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

SIMON BERNSTEIN IRREVOCABLE INSURANCE TRUST DTD 6/21/95,	)	
Plaintiff,	)	
v.	)	**Case No. 13-cv-03643**
HERITAGE UNION LIFE INSURANCE COMPANY,	)	**Honorable Amy J. St. Eve** **Magistrate Mary M. Rowland**
Defendant.	)	
HERITAGE UNION LIFE INSURANCE COMPANY,	)	**Reply to Response to Motion to Remove Counsel**
Counter-Plaintiff,	)	
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 alleged 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, INC. (OF FLORIDA) NATIONAL SERVICE ASSOCIATION, INC. (OF ILLINOIS) AND JOHN AND JANE DOE'S	)
	)
Third Party Defendants.	)

POTENTIAL BENEFICIARIES[1]:

[1] Parents act as beneficiary Trustees in the estate of Simon L. Bernstein to their children, where Simon's estate may be the ultimate beneficiary of the policy and their children named below would be the ultimate beneficiaries of the policy proceeds. The failure of the grandchildren to be represented in these matters and listed as potential beneficiaries is due to an absolute conflict with their parents who are trying to get the benefits paid to them directly. This is gross violations of fiduciary duties and may be viewed as criminal in certain aspects as the lawsuit attempts to convert the benefits from the grandchildren to 4/5 of the children of SIMON by failing to inform their children (some minors) or have them represented in these matters. The Court should take note of this, especially

JOSHUA ENNIO ZANDER BERNSTEIN (ELIOT MINOR CHILD);
JACOB NOAH ARCHIE BERNSTEIN (ELIOT MINOR CHILD);
DANIEL ELIJSHA ABE OTTOMO BERNSTEIN (ELIOT MINOR CHILD);
ALEXANDRA BERNSTEIN (TED ADULT CHILD);
ERIC BERNSTEIN (TED ADULT CHILD);
MICHAEL BERNSTEIN (TED ADULT CHILD);
MATTHEW LOGAN (TED'S SPOUSE ADULT CHILD);
MOLLY NORAH SIMON (PAMELA ADULT CHILD);
JULIA IANTONI – JILL MINOR CHILD;
MAX FRIEDSTEIN – LISA MINOR CHILD;
CARLY FRIEDSTEIN – LISA MINOR CHILD;

INTERESTED PARTIES:

DETECTIVE RYAN W. MILLER – PALM BEACH COUNTY SHERIFF OFFICE;
ERIN TUPPER - FLORIDA GOVERNOR OFFICE NOTARY EDUCATION - THE OFFICE OF THE GOVERNOR OF FLORIDA RICK SCOTT

REPLY TO RESPONSE TO MOTION TO REMOVE COUNSEL

Eliot Ivan Bernstein ("ELIOT") a third party defendant and his three minor children, Joshua, Jacob and Daniel Bernstein, are alleged beneficiaries of a life insurance policy Number 1009208 ("Lost or Suppressed Policy") on the life of Simon L. Bernstein ("SIMON"), a "Simon Bernstein Irrevocable Insurance Trust dtd. 6/21/95" ("Lost or Suppressed Trust"), a "Simon

in the interests of the minor grandchildren who may lose their benefits if the proceeds of the insurance policy are converted to the knowingly wrong parties.

Bernstein Trust, N.A." ("Lost or Suppressed Trust 2") and the Estate and Trusts of Simon Bernstein, all parties to these matters and makes the following "Reply to Response to Motion to Remove Counsel."

I, Eliot Ivan Bernstein ("ELIOT"), make the following statements and allegations to the best of my knowledge and on information and belief as a Pro Se Litigant[2].

REPLY TO RESPONSE TO MOTION TO REMOVE COUNSEL

ELIOT'S COMMENTS ON A. SIMON'S INTRODUCTION

1. That A. SIMON claims,

> Eliot Bernstein's ("ELIOT") Motion to Disqualify and Strike Pleadings highlights the importance of adherence to the Federal Rules of Civil Procedure and the Local Rules of the Northern District of Illinois. When a *pro se* or represented party files a motion that directly violates these rules, it prejudices the opposing party and makes a cogent response nearly impossible."

2. That this statement and the rest of the reply does point out well the problems associated and acknowledged by the Courts of Pro Se Litigants, in particular where they may "directly" violate the rules that they are often unaware of and the Court can remedy and aid the Pro Se as so stated in footnote 2 of the pleading. Where ELIOT is also unclear of what a nearly

[2] Pleadings in this case are being filed by Plaintiff In Propria Persona, wherein pleadings are to be considered without regard to technicalities. Propria, pleadings are not to be held to the same high standards of perfection as practicing lawyers. See Haines v. Kerner 92 Sct 594, also See Power 914 F2d 1459 (11th Cir1990), also See Hulsey v. Ownes 63 F3d 354 (5th Cir 1995). also See In Re: HALL v. BELLMON 935 F.2d 1106 (10th Cir. 1991)."
In Puckett v. Cox, it was held that a pro-se pleading requires less stringent reading than one drafted by a lawyer (456 F2d 233 (1972 Sixth Circuit USCA). Justice Black in Conley v. Gibson, 355 U.S. 41 at 48 (1957)"The Federal Rules rejects the approach that pleading is a game of skill in which one misstep by counsel may be decisive to the outcome and accept the principle that the purpose of pleading is to facilitate a proper decision on the merits." According to Rule 8(f) FRCP and the State Court which holds that all pleadings shall be construed to do substantial justice.

impossible cogent response means and what rules have been broken by ELIOT that so prejudice the opposing parties, as nothing is proffered as evidence of what makes it impossible to respond to.

3. That ELIOT states that while the problems of Pro Se pleadings are pled well by A. SIMON, there is NO EXCUSE for an Attorney at Law acting as an Officer of this Court to be violating not only a few pleading rules but also filing pleadings, which are alleged to be part of an insurance fraud scheme and a fraud facilitated through this court through violations of State and Federal Law and where A. SIMON is the ringmaster as the counsel who filed this fraudulent action. Where these violations of law in filing this lawsuit with no basis, no legal Plaintiff and no true cause of action to commit fraud is the gravamen of ELIOT'S request of the Court to remove A. SIMON, not merely conflicts or Adverse Interest or a violation of Federal Bar Codes of Conduct but for ALLEGED FELONY CRIMINAL VIOLATIONS OF STATE AND FEDERAL LAW.
4. That ELIOT states that A. SIMON can respond to the allegations alleged in his Response to the Motion to Remove A. SIMON as counsel but he does not want to and would rather attack, quite rudely, ELIOT as a Pro Se Litigant as his primary defense.
5. That A. SIMON claims,

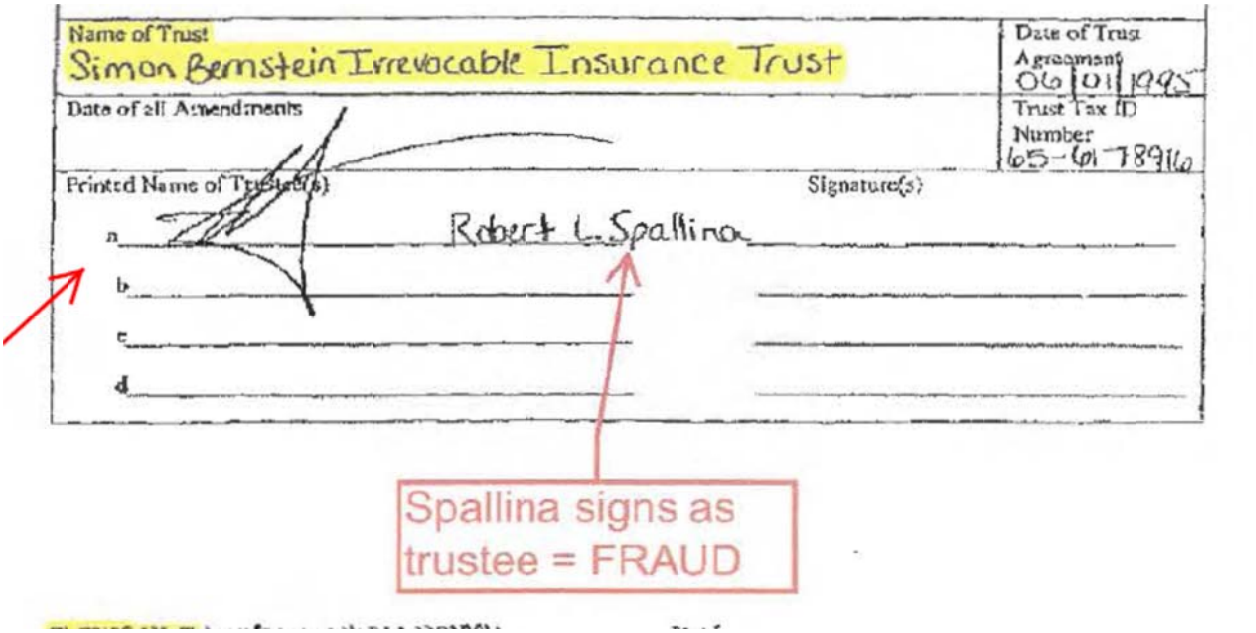
> What makes ELIOT's motion even more difficult is that the motion contains reference what may be kernels of truth regarding certain alleged misconduct that appears to have occurred in the Probate proceedings in Palm Beach County, FL. The alleged misconduct appears to involve staff and/or attorneys at law the firm Tescher & Spallina. Donald Tescher and Robert Spallina were attorneys for Simon and Shirley Bernstein while they were living, and after their deaths, they were counsel for the Estates of Simon and Shirley Bernstein (the "Estate" or "Estates"[)].

6. That while acknowledging “kernels” of truth in ELIOT’S pleadings regarding the Estates of Simon L. Bernstein (“SIMON”) and Shirley Bernstein (“SHIRLEY”) the “kernels may refer to all of the following facts regarding criminal misconduct admitted and acknowledged thus far in those proceedings, including but not limited to,
    i. admitted and acknowledged FORGERY of SIMON’S signature POST MORTEM,
    ii. admitted and acknowledged FORGERY of ELIOT’S signature,
    iii. admitted and acknowledged FORGERY of four other signatures,
    iv. admitted and acknowledged FRAUDULENT NOTARIZATION of SIMON’S FORGED SIGNATURE ON A WHOLLY RECREATED DOCUMENT POST MORTEM,
    v. admitted and acknowledged FRAUDULENT NOTARIZATION of ELIOT’S FORGED SIGNATURE ON A WHOLLY RECREATED DOCUMENT POST MORTEM,
    i. admitted and acknowledged FRAUDULENT NOTARIZATION of four other FORGED SIGNATURE ON A WHOLLY RECREATED DOCUMENT POST MORTEM,
    ii. admitted and acknowledged filing with a Florida State Probate Court of six separate FORGED and FRAUDULENTLY NOTARIZED DOCUMENTS to close the Estate of SHIRLEY filed by a deceased SIMON, who was made to appear alive through a POST MORTEM IDENTITY THEFT, where he allegedly filed the Fraudulent documents acting as Personal Representative / Executor of SHIRLEY’S estate at the time, while technically deceased.

iii. admitted and acknowledged submission of Fraudulently filed documents used to close the Estate of Shirley over a fourth month period where SIMON was deceased, where such identity theft of SIMON was committed by Attorneys at Law, TESCHER and SPALLINA, who knowingly and with scienter closed the Estate of SHIRLEY with a deceased Personal Representative as if alive.

7. That A. SIMON fails to state to this Court that SPALLINA and TESCHER were not only counsel to SIMON and SHIRLEY while they were alive and after counsel to the estates but fails to claim that in the Estate of SIMON they are the ACTING PERSONAL REPRESENTATIVES / EXECUTORS and SPALLINA is acting as Counsel to both himself and Tescher as the Co-Personal Representatives.
8. That A. SIMON fails to notify the Court that TESCHER, SPALLINA, Mark Manceri, Esq. ("MANCERI") have all resigned as counsel to the Bernstein family due to irreconcilable differences and professional concerns and submitted to be withdrawn as counsel in both SIMON and SHIRLEY'S Estates in their multiple fiduciary and legal capacities in each.
9. That A. SIMON fails to notify the Court that TESCHER and SPALLINA have sought to be discharged as Co-Personal Representatives in the Estate of SIMON, coinciding with the arrest of their Legal Assistant and Notary Public employee, Kimberly Moran ("MORAN"), who was arrested for her part in the fraud on the Probate Court and document frauds and fraud on the True and Proper Beneficiaries of SHIRLEY'S estate.
10. That the Probate Court crimes all were in efforts to change beneficiaries of the Estate of SHIRLEY, causing the Estate to be reopened after Honorable Judge Martin Colin found evidence of Fraud on his court and stated to THEODORE, SPALLINA, TESCHER and MANCERI that he had enough at that point to read them all their Miranda Rights.

11. That A. SIMON fails to notify this Court how SPALLINA filed an alleged fraudulent insurance claim form with Heritage Union Life Insurance Company ("HERITAGE") while acting as the Personal Representative of the Estate of SIMON and signing as the TRUSTEE OF THE LOST OR SUPPRESSED TRUST, as illustrated below and fully exhibited in prior pleadings. That the Signature Page of the fraudulently filed insurance claim form filed with HERITAGE that this Lawsuit is based upon shows the following,



12. That SPALLINA acted in other alleged fraudulent fiduciary roles when filing this fraudulent insurance claim with HERITAGE that this Lawsuit is based upon and allegedly, IMPERSONATED AN INSTITUTIONAL TRUST COMPANY and IMPERSONATED AN INSTITUTIONAL TRUST COMPANY TRUSTEE, as well as IMPERSONATED THE TRUSTEE OF THE LOST OR SUPPRESSED TRUST.
13. That the DENIAL of this fraudulently filed insurance claim by SPALLINA is the alleged cause of the Breach of Contract alleged by A. SIMON in his frivolous and meritless breach claim. Now A. SIMON attempts to claim to this Court that the two legal actions are

unrelated, the Estate of Simon Probate court action and this Lawsuit, which in fact are intimately and inextricably bound together in that the insurance policy is an asset of SIMON'S Estate and therefore the beneficiaries of the Estates and Trusts of SIMON that legally exist would then distribute the Lost or Suppressed Policy proceeds.

