IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT OF FLORIDA, IN AND FOR PALM BEACH COUNTY, FLORIDA

IN RE:

ESTATE OF SIMON L. BERNSTEIN,

Deceased.
_____/

Case No. 502012CP004391XXXXNBIH

Honorable Judge Rosemarie Scher

MOTION TO ACCEPT EXHIBIT BY ELIOT I. BERNSTEIN AS BENEFICIARY AND INTERESTED PERSON WITH STANDING AS EXHIBIT FOR JUNE 15 2017 STATUS CONFERENCE THAT WAS IMPROPERLY NOTICED TO PARTIES AND FUTURE UPCOMING HEARINGS

EXHIBIT
7TH CIRCUIT COURT OF APPEALS MOTION

COMES NOW Eliot I. Bernstein, pro se, as a beneficiary and interested person in the Estate of Simon Bernstein who respectfully submits this EXHIBIT FOR JUNE 15 2017 STATUS CONFERENCE which consists of the attached 7TH CIRCUIT COURT OF APPEALS MOTION which notifies the 7th Circuit Court of Appeals of the ongoing frauds in Florida and Eliot Bernstein's intent to file for Injunctive relief in the Federal Courts and further file to remove certain of the Fiduciaries and Counsel in these Florida cases for misconduct shown, ongoing fraud, fraud on the court, violation of statutory and fiduciary duties which have been Witnessed and heard by Judge Scher and for other grounds as well.

WHEREFORE, Eliot respectfully seeks this Court to docket the attached Motion to the 7th Circuit Court as an Exhibit for the improperly scheduled hearing of June 15, 2017.

Dated: June 15, 2017

By: /S/ Eliot Ivan Bernstein
Eliot Ivan Bernstein, Pro Se
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished to counsel of record and the proper parties on the attached Service List via the Court's e-portal system or Email Service on this 15th day of June, 2017.

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EXHIBIT 1

UNITED STATES COURT OF APPEALS

FOR THE SEVENTH CIRCUIT

APPEAL NO. 17-1461

SIMON BERNSTEIN IRREVOCABLE INSURANCE TRUST DTD. 6/21/95, et al. , Plaintiffs-Appellees,	) Appeal from the United States) District Court, Northern District of) Illinois, Eastern Division.)
V.	) LC No. 1:13-CV-O3643) John Robert Blakey, Judge
HERITAGE UNION LIFE INSURANCE CO., et al., Defendants-Appellees.	)) **APPELLANT'S MOTION**
APPEAL OF: ELIOT BERNSTEIN, Cross and Counter-Claimant- Appellant.	) **TO ACCEPT LATE**) **JURISDICTIONAL**) **MEMORANDUM AND**) **PERMISSION TO**) **ELECTRONICALLY FILE**) **AND OTHER RELIEF**

COMES NOW ELIOT I. BERNSTEIN, APPELLANT PRO SE, WHO RESPECTFULLY PLEADS AND SHOWS THIS COURT AS FOLLOWS:

1. I, Eliot Ivan Bernstein, am Appellant pro se.
2. I respectfully make this Motion to Accept my late filing of the Statement of Jurisdiction in response to this Court's Orders and further for permission to File Electronically through the ECF system in the future, to accept my Informa Pauperis statement, to exceed the Page limits on my Jurisdiction statement if needed, and for leave to cure any other defects or requirements by this Court.

3. It is respectfully submitted to this Court that good cause is shown in the filing of this motion which I believe has merit and is not frivolous and request that the motions be granted so this Appeal may be fully heard on the merits.
4. As shown herein, in addition to substantial recurring electrical and power problems at Appellant's home spanning over the last 2 months and ongoing causing computers and other work equipment to go out and other Hacking into Appellant's online "repository" of documents and website, Appellant has been continually engaged in unraveling and sorting out massive frauds which is something Appellant repeatedly notified the US District Court about and where Appellant has repeatedly had to seek extensions of time in the Florida State Courts due to repeated sharp practices and fraudulent filings.

CHANGE OF CIRCUMSTANCES, LAW SINCE ENTRY OF ORDER ON APPEAL

5. There has been a substantial change of circumstances since the entry of the District Court's Order on Summary Judgment which was directly predicated in part upon a clearly erroneous factual and legal determination that Appellant Eliot Bernstein was not a "beneficiary" with "standing" in either the Estates or Trusts of Simon and Shirley Bernstein which was then used by the District Court in its Summary Judgement Order on Appeal on "collateral estoppel" grounds which was clearly erroneous on multiple grounds including applying the clearly erroneous "legal

standard" for Collateral Estoppel by applying Illinois law instead of the law of Florida where the Orders occurred as this is a Diversity of Citizenship case for jurisdiction as cited in Appellant's response to the Summary Judgment ("Round 2").

6. Respectfully, this Court should see that Appellant was clearly a "beneficiary" "with standing" and remains such in the Simon Bernstein Estate case where there has Never been an Order of any Court to the contrary, but Appellant also is and always was a "beneficiary with Standing" in the Shirley Bernstein Estate case and by the express terms of the Shirley Trust was an expressly "named" Beneficiary of the Shirley Trust which became "irrevocable" upon her passing which was prior to Simon Bernstein's passing.
7. Appellant had moved for "Injunctive relief" in the State Court of Florida even prior to the "removal" of the "Insurance litigation" herein to Federal Court on or about May 16, 2013.
8. This "Injunctive" relief filed in the State Court was predicated upon the "then discovered" Frauds and forgeries of Dispositive documents filed in the Shirley Bernstein Estate case by attorneys working for and with Ted Bernstein, the alleged "Trustee" and Plaintiff in this action being attorneys at Tescher and Spallina who were the Estate Planners for Simon and Shirley Bernstein and made themselves Personal Representatives of the Estates and Co-Trustees of Trusts.

9. As shown by Appellant's Answer and Counterclaims in this case and by a Motion for Injunctive Relief filed in the US District Court in this action in Feb. of 2016, the "same parties" involved with the frauds in the State of Florida cases are the same as those frauds before the US District Court where no "original" documents have been produced and all key dispositive Documents like the Insurance Policy and alleged controlling Trust have all allegedly become "lost" and "missing".
10. To the contrary, Appellant has alleged this is all part of a fraudulent scheme to "control" the Assets and Disposition of Assets and take away Appellant's "standing" and right to be heard after Appellant has exposed frauds and crimes in both actions and reported same to Federal and State investigative authorities.
11. Attached is a recent Order of Florida 15th Judicial Circuit Judge Scher which confirms that I, **Appellant, Eliot I. Bernstein am in fact a Beneficiary of the Simon Bernstein Estate which thus changes the circumstances and facts upon which the District Court issued its Order.**
12. Further, Judge Scher has also found that Ted Bernstein, who is the Plaintiff in this case, is adverse to the Estate of Simon Bernstein and has a conflict of interest involving the Illinois Insurance action and yet as later shown herein, continues to act "in unity" with the Estate PR Brian O'Connell to "control" Discovery and documents and the frauds and litigation in both this "Insurance" action and the Florida cases.

13. As this Court will note, while I have attempted in good faith to cite to the Docket Entries in the Record of the US District Court of the Northern District of Illinois in both the Jurisdiction Statement and this motion herein, there are references to newly discovered facts and change of circumstances which have occurred after the issuance of the Order being Appealed and this Court's Orders which I believe are important and while I have attached some of these items in hard copy print, it would be burdensome to do so for the entire motion and would further delay the filing of these papers and I request permission to Electronically file in the future and if required by this Court, to supplement my filings Electronically.

UNDISPUTED CLEAR AND CONVINCING PROOF OF ONGOING FRAUD BY PLAINTIFF TED BERNSTEIN, HIS COUNSELS ALAN B. ROSE, ESQ. AND ADAM SIMON, ESQ. AND INTERVENOR PR BRIAN O'CONNELL, ESQ. FOR THE ESTATE OF SIMON BERNSTEIN ACTING IN CONCERT AND ACTIVE CONCEALMENT OF THE FRAUD DIRECTLY IMPACTING THE US DISTRICT COURT'S ORDER ON SUMMARY JUDGMENT "NEWLY DISCOVERED" AFTER ISSUANCE OF THE SUMMARY JUDGMENT ORDER ON APPEAL; FRAUD THAT HAS BEEN CONCEALED FROM BOTH THE US DISTRICT COURT AND NOW THIS 7TH CIRCUIT US COURT OF APPEALS DESPITE APPELLANT'S REQUEST OF FLORIDA 15TH JUDICIAL CIRCUIT JUDGE SCHER TO NOTIFY ALL PROPER AUTHORITIES

14. The U.S. District Court below, Northern District of Illinois, abused its discretion acting clearly erroneously by failing to determine any actual proof or evidence in the Record and submitted on Summary Judgment by the Plaintiffs to support the

False and Fraudulent claim by Ted Bernstein and Counsels Adam Simon and Alan Rose that Appellant Eliot Bernstein is not a beneficiary of the Estate of Simon Bernstein, lacks standing and is barred from that Probate action lacking standing asserted as collateral estoppel which was improperly relied upon by the District Court in granting Summary Judgment dismissing all of Appellant's claims.

15. On Jan. 30th, 2017, Appellant notified the US District Court prior to the actual issuance of the Order now on Appeal in part "about important circumstances in the Florida Courts which I believe are consistent with what I notified this Court about in my All Writs petition ***where there is Direct collusion between the parties in the Florida proceedings which are impacting the Integrity of this Court's proceedings and path to Judgment.*** Specifically, **that in Florida, the Estate of Simon Bernstein and PR Brian O'Connell are now directly acting in Unity with Ted Bernstein and Alan Rose and even permitting Ted Bernstein's attorney Alan Rose to act as the Counsel for the Estate which is a major conflict of interest.** This conflict has also been raised in Florida by the Creditor's attorney Peter Feaman, Esq. and **Hearings are scheduled in a few weeks in Florida to address this Conflict** and it is also important to note **that these hearings are before a new Judge, Judge Scher,** and **all the Orders that the Plaintiffs are relying upon for Collateral Estoppel before this Court** were

issued by a **Judge Phillips who has now left the Bench prematurely and retired."** See, US District Court Docket No. 271 filed Jan. 30, 2017.

16. This Court should note that the "Ted Bernstein" Plaintiffs and the Estate of Simon Bernstein as Intervenor are the only remaining parties left in the case and yet these parties are not only acting in "unity" but doing so in such a "controlled manner" as to further and protect the frauds at play as shown in the All Writs but now further proof has emerged showing this scheme even further where **there is no "real controversy"** left before the District Court but instead an **"inside, secret deal and negotiation" amongst parties acting in fraud and misconduct.**

17. The US District Court was repeatedly apprised of these Conflicts including in the All Writs Act Motion for Injunction of Feb. 2016, Par. 4, providing in part, "**until this Court sorts out conflicts of interest as set out herein and exercises its inherent powers to probe "side deals" compromising the integrity of this Court's Jurisdiction and that such injunction should specifically include** but not be limited to enjoining proceedings before Judge Phillips in Palm Beach County" (emphasis added). See, Case: 1:13-cv-03643 Document #: 214 Filed: 02/24/16 Page 3 of 132 PageID #:3637.

18. Further in the All Writs Motion for Injunction Appellant moved the District Court stating "that sufficient evidence will be shown **to justify this Court exercising its inherent powers to make inquiry of the parties and respective counsels**

about"side agreements" and other "agreements" outside the record of any proceedings impairing the integrity of proceedings in this Court similar to the inquiry discussed in Winkler v. Eli Lilly & Co., 101 F.3d 1196, 1202 (7th Cir. 1996)" (emphasis added). See, Document #: 214 Filed: 02/24/16 Page 11 of 132 PageID #:3645.

19. Thus, the District Court had been moved for relief under **Winkler v. Eli Lilly & Co. 101 F.3d 1196, 1202 (7th Cir. 1996)** and the All Writs Motion itself set out sufficient grounds for relief. Appellant respectfully asserts that further grounds now exist for Injunctive relief and notifies this Court that it will be moving for Injunctive relief under the Rules.

20. The **U.S. District Court's Order on Appeal (Docket Entry No. 273) appears in all material respects in this part of the Order to be *no more than a simple "copy and paste" by the Court of False statements and arguments submitted* by Plaintiffs' attorney Adam Simon which have been regurgitated into an official federal Court Order with no evidence, proof or documents in support, a *"fraud within a fraud" in an ongoing series of frauds*.**

21. Plaintiffs and their attorney Adam Simon had wholly failed to submit ANY Order or Judgment from Florida showing Appellant was not a Beneficiary in the Estate of Simon Bernstein and lacked standing in the Estate of Simon Bernstein. Of course, legally, the Plaintiffs and Adam Simon could not submit such an Order ***as No Such***

Order exists as this never happened in the Florida state Courts but instead Plaintiffs and Counsel Adam Simon simply knowingly "stated False Facts" to the US District Court that this was the case and such an Order existed in efforts to wholly remove Plaintiffs Constitutionally protected Due Process and Procedure Rights .

22. The US District Court below appears to have **bought into this fraud *"hook, line and sinker" without requiring any Proof or evidence*** as the Order on Appeal not only makes reference to these False Facts stated by Adam Simon but instead of Citing to some actual Order or Judgment document from Florida provided in the Summary Judgment filings, the District Court simply cites to the Statement of Facts submitted by Counsel Adam Simon for Plaintiffs.

23. For example, the US District Court states in the Order on Appeal, "First, Eliot cannot sustain cognizable damages related to the disposition of the Estate or the testamentary trust in light of the Probate Court's rulings. The Probate Court found, inter alia, that Simon Bernstein's "children – including Eliot – are not beneficiaries" of the Will of Simon Bernstein or the related testamentary trust. **[240] at 11."** See, US District Court Order Docket No. 273 pages 7-8. The US District Court had made it clear in FOOTNOTE 1 that, " ***The facts are taken from the parties' Local Rule 56.1 statements and the Court's previous rulings [106, 220]. [240] refers to Plaintiffs' statement of material facts."*** Thus, the US

District Court simply ruled based upon a section of False Statement of Facts from Plaintiffs citing to Plaintiffs Statement of Facts **[240] at 11** that had NO Orders attached or submitted used to provide the Findings and language that the District later gives "preclusive effect to" and thus, a fraud within a fraud, a lie within a lie.

SORTING OUT THE FRAUD AND THE FRAUDS WITHIN THE FRAUD, UNPEELING THE ONION:

24. Part of the basis for Appellant to respectfully move this Court to accept the separate Jurisdictional Statement is for this Court to consider, as shown and stated to the US District Court, the painstaking amount of time it takes and has taken to continually unravel the "lie within a lie of a lie" or "fraud within a fraud of a fraud" that this case has been from the outset as pleaded by the Appellant in the original Answer (Docket No. 35 Filed: 09/22/13) and multiple other filings including a Motion for Injunctive Relief under the All Writs Act filed Feb. 24, 2016 (Case: 1:13-cv-03643 Document #: 214 Filed: 02/24/16) and of course Docket No. 271 above and other filings.
25. I respectfully request this Court to **carefully examine Appellant's Motion for Injunction under the All Writs Act filed by Appellant Feb. 24, 2016** as it is not only **relevant to this Court's Jurisdiction to hear this Appeal** having moved for Injunctive relief at the District Court, but further provides a roadmap to the **Documented "Missing Millions" Unaccounted for in these cases, "Missing**

Originals" and documents and Discovery in general, "Missing Witnesses", pervasive frauds herein and "sharp practices" by the parties against Appellant including the pervasive "conflicts of interest" which have been "controlling the withholding of Discovery" and "Discovery used as a Weapon" throughout these related proceedings.

26. This Court is respectfully referred to Exhibit 10 of Plaintiffs' Summary Judgment motion (1 of 2 "Probate Orders submitted by Plaintiffs) which is a "Final Judgment" on "validity" of Testamentary instruments from Judge Phillips in Florida issued Dec. 16, 2015 while the parties were awaiting the first Summary Judgment determination from the US District Court (Summary Judgment filings "No 1 from summer of 2015).

27. Paragraph 2 of that Final Judgment provides: "Based upon the evidence presented during the trial, the Court finds that the Testamentary Documents, as offered in evidence by Plaintiff, are genuine and authentic, ***and are valid and enforceable according to their terms."*** See, Adam Simon and Plaintiffs "Round 2" Summary Judgment filing Exhibit 10, Case: 1:13-cv-03643 Document #: 240-11 Filed: 05/21/16 Page 3 of 6 PageID #:4193.

28. **Instead of the Plaintiffs actually attaching the Will of Simon Bernstein *so the US District Court could see the "terms" of the Will of Simon Bernstein,*** Plaintiffs attorney Adam Simon simply made False Statements of Fact in the Statement of

Facts submitted on Summary Judgment "Round 2" and in the Memorandum supporting the motion quoting from Attorney at Law Adam Simon presently licensed as follows:

"**The Probate Orders entered after trial include findings that (i) Eliot is not beneficiary of the Estate of Simon Bernstein; (ii) appoint a guardian ad litem for Eliot's children; and (iii) Eliot has no standing in the Probate Actions on behalf of himself, the Estate or his children.**" See, Case: 1:13-cv-03643 Document #: 241 Filed: 05/21/16 Page 11 of 17 PageID #:4263

29. Further from Adam Simon, "**The Probate Orders bar Eliot from the Probate Actions to represent his own interests,**" See, Case: 1:13-cv-03643 Document #: 241 Filed: 05/21/16 Page 11 of 17 PageID #:4263

ATTORNEY ADAM SIMON ACTING FOR TED BERNSTEIN CONTINUING FALSE AND FRAUDULENT STATEMENTS NOW USED BY THE US DISTRICT COURT IN THE ORDER ON APPEAL WHICH BEGAN WITH TED BERNSTEIN'S COUNSEL ALAN B. ROSE MAKING FALSE AFFIRMATIVE STATEMENTS OF FACT AND FRAUD UPON THE COURT IN FLORIDA:

30. This "fraud" that Appellant was not a "beneficiary" in the Simon Bernstein Estate case that Ted Bernstein's attorney Adam Simon has used before the US District Court below began with Ted Bernstein's attorney Alan Rose falsely claiming this to then "new" Judge Phillips in Florida in an after hours filing on the eve of a

Status Conference in the Simon Bernstein Estate case. See Ted Bernstein and Attorney Alan Rose Status Conference filing in Florida as follows:

Ted and Rose in Filing # 32030300 E-Filed 09/14/2015 05:18:25 PM

"TRUSTEE'S OMNIBUS STATUS REPORT AND REQUEST FOR CASE MANAGEMENT CONFERENCE"

"**Introduction - The overarching issue in these cases is Eliot Bernstein. He is not named as a beneficiary of anything**; yet he alone has derailed these proceedings for more than two years and has harassed and attacked the prior judges, fiduciaries and their counsel." (See, full document to be uploaded upon Permission to file Electronically or supplement this filing)

31. As shown in my All Writs filing, this lead to Appellant being denied fundamental rights to be heard and due process even in the "Scheduling" of the alleged "one day" "Validity Trial" that has then been used before this Court to wrongly dismiss all my claims and remove me from the action which had been scheduled in the Shirley Bernstein Trust case which was not even "Noticed for Status Conference" and thus in direct violation of Florida Procedural Laws. See, All Writs Motion Feb. 2016.
32. On or about Jan. 4, 2016 just a few weeks after this "Validity Trial", Ted Bernstein's attorney made the following False and clearly Fraudulent Affirmative

Statement of Fact in a Motion to the Florida Court to remove my "standing" in the cases as follows:

"**As a result of upholding these documents, the Court has determined that Eliot Bernstein, individually, is not a beneficiary of either Simon's or Shirley's Trusts or Estates.** Instead, his three sons are among the beneficiaries of both Simon's and Shirley's Trusts, in amounts to be determined by further proceedings. **Eliot lacks standing to continue his individual involvement in this case.**" See, Jan. 4, 2016 Motion by Ted Bernstein-Alan Rose to be submitted Electronically upon permission or to be supplemented.

33. This statement, however, by this attorney at law Alan Rose, was clearly False and Fraudulent as Judge Phillips had Never done the Acts being claimed as already occurring and none of these alleged acts or findings are in existence in the "Final Judgment" (See, Adam Simon and Plaintiffs "Round 2" Summary Judgment filing Exhibit 10 Probate Order, Case: 1:13-cv-03643 Document #: 240-11 Filed: 05/21/16 Page 3 of 6 PageID #:4193.) and the Transcript of the Validity Trial. Instead, this is simply a FALSE and Fraud Upon the Court scheme and narrative that continued for over a year in the Florida Courts and as alleged in the Appellant's All Writs Motion for Injunctive relief is part of the wrongful scheme to gain "collateral estoppel" advantage in these proceedings.

ACTUAL WILL LANGUAGE OF SIMON BERNSTEIN

34. While Appellant maintains various legal arguments and objections to any determination of "validity" of Testamentary Wills and Trusts from the Florida proceedings, ARTICLE I of the Simon Bernstein Will upheld and used by Plaintiffs for "collateral estoppel" actually provides by its express terms:

> ARTICLE I. TANGIBLE PERSONAL PROPERTY
>
> I give such items of my tangible personal property to such persons as I may designate in a separate written memorandum prepared for this purpose. I give to SHIRLEY, if SHIRLEY survives me, my personal effects, jewelry, collections, household furnishings and equipment, automobiles and all other non-business tangible personal property other than cash, not effectively disposed of by such memorandum, **and if SHIRLEY does not survive me, I give this property to my children who survive me**, **[emphasis added]** divided among them as they agree, or if they fail to agree, divided among them by my Personal Representatives in as nearly equal shares as practical, and if neither SHIRLEY nor any child of mine survives me, this property shall pass with the residue of my estate."

35. Thus, being a natural born child and son to Simon Bernstein who has survived him, the express language of the Will itself which Judge Phillips held to be enforceable "by its terms" establishes Appellant as a "beneficiary" in the Estate of Simon Bernstein with Standing. See, Will of Simon Bernstein 2012 to be submitted upon permission to file Electronically.

ACTUAL WILL LANGUAGE OF SHIRLEY BERNSTEIN HAS SAME LANGUAGE MAKING APPELLANT A "BENEFICIARY" WITH STANDING IN THE SHIRLEY BERNSTEIN ESTATE WHERE

APPELLANT WAS EXPRESSLY NAMED AS A BENEFICIARY IN THE NOTICE OF ADMINISTRATION:

36. The actual Will language of the Shirley Bernstein "Will" which was "validated" by the Probate Order (Exhibit 10) advanced by Plaintiffs and Adam Simon expressly makes Appellant a beneficiary with Standing.

WILL OF
SHIRLEY BERNSTEIN
Dated May 20, 2008

I, SHIRLEY BERNSTEIN, of Palm Beach County, Florida, hereby revoke all my prior Wills and Codicils and make this Will. My spouse is SIMON L. BERNSTEIN ("SIMON"). My children are TED S. BERNSTEIN ("TED"), PAMELA B. SIMON, **ELIOT BERNSTEIN [EMPHASIS ADDED]**, JILL IANTONI and LISA S. FRIEDSTEIN.

ARTICLE I. TANGIBLE PERSONAL PROPERTY

I give such items of my tangible personal property to such persons as I may designate in a separate written memorandum prepared for this purpose. I give to SIMON, if SIMON survives me, my personal effects, jewelry, collections, household furnishings and equipment, automobiles and all other non-business tangible personal property other than cash, not effectively disposed of by such memorandum, **and if SIMON does not survive me, I give this property to my children who survive me,** divided among them as they agree, or if they fail to agree, divided among them by my Personal Representatives in as nearly equal shares as practical, and if neither SIMON nor any child of mine survives me, this property shall pass with the residue of my estate.

37. Thus, while there was an "Order" issued in Florida claiming I am not a Beneficiary of the Shirley Bernstein Estate (but No Order in the Simon Bernstein Estate), this Order was clearly erroneous and the product of fraud and Appellant is pursuing motions to vacate in the Florida Courts and will further seek a narrowly tailored Injunction in these federal proceedings.

38. In both the Simon Bernstein Estate and Shirley Bernstein Estate, Appellant was formally Noticed as a Beneficiary in both Notices of Administration. See, documents to be filed Electronically or supplemented.

39. Likewise, in a "resignation letter" by Estate Planner and Ted Bernstein attorney Donald Tescher from Jan. of 2014 after forgeries in the Shirley Estate case were discovered, Donald Tescher stated affirmatively that Appellant was in fact a Beneficiary of the Shirley Bernstein Trust yet Donald Tescher was never produced or called as a Witness in the "validity" Trial despite this letter and despite signing the Notice of Administration in the Simon Bernstein Estate naming Appellant a Beneficiary.

NEWLY DISCOVERED EVIDENCE OF FEB. 9, 2017 AFTER ISSUANCE OF DISTRICT COURT ORDER ON APPEAL WITH ESTATE OF SIMON BERNSTEIN PR BRIAN O'CONNELL ADMITTING THE LANGUAGE MAKING APPELLANT A BENEFICIARY IN THE SIMON BERNSTEIN ESTATE IN STATEMENT CONCEALED AND WITHHELD BY TED BERNSTEIN AND ALAN ROSE SINCE AT LEAST DEC. 22, 2016

40. While Appellant submits to this Court and the Florida Courts the involved attorneys "had to know" the express language of the Wills made Appellant a Beneficiary with Standing, "newly discovered evidence" emerged on Feb. 9, 2017 after issuance of the Summary Judgment Order on Appeal in a filing by Ted Bernstein Attorney Alan Rose in relation to Hearings in the Florida Court for Ted Bernstein and Alan Rose to "act for the Estate" working hand in hand with PR O'Connell despite being "adverse" in this Insurance case.

41. This evidence consisted of a Statement by the PR which is "undated" but which by the submission from Alan Rose shows this Statement was "emailed" to Creditor Attorney Peter Feaman as of Dec. 22, 2016 (See Exhibit 1) **yet** withheld **from Appellant until Feb. 9, 2016 and concealed from this Court and the US District Court to this very day.**

42. The language of PR O'Connell in this undated "Statement" in part is as follows: "Based upon the Will upheld during a probate trial conducted last December, resulting in a Final Judgment dated December 16, 2015, ***Simon Bernstein's children are the named devisees of certain personal property***," (emphasis added) . Appellant, as a natural child of Simon Bernstein, is a beneficiary with standing under at least this express language in the Will.

APPELLANT MOVED TO VACATE CERTAIN SCHEDULING ORDERS BASED UPON THE FRAUD AND A NEW ORDER OF FLORIDA JUDGE SCHER UPHOLDS APPELLANT'S STATUS AS A BENEFICIARY IN THE

ESTATE OF SIMON BERNSTEIN WITH STANDING WHERE FLORIDA JUDGE SCHER HAS "WITNESSED" THE MULTIPLE FILINGS AND ACTS OF TED BERNSTEIN'S ATTORNEY ALAN ROSE FALSELY CLAIMING APPELLANT IS NOT A BENEFICIARY OF ANYTHING:

43. In several of the new Hearings in Florida that Appellant notified the District Court below were about to occur in Appellant's Jan. 30, 2017 filing (Docket No. 271) the following exchanges have occurred in the Transcript of Proceedings. As will be shown to the Court, ***Attorney Alan Rose has only "changed his story" in Florida after being exposed for repeated fraud***:

PROCEEDINGS BEFORE THE HONORABLE ROSEMARIE SCHER THURSDAY, FEBRUARY 16, 2017

http://iviewit.tv/Simon%20and%20Shirley%20Estate/20170216%20HEARING%20TRANSCRIPT%20JUDGE%20SCHER%20CLEAN%20COPY.pdf 2:38 p.m. - 4:46 p.m.- Simon Bernstein Estate

P. 33 – Rose Addressing the Court

"14 MR. ROSE: I would just state for the
15 record that he has been determined to have no
16 standing in the estate proceeding as a
17 beneficiary.
18 THE COURT: I thought that was in the
19 Estate of Shirley Bernstein.
20 MR. ROSE: It's the same ruling --
21 (Overspeaking.)
22 THE COURT: Please, I will not entertain

23 more than one person.

24 MR. ROSE: By virtue of Judge Phillips'

25 final judgment upholding the documents, he is

P. 34

1 not a beneficiary of the residuary estate. He

2 has a small interest as a one-fifth beneficiary

3 of tangible personal property, which is –

4 THE COURT: I understand."

ESTATE OF SIMON L. BERNSTEIN PROCEEDINGS BEFORE THE HONORABLE ROSEMARIE SCHER VOLUME II THURSDAY, MARCH 2, 2017 1:35 - 3:39 P.M. TRANSCRIPT EXCERPTS

http://iviewit.tv/Simon%20and%20Shirley%20Estate/20170216%20and%2020170302%20Hearing%20Transcripts%20Combined%20WITH%20EXHIBITS%20JUDGE%20SCHER%20CLEAN%20COPY.pdf

Page 127 – Eliot addressing the Court

"9 forthcoming. **And I think we'll be able to show**

13:42:51 10 that there's been fraud on this Court. The

11 other date in that hearing **if you look at the**

12 transcript Mr. Rose claimed that I had no

13 standing, and you overruled that, or whatever

14 you call it, you did.

13:43:03 15 **THE COURT: I did."**

Page 138 – Court Addressing Eliot

"13:51:55 10 **THE COURT: You don't have to. You have**

11 standing. You are sitting there. I have
12 allowed it. I have allowed it. You are a
13 tangible beneficiary whatever assets remain
14 outside of the Simon trust. I think everyone
13:52:08 15 is on the same page. If it's a dollar or if
16 it's ten dollars, that's where you have -- now,
17 I have no idea the dollar figures in any of
18 this.
19 MR. ELIOT BERNSTEIN: None of us do."

44. As will be further shown when Appellant moves for a Stay and Injunctive relief in these federal proceedings, there has Never been any "Construction Hearings" in Florida on the meaning of any of the documents including the alleged "power of appointment" exercised by Simon Bernstein nor any hearing on the Shirley Bernstein Trust where multiple documents to this day have never been produced. While parts of this new Order from Judge Scher are on Appeal by Appellant, the new Order does Find as follows:

April 27, 2017 Scher Order stating APPELLANT ELIOT BERNSTEIN IS A BENEFICIARY:

"Elliot Bernstein joins Stansbury's opposition to the appointment of Mrachek Firm. **Elliot is a residuary beneficiary of any tangible property of the Estate.** All other beneficiaries (Trust Beneficiaries) approve the retention of the Mrachek Firm." (See Attached Order Exhibit 2).

APPELLANT REQUESTS LEAVE TO SUPPLEMENT FILINGS AS NEW FILINGS BY TED BERNSTEIN'S ATTORNEY ALAN ROSE SHOW TED BERNSTEIN DIRECTLY ACTING TO "CONTROL" THE HIRING AND PAYMENT OF THE ESTATE'S COUNSEL TO "CHALLENGE" TED BERNSTEIN IN THIS VERY FEDERAL CASE OVER "INSURANCE"

45. Appellant seeks leave to supplement these filings and file Electronically to show the "Inherent Conflicts of Interest" which continue despite Appellant's Motion for Injunctive Relief in Feb. of 2016 showing the District Court the inherent conflicts of interest and need for use of the "inherent powers" an Eli "probe" of side deals and agreements. See, All Writs Injunction Motion Feb. 2016.

46. In what is inherently conflicting and bizarre, it has been the Creditor William Stansbury who has been forced to pay for the Estate of Simon Bernstein's counsel in this Federal case over the Insurance even though the Creditor and Estate are adverse in a separate action in Florida where the Creditor seeks nearly $3 million in damages.

47. The All Writs Injunction motion filed by Appellant had already shown the US District Court that there is a "secret" undisclosed "settlement" between Creditor Stansbury and Ted Bernstein who settled for himself "individually" with Stansbury while also acting in conflict as the Trustee of the Shirley Bernstein Trust and on behalf of certain Simon Bernstein entities who were also sued by Stansbury.

48. In documenting many "Missing Millions" in the All Writs filed with the US District Court in Feb. 2016 which was "Denied" by "Minute Order" but not

"stricken" from the Record as a pleading, this Writ showed there has never been Any Accounting in the Shirley Bernstein Estate or Trust and Appellant asserts this is part of the reason for the scheme to deny Appellant's "standing" in order to "silence" Appellant from exposing the frauds, crimes and missing assets.

49. These conflicts have continued by the same parties who have "controlled' Discovery and access to documents throughout, Documents which should answer the very central issues in this action of "where is the Trust", what is the "right Trust" and "where is the Insurance Policy". See All Writs Motion Feb. 2016.

50. The Conflicts persist where again Ted Bernstein and Estate PR O'Connell while "adverse" in this action are working in "unity" in the Florida courts where now the PR of the Estate has sought to "hire" Ted Bernstein's Attorney Alan Rose and Mrachek law firm while being "adverse" here in Illinois yet where the Estate did not oppose Ted Bernstein and Alan Rose coming in to "control" the Illinois Insurance litigation attorney for the Estate in this case on a motion by the Creditor Stansbury to be "discharged" from further paying for the Illinois Insurance counsel of the Estate.

