

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

SIMON BERNSTEIN IRREVOCABLE )  
INSURANCE TRUST DTD 6/21/95, )  
 )  
Plaintiff, ) **Case No. 13 cv 3643**  
 ) **Honorable John Robert Blakey**  
v. ) **Magistrate Mary M. Rowland**  
 )  
HERITAGE UNION LIFE INSURANCE )  
COMPANY, )  
 )  
Defendant, )  
 )  
HERITAGE UNION LIFE INSURANCE )  
COMPANY )  
 )  
Counter-Plaintiff ) **MOTION TO EXTEND THE**  
 ) **DISPOSITIVE MOTION DEADLINE**  
v. )  
 )  
SIMON BERNSTEIN IRREVOCABLE )  
INSURANCE TRUST DTD 6/21/95 )  
 )  
Counter-Defendant )  
 )  
and, )  
 )  
FIRST ARLINGTON NATIONAL BANK )  
as Trustee of S.B. Lexington, Inc. Employee )  
Death Benefit Trust, UNITED BANK OF )  
ILLINOIS, BANK OF AMERICA, )  
Successor in interest to LaSalle National )  
Trust, N.A., SIMON BERNSTEIN TRUST, )  
N.A., TED BERNSTEIN, individually and )  
as purported Trustee of the Simon Bernstein )  
Irrevocable Insurance Trust Dtd 6/21/95, )  
and ELIOT BERNSTEIN, )  
 )  
Third-Party Defendants. )  
 )  
ELIOT IVAN BERNSTEIN, )  
 )  
Cross-Plaintiff )

)  
v. )  
 )  
TED BERNSTEIN, individually and )  
as alleged Trustee of the Simon Bernstein )  
Irrevocable Insurance Trust Dtd, 6/21/95 )  
 )  
Cross-Defendant )  
and, )  
 )  
PAMELA B. SIMON, DAVID B.SIMON, )  
both Professionally and Personally )  
ADAM SIMON, both Professionally and )  
Personally, THE SIMON LAW FIRM, )  
TESCHER & SPALLINA, P.A., )  
DONALD TESCHER, both Professionally )  
and Personally, ROBERT SPALLINA, )  
both Professionally and Personally, )  
LISA FRIEDSTEIN, JILL IANTONI )  
S.B. LEXINGTON, INC. EMPLOYEE )  
DEATH BENEFIT TRUST, S.T.P. )  
ENTERPRISES, INC. S.B. LEXINGTON, )  
INC., NATIONAL SERVICE )  
ASSOCIATION (OF FLORIDA), )  
NATIONAL SERVICE ASSOCIATION )  
(OF ILLINOIS) AND JOHN AND JANE )  
DOES )  
 )  
Third-Party Defendants. )  
 )  
BRIAN M. O'CONNELL, as Personal )  
Representative of the Estate of )  
Simon L. Bernstein, )  
 )  
Intervenor. )

**MOTION TO EXTEND THE DEADLINE FOR FILING  
DISPOSITIVE MOTIONS**

NOW COMES Intervenor, Brian M. O'Connel, Personal Representative of the Estate of Simon L. Bernstein ("Intervenor"), and moves this court to extend the deadline for filing dispositive motions beyond the current date of March 6, 2015. In support of his motion, Intervenor states as follows:

1. The parties to this action are scheduled to appear before the Court on March 11, 2015. However, a deadline of March 6, 2015 for filing dispositive motions was previously set prior to this case's reassignment. (Dkt. No. 123).

2. In its Joint Status Report<sup>1</sup>, Intervenor advised the Court of a proposed settlement in an underlying probate matter in Florida which could materially affect the rights of the parties and Intervenor's involvement in this suit. Intervenor further advised the Court that, depending upon the status of the proposed settlement, leave would be sought to conduct additional discovery and additional time would be requested in order to do so. (Dkt. No. 135).

3. The parties have been advised of a pending settlement in the Florida probate matter. Intervenor is charged with preserving Estate assets and, to that end, has directed undersigned counsel to postpone conducting additional discovery until the details of the Florida probate settlement have been discerned and finalized.

4. To date, Intervenor has reviewed production documents received from Plaintiff, Eliot I. Bernstein, and third-party defendants (approximately 10,000 pages). In addition, Intervenor deposed David B. Simon on January 5, 2015. At that time, settlement discussions in the Florida probate matter were in their infancy. Intervenor intended to seek an extension of time to conduct additional discovery at the previously-scheduled status hearing on January 6, 2015, in advance of the fact discovery deadline of January 9, 2015 (Dkt. No. 123). That status hearing was postponed to January 20, 2015 at the request of Plaintiff's counsel. The January 20, 2015 status hearing was postponed indefinitely upon reassignment to this Court's docket. Intervenor anticipates conducting additional discovery, including likely five (5) additional

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<sup>1</sup> Eliot I. Bernstein did not join in the Joint Reassignment Status Report and filed a separate Status Report with the Court on February 3, 2015. (Dkt. No. 136).

depositions; further discovery in this action may be dependent upon the finalization of the pending Florida probate settlement.

5. Undersigned counsel has been in contact with Intervenor and is in the process of determining the status of the Florida settlement and should be in a position to report on the status (and effect) of that settlement at the next status hearing.

6. In the interim, Intervenor requests that the date for filing dispositive motions be extended beyond the current deadline and that new dates be set for further discovery and pretrial activity in the matter.

7. In addition to Intervenor's request, Plaintiff's Motion for Leave to File an Answer to Intervenor's Complaint (Dkt. No. 137) is currently pending before the Court. Furthermore, Intervenor is advised that Third-Party Defendant/Cross-Plaintiff Eliot Bernstein will be seeking leave to amend his original complaint based on new information.

8. No party will be prejudiced by the granting of this Motion.

WHEREFORE, Intervenor prays that the Court extend the deadline for filing dispositive motions to a date at some date after which the Court can be advised of the status of any pending settlement and further discovery.

Respectfully submitted,

/s/ Kevin P. Horan

One of the attorneys for Proposed Intervenor, Brian M. O'Connell, Personal Representative of the Estate of Simon L. Bernstein

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on March 2, 2015, I electronically filed the foregoing with the Clerk of the Court using CM/ECF. I also certify that the foregoing is being served this day on all counsel of record identified below via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner.