawyer's representation of another client, or if it would be likely to involve the lawyer in representing differing interests, except to the extent permitted under DR 5-105 [1200.24] (C).
C. In the situations covered by DR 5-105 [1200.24] (A) and (B), a lawyer may represent multiple clients if a disinterested lawyer would believe that the lawyer can competently represent the interest of each and if each consents to the representation after full disclosure of the implications of the simultaneous representation and the advantages and risks involved.
D. While lawyers are associated in a law firm, none of them shall knowingly accept or continue employment when any one of them practicing alone would be prohibited from doing so under DR 5-101 [1200.20] (A), DR 5-105 [1200.24] (A) or (B), DR 5-108 [1200.27] (A) or (B), or DR 9-101 [1200.45] (B) except as otherwise provided therein.
E. A law firm shall keep records of prior engagements, which records shall be made at or near the time of such engagements and shall have a policy implementing a system by which proposed engagements are checked against current and previous engagements, so as to render effective assistance to lawyers within the firm in complying with DR 5-105 [1200.24] (D). Failure to keep records or to have a policy which complies with this subdivision, whether or not a violation of DR 5-105 [1200.24] (D) occurs, shall be a violation by the firm. In cases in which a violation of this subdivision by the firm is a substantial factor in causing a violation of DR 5-105 [1200.24] (D) by a lawyer, the firm, as well as the individual lawyer, shall also be responsible for the violation of DR 5-105 [1200.24] (D).

All the justices, law firms and all the lawyers involved in this case at every level in current and former proceedings have all failed to run proper conflict of interest checks, which would have detailed the numerous violations of attorney conduct codes and law that such self-representations obviously involve. New complaints will be forthcoming

regarding the failure under this code section as new grounds for attorney and firm disciplinary complaints.

DR 5-107 [1200.26] Avoiding Influence by Others than the Client.

A. Except with the consent of the client after full disclosure a lawyer shall not:
1. Accept compensation for legal services from one other than the client.
2. Accept from one other than the client anything of value related to his or her representation of or employment by the client.
B. Unless authorized by law, a lawyer shall not permit a person who recommends, employs, or pays the lawyer to render legal service for another to direct or regulate his or her professional judgment in rendering such legal services, or to cause the lawyer to compromise the lawyer's duty to maintain the confidences and secrets of the client under DR 4-101 [1200.19] (B).

DR 5-108 [1200.27] Conflict of Interest - Former Client.

A. Except as provided in DR 9-101 [1200.45] (B) with respect to current or former government lawyers, a lawyer who has represented a client in a matter shall not, without the consent of the former client after full disclosure:
1. Thereafter represent another person in the same or a substantially related matter in which that person's interests are materially adverse to the interests of the former client.
2. Use any confidences or secrets of the former client except as permitted by DR 4-101 [1200.19] (C) or when the confidence or secret has become generally known.
B. Except with the consent of the affected client after full disclosure, a lawyer shall not knowingly represent a person in the same or a substantially related matter in which a firm with which the lawyer formerly was associated had previously represented a client:
1. Whose interests are materially adverse to that person; and
2. About whom the lawyer had acquired information protected by section DR 4-101 [1200.19] (B) that is material to the matter.
C. Notwithstanding the provisions of DR 5-105 [1200.24] (D), when a lawyer has terminated an association with a firm, the firm is prohibited from thereafter representing a person with interests that are materially adverse to those of a client represented by the formerly associated lawyer and not currently represented by the firm only if the law firm or any lawyer remaining in the firm has information protected by DR 4-101 [1200.19] (B) that is material to the matter, unless the affected client consents after full disclosure.

As Plaintiff was a former client of defendants Meltzer, Proskauer and Foley and has not granted permission for them to self-represent in these matters, matters that are highly related to their former representation, again constitutes an obvious conflict. Yet, they are allowed to continue self-representation un-regulated by this Court or Scheindlin’s court, total failure to adhere to the judicial cannons, attorney codes of conduct and law.

DR 5-109 [1200.28] Organization as Client.

A. When a lawyer employed or retained by an organization is dealing with the organization's directors, officers, employees, members, shareholders or other constituents, and it appears that the organization's interests may differ from those of the constituents with whom the lawyer is dealing, the lawyer shall explain that the lawyer is the lawyer for the organization and not for any of the constituents.
B. If a lawyer for an organization knows that an officer, employee or other person associated with the organization is engaged in action, intends to act or refuses to act in a matter related to the representation that is a violation of a legal obligation to the organization, or a violation of law that reasonably might be imputed to the organization, and is likely to result in substantial injury to the organization, the lawyer shall proceed as is reasonably necessary in the best interest of the organization. In determining how to proceed, the lawyer shall give due consideration to the seriousness of the violation and its consequences, the scope and nature of the lawyer's representation, the responsibility in the organization and the apparent motivation of the person involved, the policies of the organization concerning such matters and any other relevant considerations. Any measures taken shall be designed to minimize disruption of the organization and the risk of revealing information relating to the representation to persons outside the organization. Such measures may include, among others:
1. Asking reconsideration of the matter;
2. Advising that a separate legal opinion on the matter be sought for presentation to appropriate authority in the organization; and
3. Referring the matter to higher authority in the organization, including, if warranted by the seriousness of the matter, referral to the highest authority that can act in behalf of the organization as determined by applicable law.
C. If, despite the lawyer's efforts in accordance with DR 5-109 [1200.28](B), the highest authority that can act on behalf of the organization insists upon action, or a refusal to act, that is clearly a violation of law and is likely to result in a substantial injury to the organization, the lawyer may resign in accordance with DR 2-110 [1200.15].

DR 5-110 [1200.29] Membership in Legal Service Organization.

A. A lawyer may serve as a director, officer or member of a not-for-profit legal services organization, apart from the law firm in which the lawyer practices, notwithstanding that the organization serves persons having interests that differ from those of a client of the lawyer or the lawyer's firm, provided that the lawyer shall not knowingly participate in a decision or action of the organization:

1. If participating in the decision or action would be incompatible with the lawyer's duty of loyalty to a client under DR 5-101 through DR 5-111 [1200.20 through 1200.29]; or
2. Where the decision or action could have a material adverse effect on the representation of a client of the organization whose interests differ from those of a client of the lawyer or the lawyer's firm.