51. In its recent Order of April 2017, Judge Scher specifically made findings of this Conflict involving Ted Bernstein and the Estate in the Illinois insurance case as follows: "The Court finds Mr. O'Connell to be credible. Conserving the Estate's assets by not having to pay the Personal Representative to be involved in the

Stansbury litigation is a laudable goal; **nonetheless, the Court cannot ignore the fact that the Estate and Ted are adverse in the Illinois lawsuit.** Moreover, Mr. O'Connell is capable of representing the Estate. **While the Illinois action is still pending, the Court declines to appoint Ted as Administrator Ad Litem.**" (emphasis added). See attached Exhibit 2.

52. Appellant asks this Court to take notice that not only is Appellant in the process of filing other motions to vacate in the Florida Courts based on various frauds as the "onion is peeled back" layer by layer, Appellant will also be filing to Remove both Ted Bernstein in all capacities as Trustee in Florida and PR Brian O'Connell also to be removed as PR of the Estate of Simon Bernstein on multiple grounds of misconduct and fraud including but not limited to the fraud in Denying Appellant's status as Beneficiary and concealing this fraud from the Federal Courts and statutory grounds in Florida for failing to account and other grounds shown in the All Writs Motion of Feb. 2016.

53. Appellant points out to this Court as shown to new US District Court Judge Blakey in the All Writs Motion for Injunction of Feb. 2016 that prior Judge St. Eve had "stayed Discovery" due to no proof that Ted Bernstein was a proper Trustee and yet somehow while never determining this, Discovery then was opened and closed and Appellant has repeatedly moved for opening Discovery on specific topics.

54. Par. 20 of the Writ provided, “On Jan. 13, 2014 in Docket Entry 71, prior Judge St. Eve issued a Minute Entry Order which provided in part as follows, “Discovery is hereby stayed until the proper Trustee is determined” thus acknowledging that determination of a “proper Trustee” is an issue in the case, which Case: 1:13-cv-03643 Document #: 214 Filed: 02/24/16 Page 9 of 132 PageID #:3643 Page 9 of 132 remains disputed. The Trustee/Trust/Beneficiaries/Policy issues remains undetermined presently and this Court’s jurisdiction is imminently threatened by the permanent loss of evidence, documents and discovery by the parties orchestrating proceedings in Florida where this evidence and the parties in possession of such evidence should be enjoined herein.” See, Case: 1:13-cv-03643 Document #: 214 Filed: 02/24/16 Page 9 of 132 PageID #:3643.

55. Appellant will show this Court that the District Court’s Order was clearly erroneous, used improper standards switching the burden of proof on Summary Judgment, was an abuse of discretion and further clearly improperly as even taking the District Court’s claim that Plaintiffs in this case have said I am a ⅕ “beneficiary of the Insurance proceeds thus I can not show “damages” if the Plaintiffs win, this is erroneous as it fails to consider the “delay” damages by the wrongful coverup of operative documents and related damages to be fully briefed on Appeal.

56. Until the frauds and inherent conflicts are resolved and addressed by the Courts, no further action should continue and Appellant will be filing for a formal Stay and Injunctive relief in the federal actions according to the Rules including seeking an "inquiry" of the conflicted counsels.

APPELLANT HAS REQUESTED FLORIDA JUDGE SCHER TO NOTIFY THIS COURT AND ALL AUTHORITIES OF THE ONGOING FRAUDS UPON THE COURT IN RECENT LETTER MOTION OPPOSING ANOTHER "UMC" (UNIFORM MOTION CALENDAR - NON EVIDENTIARY) HEARING BY TED BERNSTEIN AND ALAN ROSE ON CLEARLY CONTESTED ITEMS IN THE SHIRLEY TRUST AND ESTATES, A LETTER COPIED TO US. DEPT OF JUSTICE CIVIL RIGHTS SECTION HEAD, US ATTORNEY IN SDNY, AND "DC NO. 1"

57. It is further noted for this Court that Appellant has specifically requested Florida Judge Scher who has been a "Witness" to the frauds upon the Court by Ted Bernstein and Alan Rose and inherent conflicts of interest to notify proper authorities including the US District Court and this US 7th Circuit Court of Appeals.

58. Upon information and belief, neither Attorney Adam Simon for Ted Bernstein, nor Alan Rose for Ted Bernstein, nor PR Brian O'Connell for the Estate of Simon Bernstein, nor Chicago counsel Stamos have Notified the US District Court nor this US 7th Circuit Court of Appeals of the fraud or sought to correct the fraud by correcting the erroneous statements and pleadings that Appellant Eliot I. Bernstein is in fact a Beneficiary with Standing thus far in at least the Simon Bernstein

Estate. A copy of this Letter request also transmitted to Federal Investigative authorities is attached as (See Exhibit 3).

ADDITIONAL REASONS TO ACCEPT LATE FILING; ONGOING ELECTRICAL OUTAGES, EMAIL AND WEBSITE DOCUMENT HACKING

59. I was granted permission to file Electronically in the District Court and respectfully request permission of this Court to do so for future filings in this Appeal.

60. I note for this Court that I did not receive the initial Orders sent US Mail from this very Court and only received any of the Orders by Mail for the first time on April 11, 2017 just entering the Jewish Passover time and other religious holidays.

61. I have no knowledge of why this Court's prior Orders were not received by the US mail and notified one of the Clerk's about this who also maintained another Order that I had also not received and appeared not to have been sent to me at that time.

62. I contacted the 7th Circuit Clerk's Office to notify the Court that I did not receive these original Orders by the US Mail and then had received Orders on or about April 11, 2017.

63. I further notified one of this Court's Clerks that to my knowledge I am now on the ECF filing system with the 7th Circuit and would be submitting this Motion to accept my Statement of Jurisdiction and also for further extensions of time to cure any other deficiencies in the Appeal filings in this case.

64. I was not aware until after business hours on the day of this Court's most recent deadline of May 26, 2017 that while I had "registered" with the ECF for this 7th Circuit Court of Appeals, I was not actually able to "submit" filings as I apparently needed to file a separate motion to get permission to file Electronically which I now request.

65. This Court's April Order had indicated a filing deadline of April 17, 2017 and I spoke with the Clerk's Office again on April 18, 2017 after also getting access to Pacer information from the District Court of the Northern District of Illinois under Case No. 1:13-CV-O3643 to first discover that there were several entries relating to this Appeal on file with the District Court that was requiring action on my part and yet I never received any of the filings Electronically through the District Court either despite having been granted permission and was able to File electronically and receive documents and notices Electronically in the underlying case for well over three years.

66. That on April 09, 2017 Appellant's home power began massive surges resulting in ongoing power outages that resulted in our oven almost catching on fire and blown out and other electrical items being destroyed including computer and network equipment.

67. Thus, in addition to not receiving Court documents via the US Mails and not receiving Electronic Notice and Documents via the US District Court of the

Northern District of Illinois, that my Home has been experiencing serious and significant power and electrical "abnormalities" for over 2 months frequently knocking out the Internet and home computers and causing substantial delays in the processing of documents and responses to matters both in this Illinois insurance case and the related Florida State Court Trust and Estate cases.

68. I have had to file multiple motions for Extensions of time in both the 4th District Court of Appeals in Florida and the 15th Judicial Circuit where these Florida state Court cases are pending and have received extensions for multiple filings thus far.

69. That Florida Power & Light was contacted about the problems that almost set the home oven on fire and sent workers to the home who immediately removed our home from the power box and plugged our power into the neighbor's power box through a "temporary line" above ground and opened a ticket for service to take out what appeared to be faulty wiring in our yard.

70. Despite reconnecting the power to the neighbor the surges continued and continued to disrupt power, often for hours of the day and during such time all power, internet, phones, etc. used for working on filings was down. FPL then connected the home directly to the transformer and again the power surges continued and it was discovered that the transformer wires were melted and in contact with each other causing part of the problem.

71. The Internet Comcast Box was blown out and had to be replaced leaving us with 3 days of no Internet services.
72. The transformer was fixed and our home was re-connected directly to the power source and yet the problem still continues and FPL now is investigating the wiring to our home as also faulty.
73. These problems have caused us massive loss of time to work as Appellant works from home. Appellant can produce Witnesses who have been to our home that has seen these electrical problems first hand and Appellant has submitted proof of multiple Electrical work "Tickets" with FPL to the State Courts of Florida.
74. In addition to all of the electrical and power issues, Appellant has further been receiving Notices from a company called Canaca located in Canada that hosts my website and mail where I maintain an online storage and "Docket system" for the filings and pleadings in multiple cases including this Illinois insurance action.
75. Canaca has been notifying me of multiple "spamming" events through my website that I have no knowledge of and also discovered that somehow my Password and email system was hacked where I have had substantial delays in receiving Electronic notices of Court filings via email at iviewit@iviewit.tv .
76. This has also caused further delays as I use this online website docketing system to organize and review and refer to Court filings in order to respond to new motions for file motions of my own and have discovered certain document entries which

appear to be tampered with by either having the wrong Dates associated with the filing or being in the wrong time period which has resulted in significant time to check, double check and cross check filings for accuracy.

77. This constant and continuous checking and cross-referencing of documents and filings is further exaggerated by the pervasive Frauds Upon the Court and actual proven frauds in Documents filed by parties and attorneys connected with Plaintiff Ted Bernstein and perhaps others all of which has been extremely difficult and time consuming with repeated electrical and internet outages many of which have specifically targeted and impacted my home computer systems.

78. In fact just 10 days or so before this Illinois Insurance action was first "removed" to Federal Court in the US District Court of the Northern District of Illinois on or about May 16, 2013 , I had just filed for Emergency Injunctive "Freeze" Assets and Documents relief on May 6, 2013 in the Florida Estate case of my deceased mother Shirley Bernstein and separately in the Florida Trust case after I discovered that Plaintiff Ted Bernstein's counsels Tescher & Spallina had begun filing "forged" and fraud documents in the Shirley Estate case in October of 2012 falsely using my then recently Deceased father Simon Bernstein to file documents in that case to try and "close" the Estate when in fact Simon had passed away in September of 2012.

79. This lead not only to Florida State Court Judge Colin stating on the record in Sept. of 2013 that he had enough information to read certain attorneys, Robert Spallina, Esq., Mark Manceri, Esq. and Donald Tescher (who failed to appear) and fiduciaries (Spallina, Ted Bernstein and Tescher) their "Miranda Warnings" but also lead to a Criminal prosecution and guilty plea by Tescher & Spallina Paralegal and Notary Public Kimberly Moran after the Governor Rick Scott's Office of Florida began an investigation upon my complaint of Notary fraud in the case and then referred it to the Palm Beach County Sheriff for investigation where it was learned she had forged six parties names on documents submitted to the FL court by the law firm of Tescher & Spallina, PA in my mother's estate case, including forging my deceased father's signature and my own.

80. This time period of October of 2012 when the Shirley Estate frauds were occurring shortly after the passing of my father Simon Bernstein in Sept. of 2012 is also the same time period that Plaintiff Ted Bernstein's counsel and Estate and Trust co-drafter and planner Robert Spallina was falsely and fraudulently filing to Collect the Insurance proceeds in this case as the alleged "Trustee" of the alleged "lost" missing Trust without informing the Carrier that Murder allegations had been made by Plaintiff Ted Bernstein on the night of Simon Bernstein's passing at the Hospital and that an open Palm Beach Sheriff Investigation (PBSO) was pending.