14. That since the beneficiary according to their story, an alleged "BERNSTEIN TRUST" was not legally present at the time of SIMON'S death over a year ago and was in fact claimed to be lost by the Plaintiffs, TESCHER and SPALLINA, all who claimed that no executed copies of it existed to prove its legal existence for over a year and until this Court demanded proof of its existence, as HERITAGE had, did newly manufactured ALLEGED UNSIGNED, UNEXECUTED, UNDATED and UN-AUTHORED ALLEGED DRAFTS of the Lost or Suppressed Trust appear in the record of this Court through A. SIMON'S Rule 26 Production documents, which offer no legal proof as they are not the copies of an EXECUTED LEGALLY BINDING TRUST that this Court demanded A. SIMON produce in the September 25, 2013 hearing before Your Honor.
15. That at the time of death if no legally qualified beneficiary exists, the benefits should legally be paid to the Insured and not this Court, to then be distributed to the True and Proper Estate Beneficiaries.
16. That A. SIMON claims,

> In virtually all of his pleadings in the instant action, ELIOT refers repeatedly to the probate proceedings for the Estates, and fails to comprehend that those proceedings are separate and apart from the instant litigation which involve only the Policy proceeds.

17. That again, the Policy proceeds are an asset of the Estate of SIMON. That factually this instant litigation is filed by a NONEXISTENT Trust with no legal standing to file a Lawsuit

as it does not legally or otherwise exist. Therefore, the Lawsuit should be terminated by this Court instantly and the Policy proceeds returned to HERITAGE for proper processing of the claim to the to be determined beneficiary, which appears to legally then go Probate Court in Florida to be determined further who the Beneficiaries are, since those are now all in question in both Estates due to further admitted errors and alleged frauds by TESCHER and SPALLINA in the Estates in efforts to change Beneficiaries through fraud on the Probate Court, Fraud on the True and Proper Beneficiaries and more.

18. That while these two legal actions may sound like separate matters they are intricately related and have only fallen into this Court's lap through a wholly baseless Breach of Contract Lawsuit that ELIOT alleges A. SIMON filed in efforts to continue an over a yearlong attempt to fraudulently convert an asset of the Estate of SIMON, the insurance Policy proceeds, to improper parties through a mass of on the fly frauds, including Fraud on an Insurance Carrier, Fraud on an Institutional Trust Company, Fraud on this Court and Fraud on the Estate of SIMON'S beneficiaries.
19. That initially this insurance fraud scheme began with an initial life insurance death benefit claim form being filled out illegally by Attorney at Law, Robert L. Spallina, Esq. ("SPALLINA") who filed the form acting as Trustee for the "SIMON BERNSTEIN IRREVOCABLE INSURANCE TRUST DTD 6/21/95" ("Lost or Suppressed Trust") and which claim was subsequently DENIED by Heritage Union Life Insurance Company ("HERITAGE") and Reassure America Life Insurance Company ("RALIC") for failure to prove beneficial interest and trusteeship and were requested by RALIC to obtain a Probate court order in Florida from SIMON'S estate, approving the beneficiary designation scheme proposed to HERITAGE by SPALLINA. That a full account of these insurance fraud

schemes has already been pled and exhibited with Prima Facie evidence in ELIOT'S Answer and Cross Claim and ELIOT'S Answer to the Amended Complaint both filed with this Court and both fully incorporated by reference herein as it pertains to this Reply.

20. That a proposal for a POST MORTEM replacement trust for the Lost or Suppressed Trust was then proposed to those alleged to have beneficial interests and according to SPALLINA and Theodore Stuart Bernstein ("THEODORE") who proposed this plan they were seeking a Probate court order to approve the new scheme.
21. That instead, A. SIMON filed this instant Lawsuit for a Breach of Contract behind the back of ELIOT and his children's counsel Tripp Scott in Fort Lauderdale, FL. with intent to conceal the action from him and this can be seen when he states in the Original Complaint that 4/5th of the SIMON'S children agreed with the scheme.
22. That since the trust was alleged by A. SIMON and THEODORE to be lost when this Lawsuit was filed there was no evidence of a qualified legal Plaintiff suing, as the trust was said to be lost since the filing of the insurance claim and no copies or evidence of its existence that qualified as legal proof of its existence was tendered to any parties.
23. That this Lawsuit was filed by THEODORE now acting as Trustee for the Lost or Suppressed Trust, instead of SPALLINA who acted as Trustee for the Lost or Suppressed Trust only weeks earlier when filing an alleged fraudulent life insurance death benefit claim form, as fully described and exhibited in ELIOT'S Answer to the Amended Complaint. Now the alleged Breach of Contract filed was based on the denial of the fraudulent insurance claim form filed by SPALLINA acting as Trustee and ELIOT asks why then did SPALLINA not file this Breach of Contract Lawsuit as the Trustee of the Lost or Suppressed Trust when it was his claim form that was denied.

24. That this raises the question of why A. SIMON failed to notify this Court and the authorities that SPALLINA had filed a fraudulent claim form on behalf of his client THEODORE who claims to be now for this Lawsuit the Trustee of the Lost or Suppressed Trust that A. SIMON also claims he now represents. However, A. SIMON in his Amended Complaint states that SPALLINA filed the claim form acting as counsel to the Lost or Suppressed Trust, despite the fact that the claim form he submitted was signed by SPALLINA as Trustee.
25. That how did A. SIMON get retained by the Lost or Suppressed Trust if it did not exist at the time of filing this Lawsuit?
26. That THEODORE was advised by counsel, according to Jackson National Life Insurance Company ("JACKSON") when filing their Counter Claim that he had no legal standing to file the present Lawsuit.
27. That much of the information in the Original and Amended Complaint filed by A. SIMON is untruthful and factually incorrect as evidenced in ELIOT'S Answer to the Amended Complaint. Once ELIOT was notified by service of this Lawsuit, as a Third Party Defendant by JACKSON that this Lawsuit was in progress, ELIOT was stunned as he was waiting for a Probate court order that HERITAGE demanded and that SPALLINA, his partner Donald R. Tescher, Esq. ("TESCHER") and THEODORE had all stated was being sought. to approve the POST MORTEM TRUST replacement scheme to cure HERITAGE and RALIC'S demands for a court order after SPALLINA failed to provide proof of beneficial interest and trusteeship. ELIOT had no idea a legal action had been filed seeking the life insurance proceeds through a Breach of Contract Lawsuit scheme instead.

28. That on April 5, 2013, A. SIMON filed his complaint for breach of contract against Heritage Union Life Insurance Company in the Law Division of the Circuit Court of Cook County, Illinois, docket number 2013-L-003498.
29. That when ELIOT found out and Answered and Cross Claimed it appeared that for months, from April 5, 2013 when the Breach of Contract Lawsuit was filed, to 5/16/2013 when the case was transferred to this Court and then until ELIOT was served on July 01, 2013, almost three months into Lawsuit, all of this information was intentionally secreted from ELIOT and his children's counsel Tripp Scott with scienter by A. SIMON et al.
30. That at ELIOT'S first appearance on September 25, 2013 at a hearing before Your Honor, it was learned that no valid legal binding copy of an executed Lost or Suppressed Trust was submitted in the Lawsuit and Your Honor demanded that A. SIMON produce something to show that the Plaintiff in fact existed.
31. That A. SIMON then attempting to comply with this Court's demand for a qualified legal entity to be produced as a legitimate Plaintiff then scrambled to produce brand new evidence, which he produced in his Rule 26 disclosure documents and that came in the form of UNSIGNED, UNEXECUTED, UNDATED and UN-AUTHORED ALLEGED DRAFTS of a Lost or Suppressed Trust that were created on an unknown date, at an unknown place by an unknown author and prove no existence of the Lost or Suppressed Trust and what legal language it contained.
32. That had ELIOT not become joined to the action by JACKSON it appears that this Fraud on US District Court to have a NONEXISTENT Plaintiff secure the life insurance death benefits from the Court was almost complete, already having JACKSON rush to deposit the death benefits into this Court's Registry despite the fact that the policy also somehow is LOST.

That amazingly, the insurance carriers and reinsurers alike appear to have LOST all executed and binding copies of Policy # 1009208 ("Lost or Suppressed Policy") and coincidentally have no copies of the executed Lost or Suppressed Trust either and coincidentally, according to SPALLINA and Pamela Beth Simon ("P. SIMON") none of this would be necessary as they had a friendly carrier who would pay the claim without proof of a valid legally binding trust document that documented the beneficiaries of SIMON'S Lost or Suppressed Policy.

33. That according to SPALLINA in an email he sent,

> **From:** Robert Spallina rspallina@tescherspallina.com
> **Sent:** Tuesday, October 23, 2012 2:34 PM
> **To:** Jill Iantoni; Eliot Bernstein; Ted Bernstein; Ted Bernstein; Pamela Simon; Lisa Friedstein
> **Subject:** RE: Call with Robert Spallina tomorrow/Wednesday at 2pm EST
>
> As discussed, I need the EIN application and will process the claim. Your father was the owner of the policy and we will need to prepare releases **given the fact that we do not have the trust instrument and are making an educated guess that the beneficiaries are the five of you as a result of your mother predeceasing Si. Luckily we have a friendly carrier and they are willing to process the claim without a copy of the trust instrument. [emphasis added]** A call regarding this is not necessary. We have things under control and will get the claim processed expeditiously after we receive the form.
>
> Thank you for your help.
> Robert L. Spallina, Esq.

34. That it now has become apparent that this Lawsuit is based on Fraud, a NONEXISTENT PLAINTIFF FILES A US FEDERAL LAWSUIT AGAINST A LIFE INSURANCE CARRIER FOR FAILURE TO PAY A DEATH CLAIM TO A NONEXISTENT TRUST ON A NONEXISTENT INSURANCE CONTRACT. And the strange thing is the carrier paid the claim to this Court in a hurry, without giving ELIOT or others involved in the

Lawsuit to protest such transfer, which should have never happened without a contract that the Court could assess the terms and conditions legally.

35. That this appears no coincidence, when defendant A. SIMON, his brother defendant D. SIMON, their law firm defendant The Simon Law Firm and his sister-in-law defendant P. SIMON, all have maintained records of both the Lost or Suppressed Trust and the Lost or Suppressed Policy for years. THEY, sold the policy, maintained and administered the policy and trusts, did and exhaustive search of their law firm's offices for the records, searched their insurance agency records and ALLEGEDLY, after this exhaustive search THEY determined that the Lost or Suppressed Trust was LOST and no legal binding copies existed. THEY maintained this story when filing the fraudulent insurance claim and when they entered this Court.
36. Now that Your Honor demands proof, magic documents appear that were never tendered to any party prior to Rule 26 disclosure and the story attempts to now shift and state there is legally qualified trust that has rights to death benefits, however we now must believe that documents that were discovered long after they claimed they had searched high and low for them, when the Court demanded proof of a qualified legal trust almost a year later, and what they produced are UNEXECUTED EXECUTED, UNDATED ALLEGED DRAFTS of the still Lost or Suppressed Trust.
37. That this is more criminal charges against A. SIMON et al. as these are very serious allegations ELIOT raises of FELONY crimes, including but not limited to, Insurance Fraud, Fraud on a US District Court, Fraud on an Illinois Circuit Court, Fraud on an Institutional Trust Company, Fraud on the Estate of SIMON, filing fraudulent pleadings that are within page limits but outside State and Federal Law and these are the reasons that all those

participating in this fraudulent Lawsuit, including A. SIMON who is central to filing this baseless Lawsuit knowingly and in efforts to convert the insurance death proceeds to benefit his brother D. SIMON and his sister-in-law P. SIMON, who were disinherited with their lineal descendants by both SIMON and SHIRLEY and if the benefits flowed to the True and Proper Beneficiaries or the Estate of SIMON if the beneficiaries were lost at the time of death according to Florida law, A. SIMON, D. SIMON and P. SIMON would get NOTHING and this enraged P. SIMON and she felt "psychological violence" had been committed against her, see EXHIBIT 1.

38. That A. SIMON claims,

> Plaintiffs brought this litigation in good faith and in furtherance of their efforts to collect what is rightfully theirs and twenty-percent ELIOT'S. I represent the original Plaintiff, the Bernstein Trust, and four out of five of the adult children of Simon Bernstein. All of my clients are in agreement that their claims are consistent with the stated intent of Simon Bernstein with regard to the Policy proceeds.

39. That A. SIMON filed this baseless lawsuit hoping no one would catch on and then a batta bing, the money would flow from HERITAGE to this Court, leaving them without having to prove beneficial interest or trusteeship to the carriers HERITAGE and RALIC that was demanded, now all they had to do was convert the monies from this Court's Registry to a NONEXISTENT Lost or Suppressed Trust and they were home free. ELIOT and others could sue them later but the odds were in their favor since they owned a law firm and by the time they spent the ill-gotten gains, ELIOT and others damaged would have had to spend a fortune to recover.

40. Now A. SIMON in his Response spends a lot of time stating ELIOT has shown no beneficial interest for he or his children in this Lawsuit to Your Honor. However, A. SIMON must know, as his Response tells how well he personally knows the life insurance business in legal sense intimately, that in the event of a lost or missing policy the death benefits transfer to the Insured and are thus part of the Estate, where both ELIOT and his children are BENEFICIARIES and thus would be the legal beneficiaries of the Lost or Suppressed Policy proceeds, where again, if the proceeds flow to the Estate of SIMON, P. SIMON, D. SIMON and THEODORE and their lineal descendants are wholly excluded.
41. That herein lies the motive for these frauds to convert the Estate and Trust Assets through a variety of fraudulent activities by THEODORE and P. SIMON who were both enraged with SIMON for disinheriting them as indicated in P. SIMON'S January 2012 note to SIMON, despite their receiving living GIFTS of family businesses and properties, where ELIOT had not received such multimillion dollar GIFTS, despite P. SIMON'S lawyer's letter dated in November of 2011, from a one Tamar S. P. Genin ("GENIN") at the law firm Heriaud & Genin, Ltd. that attempts to claim that P. SIMON, who was "independently wealthy" had bought these assets and was not gifted them and saved her poor pathetic father from ruins in a semi delusional account of events told by P. SIMON but through GENIN'S eyes, a fascinating document to send to your father.
42. That P. SIMON and THEODORE, according to GENIN'S account for P. SIMON of her father's life are depicted as "independently wealthy" and yet the letter fails to mention how P. SIMON, D. SIMON, A. SIMON and THEODORE all "worked" for SIMON for their WHOLE lives in his companies, virtually no other jobs ever and that it was SIMON'S inventive life insurance products that he invented, ie VEBA'S and Arbitrage Life Payment

System, that sold billions in premiums through his companies that gave them their SILVER SPOONED LIVES, Glencoe Mansion to grow up in, Limos to School, Free Rides on College for them and their kids and instead P. SIMON through GENIN'S eyes it was P. SIMON who gave her father enough to retire on by buying him out of the family business through her "Independent Wealth."

43. That ELIOT states that it becomes clear that in January 2012 P. SIMON is outraged with her father over her disinheritance and the GENIN letter attempted to claim that she had bought everything with her own monies, not monies SIMON was giving them through his companies, as SIMON is alleged in the lawyer's letter according to her account from P. SIMON'S account of him a destitute a bum, who steals her antique furniture to boot and it was her and her husband who had built everything into their "independent wealth." Of course according to P. SIMON'S note, this was not about money but about her entitlement to what little according to her SIMON had left and now she claimed a right to more through the assets of the Estates that were left to others, those that did not get such generous handouts from SIMON but instead built their lives outside the family businesses.

44. That the story P. SIMON paints through her attorney at law's eyes is in fact delusional to the realities of P. SIMON'S spoiled life, where her father gave her the moon while living, not the other way around. Yet, the story is telling of the anger and hostility P. SIMON felt and when SIMON never made changes she and THEODORE were demanding, it appears that POST MORTEM they began to change his designated beneficiaries through, FORGED and FRAUDULENTLY NOTARIZED documents in the Estates, to this Insurance Fraud scheme, to Fraud on the Probate Court and more, all enabled with the help of THEODORE'S close business and personal friends, TESCHER and SPALLINA.

45. That in the Insurance Fraud Schemes, TESCHER and SPALLINA were to be aided also by some of P. SIMON'S friends at the insurance carrier, who appeared willing to pay a claim expeditiously without proof of beneficial interest or trusteeship or a valid legal trust document to make a claim, as evidenced already herein.
46. That from the alleged notes of SIMON in his handwriting, on P. SIMON'S lawyer's letter P. SIMON sent to SIMON, regarding the GENIN'S account of P. SIMON'S life and relationship with SIMON, it is clear what SIMON thought of this account, when he wrote, "All B/S" and in disputing her claim that he did not gift her and D. SIMON the company, "However, I knew based on our series of discussions over the years that, in fact, you did not receive any gift of a business from your parents. Where SIMON writes emphatically in response, "50% to Pam FREE!" The other monies that were to be paid to Simon for his interests were to be paid through a buyout and through a consulting agreement for a number of years and on information and belief, SIMON did not get paid by P. SIMON and D. SIMON who told SIMON to sue them for his monies at which time he and SHIRLEY washed their hands of them, other than for a brief party or two every few years, completely for many years until the day they died.
47. That A. SIMON, despite his pining that TESCHER and SPALLINA who filed the fraudulent insurance claim that this Lawsuit is based upon and the Estate of SIMON have absolutely nothing to do with the Lawsuit and that the crimes that arrests have been made for in the Estate of Shirley of TESCHER and SPALLINA'S legal assistant, have nothing to do with similar frauds alleged in this Court that A. SIMON is now spearheading before Your Honor.
48. That A. SIMON must convince the Court that these two events are disassociated and not related or else he is in a world of trouble for knowingly perpetrating a fraud on this court.

49. That ELIOT states again, that Fraud on the Court seems a much greater crime than Pro Se page violations and this Court must therefore not only remove A. SIMON and SANCTION him but then report him to all the proper criminal and ethical authorities and anything short could be construed as MISPRISION OF FELONIES.

50. That A. SIMON claims,

> Plaintiffs and I, as their counsel, verily believe that the claims they are asserting for the Policy proceeds are being brought in good faith, and are well grounded in fact and law. One of the most important facts being that the Simon Bernstein Irrevocable Insurance Trust Dtd 6/21/1995 was actually named a beneficiary of the Policy proceeds pursuant to the Policy. (See Beneficiary Designation attached to Adam Simon's affidavit as Exhibit "A", bates #BT000029- 030).

51. That A. SIMON is still trying to sell this Court a baseless story about a NONEXISTENT Trust that once upon a time may have been a beneficiary and even if was it does not exist today to make a claim legally. That A. SIMON fails to state that despite his claim that this Lost or Suppressed Trust once existed as a Beneficiary, none of that can be ascertained because the Policy has also coincidently become Lost or Suppressed and no parties have produced to this point a legal or binding life insurance contract to prove or disprove his claims and thus make these statements a best guess.

52. That while A. SIMON and his clients, including a NONEXISTENT LEGALLY DEVOID OF STANDING LOST OR SUPPRESSED TRUST may verily believe they are Beneficiaries, their belief is not legally qualified and their standing is wholly in question.

53. That A. SIMON claims,

> ELIOT's purported claims made either on his own behalf or that of his children fail to include reference to any document recorded with the Insurer naming ELIOT, ELIOT's children, or any of Simon Bernstein's grandchildren as beneficiaries of the Policy.

> Most importantly, however, I shall demonstrate in this memorandum that ELIOT has failed to assert any facts showing that a conflict exists with regard to my representation of my clients in this case. Neither has ELIOT provided any factual record showing the existence of a conflict or any misconduct on my part.

54. That A. SIMON fails to inform the Court that when there is no legal beneficiary at the time of death of an insured in the state of Florida, the insurance proceeds are paid to the Insured and where this would then flow through the Estate for the Probate court to then determine whom the Beneficiaries and ELIOT and his children are Beneficiaries of the Estates and Trusts of SIMON and SHIRLEY and P. SIMON, THEODORE and their lineal descendants are not.
55. That A. SIMON has not proved beneficial interest or trusteeship in the Lost or Suppressed Policy and has shown no legally binding proof that the Lost or Suppressed Trust exists any longer.
56. That ELIOT has proven to this Court that this Lawsuit was filed with a NONEXISTENT entity as Plaintiff, which is the beginning of the misconduct in this Lawsuit that merits A. SIMON'S disqualification as counsel and removal of pleadings filed, as to this date no legally binding evidence exists of a binding legal trust and thus the case must be dismissed on this basis alone.
57. That A. SIMON has adverse interest in the matters as his brother defendant D. SIMON and his law firm The Simon Law Firm will be material and fact witnesses to the whereabouts of the Lost or Suppressed Trust and the Lost or Suppressed Policy, for example to examine why they conducted searches of their law firm for the records and what records were recovered from their efforts, etc.

58. That A. SIMON is alleged to have filed this fraudulent Breach of Contract Lawsuit to fraudulently abscond with the proceeds without ELIOT and ELIOT'S children's counsel, Tripp Scott's notice that they were filing this lawsuit and where ELIOT had already demanded that any attempt to collect the proceeds be made with the consent of himself and his children's counsel. Knowing this, A. SIMON, THEODORE, P. SIMON, SPALLINA, TESCHER and others planned to file this Lawsuit and secret the filing from ELIOT and his children with intent.
59. ELIOT states that A. SIMON is not only conflicted and has adverse interests in the Lawsuit that make him and his law firm material and fact witnesses and participants in the matters with direct interests to his family members who would otherwise be excluded from the Lost or Suppressed Policy Proceeds but more importantly that ELIOT has shown that A. SIMON has participated in Fraud on the Court, Fraud on an Insurance Carrier, Fraud on the Beneficiaries of the Estate of SIMON and more that are absolute cause if proven true of FELONY violations of State and Federal Laws.
60. That this Court can bet that with this much on the line personally and possible prison sentence for the crimes, A. SIMON will now say or do anything to sway this Court from seeing the truth of what is now exposed and the smear campaigns on ELIOT have already begun and this is again further cause for A. SIMON'S removal from representing any parties any further in this baseless litigation he filed to further a fraudulent Conversion and Comingling of Estate Assets to improper parties, including but not limited to, his brother's brother-in-law THEODORE, his sister-in-law P. SIMON and he and his brother's law firm.
61. That A. SIMON in failing to report SPALLINA for filing a fraudulent insurance claim acting as the Trustee of the Lost or Suppressed Trust has committed alleged MISPRISION OF

FELONY already and was required to report such misconduct to the proper authorities when he learned that SPALLINA had filed a fraudulent claim that was DENIED by HERITAGE and which denial serves as the breach according to A. SIMON and thus SPALLINA would be liable for the breach since it was his fraudulent claim that was denied in the first place. One must wonder why A. SIMON has neither sued SPALLINA for this alleged criminal insurance fraud nor reported him as required under Ethic Rules and Regulations and State and Federal Law.

62. That not only does A. SIMON fail in his duties as an Attorney at Law to report knowing felony misconduct of another Attorney at Law but he in fact, furthers the fraud by filing this Lawsuit and then claiming that the two are not related and SPALLINA and TESCHER have nothing to do with the Lawsuit, attempts to Aid and Abet SPALLINA and TESCHER'S crimes by covering them up in the Lawsuit and these again are just cause to REMOVE A. SIMON from representing any parties in this Lawsuit any further and force all the Plaintiffs to retain independent non-conflicted counsel to file further pleadings on behalf of the Lost or Suppressed Trust or this Court should instantly award ELIOT a default judgment.
63. That ELIOT does not believe that once A. SIMON is removed from this Lawsuit as an insider with interests for his direct family in the outcome, the Plaintiffs will be able to hire an independent law firm with no skin in the game directly tied to the Lost or Suppressed Policy to continue this hoax of Lawsuit and begin representing a Plaintiff that DOES NOT EXIST LEGALLY, the Lost or Suppressed Trust and continue this fraud on their behalf.
64. That A. SIMON claims,

> What makes the situation a bit more confusing is the fact that all of the pleadings for relief filed by my clients seek to claim the Policy proceeds on behalf of the Bernstein Trust or its beneficiaries, all

> FIVE children of Simon Bernstein. Our pleadings allege that ELIOT is a twenty percent beneficiary of the Bernstein Trust, so twenty percent of the Policy proceeds would inure to ELIOT. Conversely, ELIOT's pleadings fail to make any other coherent claim to the Policy proceeds on his own behalf or anyone else's for that matter.

65. That it is clear from P. SIMON'S note and letter from her lawyer, attached herein as Exhibit 1, clearly indicate that according to SPALLINA, in November 2011, P. SIMON and her lineal descendants were excluded 100% from the Estates and Trusts of both her mother and father and there is no mention of her claims to the life insurance policy and SPALLINA at that time makes no mention that she is an alleged Beneficiary of the Lost or Suppressed Trust or Lost or Suppressed Policy.
66. That it is clear that in the November 2011 conversations between P. SIMON'S attorney GENIN and SPALLINA, that only 3/5th of SIMON'S children were to benefactors of the estates and trusts of SIMON and SHIRLEY according to SPALLINA.
67. That what is not clear from SPALLINA'S conversations with GENIN is exactly why SPALLINA was informing P. SIMON she had been disinherited and if this was done with the express consent of SIMON, whose heavy underlining of SPALLINA'S name in the GENIN letter may indicate he was perturbed by this possible violation of attorney/client privilege.
68. That SPALLINA'S informing P. SIMON of this disinheritance ended up so enraging P. SIMON and THEODORE that they began a boycott and abuse of SIMON from shortly after the time of death of SHIRLEY to his death.
69. That THEODORE and P. SIMON then recruited two of three of their other siblings into the boycott, allegedly based on his seeing his companion and all of the grandchildren were

mandated to partake in the boycott, all in attempt to force SIMON to make changes in his and SHIRLEY'S estate plans and give in to their demands.

70. That SPALLINA may have caused their anger by his informing them that they were cut of the Estates, as is evidenced in P. SIMON'S note she feels this was an act of "Psychological Violence" against her and THEODORE and she demanded changes.

71. That A. SIMON claims,

> My client's seek a court order which would allow for the distribution of the Policy proceeds according to the intent of Simon Bernstein. All of the potential ultimate beneficiaries of the Policy proceeds are represented in the instant litigation. Four of these ultimate beneficiaries are my clients, and the fifth, ELIOT, has chosen to represent himself and pursue his own agenda, pro se.

72. That A. SIMON fails to see that the distribution of Policy proceeds which would allow for SIMON'S intent to be carried out cannot legally be proven any longer as he and his clients claim the documents necessary to prove his legal intent are lost or suppressed at this time. Therefore, where the beneficiary is not present at the time of death, it is not the intent of the Insured that directs the proceeds but rather they are paid to the Insured and then are facilitated through the estate of the insured to the beneficiaries. Since SIMON could have changed his mind and intent on who the beneficiaries were up until death and the insurance carrier and SPALLINA claim he was considering changing the beneficiaries shortly before his unexpected and untimely death.

73. That ELIOT states that the intent of SIMON is not known as the even in their account the beneficiary is lost and does not exist so the true intent of SIMON cannot be proven legally and thus is not sufficient to pay a death claim or award any proceeds to nonqualified nonexistent parties no matter what percentage of SIMON'S children want it to be in their

favor and deprive the Estate Beneficiaries who are legally entitled to the proceeds. As for all the ultimate ALLEGED beneficiaries being represented in this Lawsuit, once again we return to why SPALLINA, the Estate Personal Representative and Executor filed a claim on behalf of SIMON in the first place if the Beneficiaries of the Estate, which are not yet determined due to the fraud and forgery and more in the Estates and now must be determined by the Probate Court, are not represented here at all and in a LOST beneficiary situation are the Legal Beneficiaries through the Estate.

74. That those not represented with intent by A. SIMON include all TEN of SIMON'S grandchildren and three of five of his children, ELIOT, IANTONI and FRIEDSTEIN. That ELIOT states that ELIOT, his children and the ten grandchildren were intentionally left out of this Lawsuit when it was filed to conceal it from them until after they had absconded illegally with the proceeds. A. SIMON as an Attorney at Law knew and knows that the Estate of SIMON and the TBD Beneficiaries of the Estate were entitled to the benefits unless this Fraud on a US District Court impersonating the Beneficiaries through a NONEXISTENT ENTITY was successful in converting the Estate death benefit assets. That this False Statement of Fact that all parties are represented who have potential interests in the Lost or Suppressed Policy continues a Pattern and Practice of False Statements to this Court, with scienter.

75. That ELIOT did not chose to represent himself and his own agenda in this Lawsuit as he was not included in the parties represented in this Lawsuit filed by A. SIMON and was purposefully not made so and where A. SIMON in the last breath quoted above stated all parties were represented in these matters, yet ELIOT and his children were excluded and only 4/5th of SIMON'S children were part of this Lawsuit to begin with, again disproving his

prior claim. ELIOT'S was sued as third party defendant by JACKSON and that is how he became represented in this Lawsuit, not through A. SIMON as he would have this Court now believe.

76. That once caught in this Lawsuit by ELIOT'S joining, A. SIMON now claims to the Court that the rest of the siblings all decided to move forward with this action and were going to hold ELIOT'S portion once they received the funds for him behind his and children's counsel backs and ELIOT has bridges to sell the Court if you believe that this money would have come to us on their good graces. That in prior pleadings A. SIMON has stated that ELIOT owed the Estate monies that would somehow be charged back, indicating they had intentions of taking the insurance monies of ELIOT'S and his children and using it to pay the Estate back as if ELIOT was somehow a creditor of the Estate and they could use some alleged contract they failed to attach. That the dispositive documents of the Estates, where many are in question in both civil and criminal actions currently and where the Estate of Simon's Co-Personal Representatives, TESCHER and SPALLINA, have submitted their resignation papers as counsel to the entire Bernstein family in their numerous roles as counsel, have tendered their withdrawal as Co-Personal Representatives and have basically abandoned ship, there is no evidence of any such debts of ELIOT to the Estate or any mention of chargebacks of inheritances to ELIOT and his children but again, these False and Misleading Statements to the Court by A. SIMON could have caused a loss of these protected insurance funds from the True and Proper Beneficiaries, through more improper and illegal comingling and conversion actions.

77. That A. SIMON claims,

> To avoid any appearance of a conflict and in furtherance of the goals of transparency, accuracy and finality, my clients and I would welcome having the ultimate distribution of the Policy proceeds occur under this court's supervision, i.e. with an accounting and vouchers being submitted to the court.

78. That the Policy proceeds should be distributed under this Court's supervision at all and should be returned to HERITAGE who should then determine what to do with the proceeds according to Law, in the event of a Lost or Suppressed Trust and then further what to do when they have a Lost or Suppressed Policy.

ELIOT COMMENTS ON A. SIMON'S FACTUAL BACKGROUND FACTUAL BACKGROUND

79. That A. SIMON claims,

> "ELIOT'S Motion to Disqualify contains no factual support which would lead this court to disqualify me as counsel. ELIOT has not attached his own Affidavit to his motion. ELIOT has not attached an Affidavit of the Plaintiffs, other parties to this litigation, or any other witness in support of his motion. With that being said, I submit the following factual background regarding my representation supported with my attached Affidavit:"

80. That ELIOT states, as already cited herein and in prior pleadings, A. SIMON should first and foremost be DISQUALIFIED, SANCTIONED and reported to the proper ethical and legal authorities for filing this baseless, meritless, frivolous, toxic pleading with no Plaintiff that legally exists, in efforts to perpetrate FELONY MISCONDUCT to FRAUDULENTLY CONVERT and COMINGLE INSURANCE POLICY PROCEEDS to his clients, who lack standing, beneficial interest and trusteeship, as qualified legal beneficiaries on a Lost or Suppressed Policy insuring the life of SIMON.

81. That these allegations are not without merit, as the Court can plainly see, for approximately eight months this meritless Lawsuit has been without a qualified legal Plaintiff and A. SIMON has known this, especially as an Attorney at Law but he had not anticipated ELIOT finding out about his carefully concealed Lawsuit and challenging him on these matters before he could abscond with the proceeds for he and his family's benefit.

82. That again, the Court should note that without this Fraud via the Court as host to the crime, wrapped in a legally devoid of standing of Lawsuit, A. SIMON and his family members, brother D. SIMON and sister-in-law P. SIMON would get NOTHING from the proceeds of the Lost or Suppressed Policy, as SIMON INTENDED.

83. That A. SIMON claims,

> 2) Since 1990, I have worked in a law firm with my brother, David B. Simon known as The Simon Law Firm. The Simon Law Firm has been named as a third-party defendant in the instant litigation by ELIOT.

84. That ELIOT states that The Simon Law Firm has been named as a third-party defendant in this matter for good and just cause, including but not limited to, for filing this fraudulent Lawsuit to commit a Fraud on the Estate Beneficiaries of SIMON, Insurance Fraud and more.

85. That A. SIMON, D. SIMON and P. SIMON, all work out of the same offices of STP, a company founded by SIMON and all worked for SIMON from the day they graduated college and all made boat loads of monies from SIMON'S insurance products that he created, including but not limited to, VEBA 501(c)(9) Voluntary Employee Death Benefit Association plans that he was a Pioneer in and Arbitrage Life Payment System, another product he pioneered and had intellectual property claims too and these products led to

Simon being one of the most successful insurance agents in the nation, having hundreds of millions of dollars of premium and millions upon millions of commissions for the companies he owned and found and was the largest producer of sales for.

86. That A. SIMON claims,

> 3) I have also worked as assistant general counsel for a life insurance brokerage owned by David B. Simon and Pamela B. Simon named STP Enterprises, Inc.("STP"). STP has been named as a third party defendant in the instant litigation by ELIOT.

87. That ELIOT states, this should also be cause for A. SIMON'S disqualification and sanctioning as he is General Counsel to a defendant STP in the Lawsuit and will be a material and fact witness to relevant matters in the Lawsuit and should not therefore be representing any other parties interests other than his own as a defendant.

88. That A. SIMON out of respect for all that SIMON did for him from his youth onward should properly state that the company owned by his brother and sister-in-law was founded out of the hard work of SIMON who later abandoned STP when he gifted 50% of STP to P. SIMON and A. SIMON and arranged a buyout for the other 50%, which is alleged to have not been fully honored by P. SIMON and D. SIMON, leading, along with other issues to be discussed further herein, to the dissolution of a meaningful relation between P. SIMON, D. SIMON and both SIMON and SHIRLEY who felt betrayed by the breach of contract and washed their hands of them.

89. That A. SIMON claims,

> 4) I am currently representing the Simon Bernstein Irrevocable Insurance Trust dtd 6/21/95 (the "Bernstein Trust"), Ted Bernstein, as Trustee and individually, Pamela B. Simon (my sister-in-law), Jill Iantoni, and Lisa Friedstein as Plaintiffs. I am also representing those parties as counter, cross, or third party defendants where they

> have been named as parties by either ELIOT or Heritage Union. I am also representing The Simon Law Firm and STP as they have been named as third-party defendants by ELIOT.

90. That ELIOT asks how A. SIMON is representing a NONEXISTENT ENTITY the Lost or Suppressed Trust aka "Simon Bernstein Irrevocable Insurance Trust dtd 6/21/95" and under what terms was his retainer agreement signed to prove he is qualified to represent what does not exist? Who is paying him and how?
91. That ELIOT asks how is A. SIMON representing "Ted Bernstein" who does not exist legally as his legal and proper name is alleged to be Theodore Stuart Bernstein.
92. That ELIOT states asks this Court that when the NONEXISTENT ENTITY PLAINTIFF, the Lost or Suppressed Trust DOES NOT LEGALLY EXIST, how can A. SIMON then claim to represent a "Trustee," "Ted," of that NONEXISTENT LEGAL ENTITY. Under what terms and conditions has "Ted," who does not legally exist, operate under? That ELIOT has exhibited in prior pleadings that THEODORE has been operating in numerous false fiduciary capacities in the Estate of SHIRLEY and transacting dealings without proper authority for over a year, as was learned in the September 13, 2013 Hearing and the October 28, 2013 Evidentiary Hearing before Honorable Judge Martin Colin.
93. That ELIOT states that A. SIMON knew that SPALLINA acted as "Trustee" for the Lost or Suppressed Trust when filing his fraudulent insurance claim that this fraudulent Breach of Contract Lawsuit is based upon and had acted in the fiduciary capacity of his alleged client "Ted" and failed to notify this Court or the proper criminal authorities of this slight fraud on the alleged Lost or Suppressed Trust by SPALLINA.

94. A. SIMON knew that "Ted" was not qualified to be Trustee of the Lost or Suppressed Trust when he filed his Lawsuit, as SPALLINA and THEODORE knew prior to filing that the Trustee was at best an "educated guess," therefore not legally qualified and who the beneficiaries of the Lost or Suppressed Trust were similarly a best guess and this is why Plaintiffs and SPALLINA proposed creating a NEW POST MORTEM TRUST where THEODORE stated he would volunteer to be "Trustee" of that NEW TRUST based on his belief that he was Trustee of the Lost or Suppressed Trust when SPALLINA filed his fraudulent insurance claim.

95. That if Pro Se'r ELIOT were to have filed a Lawsuit with a non-existent Plaintiff and representing improper legal names of Plaintiff's we could all laugh at ELIOT'S expense for his lack of legalese and lack of fact checking, but when this is accomplished by a seasoned Attorney at Law, as A. SIMON self-professes to be, there again can be no excuse for these glaring pleading deficiencies, as even ELIOT knows that the Plaintiff must legally exist to be a qualified party to a lawsuit and to use proper legal names when filing a Lawsuit.

96. That A. SIMON claims,

> 5) The goal of all Plaintiffs I represent is to prosecute their claims to the Policy proceeds as set forth in their First Amended Complaint (Dkt. #73).

97. That A. SIMON represents Plaintiffs that do not legally exist in certain circumstances discussed already herein and the other Plaintiffs claims lie under that NONEXISTENT LEGAL ENTITY and thus DO NOT LEGALLY EXIST IN THESE MATTERS EITHER.

98. That A. SIMON claims,

> 6) The goal of all cross, counter or third-party defendants I represent is to defeat the counter-claims, cross-claims and/or third-party claims made against them by ELIOT.

99. That A. SIMON should also mention here that he also represents himself in these matters, purportedly both professionally and personally if that is possible and the others, which also includes his law firm as defendant.

100. That A. SIMON claims,

> 8) I have had no involvement with ELIOT's inventions, patents, business or personal life, outside of a limited time he was selling life insurance as an agent of STP at the same time I was working for STP in the 1990's.

101. That ELIOT states that this is not exactly true either, as a long story relating to these matters will be shown, where D. SIMON, A. SIMON and The Simon Law Firm were in fact integrally involved with Iviewit's Intellectual Properties and were actually given a large volume of highly confidential information by both SIMON and ELIOT when it was discovered that the Intellectual Properties were attempting to be stolen by primarily the law firms SIMON and ELIOT had contracted as patent counsel, Proskauer Rose, LLP and Foley & Lardner LLP.

102. That SIMON in 2000 suggested that this information regarding the thefts and the criminal and ethical complaints ELIOT was filing in both State and Federal Criminal and Civil venues against the rogue law firms be given to D. SIMON to evaluate and help secure representative counsel. ELIOT then tendered this information to D. SIMON.

103. That D. SIMON stated he knew people at Hopkins & Sutter from SIMON'S connections where Hopkins & Sutter had done volumes of work and billable hours for SIMON and his insurance programs, including the Intellectual Property work for the ALPS program and the

mass legal documentation necessary for his innovative insurance programs and they would take a look at what could be done.

104. That then D. SIMON sued ELIOT,

IN THE CIRCUIT COURT OF THE 15TH JUDICIAL CIRCUIT
FOR PALM BEACH COUNTY. FLORIDA

"S.T.P. ENTERPRISES, INC. AND DAVID B. SIMON,
PLAINTIFF,
VS.
ELIOT I. BERNSTEIN AND "IVIEWIT," TECHNOLOGIES, INC.
DEFENDANT."

For the initial complaint please visit the URL @ http://www.iviewit.tv/STP%20LAWSUIT/2004%2003%2004%20STP%20Lawsuit.pdf , fully incorporated by reference herein.

105. That this Court should note here that the Simon Law Firm and David Simon and Adam Simon as partners filed this Lawsuit regarding the insurance business relation they had with ELIOT but then for some strange reason sued Iviewit???????

106. That ELIOT filed on March 18, 2004 Eliot Answer and Counter Complaint in http://www.iviewit.tv/STP%20LAWSUIT/2004%2003%2018%20STP%20Answer%20to%20Complaint%20Filed.pdf .

107. That ELIOT had threatened to notify Arbitrage related insurance carriers and clients that D. SIMON and P. SIMON had violated an agreement with ELIOT where he was to be paid ¼ percentage point on ALL Arbitrage Life Premium sold in perpetuity, for his 20 year contribution to the family's business growth through his sales efforts, which made him the largest salesman in the company, behind his father of course but it was close. That as P. SIMON and D. SIMON were getting the stock, ELIOT was getting this agreement for a

percentage of all funding raised by any agent anywhere and P. SIMON and D. SIMON breached the contract in order to drive ELIOT away and it worked, as ELIOT lost all respect for D. SIMON, A. SIMON, The Simon Law Firm and P. SIMON and went his own way when SIMON walked from them too shortly thereafter.

108. That ELIOT had also inked this deal with STP with the anticipation of honoring his agreement with a one, John E. Cookman, Jr. ("COOKMAN") who was with Frank B. Hall agent at through ELIOT'S business relation with him, he then led SIMON and ELIOT and STP into top Wall Street banks at the TOP, his father having been the CFO of Phillip Morris[3] for decades.

109. That COOKMAN introduced SIMON to the heads of ABN, CHASE, FIRST INTERSTATE BANK and many others who ended up doing hundreds of millions of dollars of premium for STP in their Arbitrage Life Plan. COOKMAN too anticipated getting paid 50% of ELIOT'S ¼ point interest in these dollars he raised with SIMON and trusted SIMON when these deals were made for STP and P. SIMON and D. SIMON breached their contract with ELIOT and thus COOKMAN also was deprived of his anticipated percentage of his ½ of ELIOT'S ¼ point.

110. That ELIOT was to get this percentage in perpetuity and all his contracted commissions for his nationwide sales force created wholly from his own company run from his college garage to his California companies garage, where he sold Billionaires and Multimillionaires to boot, giving great name recognition to the products as well as providing a massive growth in STP due to his own companies sales performance.

[3] http://www.nytimes.com/1982/08/22/obituaries/john-e-cookman72-is-dead-was-a-philip-morris-executive.html

111. That when D. SIMON and P. SIMON were gifted their inheritances in advance with the transfer of the companies by SIMON to them, they began a campaign to get rid of ELIOT and his ¼ point agreement and so they breached the contract with ELIOT, after SIMON was gone and left ELIOT with no choice but to sue them or notify the carriers and his clients and agents nationwide of their breach and the growing liability and risk to all parties involved, including a massive lapse of policies if ELIOT'S clients withdraw and massive calamities if COOKMAN'S referrals dried up on them for similar reasons.

112. That when ELIOT submitted them an ultimatum that he would notify all parties involved of their torturous breach of contract that put them all at risk, D. SIMON sued ELIOT and tried to stop him legally.

113. ELIOT countersued for approximately the six million dollars owed him to date at that time, even more now would be owed and after review of the counter complaint, the Judge hearing the case advised D. SIMON'S counsel that he should negotiate a settlement with ELIOT as ELIOT had provided the Court with adequate proof of a contract and that it appeared he would win a judgment for their breach.

114. On or about that same time, SIMON contacted ELIOT and asked that he withdraw the counter complaint and cease pursuing the lawsuit, as SHIRLEY had been further diagnosed with heart and cancer problems and this in family fighting could kill her. ELIOT promptly ceased further action and washed his hands of D. SIMON, P. SIMON and A. SIMON.

115. That SIMON promised ELIOT that he would leave him ample amounts through his inheritance to cover his losses and that he would pay ELIOT amounts he needed as necessary while alive if necessary and he did.

116. That ELIOT had started the Iviewit companies with SIMON, with SIMON a 30% stake holder in the Companies and Intellectual Properties and ELIOT a 70% stake holder and on or about the time of the STP counter complaint in 2003, ELIOT alleges that D. SIMON, The Simon Law Firm and A. SIMON, along with their friends from Hopkins & Sutter (where the Obama's both worked for a time) then sold or were otherwise acquired by Foley & Lardner and both ELIOT and SIMON feared that with the acquisition went all the private and confidential information of Iviewit regarding Foley & Lardner that ELIOT and SIMON had given to D. SIMON and The Simon Law Firm.

117. That ELIOT was further dismayed and SIMON too at the possibility that D. SIMON had provided FOLEY with this inside information through HOPKINS and then suddenly P. SIMON, D. SIMON are alleged to have become high rolling Internet Stock Players (both prior having reveled in the fact that they did not believe in computers and did not have one on their desks, boasting of this to clients and bankers alike) in the stock market making vast fortunes on companies that were using ELIOT'S technologies without paying royalties to ELIOT, as those royalties are alleged converted to both PROSKAUER and FOLEY illegally since that time.

118. That both ELIOT and SIMON washed their hands and SIMON tore his cloth or in Judaism mourned ones child as if deceased, strikingly the language both SIMON and SHIRLEY used in their dispositive estate documents when disinheriting P. SIMON, D. SIMON, THEODORE and their lineal descendants as predeceased.

119. That for what a nice guy ELIOT is, despite knowing that P. SIMON and D. SIMON had been intentionally left out of the Iviewit Companies, as SIMON had intentionally excluded them from Iviewit as he had washed his hands of them, so ELIOT requested Proskauer Rose

to make distributions of shares to both P. SIMON, D. SIMON and their daughter Molly Norah Simon, as well as, Theodore and his children when the company was a boomin with a $25 Million Dollar value, a Private Placement Memorandum in place with Wachovia (see http://iviewit.tv/CompanyDocs/Wachovia%20Private%20Placement%20Memorandum%20Bookmarked.pdf fully incorporated by reference herein) and Goldman Sachs (and that is a long story for another day involving these family matters) already signed up and referring clients for the IPO, this when IPO's were hot and this was to be one of the hottest IPO's ever, as the technologies were deemed to be the "HOLY GRAIL" of the Internet and "Digital Electricity" and valued in billions to trillions by leading engineers worldwide from leading FORTUNE hundred companies, many with contracts and licenses already in place.

120. That ELIOT'S technologies now over a decade and half old are the backbone technologies to over 90 PERCENT of Internet Traffic in the form of video and graphics transmitted that would not be possible without them. From a recent Cisco report.

> Highlights
>
> It would take an individual over 5 million years to watch the amount of video that will cross global IP networks each month in 2017. Every second, nearly a million minutes of video content will cross the network in 2017.
>
> Globally, consumer Internet video traffic will be 69 percent of all consumer Internet traffic in 2017, up from 57 percent in 2012. This percentage does not include video exchanged through peer-to-peer (P2P) file sharing. The sum of all forms of video (TV, video on demand [VoD], Internet, and P2P) will be in the range of 80 to 90 percent of global consumer traffic by 2017.
>
> Internet video to TV doubled in 2012. Internet video to TV will continue to grow at a rapid pace, increasing fivefold by 2017. Internet video to TV traffic will be 14 percent of consumer Internet video traffic in 2017, up from 9 percent in 2012.
>
> Video-on-demand traffic will nearly triple by 2017. The amount of VoD traffic in 2017 will be equivalent to 6 billion DVDs per month.

> Content Delivery Network (CDN) traffic will deliver almost two-thirds of all video traffic by 2017. By 2017, 65 percent of all Internet video traffic will cross content delivery networks in 2017, up from 53 percent in 2012.
>
> Globally, mobile data traffic will increase 13-fold between 2012 and 2017. Mobile data traffic will grow at a CAGR of 66 percent between 2012 and 2017, reaching 11.2 exabytes per month by 2017.
>
> Global mobile data traffic will grow three times faster than fixed IP traffic from 2012 to 2017. Global mobile data traffic was 2 percent of total IP traffic in 2012, and will be 9 percent of total IP traffic in 2017.
>
> Annual global IP traffic will surpass the zettabyte threshold (1.4 zettabytes) by the end of 2017. In 2017, global IP traffic will reach 1.4 zettabytes per year, or 120.6 exabytes per month. Global IP traffic will reach 1.0 zettabytes per year or 83.8 exabytes per month in 2015.
>
> Global IP traffic has increased more than fourfold in the past 5 years, and will increase threefold over the next 5 years. Overall, IP traffic will grow at a compound annual growth rate (CAGR) of 23 percent from 2012 to 2017.
>
> (http://www.cisco.com/en/US/solutions/collateral/ns341/ns525/ns537/ns705/ns827/white_paper_c11-481360_ns827_Networking_Solutions_White_Paper.html , fully incorporated by reference herein.)

That without ELIOT'S technology these numbers would be approximately 90% less and that equates to enormous royalties alone for Internet Video. Without ELIOT'S technology, low bandwidth cell video would be 0% and that is still not close to the total royalties owed ELIOT and SIMON, as the technologies apply to virtually the entire video content creation and distribution software and hardware made.

121. That ELIOT was then informed when seeking to secure $25 Million for the Private Placement Memorandum from AOLTW/Warner Bros. that the patents on file with the patent office were not the patents that Iviewit's patent attorneys and others had distributed to them as part of their patent disclosures and that it appeared that Iviewit's former patent counsel was patenting patents for Iviewit inventors in their own names and other unauthorized persons names.

122. That this was found to be true and ELIOT began to formulate criminal and civil actions against the perpetrators from the law firms, when a one, Brian G. Utley, former President of Iviewit and referred by Proskauer came to visit ELIOT in California and threatened ELIOT that if he exposed these crimes against the attorneys they would kill him and to watch out for he and his family's backs when he returned to Florida.

123. That Utley and Christopher Wheeler of Proskauer had also brought in Foley & Lardner's patent counsel, a one William Dick, former head of IBM'S far eastern patent pooling division to fix patents that were found deficient done by a one Raymond Anthony Joao, who is alleged to have put 90+ patents in his name after taking disclosures from ELIOT and instead Foley & Lardner was found putting patents into Utley's name and creating two sets of virtually identical patents with different inventors.

124. That it was also learned from AOLTW/Warner Bros. attorneys that Iviewit was in an Involuntary Bankruptcy and a Litigation with Proskauer for a billing dispute before Judge Jorge Labarga[4], that no one had mentioned to AOLTW/Warner Bros. when soliciting investment funds and which ELIOT had never heard of before either.

[4] ELIOT notes to this Court that the Probate Court Judge Martin Glenn, states in his Florida Bar resume that he Labarga was his mentor and ELIOT has been pursuing Labarga since the early 2000's when he allowed the fraud on his Court to continue and favored Proskauer in a lawsuit that will soon be appealed based on newly discovered evidence of Fraud that took place in that lawsuit. http://www.palmbeachbar.org/judicial-profiles/judge-martin-colin , fully incorporated by reference herein.

That ELIOT further states that Labarga was the beginning of ALL the problems ELIOT has had with the legal system since, as in covering up the Labarga lawsuit it was then found that the Florida Bar and New York Disciplinary Departments were infiltrated by Proskauer lawyers who acted illegally in blocking complaints against their law firms and well, from there, the rest of the story is online at www.iviewit.tv and the headlines recently posted at the Iviewit site homepage speak for themselves about the recent discovery that ELIOT'S RICO and ANTITRUST lawsuit and other related cases have been intentionally interfered with to OBSTRUCT JUSTICE and DENY ELIOT and Other Related Cases Due Process and these crimes are alleged to have occurred in the recent press articles by the heads of the New York Supreme Court Department Disciplinary Departments and other high ranking public officials. See Exhibit 2 – Expose Corrupt Court Articles and Information.

125. That ELIOT then went to war in the courts to protect his and SIMON'S Intellectual Properties where the royalties were being converted to the rogue lawyers and law firms they definitely had a monetary advantage and where these law firms were composed of thousands of lawyers who stood and stand to lose it all if ELIOT is successful in prosecuting them and gaining the royalties owed now for a decade and half.

126. That after being sold out by D. SIMON and P. SIMON to Hopkins & Sutter/Fooley & Lardner, SIMON and ELIOT stopped speaking with D. SIMON and P. SIMON in most business aspects and saw them only at rare family events they attended and purely on a superficial level as they no longer could be trusted as family or friend.

127. That FOLEY now however had inside information regarding whom ELIOT and SIMON had been working with at State and Federal Agencies across the country, what legal strategies were being laid and with whom and this seriously changed the schematics and endangered their efforts to prosecute PROSKAUER and FOLEY.

128. That after busting Proskauer attorneys at law in rigging bar complaints in Florida and New York, which caused a Court Order[5] for Investigation of the deceased PROSKAUER Partner Steven C. Krane, former New York Bar Association President and Departmental Disciplinary Kingpin, PROSKAUER Partner Kenneth Rubenstein (head of Proskauer's Patent Department founded after learning of ELIOT'S technologies and sole Patent Evaluator for the largest infringer of ELIOT'S technology, MPEGLA, LLC) and former Chief Counsel of the New York Supreme Court Departmental Disciplinary Committee First

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That ELIOT is not stating Judge Martin Colin is involved in these matters or has had conversations at any time with Labarga regarding Iviewit and the Estates of SIMON and SHIRLEY, ELIOT is just pointing out the apparently coincidental relation discovered.

[5] Court Order for Investigation of Krane, Cahill and Rubenstein
http://iviewit.tv/CompanyDocs/2005%2001%2010%20DiGiovanna%20Krane%20NY%20SUPREME%20COURT%20SECOND%20DEPT%20CERT.pdf

Department, Thomas Cahill and ELIOT at this time was elevating the Florida Corruption complaints involving Labarga and the Florida Bar straight into the United States Supreme Court[6].

129. That on the way to file such Supreme Court challenge of the public office corruption that had sued, a not so funny BOMB[7] went off in the Minivan of ELIOT'S family vehicle only a few hours before the family was to be in it.

130. That THEODORE was the last person to have had possession of the vehicle and had it towed to the first auto body shop where the Minivan was robbed and stripped of all the wiring, yet as the pictures in the already exhibited herein FBI letter link show the radio and tv were left, indicating that it was mainly the wiring the car was stripped of, indicating possible removal of the bugs and listening devices that had been planted.

131. That after the robbery of the Minivan, it was then strangely towed to another shop where it was to be repaired and leaving ELIOT'S wife CANDICE filing with the Supreme Court

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[6] For the Supreme Court Filing regarding these matters please reference the following URL @ http://iviewit.tv/supreme%20court/index.htm

IN THE Supreme Court of the United States
ELIOT I. BERNSTEIN, Petitioner,
v.
THE FLORIDA BAR, et al.,*
Respondents.

_____

On Petition for Writ of Certiorari to the Florida Supreme Court

_____

Petition's FOR: WRIT OF CERTIORARI; EXTRAORDINARY WRIT; HABEAS corpus; writ of prohibition and writ of mandamus

_____

In Forma Pauperis
Eliot I. Bernstein - Pro Se

[7] FBI Letter re Minivan's "SPONTANEOUSLY COMBUSTING" and blowing up ELIOT'S MINIVAN and cars next to it @ http://iviewit.tv/Image%20Gallery/auto/Auto%20Theft%20and%20Fire%20Master%20Document.pdf

filing on her bicycle in the pouring FLORIDA rain with two banker boxes full of filings for that court.

132. That when contacted finally to pick up the Minivan, only hours before Candice and the babies were to be in the car, it blew up and it is alleged by fire investigators that a police officer's radio frequency when passing by the vehicle in the early hours of the morning may have inadvertently set off the bomb prematurely, that it was stated that he videotaped much of the after effects of the explosion and resulting car fires.

133. That THEODORE'S involvement was further learned to be strange when ELIOT told FBI and other investigators that THEODORE had the vehicle towed by AAA but it was later learned from AAA that on the way to pick up the vehicle THEODORE had called AAA and cancelled his membership and the tow request and changed the tow operator who was a large client of a one Gerald R. Lewin, CPA, who was the person who had referred Iviewit to Proskauer Rose and his close personal friend, the estate planner for the Boca Raton, FL office of Proskauer, a one Albert Gortz ("GORTZ").

134. That LEWIN and GORTZ are two of the central alleged RICO conspirators who started this whole mess for ELIOT and his entire family and this world.

135. That ELIOT further states that Proskauer was contracted to do estate plans for SIMON and ELIOT to put the Iviewit stocks into their children's names prior to the IPO so that the growth would accumulate in their names instead of in ELIOT and SIMON'S names and then have the burden of transferring it to the children at death or sooner at the higher value.

136. That in that estate planning work that SIMON did, way back in 2000-2001, P. SIMON and her lineal descendants were already considered to be predeceased and disinherited, as about

this time D. SIMON and P. SIMON had breached their buyout terms with SIMON and he again was done with them.

137. That strangely enough and you thought it could not get stranger, an "EXHIBIT 1" is inserted into the record of SIMON'S estate, along with an alleged Will he allegedly signed only days before his death yet they are not bound together in any way and this alleged Will is prepared by Proskauer in 2001, yet it is not attached or referenced in the Will prepared by SPALLINA and TESCHER in 2012 and has no absolutely relation to any other document but yet, it clearly shows that P. SIMON had already been disinherited way back then. Further, it raises the brow as to why this was inserted into the record in the first place and by whom.

138. That it should be noted here that Proskauer Rose and TESCHER and SPALLINA apparently are closely related in the business and professional world, see the URL @ http://www.jewishboca.org/news/2012/03/04/pac/caring-estate-planning-professionals-to-honor-donald-r.-tescher-esq.-at-mitzvah-society-reception-on-march-27/ and http://blacktiemagazine.com/Palm_Beach_Society/David_Pratt.htm , both fully incorporated by reference herein.

139. That it is alleged that SIMON was horrified by the possibility of THEODORE'S possible involvement in the bombing and shortly after the bombing, while doing their replacement of Proskauer's estate plans with Tescher & Spallina, P.A. who THEODORE brought into picture claiming if SIMON did his estate planning work with them, THEODORE, who was just recovering from a bankruptcy he filed, would get substantial amounts of referrals, SIMON and SHIRLEY disinherited THEODORE in their 2008 estate plans.

140. That THEODORE on or about the time of the bombing then became overnight wealthy and went from bankruptcy to a six million dollar home on the intercostal and ocean in Boca Raton, FL and ELIOT alleges this was his pay from his new friends at Proskauer, including GORTZ from selling out ELIOT, similar to what D. SIMON and P. SIMON had done with their close friends at Hopkins Sutter/Foley & Lardner.

141. That THEODORE then introduced SIMON to the Sir Allen Stanford banking group, now infamous for the second largest PONZI scheme in the United States, only second to the Bernard Madoff Ponzi. That ELIOT states that behind both alleged "Ponzi" schemes is Proskauer Rose who had the most clients in Madoff (many of the alleged client victims of Madoff are now being found to have been co-conspirator feeder funds) and where Proskauer is being sued by the Court Appointed Receiver in the Stanford matters for Conspiracy and more for Proskauer's part in the architecting of the Stanford "Ponzi."

142. That ELIOT alleges and interceded in the Stanford SEC action claiming that both Stanford and Madoff are actually elaborate MONEY LAUNDERING schemes that were set up by Proskauer and others to launder the stolen royalties of ELIOT and other monies these law firms were making from other schemes they are involved in.

143. That in efforts to save his family it is alleged that SIMON contacted LEWIN and others and negotiated some form of peace agreement based on if you attempt to murder my son or harm his or our family again, SIMON would, along with others similarly situated, expose them and their crimes.

144. That SIMON was then introduced to the Stanford Ponzi bankers, whom he may have already known from Iviewit's dealings with Wachovia Securities, who Proskauer and others brought to Iviewit and where some are alleged to have transferred to Stanford, then to JP

Morgan and now at Oppenheimer. Follow the money here because it is important to what is going in this Court as well.

145. That SIMON and THEODORE are suddenly healthier on their net worth's to the tune of tens of millions and ELIOT is rescued by SIMON from living with his mother-in-law, whom he greatly loves, for ELIOT, CANDICE and their three infants were forced for the umpteenth time to flee their home, this time uprooting overnight with a bomb in the car necessitating the rush.

146. That ELIOT, CANDICE and their three boys then moved in with Ginger Stanger and her daughter, in a less than a 500 ft. sq apartment located in Red Bluff, CA, yes, 7 people in a two bedroom one shower box.

147. That for a few years while things were starting to pick up in ELIOT'S RICO and ANTITRUST, as the Honorable Shira A. Scheindlin related ELIOT and other public office corruption cases to a WHISTLEBLOWER lawsuit of a HEROIC and PATRIOTIC, Attorney at Law, yes, there actually are fabulous brave ones left and she qualifies as one of most powerful whistleblowers of our time exposing just how Wallstreet melted down due to systemic corruption at the highest levels of the Court disciplinary system and penetrating virtually the entire judicial system, from US Attorneys, to DA'S, to ADA'S, to heads of the Departmental Disciplinary Committees, to Governor's and Attorney General's, all in a massive corruption scheme that had disabled JUSTICE and her name is Christine C. Anderson, Esq. Prior to meeting Anderson at her hearing, where all of this was engraved in the Federal Court Record for history I, ELIOT, thought I was brave and heroic but this woman, this ethical and morally upright woman, a disciplinary ethics marvel, blew ELIOT and CANDICE'S minds and the whole courtroom, the transcript of the hearing proves

beyond fascinating as Anderson peels the onion reaching deep into the heart of the corruption by naming names, the "CLEANER," a one Naomi Goldstein, Thomas Cahill, the same guy ELIOT was pursuing for denying him due process and obstructing with Proskauer, the same guy ELIOT had ordered for investigation and she closes stating the corruption scheme operated with a select group of corrupted law firms, whose lawyers revolved through government offices to cover any crimes that were alleged against them and so at the top of prosecutorial and ethics offices they seized control and no complaints against them received due process from anywhere the public citizen harmed by them turned. Wonder why no one has gone to jail for Wallstreet crimes against our populace and none of the stolen monies recovered by the soft, if not wholly overtaken and defeated Department of Injustice. Monies stolen from little old ladies and babes mouths and virtually every American through their schemes, including but not limited to, deflated homes where they took a 50% loss in home values from intentional rigging of the home markets, intentional market crashes, libor fixing, subprime crap, derivatives (should be called delusionals) and virtually all of these legally complex schemes required Attorneys at Law to create them and were behind and profiting off the destruction of our country and where they are guilty and the whole world knows it. Yet, no courts or prosecutors have been successful in recovering these trillions of dollars from stolen by a handful of what appear to be rogue CRIMINALS DISGUISED as Attorneys at Law and a handful of corrupt judges and politicians, at the top in most instances.

148. That if this Court wants answers, ask Anderson, my hero and Scheindlin my other, my two most firm beliefs in the Justice system being saved from their already heroic efforts in making record.

149. That SIMON and ELIOT had agreed that ELIOT would distance himself from family and friends for a while SIMON tried to work something out to take the heat off our family and find out what was going on.

150. That ELIOT states SIMON and he then spoke and SIMON arranged an Advanced Inheritance Agreement and as mentioned it had conditions, ELIOT had to promise certain items in return for steady income and after being off the grid and working to prepare the Federal RICO and ANTITRUST and with no way to contact family and friends for help without putting them and their families in harm's way, except for some other brave/crazy/patriotic/heroic souls who became toxic helping ELIOT, as car bombs scare off even the most rational and make getting a job damn near impossible. In fact, when each time you start your car with your wife and children in the car, you can't imagine, it's a stressful job in and of itself.

151. That with the signing of the Advanced Inheritance Agreement, SHIRLEY again had medical malady news and ELIOT and CANDICE who were set to buy a home in EUREKA, CA asked SIMON and SHIRLEY if they thought it safe and they should come back to Florida so that SHIRLEY and SIMON could be with their grandchildren, as it would be impossible for them to fly out often and visit so far away, despite the inherent dangers of moving back to the hornet's nest, despite all agreeing that it was not safe, ELIOT and CANDICE decided it was more important to bring the grandchildren back, as they had ripped them away from SHIRLEY and SIMON virtually overnight, for the second time in their lives, both due first to DEATH THREATS and then a CAR BOMB.

152. That upon returning SHIRLEY and SIMON so overwhelmed that ELIOT and CANDICE would risk so much to bring them their grandchildren back then arranged for a home to be

purchased for ELIOT family, owned through an LLC that SIMON set up, that ELIOT'S children own to protect it from ELIOT'S many enemies and SHIRLEY had totally remodeled the home from ground up, inside and out, fully decorated in her exquisite style and ready to live from engraved towels for the kids, beds, furniture, it was perfect.

153. That instead of choosing a much larger more expensive home that they were considering, ELIOT and CANDICE chose a much lower priced home behind a beautiful private school, Saint Andrews, which again, weeks before school started SIMON and SHIRLEY had another surprise, for taking the smaller home came with tuition paid school for the three boys at Saint Andrews, a gift to the boys who had just come from almost four years of Top Ramen, Food Stamps, WIC and tight quarters.

154. That upon returning home to Florida everything seemed to be going incredibly well, whatever SIMON worked out with LEWIN et al. ELIOT was left alone for the most part by the hornets. That is up until the Stanford Ponzi blew wide open.

155. That here is where this epic piece of history takes yet another turn and SIMON and SHIRLEY are outraged that much of their investment funds were frozen and panic set in that this could have devastated the family, like a Madoff victim.

156. That ELIOT filed the intervener in Stanford and SIMON called him shortly thereafter and stated that if ELIOT would remove his pleading and withdraw as Trustee of his children's Stanford accounts then things might get better for the family sooner than later but ELIOT had to act fast.

157. That ELIOT agreed to remove his pleading in part, the part that stated ELIOT was suing on behalf of his children's accounts but it was agreed that ELIOT would leave in his claims with the Court that the Ponzi was actually a money laundering scheme architected by

Proskauer to launder ELIOT and others stolen royalties, already at that time in the tens to hundreds of billions and Madoff and Stanford were only two of the Ponzi's they were running and also using it to buy off politicians who had overnight accounts with Stanford.

158. That shortly after ELIOT withdrew, SIMON recovered almost all his monies back, which were primarily in blue chips and other safe investments and the only monies he lost were from Certificate of Deposits that were the bane of the Stanford Ponzi and are now in litigation in the Estate of SIMON, according to SPALLINA and TESCHER. It is believed that SIMON lost 1-2% of his holdings in the CD'S.

159. That it is believed that SIMON began to speak with state and/or federal authorities regarding Stanford and Iviewit and here is where trouble may have begun.

160. That SIMON may have been set up from that point to get rid of him by the same folks who wanted to get rid of his son and the series of events leading up to and after his death speak volumes to this theory and how they may have recruited further THEODORE and P. SIMON to aid in their efforts to silence and destroy SIMON.

161. That it appears that despite what P. SIMON'S note and the letter written by GENIN regarding P. SIMON'S myopic account of her and SIMON'S lives states, which claims that P. SIMON and THEODORE in November 2011 were "independently wealthy" and P. SIMON and D. SIMON built the companies from SIMON'S ruins was doing great and yet it is strange, so very very strange that just months later, in a May 2012 meeting P. SIMON and THEODORE were claimed by SPALLINA to be doing horrible in the businesses they had acquired due to this or that market condition and therefore wanted to be reinherited in the Estates of SIMON and SHIRLEY. In exchange they would stop torturing their father by withholding their children, his grandchildren from him, with this "tough love" aka elder

abuse scheme and leave him and his companion, a one Maritza Rivera Puccio ("MARITZA") alone from further abuse.

162. That if THEODORE and P. SIMON were "independently wealthy" at the time and according to P. SIMON, her father was nothing without her when she put him to pasture and retirement years earlier according to her lawyer GENIN'S account of the events written from her perspective of what she claims are "facts", yet prequalifies her claimed "facts" by starting her letter with the following caveat, "Following is my [GENIN'S] understanding of the circumstances under which you obtained your father's interest in S.T.P. Enterprises, Inc. ("STP"), which I understand can be supported by documentation." In other words, the facts expressed are based on documentation that the attorney at law has not seen or reviewed?

163. That ELIOT states that P. SIMON is clearly attempting to establish a false record of fact and giving it a legal flavor through her attorney's unsupported by evidence account, similar to what is occurring under her control, as A. SIMON and D. SIMON are her employees, in this Court with the false record being painted in the pleadings. P. SIMON'S intent appears clear, to claim that she was gifted nothing, her father was a bum that she took of care and therefore she was not compensated while SIMON and SHIRLEY were living and therefore attempting to establish a legal right back into the Estate distribution. Now she had a lawyer stating it with authority but based on nothing factual, like documents proving her wholly devoid of reality account of her and her father's lives and business dealings together.

164. That ELIOT does say a "kernel" of truth emerges when she claims that SIMON after the buyout began to sell insurance in Florida and competed with her by selling Arbitrage Life through his own deals wholly excluding her and with SIMON and ELIOT, the two largest salespeople with the largest sales forces nationwide for her agency gone, it appears things

may have gotten worse for P. SIMON, D. SIMON and their companies. Many of ELIOT'S clients and agents had already begun to jump ship on P. SIMON after witnessing the damage not only to ELIOT but others and found other outlets to buy insurance. Now with SIMON and his agents all abandoning her ship it may have begun to sink, causing her need to really work in efforts to save the companies.

165. That SIMON had considered them in breach of their contract to buy him out and pay his annual consulting fees and commissions and he began to supplement the loss by selling the products he invented. You can see that P. SIMON basically accuses SIMON of not only stealing "her" antique furniture but also her clients and even her website material on his Arbitrage product.

166. That in year 2007 SIMON took in addition to salary of $252,622.00 a shareholder share of current income of LIC Holdings, Inc. of 33% of $11,601,040.00 (86% cash distribution) or $3,867,013.33 for a total $4,119,635.33.

167. That in year 2008 SIMON took a salary of $3,756,298.00.

168. That in 2007-2008 SIMON took home a total $7,875,933.33

169. That THEODORE in the year 2007 THEODORE took in addition to a salary of $2,274,632.00 a shareholder share of current year income of 45% of the $11,601,040.00 (86% cash distribution) or $5,220,468.00 for a total of $7,495,100.00.

170. That in 2008 THEODORE took a salary of $5,225,825.00.

171. That in 2007-2008 THEODORE took home a total of $12,720,925.00.

172. That in an October 28, 2013 Evidentiary Hearing and September 13, 2013 Hearing in the Florida Probate Court, THEODORE and SPALLINA claimed that the ESTIMATED total net worth of the estates was FOUR MILLION DOLLARS, as they have never provided full

and accurate accountings and inventories, even just recently changing SIMON'S inventory to include a missing million dollars of alleged assets and where ELIOT has recently filed criminal and civil complaints for missing millions of dollars of SHIRLEY'S personal property, including $700,000.00 of Jewelry and a paid in full BENTLEY that were not inventoried in her Estate and listed as assets and mysteriously also do not appear on SIMON'S inventory.

173. That this estimated net worth, as no financials have been tendered to the Beneficiaries in violation of Probate Rules and Statutes, is far short of known assets, including but not limited to, a fully paid for Condominium that SIMON had listed at $2,195,000.00, his fully paid for home residence, which had an alleged minimal line of credit and was listed at $3,200,000.00 by SIMON shortly before he died in 2012, life insurance worth at minimum from the Lost or Suppressed Policy of allegedly $1,700,000.00, IRA's of another approximate $2,000,000.00, JP Morgan accounts with another minimum amount of $2,500,000.00 in just one account and you can see already that the estimates stated in the hearings before the Probate court were far short of factual data already known.

174. That the reason SPALLINA, THEODORE and P. SIMON want to lowball the Estates and Trusts is to loot the estates of the assets claiming nothing was there and further why they have suppressed and denied virtually all of the financial and other information in the estates from the True and Proper Beneficiaries for now over three years in SHIRLEY'S Estate and approximately sixteen months in SIMON'S Estate, in total disregard of Probate Rules and Statutes.

175.

176. That ELIOT states that THEODORE and P. SIMON'S intent is thwart the last wishes of their parents and convert the monies that they have NO interests in to themselves and thus their plan, once SIMON died, was to seize Dominion and Control of the Estates through a series of alleged Fraudulent and Forged documents and attempt to change the Beneficiaries of the Estates POST MORTEM to include THEODORE, P. SIMON and their lineal descendants through a series of frauds and fraud on the Probate Court.

177. That this is not because they need the monies but rather to further harm ELIOT and his efforts against their new found friends and bedfellows, ELIOT'S enemies and further harm ELIOT and his children and deny him his inheritance.

178. That once seizing the Estates with the help of THEODORE'S close personal and business associates TESCHER and SPALLINA, they have systematically began to unravel the Estate plans of SIMON and SHIRLEY designed mainly to protect ELIOT and his children, similar to how they are trying to unwind SIMON'S insurance policy by SUPPRESSING AND DENYING the Lost or Suppressed Trust and the Lost or Suppressed Policy in this Court and to the insurance carriers involved.

179. That on or about 2009, SHIRLEY was diagnosed with further deadly lung cancer, whereas her prior lung cancer was a more manageable type that came from breast cancer radiation, this was bad bad news for SHIRLEY and SIMON and meant the end was near as she had already had large swathes of her lung(s) removed over the years.

180. That SIMON stated he was packing up shop basically after SHIRLEY'S death, his spirit to work had finally soured, his relationship with THEODORE had eroded, he had enough money and he was thinking of early retirement at 74. SIMON, unlike P. SIMON'S account that has him retiring in 1987 was wholly distorted, as yes, after his recovery from his

quadruple bypass and other heart fixes, SIMON was on full disability and could no longer act in the same capacity in his companies and he invited P. SIMON and D. SIMON into the companies to take over the day to day management and operations that he had done in addition to his sales capacity and he focused in on sales only and traveled the country closing insurance sales that made him and the companies millions annually and fed his flock well, including A. SIMON, D. SIMON and P. SIMON who had marble offices with full staff, while ELIOT and his college buddies did all the heavy sales, marketing, software design and more out of their garages in California through ELIOT'S companies that were 100% owned and built by ELIOT.

181. That SIMON frequented California quite often from 1987-1997 to close some of ELIOT'S biggest clients and he never left a meeting without an Application Signed and he also traveled throughout the country closing accounts for his entire field force.

182. That after ELIOT introduced SIMON to COOKMAN they closed hundreds of millions of dollars of Arbitrage Premium Financing from the largest banks in the world, which again produced for the companies P. SIMON was gifted in large part and this MASSIVE GROWTH was from ELIOT and SIMON'S sales and contacts alone, their company was soon managing nearly a billion dollars of premium and making a pretty penny on the spread in commissions and trust fees.

183. That this man who was earning millions a year in income through the 90's as he had done in the 80's and 70's, is the same poor un-reputable, antique furniture stealing, client pilfering, disabled with heart disease and hepatitis retired by his loving daughter's good graces and purchase of his MAGNIFICENT MILE condominium on Oak and Michigan Avenue in the heart of the Chicago Projects, almost bedridden in pasture lovingly provided for by his over

generous daughter who paid top dollar of her "independent wealth", SIMON is portrayed as in P. SIMON'S letter written by her lawyer GENIN, who states her opinion of SIMON through P. SIMON'S eyes.

184. That ELIOT contacted the Palm Beach Sheriff Office to investigate a boatload of State and Federal offenses being committed, starting with the FORGED and FRAUDULENTLY NOTARIZED documents in the Estate of SHIRLEY and the Fraud on the Probate Court and True and Proper Beneficiaries. These are some of the "kernels" of truth A. SIMON refers to as "document irregularities and/or notarial misconduct" and ELIOT refers to as ADMITTED FORGERY and FRAUDULENTLY NOTARIZED DOCUMENTS, SIX COUNTS, including one document that was FORGED and NOTARIZED POST MORTEM using a deceased SIMON'S identity.

185. That ELIOT has asserted all of the following criminal and civil acts to State and Federal authorities regarding the activities of Plaintiffs and others for investigation and ruling,

    i. Alleged Murder of SIMON. That THEODORE on the day SIMON died ordered the Sheriff to the home of SIMON, CASE NUMBER 12121312 PALM BEACH COUNTY SHERIFF and on information and belief the Sheriff contacted was referred to THEODORE by his "lawyers." This incident was listed in the Official Report as a call for a "395.3025(7)(a) and/or456.057(7)(a}[8] Medical information" and ELIOT

[8] Title XXIX PUBLIC HEALTH Chapter 395 HOSPITAL LICENSING AND REGULATION 395.3025 Patient and personnel records; copies; examination.—
(7)(a) If the content of any record of patient treatment is provided under this section, the recipient, if other than the patient or the patient's representative, may use such information only for the purpose provided and may not further disclose any information to any other person or entity, unless expressly permitted by the written consent of the patient. A general authorization for the release of medical information is not sufficient for this purpose. The content of such patient treatment record is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

has sought clarification of how either of these applies to what the Officers responded to. ELIOT was also amazed by the lack of care and securing of evidence in the matter by PBSO and THEODORE informed ELIOT that his "friends" would take care of these matters at the higher up levels at PBSO later and this was just an initial intake. See Exhibit ___ - Palm Beach County Sheriff Report

That THEODORE also contacted the Coroner's office on the day SIMON died, again through referrals from his "lawyer friends" to report that SIMON was poisoned and murdered and demanded an Autopsy and where recently this case, Case No. CASE NUMBER: 12-0913 Palm Beach Medical Examiner Office has been reopened to run poison screening heavy metal tests on SIMON over a year after he died, which are still in processing and that were not initially run by the Coroner's office, despite the fact that they had been notified that SIMON may have been poisoned by his companion MARITZA. See Exhibit ____ - Palm Beach County Medical Examiner Report.

ii. Extortion of ELIOT. That Plaintiffs and others have been involved in attempts to hijack companies of ELIOT'S family left as his and his children's inheritance, which companies pay home and other expenses of ELIOT and his family for many years. That recently THEODORE and SPALLINA have fraudulently taken over the Companies, which receive the bills and expenses for ELIOT'S family home and started a campaign of terror and extortion of ELIOT and his children, tampering with the bills and shutting down utilities, food and schooling of ELIOT'S family, without notice or authorization to even handle such bills.

See Exhibit _____ - Letters to THEODORE and SPALLINA et al.

That on September 04, 2013, ELIOT filed Docket #TBD, in the estate of Simon, a

> **"NOTICE OF EMERGENCY MOTION TO FREEZE ESTATES OF SIMON BERNSTEIN DUE TO ADMITTED AND ACKNOWLEDGED NOTARY PUBLIC FORGERY, FRAUD AND MORE BY THE LAW FIRM OF TESCHER & SPALLINA, P.A., ROBERT SPALLINA AND DONALD TESCHER ACTING AS ALLEGED PERSONAL REPRESENTATIVES AND THEIR LEGAL ASSISTANT AND NOTARY PUBLIC, KIMBERLY MORAN: MOTION FOR INTERIM DISTRIBUTION DUE TO EXTORTION BY ALLEGED PERSONAL REPRESENTATIVES AND OTHERS; MOTION TO STRIKE THE MOTION OF SPALLINA TO REOPEN THE ESTATE OF SHIRLEY; CONTINUED MOTION FOR REMOVAL OF ALLEGED PERSONAL REPRESENTATIVES AND ALLEGED SUCCESSOR TRUSTEE."**
> www.iviewit.tv/20130904MotionFreezeEstatesSHIRLEYDueToAdmittedNotaryFraud.pdf , hereby incorporated by reference in entirety herein.

186. That A. SIMON leaves out critical parts of the FELONY misconduct of TESCHER, SPALLINA, THEODORE and MANCERI that Judge Martin Colin stated he had enough evidence to read them Miranda Warnings over, for filing months of closing documents in SHIRLEY'S Estate with SIMON acting as Personal Representative/Executor while he was dead with his Judge Colin's court and other Felony acts he became aware through the hearings. Where ELIOT is pursuing criminal charges with State and Federal authorities currently for these and a host of other crimes related to the looting of SIMON and SHIRLEY'S Estates of an estimated Forty Million Dollars or more.

187. That SIMON does deal to save ELIOT life he gets Stanford accounts, he signs Advanced Inheritance Agreement and makes ELIOT pull out references to THEODORE, D. SIMON, IANTONI, and FRIEDSTEIN'S husband Jeffrey Friedstein ("J. FRIEDSTEIN") of Goldman Sachs ("GOLDMAN") from all web references (other than filed criminal and civil

actions) and pull them out of future actions and he also asks that ELIOT do the same for his LEWIN.

188. That SIMON and SHIRLEY had also disinherited them because they had already taken so much in value from them that the other children did not get the pump to the family's wealth, the long established businesses and intellectual properties of their father.

189. That A. SIMON claims,

> 9) I verily believe that ELIOT's third-party claims filed against me, David Simon and The Simon Law Firm were filed for the improper purpose of attempting to manufacture a basis for ELIOT's motion to disqualify.

190. That ELIOT claims that for the mere fact that A. SIMON filed the complaint,

i. without a qualified legal Plaintiff, the Lost or Suppressed Trust,

ii. without a legal Trustee of the NONEXISTENT Trust,

iii. with an improperly named ALLEGED Trustee "Ted" of the Lost or Suppressed Trust,

iv. again an apparently NONEXISTENT Defendant Heritage, as Your Honor so eloquently pointed out in the January 13, 2014 hearing before this Court,

v. on behalf of an ALLEGED Contingent Beneficiary, while knowing the Primary Beneficiary exists and making efforts to conceal this from this Court and ELIOT and others,

vi. for a breach of a contract filed with this Court based upon the denial of an alleged fraudulent insurance claim filed by SPALLINA and MORAN, with SPALLINA acting as Trustee for A. SIMON'S clients the Lost or Suppressed Trust and "Ted,"

vii. for failing to notify all the known possible beneficiaries of the Lost or Suppressed Policy of this Lawsuit and instead secreting it with intent to perpetrate a fraud on the True and Proper Beneficiaries,

viii. for failing to notify authorities of SPALLINA and MORAN'S felony misconduct constituting alleged MISPRISION OF FELONY(IES) and more.

191. That A. SIMON claims,

> 10) Despite these manufactured claims and because my interests as a third-party defendant are aligned with the parties I represent, I remain steadfast in my belief that there is no conflict in this case.

192. That ELIOT claims this statement appears to state that while he admits that he is conflicted because as a defendant he aligns with other defendants, he therefore is not conflicted in representing the other defendants his interests are aligned with making his representation impartial and conflicted or ELIOT is missing something.

193. That A. SIMON claims,

> 11) I have had approximately three contacts with attorney, Robert Spallina and possibly one contact with attorney, Donald Tescher. Those contacts focused on obtaining a copy of Tescher and Spallina's file relating to the matters involved in the above captioned litigation.

194. That A. SIMON claims,

> 12) I had no involvement with Tescher and Spallina's representation of the Estates of Simon or Shirley Bernstein, or Tescher and Spallina's legal representation of Simon or Shirley Bernstein prior to their deaths.

195. That A. SIMON claims,

> 14) It is my understanding that the alleged misconduct in the probate of the Estates involved document irregularities and/or notarial misconduct.

196. That this false statement to cover the arrest of the Notary Moran for FELONY misconduct in creating FORGED documents etc. tries to minimize the truth instead of embrace what is already factual information that these were FELONY crimes.

197. That A. SIMON claims,

> 17) I never had custody or control of the Wills, Trusts or insurance policies of Simon or Shirley Bernstein including the Bernstein Trust Agreement.

198. That ELIOT states that A. SIMON would not have searched his Law Firms Offices for these documents as stated in his Amended Complaint if he never had possession, these are more reasons he will be called as a material and fact witness in these matters creating Adverse Interests.

199. That A. SIMON claims,

> 18) I am unaware of the existence of any facts or circumstances which would prevent me from continuing my representation of all of my clients and myself, free from any conflict of interest or other disqualifying factor.

(See Affidavit of Adam M. Simon attached hereto and made a part hereof as Exhibit 1.)

ELIOT COMMENTS ON A. SIMON'S STANDARD OF REVIEW

200. That A. SIMON claims,

> ELIOT has failed to set forth a standard of review in his motion. In case law cited herein, court's are required to base their findings of fact regarding a motion to disqualify on evidentiary hearings, or at a very minimum sworn affidavits. ELIOT has attached no sworn affidavit to his motion and has shown no reasonable cause for an evidentiary hearing. Thus, there are no facts of record regarding

my representation nor any disqualifying factors. Absent a factual record, this court cannot make the requisite finding of facts for ELIOT to prevail on his motion. For this reason alone, ELIOT's motion must be denied.

But, the following guidance is instructive regarding how a court should view a motion to disqualify:

"….we also note that disqualification, as a prophylactic device for protecting the attorney/client relationship, is a drastic measure which courts should hesitate to impose except when absolutely necessary. A disqualification of counsel, while protecting the attorney/client relationship also serves to destroy a relationship by depriving a party of representation of their own choosing. (citations omitted) We do not mean to infer that motions to disqualify counsel may not be legitimate and necessary; nonetheless, such motions should be viewed with extreme caution for they can be misused as techniques of harassment. Freeman v. Chicago Musical Instrument Co., 689 F.2d 715, 721 (7th Cir. 1982)."

In a separate opinion, the court put it this way:

Disqualification is a drastic measure that courts should impose only when absolutely necessary. Mr. Weeks, as the movant, has the burden of showing facts requiring disqualification. Weeks v. Samsung Heavy Industries Co., Ltd. 909 F.Supp. 582 (N.D. Ill., 1996)

In Freeman, supra, the court rejected movant's motion to disqualify because the movant failed to provide a factual record to determine whether the attorney at issue in that case knew confidential information regarding the opposing party that would justify disqualification. In

Weeks, supra, the court ultimately rejected movant's motion to disqualify because the movant's grounds for disqualification were based on "bald assertions unsupported by either an affidavit or evidence." Weeks, 909 F.Supp. at 583.

201. That whether ELIOT filed his Motion properly or not is not of concern until this Court determines if A. SIMON filed this Lawsuit properly in the first place. The Court should act on its own Motion to dismiss this Lawsuit and award a default judgment against Plaintiffs for filing a frivolous Lawsuit.

202. That A. SIMON claims,

> A. ELIOT'S Third-Party claims and motion to disqualify violate Fed. R. Civ. Pro. 11 in that they were filed for improper purposes and are not well grounded in fact or law.
> Fed. R. Civ. P. 11(b) provides in pertinent part as follows:
> Representations to the Court. By presenting to the court a pleading, written motion, or other paper – whether by signing, filing, submitting, or later advocating it
> – an attorney or unrepresented party certifies that to the best of his knowledge, information, and belief, formed after an inquiry reasonable under the circumstances:
> (1) It is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation;
> (2) the claims, defenses and other legal contentions are warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or establishing new law;
> (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigations or discovery; and
> (4) the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on belief or a lack of information.

203. That ELIOT has filed his claims based on factual information chalk full of evidentiary support that this Lawsuit is a Fraud on this Court and Fraud on the Beneficiaries of SIMON'S Estate.

204. That A. SIMON claims,

> On December 22, 2013, I sent a letter to ELIOT reminding him that the court had previously admonished him regarding a motion to disqualify and the requirement for such a motion to comply with Rule 11. I further stated my belief that his motion to disqualify and strike pleadings violated Rule 11, and I provided an opportunity for him to withdraw the motion.
> Despite the warnings he received, ELIOT has chosen to pursue his motion.

