

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

SIMON BERNSTEIN IRREVOCABLE )  
INSURANCE TRUST DTD 6/21/95, )  
 )  
Plaintiff, )  
 )  
v. ) Case No. 13-cv-03643  
 )  
HERITAGE UNION LIFE INSURANCE )  
COMPANY, )  
 )  
Defendant. )  
----- )  
HERITAGE UNION LIFE INSURANCE )  
COMPANY, )  
 )  
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. )  
----- )

Honorable Amy J. St. Eve  
Magistrate Mary M. Rowland

Reply to Tescher and Spallina  
Motion to Dismiss

<b>ELIOT IVAN BERNSTEIN,</b>	)
	)
<b>Cross-Plaintiff,</b>	)
	)
<b>v.</b>	)
	)
<b>TED BERNSTEIN individually and</b>	)
<b>as alleged Trustee of the Simon</b>	)
<b>Bernstein Irrevocable Insurance Trust</b>	)
<b>Dtd. 6/21/95</b>	)
	)
<b>Cross-Defendant</b>	)
	)
<b>and</b>	)
	)
<b>PAMELA B. SIMON, DAVID B. SIMON</b>	)
<b>both Professionally and Personally,</b>	)
<b>ADAM SIMON both Professionally and</b>	)
<b>Personally, THE SIMON LAW FIRM,</b>	)
<b>TESCHER &amp; SPALLINA, P.A.,</b>	)
<b>DONALD TESCHER both Professionally</b>	)
<b>and Personally, ROBERT SPALLINA</b>	)
<b>both Professionally and Personally,</b>	)
<b>LISA FRIEDSTEIN, JILL IANTONI,</b>	)
<b>S.B. LEXINGTON, INC. EMPLOYEE</b>	)
<b>DEATH BENEFIT TRUST, S.T.P.</b>	)
<b>ENTERPRISES, INC.,</b>	)
<b>S.B. LEXINGTON, INC., NATIONAL</b>	)
<b>SERVICE ASSOCIATION, INC.</b>	)
<b>(OF FLORIDA) NATIONAL</b>	)
<b>SERVICE ASSOCIATION, INC.</b>	)
<b>(OF ILLINOIS) AND</b>	)
<b>JOHN AND JANE DOE'S</b>	)
	)
<b>Third Party Defendants.</b>	)

## **POTENTIAL BENEFICIARIES<sup>1</sup>:**

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<sup>1</sup> 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;**

**REPLY TO MOTION TO DISMISS FILED BY TESCHER AND SPALLINA**

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 (“S. BERNSTEIN”), a “Simon Bernstein Irrevocable Insurance Trust dtd. 6/21/95” (“Lost or Suppressed Trust”), a “Simon Bernstein Trust, N.A.” (“Lost or Suppressed Trust 2”) and the Estate and Trusts of S. BERNSTEIN, all parties related to these matters, some that do not legally exist at this time 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<sup>2</sup>.

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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.

<sup>2</sup> 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 Cir 1990), 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.

## **REPLY TO MOTION TO DISMISS FILED BY TESCHER AND SPALLINA**

1. That SPALLINA and TESCHER, waste more time, energy and resources of this Court, ELIOT and other collateral damage parties to this vexatious, frivolous, fraudulent and toxic lawsuit that is part of a continuing and ongoing Pattern and Practice of FRAUD, committed by TESCHER, SPALLINA and others, involving recent arrest and prosecution of Tescher & Spallina Legal Assistant and Notary Public, Kimberly Moran (“MORAN”) for admitted FORGERY (including POST MORTEM FORGERY of SIMON) and admission of ALTERING DOCUMENTS in the Estate of SHIRLEY by Attorney at Law SPALLINA to change beneficiaries and convert and comingle funds to improper beneficiaries. See exhibits at the following URL'S, fully incorporated by reference herein.
  - i. Palm Beach County Sheriff Supplemental Report – SPALLINA ADMITS ALTERING TRUST DOCUMENTS [www.iviewit.com](http://www.iviewit.com),
  - ii. Palm Beach County Sheriff Department – Moran
2. That SPALLINA and TESCHER have been removed from the Estates and Trusts of SIMON and SHIRLEY and have been involved and admitted to involvement in **FORGERY, FRAUD, FRAUDULENT NOTARIZATIONS, ALTERING DOCUMENTS POST MORTEM IN THE ESTATES TO CHANGE BENEFICIARIES** and more.
3. That SPALLINA and TESCHER make claims that they do not belong in this lawsuit and seek to dismiss the cross complaint based on lots of mumbo jumbo horseshit, since this whole lawsuit begins with their FELONY CRIMINAL ACTS of INSURANCE FRAUD, whereby SPALLINA filed a FRAUDULENT INSURANCE CLAIM, acting in a variety of FRAUDULENT ROLES as an alleged Trustee of both an alleged missing and lost trust and

an Corporate Trustee, LaSalle National Trust, N.A. SPALLINA'S claim was denied and he was directed to seek a Florida Probate Court Order for the scheme he was proposing, in part to hide monies from creditors of the estate and to convert and comingle funds to improper parties, similar to the Fraud he admits to in altering Trust Amendments to change beneficiaries POST MORTEM.

4. That this lawsuit for breach of contract, is based on the denial of SPALLINA'S FRAUDULENT INSURANCE CLAIM that was filed in JACKSONVILLE ILLINOIS, making his claims about this or that jurisdiction and having no dealings in Illinois more lies and deceit. That in fact, instead of waiving and accepting service of the Cross Claim, they forced resources to be expended hunting them down for service.
5. That as now former Co-Personal Representatives / Executors of the Estate of SIMON they should have been a party to this case all along, protecting the Estate's beneficiaries (when they are finally determined) and instead knowing of this matter and having alleged fiduciary powers over the Estate, they hid in the corner and did not voluntarily join on behalf of the Estate. There is now a new Curator chosen for the Estate of Simon, a one Benjamin Brown, Esq. and ELIOT believes that he will be making an appearance in this matter shortly on behalf of the Estate of SIMON, the beneficiary according to the State of Florida law whereby if there is no beneficiary at time of death, the proceeds are paid to the Insured's Estate.
6. That SPALLINA and TESCHER make false claims to this Court, which seems to be there Modus Operandi when claiming that ELIOT is trying to bring the Estates of SHIRLEY and SIMON into this lawsuit, when in fact he has made no such claims, only to point out the felony criminal acts that have been prosecuted and admitted to by TESCHER and SPALLINA et al., in other crimes that are related to the Estate of SIMON and SHIRLEY and

where this insurance contract is now an asset of the Estate of SIMON, which was attempted in part through this FRAUD ON A US DISTRICT COURT to be converted and comingled illegally to the defendant parties aided and abetted by direct acts of TESCHER, SPALLINA, MORAN and THEODORE et al.

7. ELIOT could go on for hundreds of pages with more evidence than already submitted in prior pleadings illustrating INSURANCE FRAUD and FRAUD ON CORPORATE TRUSTEES by SPALLINA in his original claim form but fears the ire of this Court in violating page limits or failing to state a claim or perhaps more aptly stating way to many claims, taking note that he has been chastised by the Court for these infarctions, while Officers of this Court and Defendants (where many are Attorneys at Law) are breaking numerous FELONY CRIMINAL ACTS, INCLUDING FRAUD IN AND UPON THIS US DISTRICT COURT BY CRIMINALS DISGUISED AS ATTORNEYS AT LAW, FRAUD ON INSURANCE COMPANIES, FRAUD ON TRUST COMPANIES, WHOLLY IMPROPER PLEADINGS with NON EXISTENT PLAINTIFFS, IMAGINARY TRUSTEE PLAINTIFFS, IMAGINARY CONTRACTS SUED UPON, FRAUD UPON THE TRUE AND PROPER BENEFICIARIES OF THE ESTATES AND TRUSTS OF SIMON and more.
8. That ELIOT will trust Your Honor's honor and know that these two scum, TESCHER and SPALLINA, who have violated law to disgrace my Father and Mother, in conspiracy with THEODORE and P. SIMON et al., need to be parties to this party as they are the central conspirators who initiated this whole FRAUD and are liable for much of the damages and thus the life of the party too.

Wherefore, for all the reasons stated herein, ELIOT prays this Court reject Tescher and Spallina's Motion to Dismiss. 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: Wednesday, February 5, 2014

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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 Wednesday, February 5, 2014 to the following parties:

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**EXHIBIT 1 - SPALLINA INSURANCE CLAIM FORM**