81. Somehow, both Tescher and Spallina who not only were the "Drafters" and Estate and Trust Planners for Simon and Shirley Bernstein, Co-Trustees and Co-PR's in my father's estate and trust and counsel to their close friend and business associate Ted Bernstein who was alleged Successor Trustee and Successor PR of my mother's estate and trust but both Tescher and Spallina were also involved in the frauds and the most obvious parties to have Maintained Records relevant to this case were allowed to be Dismissed from this Insurance action which I opposed without ever being allowed to be Deposed or required to provide Discovery which I have sought in the District Court on multiple occasions but denied thus far.
82. As noted in my Jurisdictional Statement, I did move for Injunctive Relief in the District Court under the All Writs Act specifically seeking Injunctive relief to preserve and protect Documentary evidence and records from all of the involved parties but was denied.
83. As noted in my pleadings before the District Court and the Jurisdiction Statement herein, I also have extensive Insurance Industry experience and now state to this Court that to my knowledge and research thus far, this is a case of first impression and occurrence in that it allegedly involves Insurance Carriers who have allegedly "Lost" the Actual Policy at issue despite being a highly regulated industry with rigorous Record Retention requirements.

84. **This is <u>"unheard of"</u> in the Industry** and I can produce other witnesses from the Insurance Industry that would support this and yet, "somehow", all of the Carriers were also let out of the District Court case with no Depositions or additional Discovery which was objected to by Appellant who repeatedly moved the District Court to reopen Discovery.

85. It is just as unlikely that there are "**No Original Documents**" produced from any of my Father's affairs and cases having had multiple businesses, earned millions of dollars and having multiple "professional" Attorneys and Fiduciaries involved and just as unlikely that there are so many "**missing"** and "**lost**" Documents from my Father's businesses and life and I submitted a further Declaration to the District Court about the extensive Record Keeping practices of my father Simon Bernstein and his businesses which is why my claims and version is the most "reasonable" and that "**reasonable jurors**" would likely agree that this action is really about Fraud and intentional record hiding, spoilation or destruction as set out in my Summary Judgment responses and the related claims advanced in my pleadings which I sought to Amend more than once but was also Denied by the District Court.

86. During all of this time up to the present and as raised originally in my Motion for Injunctive Relief under the All Writs Act filed in Feb. 2016, Appellant, who is Pro Se and not a law firm has been assailed with a mass of court pleadings due, court

appeals due and hearings, in the 14 cases relating to these matters in the Florida Courts and has been late or needed extensions in virtually all of them as a result of these issues.

87. I received No Notice from the District Court whatsoever that "somehow" I was "removed" from receiving Filings by the District Court electronically and thus have no idea why I did not receive this Court's Orders electronically from the District Court which are on the Docket below.

88. Thus, in addition to moving this Court to accept as late my Jurisdictional Statement, I further move for a reasonable extension of time to cure any other deficiencies in my filings and to further brief the Jurisdictional issues if necessary.

89. This Court should be aware that there is massive "fraud" in the underlying proceedings and also in the related Florida Court Estate and Trust cases that impact not only the merits of each case but even my ability to timely respond to matters as there is a constant "unraveling" of existing frauds, including PROVEN forgery of dispositive documents, discovery and admission of new frauds by fiduciaries and counsel, including but not limited to additional frauds on the court, and related items that take significant amounts of time on a regular basis to address in each of approximately 14 individuals legal actions involving the Estates and Trusts of my family and all while not being a law firm but rather a Pro Se litigant.

90. In fact, as I have alleged, the mere "filing" of the underlying action which is the subject of this Appeal which was a State Court filing in Cook County in April of 2013 until "removed" to Federal Court in May of 2013 by one of the involved "Insurance Carriers" is itself an act in "fraud" and "fraud upon the court" that has never been fully addressed or properly addressed by the District Court of the Northern District of Illinois.

WHEREFORE, for all of the foregoing reasons, Appellant prays for an Order accepting my Jurisdictional Statement as late, accepting my informa pauperis statement, granting permission to file Electronically in the ECF system for future filings, granting permission to exceed the page lengths where necessary herein and for such other and further relief as may be just and proper.

Declaration

I, Eliot I. Bernstein, declare, certify and state under penalties of perjury that the foregoing is true.

DATED: June 15, 2017

/s/ Eliot Ivan Bernstein
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CERTIFICATE OF SERVICE

The undersigned, Eliot Ivan Bernstein, Pro Se certifies that he filed an APPELLANT'S JURISDICTIONAL MEMORANDUM, INDIGENT FORMS AND APPELLANTS MOTION TO ACCEPT LATE FILING AND OTHER RELIEF via Postal Mail with the Clerk of the 7th Circuit Court of Appeals, and served copies of same upon those listed below by Postal Mail on this 15th day of June, 2017.

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EXHIBIT 1

Ashley Bourget

From: Peter M. Feaman <pfeaman@feamanlaw.com>
Sent: Thursday, December 22, 2016 3:53 PM
To: Alan Rose
Cc: boconnell@ciklinlubitz.com; Foglietta, Joy A; tbernstein@lifeinsuranceconcepts.com; dzlewis@aol.com
Subject: RE: 57.105 Motion -- follow up

We believe or Motion is very well grounded in fact and law.

Peter M. Feaman
PETER M. FEAMAN, P.A.
3695 West Boynton Beach Boulevard
Suite 9
Boynton Beach, FL 33436
Telephone: 561-734-5552
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From: Alan Rose [mailto:ARose@mrachek-law.com]
Sent: Thursday, December 22, 2016 3:49 PM
To: Peter M. Feaman
Cc: 'boconnell@ciklinlubitz.com'; 'Foglietta, Joy A'; 'Ted Bernstein (tbernstein@lifeinsuranceconcepts.com)'; 'dzlewis@aol.com'
Subject: 57.105 Motion -- follow up

Peter:

In light of the attached Notice of No Conflict or Waiver by the PR of the Estate and, paragraph 4 from the attached filing from long ago by the Curator, who clearly states that our work saved the Estate from incurring fees, we implore you to drop the nonsense and withdraw the Motion to Vacate and the Motion to Disqualify my law firm.

These are frivolous motions, and we will be seeking severe sanctions against your client and your law firm for these actions.

Stansbury's case will tried next year, by me or someone else, and then he will have his answer. In meantime, for the sake of the grandchildren, withdraw these motions and lets get to the merits.

Happy holidays.

Alan

Alan B. Rose, Esq.
arose@Mrachek-Law.com
561.355.6991

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT IN AND FOR PALM BEACH COUNTY, FLORIDA

IN RE: CASE NO. 502012CP004391XXXXNBIH

ESTATE OF SIMON L. BERNSTEIN,
_____/

PR'S STATEMENT OF ITS POSITION THAT THERE IS NO CONFLICT AND HIS WAIVER OF ANY POTENTIAL CONFLICT

I, Brian O'Connell, am the court-appointed Personal Representative ("PR") of The Estate of Simon L. Bernstein ("Estate"). Based upon the Will upheld during a probate trial conducted last December, resulting in a Final Judgment dated December 16, 2015, Simon Bernstein's children are the named devisees of certain personal property, but the sole residuary beneficiary of the Estate is the current trustee of the Simon L. Bernstein Amended and Restated Trust dated July 25, 2012 ("Trust"). That role is currently being fulfilled by Ted S. Bernstein, as Successor Trustee ("Trustee").

There are certain persons who have asserted potential claims against the Estate. The largest such claim is an independent action styled *William E. Stansbury, Plaintiff, v. Estate of Simon L. Bernstein and Bernstein Family Realty, LLC, Defendants*, in the Circuit Court of the 15th Judicial Circuit in and for Palm Beach County, Florida, Case No.: 50 2012 CA 013933 MB AN (the "Stansbury Lawsuit"). In that action, Stansbury is suing the Estate for more than $2.5 million, asserting claims for breach of oral contract; fraud in the inducement; civil conspiracy; unjust enrichment; equitable lien; and constructive trust. Each of these claims arises from Stansbury's employment with and involvement in an insurance business in which the principal shareholders were Ted Bernstein and Simon Bernstein.

The Stansbury Lawsuit was filed in July 2012, while Simon was alive. After Simon died, the Estate was substituted as the party defendant, and the former personal representatives hired counsel to defend the Estate. The primary defendant in that action was LIC Holdings, Inc. ("LIC"), along with its wholly-owned company, Arbitrage International Management, LLC, f/k/a Arbitrage International Holdings, LLC ("AIM"). Stansbury also maintained claims against the Shirley Bernstein Trust Agreement Dated May 20, 2008 ("Shirley Trust"), and Ted S. Bernstein, Individually ("Ted").

The law firm of Mrachek, Fitzgerald, Rose, Konopka, Thomas & Weiss, P.A. ("Mrachek") served as counsel for LIC, AIM, Shirley Trust and Ted Mrachek beginning in April 2013, formally appearing on April 15, 2013. As I was not appointed PR until sometime in July of 2014, I had no involvement or knowledge of this matter at that time.

I have been advised that Mrachek represented those defendants and the position taken is not in conflict or adverse to the Estate's position. After mediation in June 2014, LIC, AIM, Shirley Trust and Ted settled with Stansbury. The Estate, then under the control of a Curator, did not settle with Stansbury. After my appointment, to avoid unnecessary expense, settlement efforts were made. Those efforts, including through a mediation held on July 25, 2016, were unsuccessful.

Some of the direct and indirect beneficiaries of the Estate I am administering advised me, in light of the Mrachek firm's prior and extensive involvement in the Stansbury Lawsuit, the beneficiaries wanted Mrachek to represent the Estate in the Stansbury Lawsuit. I agreed to that request, and agreed that Mrachek was retained to represent the Estate.

Additionally, I agreed to Trustee, Ted, being appointed to serve as administrator ad litem with regard to overseeing the defense of the Estate in the Stansbury Lawsuit for at least three two reasons: (i) Ted agreed to serve in that role for no additional compensation, whereas any time I spend will cost the Estate a reasonable fee for my services; (ii) Ted has direct knowledge of the facts and circumstances surrounding the Stansbury lawsuit, because he was part of LIC and AIM at the relevant time, he was Simon's son, and he was extensively involved in the Stansbury Lawsuit already as a defendant and as a corporate representative of LIC and AIM; (iii) I have no personal knowledge or involvement in this matter; and (iv) there is no reason to believe Mrachek and Ted will not adequately and vigorously defend the Estate's interests.

It is also in the best interest of the Estate (not only the beneficiaries but any creditors and claimants with the possible exception of Stansbury) to have the Stansbury Lawsuit resolved as quickly and efficiently as possible, because this Estate administration must remain open and ongoing until the Stansbury Lawsuit is resolved, and the expenses of defending the claim will cost the Estate money and time until the case is finally determined.

To the extent there is a waivable conflict of interest, as PR of the Estate I would waive any such conflict.