205. True, ELIOT threw the letter in the garbage after reading it.

206. That A. SIMON claims,

> B. ELIOT'S motion is devoid of a factual record and thus his motion is not well grounded in fact.
> Although it is difficult to discern from his motion, ELIOT seems to be arguing that the complaint I filed on behalf of my clients is groundless and baseless. If that were so, ELIOT has opportunities to attack the pleading, but instead he has chosen to attack me. ELIOT asserts that my involvement in alleged misconduct relating to the probate of his parents' estates (the "Estates") prohibit me from representing my clients. ELIOT'S motion is full of libelous innuendo but devoid of any facts that illustrate misconduct or any participation in the probate proceedings on my part.
> In contrast, my attached affidavit contains my sworn denials of any involvement in the probate matters in Palm Beach County, including any involvement in alleged misconduct.
> Absent a factual record from which this court can render a decision, ELIOT'S motion must fail.

207. That ELIOT has not attacked A. SIMON, he has stated multiple grounds for his disqualification.

208. That A. SIMON claims,

> C. ELIOT'S motion fails to set forth a legal standard or authority necessary for the court to grant the relief he has requested. Thus, his motion is not well grounded in law.
> ELIOT's third-party claims, counterclaims, and motion to disqualify and strike pleadings, merely recite ELIOT's theories and positions but fail to establish that there are a set of facts which exist that would entitle him to the relief he demands as a matter of law. Instead of setting out the facts and law for the court, he proffers theory and innuendo, stating that this is "my position" and then asking the court to investigate and figure out whether his "position" has any merit.

209. That ELIOT has established that when there is no beneficiary at the time of death, the law mandates the proceeds of the insurance policy are paid to the Insured.

210. That A. SIMON claims,

> D. ELIOT's counterclaim was manufactured for the improper purpose of disqualifying me and denying my client's their choice of counsel. In so doing, he is attempting to needlessly increase the expense of litigation.
> As noted in Freeman, supra, granting a motion to disqualify "destroys a relationship by depriving a party of representation of their own choosing". The clients I represent in this matter have chosen to act jointly, in large part, to efficiently prosecute their common claims while reducing the associated legal fees and costs. ELIOT's efforts appear to be targeted to increase the expense and time needed for all parties to resolve this matter.

211. That it appears A. SIMON is admitting that he is conflicted but claiming ELIOT made the conflicts somehow. ELIOT does intend to deprive Plaintiffs of conflicted counsel.

212. That A. SIMON claims,

> E. ELIOT'S counterclaim and motion were manufactured for the improper purposes of harassment and attempting to cause harm to my reputation and those of my clients.
> ELIOT is currently utilizing this same abusive litigation tactic in the Probate proceedings in Palm Beach County, FL. On or about January 2, 2014, ELIOT filed a motion in the probate estate of Simon Bernstein styled as follows:
>
> **MOTION TO:**
> **(I) STRIKE ALL PLEADINGS OF MANCERI AND REMOVE HIM AS COUNSEL;**
> **(II) FOR EMERGENCY INTERIM DISTRIBUTIONS AND FAMILY ALLOWANCE;**
> **(III) FOR FULL ACCOUNTING DUE TO ALLEGED THEFT OF ASSETS AND FALSIFIED INVENTORIES;**
> **(IV) NOT CONSOLIDATE THE ESTATE CASES OF SIMON AND SHIRLEY BUT POSSIBLY INSTEAD DISQUALIFY YOUR HONOR AS A MATTER OF LAW DUE TO DIRECT INVOLVEMENT IN FORGED AND FRAUDULENTLY NOTARIZED DOCUMENTS FILED BY OFFICERS OF THIS COURT AND APPROVED BY YOUR HONOR DIRECTLY;**

(V) **THE COURT TO SET AN EMERGENCY HEARING ON ITS OWN MOTION DUE TO PROVEN FRAUD AND FORGERY IN THE ESTATE OF SHIRLEY CAUSED IN PART BY OFFICERS OF THE COURT AND THE DAMAGING AND DANGEROUS FINANCIAL EFFECT IT IS HAVING ON PETITIONER, INCLUDING THREE MINOR CHILDREN AND IMMEDIATELY HEAR ALL PETITIONER'S PRIOR MOTIONS IN THE ORDER THEY WERE FILED.**

(See excerpts from ELIOT'S 68 page motion in the Probate proceedings in Palm Beach County, attached to Adam Simon's Affidavit as Exhibit B, at p.2).

In the motion, ELIOT demands from the probate court a myriad of relief including not only disqualifications of a number of attorneys, but also the judge, himself. ELIOT's motions are designed to harass the court, and its officers. Where there has been alleged misconduct in the probate proceedings it is my understanding that such misconduct has been reported to both the authorities and the court.

213. That ELIOT'S efforts to remove the conflicted and feloniously acting counsel in the estate courts has paid off, as Attorneys at Law, SPALLINA, TESCHER and MANCERI have all resigned as counsel and submitted Withdrawal of Counsel papers to the courts. SPALLINA and TESCHER are further withdrawing as Co-Personal Representatives / Executors.

214. That the FELONY misconduct discovered was only reported to authorities through ELIOT and CANDICE'S excellent forensic work and discovery of FORGERY and FRAUDULENT NOTARIZATIONS, it is not like anyone came forward and confessed.

215. That A. SIMON claims,

One of the main reasons ELIOT files such motions is in an attempt to freely slander and libel anyone whom he confronts that does not do what he says when he says its. In his motion, ELIOT states about my client, Ted Bernstein, and Tescher and Spallina, the

former attorneys or Simon and Shirley Bernstein and their Estates as follows:

12. That due to the Proven and Admitted Felony acts already exposed and being prosecuted, the ongoing alleged criminal acts taking place with the Estates assets, the fact that Spallina and Tescher are responsible not only for their alleged criminal acts involving Fraud on this Court and the Beneficiaries but are wholly liable for the FELONY acts of Moran of FORGERY and FRAUDULENT NOTARIZATIONS, is just cause for all of the fiduciaries of the Estates and Trusts and counsel thus far be immediately removed, reported to the authorities and sanctioned by this Court. This disqualification and removal is further mandated now as Theodore, Spallina, Manceri and Tescher all have absolute and irrefutable Adverse Interests now with Beneficiaries and Interested Parties, especially Petitioner who is attempting to have them prosecuted further for their crimes and jailed and all their personal and professional assets seized through civil and criminal remedies and their reputations ruined for their criminal acts against his Mother and Father's Estates and Trusts." (emphasis added.)

(See Exhibit B attached to Adam Simon's Affidavit at par. 12). ELIOT'S bold-faced, glaring description of his own malicious intent proves beyond doubt his contempt for the judicial system, officers of the court, and members of his own family.
ELIOT even has the audacity to demand from the probate judge, that he rule on all of ELIOT'S previously filed and pending motions in the "order they were filed." (See Exhibit B at pg. 2 of 68, attached to Adam Simon's Affidavit).

216. That ELIOT retracts nor redacts any of these claims but notes that A. SIMON is defaming and slandering him by stating this is ELIOT'S intent when defamation and slander are defensible with TRUTH and ELIOT has only told the truth in these matters to the best of his ability.

217. That ELIOT does intend on dragging those involved in the Estate heists through violation of their Attorney Conduct Codes or Oaths of Office through the mud and further have them incarcerated for their felonious misconduct.

218. That A. SIMON claims,

> In ELIOT's motion to disqualify and strike pleadings pending before this court, ELIOT states in pertinent part as follows: Defendant, A. SIMON, can no longer be unbiased either as counsel for himself or others, especially where there is adverse interest in the matter that could put him behind bars for felony crimes alleged herein, that he is a central party to." (Dkt. #58 at Par. 70). ELIOT spews such false allegations with malicious intent and to cause harm. I, for one, can no longer permit ELIOT to wreak havoc in this litigation free from fear of any meaningful sanction. Which is why, if the court denies ELIOT's motion to disqualify me, I shall file a separate motion seeking sanctions from the Court that will include, but are not limited to, withdrawal of ELIOT's filing privileges absent leave of the court for each pleading and/or motion he desires to file in this matter in the future.

219. That A. SIMON should worry not about sanctioning ELIOT with his superpowers but worry more about being sanctioned for filing a Lawsuit so void of legal standing as to make it precedent setting and an example of what not to do in Law School 101. A. SIMON should worry that this Fraud on a US District Court to commit Insurance Fraud will land him in prison soon.

220. That A. SIMON claims,

> G. ELIOT'S motion is styled as a motion to disqualify and strike pleadings actually seeks relief well beyond that. ELIOT, in his motion to disqualify and strike pleadings seeks a myriad of relief from this court far too extensive to regurgitate in full. Suffice to say however, that his demand for $8 million from me, in a motion to disqualify, provides additional irrefutable evidence that he has filed this motion for an improper purpose. The number $8 million is tossed about by ELIOT with total disregard for me or this court because he does so without a shred of evidence to support it.

221. ELIOT has sought eight million dollars of damages, as the Lost or Suppressed Policy Appears to be $2,000,000.00. Since no policy has been provided to prove this amount for certain it is only an assumption at this time and since no beneficiaries can be claimed proven

as that information appears suppressed and denied to intentionally deny the True and Proper Beneficiaries of the death benefits, ELIOT has concluded that the beneficiary may be him alone for two million or any of his children alone for the whole two million and thus since no one can legally prove otherwise these seem to be the extent of the damages caused by losing the policy and trusts from sloppy record keeping or alleged fraud by all of those involved in this frivolous Breach of Contract Lawsuit and responsible for these damages. Therefore, Eliot plus his children each could have been the sole beneficiary and thus each has been damaged for at least two million and thus 2 million times 4 is eight million dollars, which is the relief sought.

222. That ELIOT has sought more for pain and suffering and this macabre scene created has cost ELIOT and his family much grief and sadness and financial distress and when it is family like this, it is treble damages emotionally.

223. That A. SIMON claims,

> ELIOT's prayers for relief also demand that this court order all children and grandchildren of Simon Bernstein to seek their own separate counsel. Such a demand is designed solely to increase the cost and expense of this litigation beyond the point of any rational economic sense. Again, ELIOT makes these demands purportedly on behalf of relatives whom are not represented in this litigation, because they were not named by the Insurer in its interpleader action nor by any other party to the litigation. Also, neither ELIOT nor any of the relatives purportedly represents can offer any evidence or documentation that would support a claim to the Policy proceeds. That would explain their absence in this case.

224. That A. SIMON again fails to see that the Estate of the Insured is paid the proceeds when no beneficiary is present at time of death and here we are over a year after time of death and A. SIMON fumbles in Court to try and build a legally qualified beneficiary and has failed again and again to put forth any legal proof of his clients beneficial interests in the Lost or

Suppressed Policy. With no legal Plaintiff and no legal Defendant in his Lawsuit this Lawsuit and his clients claims are WORTHLESS and ELIOT and the grandchildren who are beneficiaries of the Estates would be.

225. That A. SIMON knew all this being a seasoned Attorney at Law but choose to conceal these facts from the Court and the Estate beneficiaries with scienter.

226. That A. SIMON claims,

> H. ELIOT'S motion violates the Northern District's Local Rules, LR 7.1 in that it exceeds page limitations without leave of the court.
> LR 7.1. Briefs: Page Limit
> Neither a brief in support of or in opposition to any motion nor objections to a report and recommendation or order of a magistrate judge or special master shall exceed 15 pages without prior approval of the court. Briefs that exceed the 15 page limit must have a table of contents with the pages noted and a table of cases. Any brief or objection that does not comply with this rule shall be filed subject to being stricken by the court.
> ELIOT'S motion is over twice the length permitted by LR 7.1 and it was filed without leave of the court. In addition, the motion also contains over 125 pages of exhibits. Most of
> ELIOT'S motion is devoted to the probate proceedings in Palm Beach County, Florida as opposed to the issues in the case at bar. In fact all of ELIOT's pleadings in this matter violate this rule. ELIOT's 34 page motion to disqualify with over 120 pages of exhibits is likely the shortest pleading he has filed in this matter to date. For violating LR 7.1, ELIOT's motion should be stricken by the court.

227. That ELIOT prays that this is not the only defense, for he should not worry about page length violations when his whole Lawsuit is a violation not only of this Court's rules but of STATE and FEDERAL FELONY LAWS.

ELIOT'S COMMENTS ON A. SIMON'S CONCLUSION

228. That A. SIMON claims,

> ELIOT, as movant, had the burden of establishing the facts showing that the drastic remedy of disqualifying me as attorney for my clients is required in this instance. ELIOT failed to proffer any factual record in support of his motion. ELIOT also failed to articulate any legal authority supporting his motion and the myriad of relief he requests from this court. For all the foregoing reasons, this court should deny ELIOT'S motion to disqualify and strike pleadings, in its entirety.

229. That ELIOT has said enough to have A. SIMON disqualified and arrested for FELONY FRAUD and more.

230. A. SIMON claims, "17) I never had custody or control of the Wills, Trusts or insurance policies of Simon or Shirley Bernstein including the Bernstein Trust Agreement." That ELIOT therefore asks why his law firms offices were searched for the missing Lost or Suppressed Trust aka "Bernstein Trust" if they never had custody or control.

231. That ELIOT also asks where the newly discovered alleged drafts came from and how they fell from the sky during his Rule 26 disclosure as newly manufactured worthless alleged drafts of the NONEXISTENT Trust.

232. That Judicial Cannons also require the reporting of alleged misconduct of Attorneys at Law acting before this Court to the proper authorities where there is sufficient evidence of criminal or ethical misconduct.

233.

234. That if this Court so deems it necessary for ELIOT to more formally file a proper legal pleading to remove A. SIMON, than ELIOT seeks guidance from the Court in what is necessary to formalize and fix his Motion and allow time to Amend properly and fit all these crimes alleged into the page limits.

Wherefore, for all the reasons stated herein, ELIOT prays this Court remove A. SIMON from any legal representations for others before this Court and Disqualify him and remove all pleadings as improperly filed on behalf of a nonexistent legal entity, demand proof of his retainer agreement with the Lost or Suppressed Trust to act on its behalf and the rule a Default Judgment in favor of ELIOT. Further Sanction and Report the Attorneys at Law involved for their violations of Attorney Conduct Codes and **State and Federal Law**. Award damages sustained to date and continuing in excess of at least EIGHT MILLION DOLLARS ($8,000,000.00) as well as punitive damages, costs and attorney's fees and any other relief this Court deems just and proper.

Respectfully submitted,

/s/ Eliot Ivan Bernstein

Dated: Thursday, January 23, 2014

Eliot I. Bernstein
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Certificate of Service

The undersigned certifies that a copy of the foregoing Reply to Response to Motion to Remove Counsel was served by ECF to all counsel, and E-mail on Thursday, January 23, 2014 to the following parties:

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EXHIBIT 1

EXHIBIT 2

EXHIBIT 3

EXHIBIT 4