CANON 6. A Lawyer Should Represent a Client Competently

DR 6-101 [1200.30] Failing to Act Competently.

A. A lawyer shall not:

1. Handle a legal matter which the lawyer knows or should know that he or she is not competent to handle, without associating with a lawyer who is competent to handle it.
2. Handle a legal matter without preparation adequate in the circumstances.
3. Neglect a legal matter entrusted to the lawyer.

DR 6-102 [1200.31] Limiting Liability to Client.

A. A lawyer shall not seek, by contract or other means, to limit prospectively the lawyer's individual liability to a client for malpractice, or, without first advising that person that independent representation is appropriate in connection therewith, to settle a claim for such liability with an unrepresented client or former client.

CANON 7. A Lawyer Should Represent a Client Zealously Within the Bounds of the Law

DR 7-101 [1200.32] Representing a Client Zealously.

A. A lawyer shall not intentionally:
1. Fail to seek the lawful objectives of the client through reasonably available means permitted by law and the Disciplinary Rules, except as provided by DR 7-101 [1200.32] (B). A lawyer does not violate this Disciplinary Rule, however, by acceding to reasonable requests of opposing counsel which do not prejudice the rights of the client, by being punctual in fulfilling all professional commitments, by avoiding offensive tactics, or by treating with courtesy and consideration all persons involved in the legal process.
2. Fail to carry out a contract of employment entered into with a client for professional services, but the lawyer may withdraw as permitted under DR 2-110 [1200.15], DR 5-102 [1200.21], and DR 5-105 [1200.24].
3. Prejudice or damage the client during the course of the professional relationship, except as required under DR 7-102 [1200.33] (B) or as authorized by DR 2-110 [1200.15].
B. In the representation of a client, a lawyer may:
1. Where permissible, exercise professional judgment to waive or fail to assert a right or position of the client.
2. Refuse to aid or participate in conduct that the lawyer believes to be unlawful, even though there is some support for an argument that the conduct is legal.

DR 7-102 [1200.33] Representing a Client Within the Bounds of the Law.

A. In the representation of a client, a lawyer shall not:
1. File a suit, assert a position, conduct a defense, delay a trial, or take other action on behalf of the client when the lawyer knows or when it is obvious that such action would serve merely to harass or maliciously injure another.

Almost all of the defendant lawyers violate this section by asserting defenses when they are in conflict, all Justices who have allowed such conflict to prevail have delayed trials, etc. through such violations. All of these violations of judicial cannons,

attorney conduct codes and law act to further harass and maliciously injure Plaintiff rights.

> 2. Knowingly advance a claim or defense that is unwarranted under existing law, except that the lawyer may advance such claim or defense if it can be supported by good faith argument for an extension, modification, or reversal of existing law.

Almost all of the defendant lawyers violate this section by asserting defenses when they are in conflict and thus the claims and defenses are all unwarranted under existing law.

> 3. Conceal or knowingly fail to disclose that which the lawyer is required by law to reveal.

Obviously all those found in conflict have concealed such conflicts and failed to report their coconspirators and their conflicts, violations of judicial cannons, attorney codes of conduct and law to the proper authorities, including to report crimes such as Fraud on the USPTO.

> 4. Knowingly use perjured testimony or false evidence.

All of those found in conflict have used knowingly perjured testimony and false evidence by submitting and allowing attorney filings in conflicts, which constitutes false evidence.

> 5. Knowingly make a false statement of law or fact.
> 6. Participate in the creation or preservation of evidence when the lawyer knows or it is obvious that the evidence is false.
> 7. Counsel or assist the client in conduct that the lawyer knows to be illegal or fraudulent.

Of course, all the counsel the defendants have retained that are conflicted, are assisting in conduct that the lawyers know is illegal and fraudulent. Apparently, as their counsel is themselves they have no representative counsel that can represent them unbiased.

8. Knowingly engage in other illegal conduct or conduct contrary to a Disciplinary Rule.

See the AC of the hundreds of other crimes knowingly engaged in by the defendant attorneys involved and their counsel, themselves that violate not only disciplinary rules but hundreds of laws.

B. A lawyer who receives information clearly establishing that:
1. The client has, in the course of the representation, perpetrated a fraud upon a person or tribunal shall promptly call upon the client to rectify the same, and if the client refuses or is unable to do so, the lawyer shall reveal the fraud to the affected person or tribunal, except when the information is protected as a confidence or secret.

So for example, this code would force Proskauer to notify the Court and other investigators that they and their client, themselves, have committed fraud and other crimes directly on tribunals. Again, due to the conflict it appears they cannot get representative counsel to give them such sound advice.

2. A person other than the client has perpetrated a fraud upon a tribunal shall reveal the fraud to the tribunal.

This code would force the attorneys and justices involved directly in the crimes or in the cover-up crimes to turn each other in to authorities for their various crimes and again the lack of representative counsel makes this impossible and thus more and more violations of this code occur with every illegal legal action constituting further fraud on the Court.

DR 7-104 [1200.35] Communicating With Represented and Unrepresented Parties.

A. During the course of the representation of a client a lawyer shall not:
1. Communicate or cause another to communicate on the subject of the representation with a party the lawyer knows to be represented by a lawyer in that matter unless the lawyer has the prior consent of the lawyer representing such other party or is authorized by law to do so.

Here we have a new code violation as the First Dept is represented by defendant NYAG and contacted Plaintiff directly in issuing rulings on attorney complaints filed

against other defendants in this case. Where Plaintiff had filed the First Dept complaints as mandated but had contacted the NYAG who is acting as counsel for the First Dept and was assured that the First Dept complaints would be handled by a non-conflicted third party. Instead, the First Dept lawyers contacted Plaintiff directly to attempt to quash the complaints against other defendants and in utter disregard for conflict laws and their personal involvement in these matters.

> 2.Give advice to a party who is not represented by a lawyer, other than the advice to secure counsel, if the interests of such party are or have a reasonable possibility of being in conflict with the interests of the lawyer's client.
> B. Notwithstanding the prohibitions of DR 7-104 [1200.35] (A), and unless prohibited by law, a lawyer may cause a client to communicate with a represented party, if that party is legally competent, and counsel the client with respect to those communications, provided the lawyer gives reasonable advance notice to the represented party's counsel that such communications will be taking place.
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> **DR 7-106 [1200.37] Trial Conduct.**
>
> A. A lawyer shall not disregard or advise the client to disregard a standing rule of a tribunal or a ruling of a tribunal made in the course of a proceeding, but the lawyer may take appropriate steps in good faith to test the validity of such rule or ruling.
> B. In presenting a matter to a tribunal, a lawyer shall disclose:
> 1. Controlling legal authority known to the lawyer to be directly adverse to the position of the client and which is not disclosed by opposing counsel.
> 2. Unless privileged or irrelevant, the identities of the clients the lawyer represents and of the persons who employed the lawyer.
> C. In appearing as a lawyer before a tribunal, a lawyer shall not:
> 1. State or allude to any matter that he or she has no reasonable basis to believe is relevant to the case or that will not be supported by admissible evidence.

The entire defenses submitted by conflicted counsel in these matters is irrelevant and illegal and their attempts to claim Plaintiff is harassing them and other such frivolous defamatory defenses presented is wholly not supported by the evidence which further supports Plaintiffs assertions of the crimes, making their defenses wholly fraudulent.

> 2. Ask any question that he or she has no reasonable basis to believe is relevant to the case and that is intended to degrade a witness or other person.

Defendant counsels, mainly the defendants, have continued to advance nonsensical defamatory attacks on Plaintiff to mislead courts and investigators about their involvement in the cases they are illegally defending themselves in.

> 3. Assert personal knowledge of the facts in issue, except when testifying as a witness.
> 4. Assert a personal opinion as to the justness of a cause, as to the credibility of a witness, as to the culpability of a civil litigant, or as to the guilt or innocence of an accused; but the lawyer may argue, upon analysis of the evidence, for any position or conclusion with respect to the matters stated herein.
> 5. Fail to comply with known local customs of courtesy or practice of the bar or a particular tribunal without giving to opposing counsel timely notice of the intent not to comply.
> 6. Engage in undignified or discourteous conduct which is degrading to a tribunal.

Undignified and discourteous conduct fails to describe the heinous crimes that have degraded the rule of law to garbage in these proceedings.

> 7. Intentionally or habitually violate any established rule of procedure or of evidence.

Intentionally and habitually, defendants have violated almost every established rule of procedure and evidence as herein described and in the AC.

DR 7-110 [1200.41] Contact with Officials.

> A. A lawyer shall not give or lend anything of value to a judge, official, or employee of a tribunal except as permitted by the Code of Judicial Conduct, but a lawyer may make a contribution to the campaign fund of a candidate for judicial office in conformity with the Code of Judicial Conduct.
> B. In an adversary proceeding, a lawyer shall not communicate, or cause another to communicate, as to the merits of the cause with a judge or an official before whom the proceeding is pending, except:

Defendant Proskauer and Foley contacted the NYAG to discuss strategies against Plaintiff, where contacting public officials involved in the case may be a violation of this rule.

> 1. In the course of official proceedings in the cause.
> 2. In writing if the lawyer promptly delivers a copy of the writing to opposing counsel or to an adverse party who is not represented by a lawyer.
> 3. Orally upon adequate notice to opposing counsel or to an adverse party who is not represented by a lawyer.

4. As otherwise authorized by law, or by the Code of Judicial Conduct.

CANON 8. A Lawyer Should Assist in Improving the Legal System

DR 8-101 [1200.42] Action as a Public Official.

A. A lawyer who holds public office shall not:
1. Use the public position to obtain, or attempt to obtain, a special advantage in legislative matters for the lawyer or for a client under circumstances where the lawyer knows or it is obvious that such action is not in the public interest.

The handling of complaints by defendant Proskauer, Krane and Triggs all used public office, in violation of public office rules, to obtain special advantage in those proceedings, knowing that such actions were violations of law and adverse to public interest. Scheindlin's court and this Court can be viewed to be misuse of a public position to attempt to obtain special advantage for the lawyers by allowing violations of judicial cannons, attorney conduct codes and law to prevail unregulated and further knowingly conceal the violations.

2. Use the public position to influence, or attempt to influence, a tribunal to act in favor of the lawyer or of a client.

The handling of complaints by defendant Proskauer, Krane and Triggs all used public office, in violation of public office rules to obtain special advantage in those proceedings, knowing that such actions were violations of law and adverse to public interest. Scheindlin's court and this Court can be viewed to be misuse of a public position to attempt to obtain special advantage for the lawyers by allowing violations of judicial cannons, attorney conduct codes and law to prevail unregulated and further knowingly conceal such violations.

3. Accept anything of value from any person when the lawyer knows or it is obvious that the offer is for the purpose of influencing the lawyer's action as a public official.

DR 8-102 [1200.43] Statements Concerning Judges and Other Adjudicatory Officers.

A. A lawyer shall not knowingly make false statements of fact concerning the qualifications of a candidate for election or appointment to a judicial office.
B. A lawyer shall not knowingly make false accusations against a judge or other adjudicatory officer.

DR 8-103 [1200.44] Lawyer Candidate for Judicial Office.

A. A lawyer who is a candidate for judicial office shall comply with section 100.5 of the Chief Administrator's Rules Governing Judicial Conduct (22 NYCRR) and Canon 5 of the Code of Judicial Conduct.

CANON 9. A Lawyer Should Avoid Even the Appearance of Professional Impropriety

DR 9-101 [1200.45] Avoiding Even the Appearance of Impropriety.

A. A lawyer shall not accept private employment in a matter upon the merits of which the lawyer has acted in a judicial capacity.
B. Except as law may otherwise expressly permit:
1. A lawyer shall not represent a private client in connection with a matter in which the lawyer participated personally and substantially as a public officer or employee, and no lawyer in a firm with which that lawyer is associated may knowingly undertake or continue representation in such a matter unless:
a. The disqualified lawyer is effectively screened from any participation, direct or indirect, including discussion, in the matter and is apportioned no part of the fee therefrom; and
b. There are no other circumstances in the particular representation that create an appearance of impropriety.
2. A lawyer having information that the lawyer knows is confidential government information about a person, acquired when the lawyer was a public officer or employee, may not represent a private client whose interests are adverse to that person in a matter in which the information could be used to the material disadvantage of that person. A firm with which that lawyer is associated may knowingly undertake or continue representation in the matter only if the disqualified lawyer is effectively screened from any participation, direct or indirect, including discussion, in the matter and is apportioned no part of the fee therefrom.
3. A lawyer serving as a public officer or employee shall not:
a. Participate in a matter in which the lawyer participated personally and substantially while in private practice or non-governmental employment, unless under applicable law no one is, or by lawful delegation may be, authorized to act in the lawyer's stead in the matter; or
b. Negotiate for private employment with any person who is involved as a party or as attorney for a party in a matter in which the lawyer is participating personally and substantially.
C. A lawyer shall not state or imply that the lawyer is able to influence improperly or upon irrelevant grounds any tribunal, legislative body, or public official.
D. A lawyer related to another lawyer as parent, child, sibling or spouse shall not represent in any matter a client whose interests differ from those of another party to the matter who the lawyer knows is represented by the other lawyer unless the client consents

to the representation after full disclosure and the lawyer concludes that the lawyer can adequately represent the interests of the client.

DR 9-102 [1200.46] Preserving Identity of Funds and Property of Others; Fiduciary Responsibility; Commingling and Misappropriation of Client Funds or Property; Maintenance of Bank Accounts; Record Keeping; Examination of Records.

A. Prohibition Against Commingling and Missappropriation of Client Funds or Property.
A lawyer in possession of any funds or other property belonging to another person, where such possession is incident to his or her practice of law, is a fiduciary, and must not misappropriate such funds or property or commingle such funds or property with his or her own.
B. Separate Accounts.
1. A lawyer who is in possession of funds belonging to another person incident to the lawyer's practice of law, shall maintain such funds in a banking institution within the State of New York which agrees to provide dishonored check reports in accordance with the provisions of Part 1300 of the the joint rules of the Appellate Divisions. "Banking institution" means a state or national bank, trust company, savings bank, savings and loan association or credit union. Such funds shall be maintained, in the lawyer's own name, or in the name of a firm of lawyers of which he or she is a member, or in the name of the lawyer or firm of lawyers by whom he or she is employed, in a special account or accounts, separate from any business or personal accounts of the lawyer or lawyer's firm, and separate from any accounts which the lawyer may maintain as executor, guardian, trustee or receiver, or in any other fiduciary capacity, into which special account or accounts all funds held in escrow or otherwise entrusted to the lawyer or firm shall be deposited; provided, however, that such funds may be maintained in a banking institution located outside the State of New York if such banking institution complies with such Part 1300, and the lawyer has obtained the prior written approval of the person to whom such funds belong which specifies the name and address of the office or branch of the banking institution where such funds are to be maintained.
2. A lawyer or the lawyer's firm shall identify the special bank account or accounts required by DR 9-102 [1200.46] (B)(1) as an "Attorney Special Account," or "Attorney Trust Account," or "Attorney Escrow Account," and shall obtain checks and deposit slips that bear such title. Such title may be accompanied by such other descriptive language as the lawyer may deem appropriate provided that such additional language distinguishes such special account or accounts from other bank accounts that are maintained by the lawyer or the lawyer's firm.
3. Funds reasonably sufficient to maintain the account or to pay account charges may be deposited therein.
4. Funds belonging in part to a client or third person and in part presently or potentially to the lawyer or law firm shall be kept in such special account or accounts, but the portion belonging to the lawyer or law firm may be withdrawn when due unless the right of the lawyer or law firm to receive it is disputed by the client or third person, in which event the disputed portion shall not be withdrawn until the dispute is finally resolved.
C. Notification of Receipt of Property; Safekeeping; Rendering Accounts; Payment or Delivery of Property.
A lawyer shall:
1. Promptly notify a client or third person of the receipt of funds, securities, or other properties in which the client or third person has an interest.
2. Identify and label securities and properties of a client or third person promptly upon receipt and place them in a safe deposit box or other place of safekeeping as soon as practicable.

3. Maintain complete records of all funds, securities, and other properties of a client or third person coming into the possession of the lawyer and render appropriate accounts to the client or third person regarding them.
4. Promptly pay or deliver to the client or third person as requested by the client or third person the funds, securities, or other properties in the possession of the lawyer which the client or third person is entitled to receive.
D. Required Bookkeeping Records.
A lawyer shall maintain for seven years after the events which they record:
1. The records of all deposits in and withdrawals from the accounts specified in DR 9-102 [1200.46] (B) and of any other bank account which concerns or affects the lawyer's practice of law. These records shall specifically identify the date, source and description of each item deposited, as well as the date, payee and purpose of each withdrawal or disbursement.
2. A record for special accounts, showing the source of all funds deposited in such accounts, the names of all persons for whom the funds are or were held, the amount of such funds, the description and amounts, and the names of all persons to whom such funds were disbursed.
3. Copies of all retainer and compensation agreements with clients.
4. Copies of all statements to clients or other persons showing the disbursement of funds to them or on their behalf.
5. Copies of all bills rendered to clients.
6. Copies of all records showing payments to lawyers, investigators or other persons, not in the lawyer's regular employ, for services rendered or performed.
7. Copies of all retainer and closing statements filed with the Office of Court Administration.
8. All checkbooks and check stubs, bank statements, prenumbered canceled checks and duplicated deposit slips with respect to the special accounts specified in DR 9-102(B) and any other bank account which records the operations of the lawyer's practice of law.
9. Lawyers shall make accurate entries of all financial transactions in their records of receipts and disbursements, in their special accounts, in their ledger books or similar records, and in any other books of account kept by them in the regular course of their practice, which entries shall be made at or near the time of the act, condition or event recorded.
10. For purposes of DR 9-102 [1200.46] (D), a lawyer may satisfy the requirements of maintaining "copies" by maintaining any of the following items: original records, photocopies, microfilm, optical imaging, and any other medium that preserves an image of the document that cannot be altered without detection.
I. Availability of Bookkeeping Records; Records Subject to Production in Disciplinary Investigations and Proceedings.
The financial records required by this Disciplinary Rule shall be located, or made available, at the principal New York State office of the lawyers subject hereto and any such records shall be produced in response to a notice or subpoena duces tecum issued in connection with a complaint before or any investigation by the appropriate grievance or departmental disciplinary committee, or shall be produced at the direction of the appropriate Appellate Division before any person designated by it. All books and records produced pursuant to this subdivision shall be kept confidential, except for the purpose of the particular proceeding, and their contents shall not be disclosed by anyone in violation of the lawyer-client privilege.
J. Disciplinary Action.
A lawyer who does not maintain and keep the accounts and records as specified and required by this Disciplinary Rule, or who does not produce any such records pursuant to this Rule, shall be deemed in violation of these Rules and shall be subject to disciplinary proceedings.