BRIAN O'CONNELL, Personal Representative

EXHIBIT 2

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT,
IN AND FOR PALM BEACH COUNTY, FLORIDA
PROBATE DIVISION "IH"

Case No. 50 2012-CP-4391 XXXX NB

IN RE: THE ESTATE OF:
SIMON BERNSTEIN,
Deceased.
_____/

ORDER DENYING MOTION TO VACATE
AND
DENYING MOTION TO DISQUALIFY FOR INAPPROPRIATE JURISDICTION, ALTERNATIVELY, DENYING ON ITS MERITS, AND
ORDER DENYING APPOINTMENT OF TED BERNSTEIN AS ADMINISTRATOR AD LITEM

THIS MATTER came before the Court February 16, 2017, March 2, 2017, and March 16, 207 on the following matters:

1. October 7, 2016, D.E. 496, Stansbury's Motion to Vacate in Part the Court's Ruling on September 7, 2016, and/or Any Subsequent Order, Permitting the Estate of Simon Bernstein to Retain Alan Rose and Page, Mrachek, Fitzgeral, Rose, Konopka, Thomas & Weiss, P.A. as Legal Counsel and Motion for Evidentiary Hearing to Determine Whether Rose and Page, Mrachek are Disqualified from Representing the Estate Due to an Inherent Conflict of Interest.

2. November 28, 2016, D.E. 507, Stansbury's Motion to Disqualify Alan Rose and Page, Mrachek, Fitzgerald, Rose, Konopka, Thomas & Weiss, P.A.[1] as Legal Counsel for the Estate of Simon Bernstein Due to an Inherent Conflict of Interest.

3. Evidentiary Hearing on Trustee's Motion to Approve Retention of Counsel and to Appoint Ted S. Bernstein as Administrator Ad Litem to Defend Claim Against the Estate by William Stansbury, D.E. 471, Objection to Trustee's Motion to Appoint Ted S. Bernstein as Administrator Ad Litem to Defend Claim Against Estate by William Stansbury, D.E. 475, and Order Granting Retention of Counsel and Deferring on Administrator Ad Litem, D.E. 495

[1] Hereafter, "Mrachek Firm" unless quoted separately from an Order or document.

Present before the Court were Peter Feaman, Esquire on behalf of William Stansbury (hereafter "Stansbury"); Alan Rose, Esquire on behalf of Ted Bernstein, Trustee, Brian O'Connell as Personal Representative of the Estate of Simon Bernstein, Eliot Bernstein as interested party. The parties presented their testimony and evidence. Thereafter, pursuant to the Court's March 3, 2017 Order, the parties were to submit written closing arguments and proposed orders no later than March 9, 2017[2].

The Court carefully evaluated and weighed the testimony presented, considering the intelligence, frankness, credibility, plausibility, character, and competence of each witness, all the while being cognizant of the interests of the parties in the outcome of the case. Based on the forgoing, giving the evidence and testimony the weight it deserves, the Court has resolved any conflicts in the evidence. After evaluating the witnesses' testimony, exhibits, and the applicable law, and being otherwise informed in the premises, the Court makes the following findings of fact:

1. On July 24, 2014, "the parties having agreed to the appointment," this Court entered an Order Appointing Successor Personal Representative, Brian M. O'Connell, Esquire, D.E. 219. The letters issued on July 24, 2014 give Brian O'Connell, as the Personal Representative of the Estate of Simon Bernstein, the "full power to administer the estate according to law; to ask, demand, sue for, recover . . . ."
2. Pursuant to Fl. Stat. 733.612(19), ***without court order***, a personal representative acting reasonably for the benefit of the interested persons may properly employ persons, including, but not limited to, attorneys. Moreover, pursuant to 733.612(20) the Personal Representative, ***without court order,*** has the power to prosecute or defend claims or

[2] On March 10, 2017 Eliot Bernstein filed a motion to accept a late filing in excess of the given page limit. While the Court acknowledges the late filing and will give it the weight appropriate, this Court will not condone or excuse violations of its Order.

proceedings in any jurisdiction for the protection of the estate and of the personal representative.

3. On September 1, 2016 the parties presented to the Court on Successor Trustee's [Brian O'Connell's] Motion to Approve Retention of Counsel AND, to Appoint Ted S. Bernstein as Administrator Ad Litem to Defend Claim Against Estate by William Stansbury.

4. On September 29, 2016, D.E. 495, this Court entered its Order Approving Retention of Counsel and Deferring Ruling on Appointment of Ted S. Bernstein as Administrator Ad Litem to Defend Claim Against Estate by William Stansbury. This Order states, "The Court, having reviewed the Motion and the record, ***having been advised in the Motion that the PR and the beneficiaries of the Estate believe this relief will result in a benefit to the Estate, having been advised that William Stansbury has filed a written objection to Ted S. Bernstein serving as Administrator. . . .***" (emphasis added).

5. Notwithstanding the Personal Representative's statutory right to retain counsel without court approval, the September 29, 2016 Order then grants in part and defers in part, stating as follows:

> 2. The Court approves the retention of the law firm Mrachek, Fitzgerald, Rose, Konopka, Thomas & Weiss, P.A. ("Mrachek-Law") to serve as counsel for Brian O'Connell, as Personal Representative of the Estate of Simon L. Bernstein, for the purpose of defending the Estate in an independent action brought by William Stansbury. The reasonable costs and attorneys' fees incurred by Mrachek-Law in defending the claim shall be paid by the Estate.
>
> 3. Unless Stansbury withdraws his objection, the Court will need to conduct an evidentiary hearing on that portion of the motion which seeks the appointment of an administrator

ad litem. The Court will determine at the evidentiary hearing whether to appoint Ted S. Bernstein as administrator ad litem under Rule 5.120, which provides that when necessity arises, "the court may appoint an administrator ad litem . . . without bond or notice for that particular proceeding." Until the evidentiary hearing, the Court defers ruling on the administrator ad litem issues.

6. Noteworthy is the fact that in the Court's Order appointing the Mrachek Firm, no objection from Stansbury was noted; the only objection noted is to appointment of Ted as administrator ad litem to which an evidentiary hearing would be required.
7. The 2012 independent action brought by William Stansbury referenced in the Court's Order cited above is a 2012 case pending in the Civil Division, 50-2012-CA-013933, Division AN, wherein Stansbury seeks to recover in excess of $2.5 million from the Estate of Simon Bernstein based upon alleged misconduct of Simon Bernstein. (After Simon's death the Personal Representative of the Estate was substituted as the real party in interest.)
8. Stansbury's claims arise from Stansbury's part ownership and employment with LIC Holdings, Inc. ("LIC") and Arbitrage International Management, LLC ("AIM"), two companies founded by Simon and Ted Bernstein. Stansbury has asserted claims against the Estate of Simon Bernstein for breach of contract, fraudulent inducement, conspiracy, equitable lien, and constructive trust. Stansbury is a claimant, not a creditor, against the Estate. On June 23, 2014 in the independent civil case, 50-2012-CA-013933, the Court entered an Order of Dismissal with Prejudice of Certain Parties and Claims; specifically, the Court dismissed Defendants, Ted S. Bernstein, individually, LIC Holdings, Inc., Arbitrage International Management, LLC, f/k/a Arbitrage International Holdings, LLC and the Shirley Bernstein Trust Agreement dated May 20, 2008, D.E. 214.
9. Pending ending in Illinois is the case of *Simon Bernstein Irrevocable Insurance Trust Dtd. 6/21/95, Ted Bernstein, et al. v. Heritage Union Life Insurance Company, et al.*, Case No. 13

CV 3643, United States District Court for the Northern District of Illinois (the "Insurance Litigation"). This case commenced after Simon's death and seeks to have the Court determine the rightful owners of Simon's 1.7 million dollar life insurance death benefit proceeds. Ted Bernstein, individually, and as an alleged Trustee of a purported lost trust document, and his siblings, Pamela Simon, Jill Iantoni, and Lisa Friedstein, as Plaintiffs, seek to recover the $1.7 million dollar life insurance proceeds for the ultimate benefit of Simon Bernstein's adult children.

10. The Simon Trust is the primary beneficiary of the Estate via a pour over will. The beneficiaries of the Trust are Simon's ten grandchildren. Initially, the Estate was not a party to the Insurance Litigation. The Illinois Court denied Stansbury the right to intervene in the Insurance Litigation. Subsequently, the Estate, at the request of Stansbury in the instant probate litigation, intervened. Stansbury is funding the Estate's costs and fees in the Illinois litigation based on this Court's dated May 23, 2014. Clearly, Stansbury, as a claimant of the Estate, seeks to benefit from the Estate's collection of the insurance proceeds *if* Stansbury prevails in his civil independent action against the Estate.

11. Stansbury argues that Mrachek Firm represented Ted in his deposition in the Insurance Litigation in Illinois. Illinois counsel for Ted as the Plaintiff attended the deposition. Apparently, O'Connell agreed not to attend the trial to save money. Mrachek Firm never filed a notice of appearance in the Illinois Court. It is undisputed that Elliot and Stansbury were present during that deposition. Ted was examined extensively by counsel for the Estate. Mrachek Firm objected approximately four times. The deposition was taken prior to the trial in Palm Beach County to determine the validity of the will and trusts. There is no indication that Mrachek Firm was acting in any capacity other than on behalf of Ted as Trustee in an effort to protect any interests in the validity dispute.

12. On October 7, 2016, D.E. 496, in the instant probate action Stansbury filed his Motion to Vacate in Part the Court's Ruling on September 7, 2016, and/or Any Subsequent Order, Permitting the Estate of Simon Bernstein to Retain Alan Rose and Page, Mrachek, Fitzgerald, Rose, Konopka, Thomas & Weiss, P.A. as Legal Counsel and Motion for Evidentiary Hearing to Determine Whether Rose and Page, Mrachek are Disqualified from Representing the Estate Due to an Inherent Conflict of Interest.

13. In D.E. 496, Stansbury's Motion to Vacate, Stansbury states as follows:

> 1. Stansbury filed a lawsuit styled *William E. Stansbury v. Ted Bernstein, et al,* Case No. 50 2012 CA 013933 MB AA, Palm Beach County, Florida against Simon Bernstein ("Simon"), Ted Bernstein ("Ted") and several corporate defendants in August of 2012 to collect compensation, and other damages due Stansbury arising out of an insurance business in which Stansbury, SIMON and TED were principals. Stansbury asserted claims against Simon and Ted both as agents of the corporate defendants and in their individual capacities (the claims against TED and the companies have settled). The Shirley Bernstein Trust was dropped as a Party.

14. After Simon died, the Estate was substituted into the lawsuit; Ted Bernstein serves as Trustee of the July 25, 2012 "Simon Trust". It is undisputed that Stansbury has settled the claims against Ted, individually, and as to the corporate defendants. It is undisputed that Mrachek Firm represented some of the dismissed corporate defendants in the civil independent lawsuit set forth above.

15. Mrachek Firm represents Ted Bernstein, as Trustee of the Simon Trust, the sole residuary beneficiary of the Estate with the exception of certain personal property, in the current probate litigation involving the Estate of Simon, 50-2012-CP-4391. The Simon Trust is a pour over trust and Simon's ten grandchildren are the beneficiaries of the Simon Trust.

16. On November 28, 2016, D.E. 507, Stansbury filed his Motion to Disqualify Alan Rose and Page, Mrachek, Fitzgerald, Rose, Konopka, Thomas & Weiss, P.A. as Legal Counsel for the Estate of Simon Bernstein Due to an Inherent Conflict of Interest.

17. Elliot Bernstein joins Stansbury's opposition to the appointment of Mrachek Firm. Elliot is a residuary beneficiary of any tangible property of the Estate. All other beneficiaries (Trust Beneficiaries) approve the retention of the Mrachek Firm.

18. Stansbury's Motion to Vacate, D.E. 496, and Stansbury's Motion to Disqualify, D.E. 507, are ***not*** based on perceived conflict arising out of the Mrachek Firm and alleged association or representation of William Stansbury, Plaintiff in the civil suit. ***It is undisputed that the Mrachek Firm never represented Stansbury, obtained any confidential information from Stansbury, or attempted to use, obtained, or are in possession of privileged information regarding Stansbury and now must be disqualified.*** In fact, there was no evidence that Mrachek has obtained or used any information that would prejudice a current or former client.

19. Stansbury is objecting to the Personal Representative's choice of counsel for the Estate based on a perceived conflict from Mrachek's Firm's representation of Ted as Trustee of the Simon Trust.

20. With regard to the Motion to Vacate Judge Phillip's Order, the Court finds, without court order, the Personal Representative has the right to retain counsel to defend lawsuits. Independent of the same, after a hearing wherein no objection was raised, Judge Phillips granted the retention of the Personal Representative's choice of counsel. This Court denies the motion to vacate.

21. With regard to the Motion to Disqualify, the parties have all stipulated and agreed that the undersigned judge should decide this matter versus the civil judge in the probate proceeding.

The parties' rationale is that since the prior judge approved the retention of counsel by the Personal Representative, this Court should make the decision on whether to disqualify Mrachek Firm from another judge's case. Stansbury is objecting ***as the Plaintiff*** in the civil lawsuit to the Defendant's choice of counsel. Specifically, Stansbury, Plaintiff, objects to the Defendant, Estate's choice of counsel via the Personal Representative of the Estate. Elliot believes there has been a continuing fraud being perpetrated by the Court and Ted; Elliot joins Stansbury's objection.

22. Despite the parties' stipulation allowing this Court to decide whether Mrachek Firm should be disqualified from representing the Estate in the civil case, this Court is hard pressed to see how this Court can rule on a matter in a separate case without the other judge's approval / acquiesce of the same. This Court hereby finds this Court is not the proper forum and the matter should be heard in the civil litigation. However, if in fact the other Court chooses to accept this Court's findings in order to conserve judicial resources and the efficiency of justice, since this Court heard in excess of six hours of evidence and testimony, this Court would deny the motion to vacate and to disqualify on the merits.

23. Stansbury has alleged disqualification of Mrachek Firm is appropriate under Florida Rule Regulating the Florida Bar, 4-1.7(a):

Rule 4-1.7. Conflict of Interest; Current Clients

(a) Representing Adverse Interests. Except as provided in subdivision (b), a lawyer must not represent a client if:
(1) the representation of 1 client will be directly adverse to another client; or
(2) there is a substantial risk that the representation of 1 or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by a personal interest of the lawyer.
(b) Informed Consent. Notwithstanding the existence of a conflict of interest under subdivision (a), a lawyer may represent a client if:

(1) the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client;
(2) the representation is not prohibited by law;
(3) the representation does not involve the assertion of a position adverse to another client when the lawyer represents both clients in the same proceeding before a tribunal; and
(4) each affected client gives informed consent, confirmed in writing or clearly stated on the record at a hearing.
(c) Explanation to Clients. When representation of multiple clients in a single matter is undertaken, the consultation must include an explanation of the implications of the common representation and the advantages and risks involved.

24. Again, Stansbury is not asserting Mrachek Firm ever represented Stansbury. The Personal Representative of the Estate, Brian O'Connell, executed the PR's Statement of Its Position That There is No Conflict and His Waiver of Any Potential Conflict. Mr. O'Connell also testified that it is his opinion that the Estate would be best served by the Mrachek Firm being retained.

25. The comment Rule 4-1.7 states as follows:

Conflict charged by an opposing party

Resolving questions of conflict of interest is primarily the responsibility of the lawyer undertaking the representation. In litigation, a court may raise the question when there is reason to infer that the lawyer has neglected the responsibility. In a criminal case, inquiry by the court is generally required when a lawyer represents multiple defendants. Where the conflict is such as clearly to call in question the fair or efficient administration of justice, opposing counsel may properly raise the question. Such an objection should be viewed with caution, however, for it can be misused as a technique of harassment. See scope.

26. The Court has reviewed all the testimony, case law, positions of the parties, and considered the position of the Estate as expressed by the Personal Representative, an experienced Estate and Probate Attorney.

27. The Estate's goal in the Stansbury litigation is to defend against Stansbury's claim and minimize Stansbury's recovery. The Mrachek Firm has extensive knowledge of this lawsuit. Given Stansbury is the Plaintiff in that lawsuit, the Court embraces the Comment to Rule 4-1.7 and heeds its warning. The Court finds no conflict in affirming the Personal Representative's choice of counsel, the Mrachek Firm, to defend the Estate in the Stansbury litigation. Additionally, this Court finds that if in fact there is a conflict, it has been waived by the Personal Representative.

28. The Court now turns to the question of whether Ted Bernstein should be appointed by the Court as an Administrator Ad Litem on behalf of the Estate in the Stansbury litigation.

29. Florida Statute 733.308 Administrator ad litem states as follows:

> When an estate must be represented and the personal representative is ***unable to do so***, the court shall appoint an administrator ad litem without bond to represent the estate in that proceeding. The fact that the personal representative is seeking reimbursement for claims against the decedent does not require appointment of an administrator ad litem.

(emphasis added).

30. Brian O'Connell testified in Court that it is his position that the appointment of Ted would be in the best interest of the Estate for the following reasons: Ted has the most knowledge of the claims; Ted will not charge the estate and Mr. O'Connell would charge for his time; the appointment is limited to the civil litigation and has no overlap with the Insurance Litigation in Illinois; Mr. O'Connell's busy schedule would delay the litigation's progress; and, he would still be intricately involved with any negotiations on behalf of the Estate. There is no indication that Mr. O'Connell is unable to represent the Estate.

31. The parties stipulated to the March 13, 2017 deposition of Brian O'Connell coming into evidence. Stansbury's counsel, Mrachek Firm, and Elliot all had the opportunity to question Mr. O'Connell regarding his positions regarding the Estate being represented by Ted as administrator ad litem. Additionally, all parties questioned Mr. O'Connell regarding his

position on whether the Estate should continue in the Insurance Litigation. It is Mr. O'Connell's position that the Estate should continue its positions in the Insurance Litigation.

32. The Court finds Mr. O'Connell to be credible. Conserving the Estate's assets by not having to pay the Personal Representative to be involved in the Stansbury litigation is a laudable goal; nonetheless, the Court cannot ignore the fact that the Estate and Ted are adverse in the Illinois lawsuit. Moreover, Mr. O'Connell is capable of representing the Estate. While the Illinois action is still pending, the Court declines to appoint Ted as Administrator Ad Litem.

IT IS ORDERED AS FOLLOWS:

The Court **DENIES** Stansbury's motions seeking to vacate the retention order of September 7, 2016, and to disqualify the Mrachek Firm. The Court **DENIES** appointment of Ted Bernstein as Administrator Ad Litem.

DONE AND ORDERED in Chambers, North County Courthouse on April 27, 2017.

HONORABLE ROSEMARIE SCHER

cc: All parties on the attached service list

IN RE: Estate of SIMON L. BERNSTEIN
File No.: 502012CP004391XXXXNB IH
Notice of Hearing for 3/21/17
_____/

SERVICE LIST

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Peter Feaman, Esq. Peter M. Feaman, P.A. 3695 Boynton Beach Blvd.,Suite 9 Boynton Beach, FL 33436 pfeaman@feamanlaw.com	Shendell & Pollock, P.L. 2700 N. Military Trail, suite 150 Boca Raton, FL 33431 241-2323 Fax: 241-2330 Gary R. Shendell, Esq. gary@shendellpollock.com estella@shendellpollock.com grs@shendellpollock.com Kenneth S. Pollock, Esq. ken@shendellpollock.com britt@shendellpollock.com grs@shendellpollock.com Matthew A. Tornincasa, Esq. matt@shendellpollock.com robyne@shendellpollock.com grs@shendellpollock.com	Max Friedstein 2142 Churchill Lane Highland Park, IL 60035
Eliot Bernstein 2753 N.W. 34th St. Boca Raton, FL 33434 iviewit@iviewit.tv	Pamela Beth Simon 950 N. Michigan Ave., Apt. 2603 Chicago, IL 60611 psimon@stpcorp.com	Lisa Friedstein and Carley Friedstein, Minor c/o Jeffrey and Lisa Friedstein Parent and Natural Guardian 2142 Churchill Lane Highland Park, IL 60035 Lisa@friedsteins.com Lisa.friedstein@gmail.com
Jill Iantoni and Julia Iantoni, a Minor c/o Guy and Jill Iantoni, her Parents & Natural Guardians 2101 Magnolia Lane Highland Park, IL 60035 jilliantoni@gmail.com	Brian M. O'Connell, Esq. Ashley Crispin Ackal, Esq. Ciklin Lubitz & O'Connell 515 N. Flagler Dr., 20th FL West Palm Beach, FL 33401 service@ciklinlubitz.com probateservice@ciklinlubitz.com	Robert Spallina, Esq. rspallina@comcast.net