If this Court is to deny Plaintiff request to immediately halt the proceedings pending resolution of each and every conflict, than Plaintiff asks for a 21 day extension before further having to respond to this Circus Court to achieve all of the following:

1. formulate complaints against this Court, the USDC and all attorneys and staff involved for allowing conflicts, violating judicial cannons, attorney codes of conduct and law to permeate and prejudice these proceedings,

2. notify the proper authorities of failures by this Court and the USDC to notify the proper authorities of violations of judicial cannons, attorney conduct codes and law, as bound by ethical codes of conduct, judicial cannons and laws,

3. formulate complaints to have reviewed by oversight to these proceedings, to determine if this Court or the USDC can continue to act in conflict and allow affirmed **"substantive"** conflicts to persist, thereby creating an overwhelming appearance of impropriety that acts to Obstruct Plaintiff's due process rights,

4. formulate complaints for failure of this Court and the USDC to affirm or deny conflict when directly and legally asked by Plaintiffs in Motions to do so based on very real existing conflicts and instead moving the case prior to affirmation or denial of the conflicts,

5. formulate complaints against all lawyers and law firms for failing to run appropriate conflict checks prior to representing themselves in conflict and failing to affirm or deny conflict prior to handling these matters,

6. contact the various legal agencies, disciplinary agencies and law enforcement, already there are new ongoing complaints related to proceedings under Scheindlin, at the First Dept DDC against six attorneys and two law firms.

CONFLICTS ADDRESSED IN THE USDC AND UNRESOLVED

1. Defendant Proskauer is representing in conflict, defendant Proskauer. Conflicted Proskauer lawyers are also representing themselves Pro Se. Defendants Mashberg & Smith of Proskauer in the AC represent themselves Pro Se, their partners and law firm Proskauer, against Plaintiff, their former IP and business client. Proskauer is an owner of shares in Plaintiff companies and thereby both a defendant and Plaintiff.

2. Proskauer partner defendant Kenneth Rubenstein, former partner at defendant Meltzer and defendant Proskauer law firms are all under ongoing Federal investigations, including by Harry I. Moatz (Moatz) of the USPTO, whom heads attorney discipline at the Office of Enrollment & Discipline (OED) for the USPTO. This investigation has led to patent suspensions pending investigations certain of the defendants' attorneys, defendants in these matters. Moatz and FBI Special Agent Stephen Lucchesi (Lucchesi) have been reported to have begun working together on various aspects of the Fraud upon the USPTO directly, crimes committed by the 9+ lawyers and law firms that Moatz is actively investigating. The ongoing investigations make defendants who are under investigations further involvement as counsels for themselves, highly conflicted and prejudice this lawsuit and all prior decisions.

3. Rubenstein and the law firm Proskauer are ordered by the First Dept for investigation for conflicts and appearance of impropriety. Statements made in the related

WHISTLEBLOWER case of Anderson, by Anderson, further support that such claims of public office corruption are valid. The First Dept court ordered investigation of Rubenstein was then derailed by a conflicted investigator, Diane Maxwell Kearse (Kearse) at the Second Dept DDC, and other members of the Second Dept. Defendant Kearse refused to follow the First Dept court order for investigations and refused to docket complaints against her personally and other members of the Second Dept, all in violation of her ethical and public office duties, all violating Plaintiff rights to file complaints against **civil servants,** a violation of Plaintiff's rights under the New York and United States Constitutions. Kearse admitted to conflict and then continued to act on the matters, despite ethical rules, public office rules and law, as is commonplace throughout this case.

4. Complaints against several Second Dept member defendants filed, need to be properly docketed and disposed of according to well-established departmental rules and need to be investigated properly to conclusion, free of further conflict.

5. The First Dept court ordered investigations need to be investigated properly to conclusion, free of further conflict and removed from the First Dept and Second Dept as they are now defendants in these matters and cannot handle complaints against themselves.

6. Proskauer partner Steven C. Krane ordered by the First Dept for investigation for conflict and appearance of impropriety, statements made in the related WHISTLEBLOWER case of Anderson, by Anderson further support this. The court

ordered investigation of Krane was derailed by conflict at the Second Dept similar to as stated in the above Rubenstein investigation.

7. Proskauer Partner Matthew Triggs found violating a public office position with defendant The Florida Bar, in numerous conflicts of interest and violations of public office. Complaints were not docketed and disposed of according to law and further acted to deny due process to Plaintiff.

8. Proskauer Partner defendant Christopher Clarke Wheeler (Wheeler) found violating public offices with Proskauer Partner defendant Triggs at the Florida Bar. Wheeler also arrested and convicted (presumably) for Driving Under the Influence with Injury, a felony in the State of Florida.

9. Proskauer Partner Thomas Sjoblom (Sjoblom) and the Proskauer law firm were alleged in an SEC indictment of misleading the SEC regarding R. Allen Stanford, the Ponzi schemer now under federal investigation and are issued a court ordered injunction by the SEC. Sjoblom and Proskauer also have been sued by Stanford CIO, Laura Pendergest Holt (Holt), for malpractice and other attorney ethics charges, Holt was charged with Obstruction of Justice resulting from alleged actions of Sjoblom. Sjoblom found telling Stanford executives “The Party is Over” and “We should Pray” or words to that effect, as the SEC closed in.

10. Meltzer representing themselves in this Court in conflict, against former client for IP Plaintiff Bernstein, the firm under ongoing Federal investigation, including by Moatz of the USPTO. Moatz and Lucchesi have been reported to have begun working together on various aspects of the Fraud Upon the USPTO, crimes committed by the 9+

lawyers and law firms. Moatz is actively investigating this firm and yet they remain representing themselves before this Court in conflict and giving the further Appearance of Impropriety. The ongoing investigations make Meltzer's further involvement as counsels for themselves highly conflicted and prejudice this case and all prior decisions.

11. Defendant Raymond Joao of defendant Meltzer is under ongoing Federal investigation, including by Moatz. This investigation has led to patent suspensions pending investigation. Moatz and Lucchesi have been reported to have begun working together on various aspects of the Fraud Upon the USPTO directly, crimes committed by the 9+ lawyers and law firms Moatz is actively investigating, some representing themselves before this Court.

12. Defendant Dreier & Baritz LLP and Marc S. Dreier, where Joao went to work after being terminated by Plaintiff for allegedly putting patents of Plaintiff's into his name and where now Dreier is under arrest by federal authorities in another financial Ponzi type scheme and has plead guilty and awaits sentencing.

13. Defendant Joao and defendant Meltzer are further ordered by the First Dept for investigation for conflicts and appearance of impropriety, statements made by the related WHISTLEBLOWER case of Anderson, by Anderson, further support this. Defendant Joao's counsel in those matters before the First Dept, which led to the still pending court ordered investigations and where there has been no court resolution is also conflicted until investigations are completed in those matters. Joao's counsel in the disciplinary complaints at the First Dept may also be investigated for his prior actions at

the First Dept DDC on behalf of Joao, whereby false and perjurious statements were given to investigators.

14. The First Dept court ordered investigations were derailed by conflict at the Second Dept as described above in the Rubenstein conflict section. It should be noted that Joao and Meltzer are not under jurisdiction of the First Dept, they are registered elsewhere, yet the case was mysteriously transferred to the First Dept for adjudication.

15. Defendant Foley is representing themselves in conflict before this Court, against former retained intellectual property client Plaintiff Bernstein, creating further conflict.

16. In this lawsuit, defendant Foley initially contacts the NYAG with Proskauer Rose acting as counsel for defendant Foley, to discuss defense strategy, representing themselves as their own counsel to Monica Connell of the NYAG. Connell forwards Scheindlin information copying Foley and Proskauer as counsel for themselves. Upon notice that they were in conflict, Foley immediately retained new counsel, who attempted to mislead the court that they had not acted initially as counsel for themselves when contacting the NYAG and that court.

17. Disciplinary complaints were then filed against defendant Foley and Foley attorneys defendants Todd C. Norbitz and Anne B. Sekel. Complaints were filed with the First Dept DDC. Due to the First Dept DDC being named defendants in this lawsuit, Connell was to redirect complaints before her client, the First Dept and First Dept DDC acted in conflict by ruling on them. The First Dept DDC made rulings, while conflicted

and while having representative counsel, the NYAG, complaints followed for those who acted in the complaint process.

18. Greenberg Traurig representing Florida Bar and Florida Supreme Court against former client on Intellectual Property matters Plaintiff Bernstein

19. NYAG – Conflicts with Proskauer representing Spitzer while failing to acknowledge public office corruption complaints filed. Not only failed to acknowledge initial complaints but even after request to investigate the complaints based on the new Anderson public corruption claims, have failed to initiate investigation. Conflicts in representing defendants, including those named in the Anderson Whistleblower case and this case, conflicting them with those they should be investigating and not defending, especially since defending them is on taxpayer dollars.

20. NYAG representing themselves as they are named defendants in the Amended Complaint and continuing representation of other defendants. Complaints to be filed with appropriate enforcement.

21. Unresolved Court Orders for Investigations of Attorneys on Unanimous Consent of First Dept Justices for Conflict of Interest and the Appearance of Impropriety.

a. Unpublished Order M3198 - Steven C. Krane / Proskauer Rose

b. Unpublished Order M2820 Kenneth Rubenstein / Proskauer Rose

c. Unpublished Order M3212 Raymond A. Joao / law firm Meltzer

d. Complaints against the attorneys were transferred to Second Dept and Thomas Cahill former Chief Counsel was sent for Inquiry, neither has been resolved.

22. Second Dept complaints against Chief Counsel, defendant Kearse and defendant DiGiovanna for conflict and public office violations. Second Dept refused formal docketing of complaints against defendants' Kearse, DiGiovanna and Pelzer. Second Dept failed to conduct formal investigations ordered by First Dept and was caught in further conflicts of interest. No formal Court Resolution by the First Dept has been adjudicated to resolution, no formal investigations were done.

NEW BAR COMPLAINTS FILED IN RELATION TO THIS CASE. ALL CASES REMAIN PENDING.

1. Roy L. Reardon, Esq. Chairman, First Dept DDC, Docket Not Yet Received – Complaint Filed February 09, 2009 for conflict and violation of public office for handling complaints against Defendants in this case while the First Dept and First Dept DDC are being sued as a Defendant in this case and have representative counsel the NYAG who was to handle the complaints to avoid the obvious conflicts and appearance of impropriety.

2. Alan W. Friedberg, Esq., Chief Counsel, First Dept DDC. Complaint Filed February 09, 2009 for conflict and violation of public office for handling complaints against Defendants in this case while the First Dept and First Dept DDC are being sued as defendants in this case and have representative counsel the NYAG who was to handle the complaints to avoid the obvious conflicts and appearance of impropriety.

3. Foley - First Dept Failed to formally docket & number. NYAG was supposed to have complaints moved and handled by non-conflicted third party due to

conflicts with their clients defendants First Dept and First Dept DDC. The First Dept DDC instead acted in conflict and violation of public office rules.

4. Gregg M. Mashberg, Esq. - First Dept DDC Failed to formally docket & number. NYAG was supposed to have complaints moved and handled by non-conflicted third party due to conflicts with their clients defendants First Dept and First Dept DDC. The First Dept DDC instead acted in conflict and violation of public office rules.

5. Joanna F. Smith, Esq. - First Dept DDC failed to formally docket & number. NYAG was supposed to have complaints moved and handled by a non-conflicted third party due to conflicts with their client defendants the First Dept and First Dept DDC. The First Dept DDC instead acted in conflict and violation of public office rules.

6. Todd C. Norbitz, Esq. - First Dept DDC failed to formally docket & number. NYAG was supposed to have complaints moved and handled by non-conflicted third party due to conflicts with their clients defendants First Dept and First Dept DDC. The First Dept DDC instead acted in conflict and violation of public office rules.

7. Anne B. Sekel, Esq. - First Dept DDC failed to formally docket & number. NYAG was supposed to have complaints moved and handled by non-conflicted third party due to conflicts with their clients defendants First Dept and First Dept DDC. First Dept DDC instead acted in conflict and violation of public office rules.

OLD COMPLAINTS

1. Thomas Cahill transferred for Special Inquiry No. 2004.1122 (former First Dept Chief Counsel) – Ongoing investigation by Martin Gold.

2. Steven C. Krane / Proskauer Rose docket #2004.1883 (First Dept Officer, First Dept DDC Officer, former NYSBA President & Proskauer partner found violating public offices). Transferred to First Dept and Ordered for Investigation, pending Court action on conflict riddled investigation at Second Dept.

3. Kenneth Rubenstein / Proskauer Rose docket #2003.0531. Transferred to First Dept and Ordered for Investigation, pending Court action on conflict riddled investigation at Second Dept.

4. Raymond A. Joao / law firm Meltzer docket #2003-0352. Transferred to First Dept and Ordered for Investigation, pending Court action on conflict riddled investigation at Second Dept.

5. Christopher C. Wheeler

6. Matthew Triggs

7. Kelly Overstreet Johnson

8. Eric Turner

9. Peltzer

10. Kearse

11. DiGiovanna

12. The Virginia Bar

13. The Virginia Attorney General

Oversight Sought

That Plaintiff will be notifying and seeking oversight from all of the following to evaluate this Court's actions and if conflict can be permitted to continue without resolution, thereby moving the case inapposite of law:

1. US Attorney – Eric Holder

2. US Solicitor General –

3. US Chief Judge of the Court of Appeals for the Second Circuit Court of Appeals under the Judicial Conduct and Disability Act of 1980, as amended. Any adverse ruling by the Chief Judge, legally will be challenged through petition to the circuit judicial council for review if the chief judge dismisses a complaint or concludes a proceeding. A note regarding this process and why this case should be transferred out of New York courts where conflict after conflict after conflict remain, there is also a new rule that implements the Breyer Committee's recommendation that some complaint proceedings should be transferred to a judicial council in a different circuit selected by the Chief Justice, for example, "where the issues are highly visible and a local disposition may weaken public confidence in the process."

4. The United States Supreme Court

5. After any other methods prove exhaustive for certification that a federal court may operate with known and acknowledged violations of judicial cannons, attorney codes of conduct and law, including Obstruction charges against members of this Court.

6. The NYAG Public Integrity Unit

a. Represents the state defendants in this suit so disciplinary complaints against First Dept members must be handled through respective counsel the NYAG

b. NYAG is a named defendant in this suit in the Amended Complaint and this creates conflict that may force a non-conflicted third party to conduct any further handling and investigation of the case, while the NYAG gets counsel for themselves as defendants in the AC and review is had if they can continue to represent certain conflicted parties.

7. First Dept Disc

a. New York attorney and law firm complaints, to be transferred to non conflicted third party, NYAG was to handle the complaints filed and move them to non-conflicted party but First Dept rushed in and attempted to dismiss them, while defendants in the case, they are handling complaints in the case, ah, the conflicts never stop.

b. Notice timely filed that the dismissal is contested.

c. Further complaints filed against Chief Counsel and Chairman for handling attorney complaints, in a case the First Dept is named defendant in, complaints filed against their former members and failing to respond through their counsel, the NYAG, instead violating public office rules, attorney codes of conduct and law.

d. That Anderson further confirms corruption at the First Dept DDC whereby this is not conspiracy but actual Obstruction charges by an inside

“whistleblower” whereby the NYAG would be compelled to investigate such federal and state Obstruction charges levied in her lawsuit.

8. Florida Bar

a. Complaints against attorneys in conflict in FL

b. Proskauer and partners

c. Greenberg Traurig

d. Dreier & Barritz

9. Florida Supreme Court in the event the Florida Bar fails to follow procedural rule, for a second time.

10. Virginia Bar

a. Complaint against Viriginia AG

11. Virginia Supreme Court

a. Elevation of Complaint of defendant Foley & William J. Dick to VSC

b. File complaints against Virginia Bar personnel named in suit.

12. Office of NY Comptroller

a. Make sure that all state New York state and federal accounting for the liabilities generated by this lawsuit, against all public officials and agencies are properly listed and noticed for any insurance contracts or other risk instruments, bonds, etc., whereby reporting of liabilities is required.

WHEREFORE this Court should immediately halt these proceedings.

Attorney for Plaintiff Bernstein
Eliot Ivan Bernstein, Pro Se
2753 NW 34th St.
Boca Raton, FL 33434
Tel.: (561) 245-8588
5804

By: _________________________

Eliot Ivan Bernstein

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UNITED STATES COURT OF APPEALS

FOR THE SECOND CIRCUIT

U.S.C.A. Docket No.
08-4873-cv

CERTIFICATE
OF SERVICE

Bernstein

V.

Appellate Division First Department
Disciplinary Committee

I, Eliot Ivan Bernstein hereby certify under the penalty of perjury that on the 27th day of February, 2009 served by United States Mail or hand delivery the (**PLAINTIFF BERNSTEIN APPELLANT BRIEF**) on the Court, requesting this Court serve all named Defendants below via the United States Marshal Service as requested herein or service by the Court as in prior filings, as the Court has been serving certain documents already to the defendants, although it is unclear if this Court has served all documents to all the Amended Complaint defendants or just select few and if defendants counsel have similarly been selectively servicing their filings in these matters, inapposite of law. The Amended Complaint list of defendants necessary to service is as follows:

STATE OF NEW YORK, THE OFFICE OF COURT ADMINISTRATION OF THE UNIFIED COURT SYSTEM, PROSKAUER ROSE LLP, and, all of its Partners, Associates and Of Counsel, in their professional and individual capacities, STEVEN C. KRANE in his official and individual Capacities for the New York State Bar Association and the Appellate Division First Department Departmental Disciplinary Committee, and, his professional and individual capacities as a Proskauer partner, KENNETH RUBENSTEIN, in his professional and individual capacities, ESTATE OF STEPHEN KAYE, in his professional and individual capacities, 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, JAMES H. SHALEK, in his professional and individual capacities, GREGORY MASHBERG, in his professional and individual capacities, JOANNA SMITH, in her professional and individual capacities, MELTZER LIPPE GOLDSTEIN WOLF & SCHLISSEL, P.C. and its predecessors and successors, and, all of its Partners, Associates and Of Counsel, in their professional and individual capacities, LEWIS S. MELTZER, in his professional and individual capacities, RAYMOND A. JOAO, in his professional and individual capacities, FRANK MARTINEZ, in his professional and individual capacities, FOLEY & LARDNER LLP, and, all of its Partners, Associates and Of Counsel, in their professional and individual capacities, MICHAEL C. GREBE, in his professional and individual capacities, WILLIAM J. DICK, in his professional and individual capacities, TODD C. NORBITZ, in his professional and individual capacities, ANNE SEKEL, in his professional and individual capacities, RALF BOER, in his professional and individual capacities, BARRY GROSSMAN, in his professional and individual capacities, JIM CLARK, in his professional and individual capacities, DOUGLAS A. BOEHM, in his professional and individual capacities, STEVEN C. BECKER, in his professional and individual capacities, BRIAN G. UTLEY, MICHAEL REALE, RAYMOND HERSCH, WILLIAM KASSER, ROSS MILLER, ESQ. in his professional and individual capacities, STATE OF FLORIDA, OFFICE OF THE STATE COURTS ADMINISTRATOR, FLORIDA, HON. JORGE LABARGA in his official and individual capacities, THE FLORIDA BAR, JOHN ANTHONY BOGGS in his official and individual capacities, KELLY OVERSTREET JOHNSON in her official and individual capacities, LORRAINE CHRISTINE HOFFMAN in her official and individual capacities, ERIC TURNER in his official and individual capacities, KENNETH MARVIN in his official and individual capacities, JOY A. BARTMON in her official and individual capacities, JERALD BEER in his official and individual capacities, BROAD & CASSEL, and, all of its Partners, Associates and Of Counsel, in their professional and individual capacities, JAMES J. WHEELER, in his professional and individual capacities, FLORIDA SUPREME COURT, HON. CHARLES T. WELLS, in his official and individual capacities, HON. HARRY LEE ANSTEAD, in his official

and individual capacities HON. R. FRED LEWIS, in his official and individual capacities, HON. PEGGY A. QUINCE, in his official and individual capacities, HON. KENNETH B. BELL, in his official and individual capacities, THOMAS HALL, in his official and individual capacities, DEBORAH YARBOROUGH in her official and individual capacities, DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION – FLORIDA, CITY OF BOCA RATON, FLA., ROBERT FLECHAUS in his official and individual capacities, ANDREW SCOTT in his official and individual capacities, SUPREME COURT OF NEW YORKAPPELLATE DIVISION FIRST DEPARTMENT DEPARTMENTAL DISCIPLINARY COMMITTEE, THOMAS J. CAHILL in his official and individual capacities, PAUL CURRAN in his official and individual capacities, MARTIN R. GOLD in his official and individual capacities, SUPREME COURT OF NEW YORK APPELLATE DIVISION FIRST DEPARTMENT, CATHERINE O'HAGEN WOLFE in her official and individual capacities, HON. ANGELA M. MAZZARELLI in her official and individual capacities, HON. RICHARD T. ANDRIAS in his official and individual capacities, HON. DAVID B. SAXE in his official and individual capacities, HON. DAVID FRIEDMAN in his official and individual capacities, HON. LUIZ A. GONZALES in his official and individual capacities, SUPREME COURT OF NEW YORK APPELLATE DIVISION SECOND JUDICIAL DEPARTMENT, SUPREME COURT OF NEW YORK APPELLATE DIVISION SECOND DEPARTMENT DEPARTMENTAL DISCIPLINARY COMMITTEE, LAWRENCE DIGIOVANNA in his official and individual capacities, DIANA MAXFIELD KEARSE in her official and individual capacities, JAMES E. PELTZER in his official and individual capacities, HON. A. GAIL PRUDENTI in her official and individual capacities, HON. JUDITH S. KAYE in her official and individual capacities, STATE OF NEW YORK COMMISSION OF INVESTIGATION, ANTHONY CARTUSCIELLO in his official and individual capacities, LAWYERS FUND FOR CLIENT PROTECTION OF THE STATE OF NEW YORK, OFFICE OF THE ATTORNEY GENERAL OF THE STATE OF NEW YORK, ELIOT SPITZER in his official and individual capacities, as both former Attorney General for the State of New York, and, as former Governor of the State of New York, COMMONWEALTH OF VIRGINIA, VIRGINIA STATE BAR, ANDREW H. GOODMAN in his official and individual capacities, NOEL SENGEL in her official and individual capacities, MARY W. MARTELINO in her official and individual capacities, LIZBETH L. MILLER, in her official and individual capacities, MPEGLA, LLC, LAWRENCE HORN, in his professional and individual capacities, REAL 3D, INC. and successor companies, GERALD STANLEY, in his professional and individual capacities, DAVID BOLTON, in his professional and individual capacities, TIM CONNOLLY, in his professional and individual capacities, ROSALIE BIBONA, in her professional and individual capacities, RYJO, INC., RYAN HUISMAN, in his professional and individual capacities, INTEL CORP., LARRY PALLEY, in his professional and individual capacities, SILICON GRAPHICS, INC., LOCKHEED MARTIN, BLAKELY SOKOLOFF TAYLOR & ZAFMAN, LLP, and, all of its Partners, Associates and Of Counsel, in their professional and individual capacities, NORMAN ZAFMAN, in his professional and individual capacities, THOMAS COESTER, in his professional and

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