EXHIBIT 3

Eliot Ivan Bernstein

From: Eliot Ivan Bernstein <iviewit@gmail.com>
Sent: Thursday, May 18, 2017 6:05 AM
To: Rosemarie Scher (CAD-divisionfh@pbcgov.org); Cindy Hoekstra (philadelphia.complaints@ic.fbi.gov); 'tom.wheeler@usdoj.gov'; joon.kim@usdoj.gov; Frank Brady aka Kevin McKeown @ Expose Corrupt Courts (CorruptCourts@gmail.com); Serena H. Olsen (serenaholsen@gmail.com); nicolemerritt611@gmail.com; John Pacenti ~ Reporter @ Palm Beach Post (jpacenti@pbpost.com); 'Alan B. Rose Esq. (arose@pm-law.com)'; 'Anderson, Charlene'; 'arose@mrachek-law.com'; 'Brian M. O'Connell PA ~ Partner @ Ciklin Lubitz Martens & O'Connell (boconnell@ciklinlubitz.com)'; 'Charles D. Rubin ~ Managing Partner @ Gutter Chaves Josepher Rubin Forman Fleisher Miller PA (crubin@floridatax.com)'; 'ddustin@tescherspallina.com'; 'Diana Lewis @ ADR & MEDIATIONS SERVICES, LLC - Fla. Bar No. 351350 (dzlewis@aol.com)'; 'Don Tescher'; 'JILL BERNSTEIN IANTONI (jilliantoni@gmail.com)'; 'John J. Pankauski (courtfilings@pankauskilawfirm.com)'; 'john@pankauskilawfirm.com'; 'Kimberly Moran ~ Legal Assistant / Notary Public @ Tescher & Spallina, P.A. (kmoran@tescherspallina.com)'; 'L. Louis Mrachek Esq. @ PAGE, MRACHEK, FITZGERALD, ROSE, KONOPKA, THOMAS & WEISS, P.A. (lmrachek@mrachek-law.com)'; 'Lindsay Baxley aka Lindsay Giles @ Life Insurance Concepts (lindsay@lifeinsuranceconcepts.com)'; 'Lisa Friedstein'; 'Mark R. Manceri, Esquere @ Mark R. Manceri, P.A. (mrmlaw@comcast.net)'; 'mrmlaw1@gmail.com'; 'Pamela Beth Simon (psimon@stpcorp.com)'; 'Peter Feaman (mkoskey@feamanlaw.com)'; 'Peter Feaman, Esq. ~ Attorney at Law @ Peter M. Feaman, P.A. (pfeaman@feamanlaw.com)'; 'Robert Spallina'
Cc: 'Andrew Dietz @ Rock-It Cargo USA, Inc. (andyd@rockitcargo.com)'; Barbara Stone (bstone12@hotmail.com); Barbara Stone Gmail (bstone575@gmail.com); 'CANDICE BERNSTEIN (tourcandy@gmail.com)'; Candice Schwager (attycandie@gmail.com); Candice Schwager ~ Attorney at Law @ Schwager Law Firm (schwagerlawfirm@live.com); 'Caroline Prochotska Rogers Esq. (caroline@cprogers.com)'; 'Eliot I. Bernstein (iviewit@iviewit.tv)'; iviewit@gmail.com; JoAnne M. Denison Esq. (jmdenison@gmail.com); Kevin R. Hall (kh.itconsultingsalesoffices@gmail.com); 'Michele M. Mulrooney ~ Partner @ Venable LLP (mmulrooney@Venable.com)'
Subject: Improperly Scheduled UMC Hearing brought by Attorney Alan Rose for Ted Bernstein; Judicial Obligations to Report Fraud and Misconduct of Attorneys, etc.
Attachments: 20170511 Feaman Stansbury Reply_Response to Trustees Motion for Approval of Settlement.pdf; 20170427 ORDER SCHER BERNSTEIN Simon Order Denying M.Vacate Denying Motion Disqualify etc 2012-CP-4391.pdf; 20160224 FINAL ESIGNED MOTION FOR INJUNCTION ECF STAMPED COPY.pdf; 20161109 Simon Estate Case 4391 - Trustee Motion (i) APPROVE COMPROMISE AND SETTLEMENT, Appoint Trustee for Trusts Created for Josh Jake Danny & Comp for Guardian.pdf

Tracking:

Recipient	Read
Rosemarie Scher (CAD-divisionfh@pbcgov.org)	Read: 5/18/2017 7:33 AM
Cindy Hoekstra (philadelphia.complaints@ic.fbi.gov)	
'tom.wheeler@usdoj.gov'	Read: 5/18/2017 6:14 AM
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Hon. Judge Rosemarie Scher,
North County Courthouse
3188 LPGA Boulevard
Palm Beach Gardens, Fl 33410

Re: Improperly Scheduled UMC Hearing brought by Attorney Alan Rose for Ted Bernstein; Judicial Obligations to Report Fraud and Misconduct of Attorneys, etc.

Honorable Judge Rosemarie Scher:

As this Court is aware, licensed attorney Peter Feaman already notified this Court that the Uniform Motion Calendar ("UMC") Hearing scheduled by attorney Alan Rose on behalf of Ted Bernstein for today's date, May 17, 2017 is improper and should have already been Removed from the Calendar by your Honor. See, attached filing of attorney Peter Feaman on behalf of Creditor William Stansbury. (May 11 2017 - 20170511 Feaman Stansbury Reply Response to Trustees Motion for Approval of Settlement.pdf)

Respectfully, I remind your Honor of the filings to date and the fraud already proven in the Court and remind your Honor of your mandatory Judicial Obligation under "Canon 3, A JUDGE SHALL PERFORM THE DUTIES OF JUDICIAL OFFICE IMPARTIALLY AND DILIGENTLY, D. Disciplinary Responsibilities. (2) A judge who receives information or has actual knowledge that substantial likelihood exists that a lawyer has committed a violation of the Rules Regulating The Florida Bar shall take appropriate action."

I further respectfully remind this Court that under Title 18 of the Federal Code, it is a Crime when "18 U.S. Code § 4 - Misprision of felony Whoever, having knowledge of the actual commission of a felony cognizable by a court of the United States, conceals and does not as soon as possible make known the same to some judge or other person in civil or military authority under the United States, shall be fined under this title or imprisoned not more than three years, or both."

Yet, upon information and belief, despite knowing that Ted Bernstein and his lawyers have perpetrated a similar fraud on the US District Court of the Northern District of Illinois which has issued a Summary Judgment against my rights based in part upon the false Orders in this 15th Judicial that I was not a Beneficiary and had no standing in these cases, Your Honor has yet to Report the fraud now proven in your Court to any authority to take action against Attorney Alan Rose and has not Reported these matters to the US District Court of the Northern District of Illinois or the 7th Circuit Federal Appeals Court where my Appeal is pending and yet instead of being able to timely prosecute that appeal I am back here at improper UMC Hearings where further

fraud is occurring and your Honor has failed to take action to stop the continuing and ongoing fraud and instead allows Alan Rose to continue the frauds against beneficiaries, interested persons and the Creditor William Stansbury.

This Court is and must be aware that it has now found that I, Eliot Bernstein, am in fact (and always have been) a Beneficiary With Standing in the Estate of Simon Bernstein as your Honor made this finding and it is embodied in this Court's Order of April 27, 2017 which is attached (See Order of April 27, 2017 - 20170427 ORDER SCHER BERNSTEIN Simon Order Denying M.Vacate Denying Motion Disqualify etc 2012-CP-4391.pdf .) This factual determination is precisely "part" of the Fraud perpetrated by Attorney Alan Rose, Ted Bernstein and acquiesced by PR and Attorney Brian O'Connell of the Ciklin law firm in the proceedings before prior Judge Phillips on this case with such Fraud lasting over a year while I was Falsely denied rights of Standing and Due Process Opportunity to be Heard based upon the knowingly False pleadings signed by Alan Rose claiming I was not a Beneficiary and that Judge Phillips had already determined this as of Jan. 2016 when in fact there is no such Finding or Order or Record of this by Judge Phillips since attorney Alan Rose knows and knew at all times this was False yet set in motion this course before the Court.

As a matter of law, this Court is obligated to now issue Discovery and Schedule Evidentiary Hearings having made the Determination that I am in fact a Beneficiary of Simon's Estate and thus proving that part of my Motion to Vacate the Scheduling Order so hearings on Fraud could be heard first, but instead thus far this Court is permitting Alan Rose to move unadulterated in repeated false, dishonest and fraudulent actions which must now be stopped by use of Injunctive powers as previously petitioned.

This Court is well aware that I have filed specific motions showing and proving just this "part" of the frauds in the cases, being a case where Ted Bernstein's "other" law firm and close personal friends at Tescher & Spallina acted as Estate Planners for my parents multi-million dollar assets only to have Admitted Forgery of multiple documents occur by Tescher & Spallina employee Kimberly Moran acting as a Paralegal and Notary Public falsifying Notarized signatures on documents in the Shirley Bernstein Estate case and then the firm deposited such records with the Court as part of a pattern and practice of Fraud on the Court. Similarly Robert Spallina admitted in a December 15, 2015 hearing that he had personally fraudulently forged and created a Shirley Trust document attempting to change beneficiaries to include Ted Bernstein's family as beneficiaries when he knew that Ted's family had been disinherited entirely in the Shirley Trust when she died and it became irrevocable. Spallina sent this document to Eliot Bernstein's minor children's counsel, Christine C. Yates, Esq. as part of an elaborate fraud to change beneficiaries, a fraud that continues today with Ted's new counsel Alan Rose, Esq. who was part of the Tescher, Spallina and Ted original team, thus the fraud continues when all of them should have been reported, sanctioned and arrested and forced to put up bonding, etc. for damages that have resulted for now over 5 years. As you are and should be aware, both attorneys Donald Tescher and Robert Spallina were then later charged in an SEC INSIDER TRADING Case where it was found Tescher and Spallina violated fiduciary oaths and duties to their clients as well and where Attorney Robert Spallina is still under Open active Investigation by the FBI to my knowledge and why certain federal offices are copied on this communication herein. Other federal offices are likewise copied for related acts of fraud and crime by the core parties herein now trying to stand before Your Honor at a 5 Minute "UMC" Hearing which is only for Non Contested matters trying to get you to Approve Settlements that were issued and made in Fraud with a Court, with claims that all beneficiaries have consented to these pleadings and falsely operating as if I, nor my adult children have No Standing and I am not a Beneficiary of my father and mothers estates and trusts, which is patently a false claim as I am a named beneficiary in every single instance in the documents alleged to be valid by this Court.

This Court has been shown "millions" in assets and accounts held by my parents Simon and Shirley Bernstein which have "gone missing" like volumes and volumes of Files, records and Evidence in this case and yet your Honor has yet to issue any proper Injunctive relief or restraining Order as requested. If my parents interests in Intellectual Properties of my family is considered the Estate may be worth some 300 Billion Dollars as they

have an estimated value of over a Trillion Dollars. See the Attached Motion to Vacate Scheduling Order and All Writs Petition in the US District Court, (See attached - 20160224 FINAL ESIGNED MOTION FOR INJUNCTION ECF STAMPED COPY.pdf .)

I respectfully notify this Court that if it permits Alan Rose and Ted Bernstein to continue on at this UMC Hearing and grant affirmative relief as requested I will be immediately notifying federal and state authorities and further filing direct Criminal complaints against your Honor as well for this continued Simulated Legal Process, Obstruction of Justice, Fraud on the Court and more.

At this UMC Hearing Alan Rose is furthering the Fraud that I am not a Beneficiary with Standing in Shirley's Estate case or Shirley's Trust, both of which is False and fraudulent before this Court and this Court will be Aiding and Abetting this Fraud by granting any affirmative relief to Alan Rose and his Client Ted Bernstein.

This Court should be well aware from the recent Testimony and from reviewing all the Case History and Records that another part of the Alan Rose "fraud" is claiming this Court by Judge Phillips somehow "determined" all these matters yet this Court now knows there was No Such Construction Hearing ever held nor any such actions by Judge Phillips and that this is further reason to Report Alan Rose for Misconduct and fraud.

Further, that Rose falsely and fraudulently claims I am likewise not a Beneficiary in Shirley's Estate or Trust yet in Shirley's Estate I am a Beneficiary by express terms just like this Court found in Simon's Will despite Rose's claims as a witness on the stand and in pleadings before the Court to the contrary, that I was Named as a Beneficiary in the Notice of Administration filed and in the Shirley Trust case as soon as Shirley passed away in Dec. of 2010 by operation of law her Trust became Irrevocable and I was instantly a direct Beneficiary under the express terms of the Trust. Of course, being a natural born child of my parents I have standing in any of these matters as at minimum an interested person and any ruling stating otherwise would be precedent setting where children of their parents would no longer have standing in Estate and Trust matters.

Alan Rose is now "furthering" and "ratcheting up" the Fraud by NOW claiming in the Motion improperly Noticed for this UMC Hearing that the Trusts for my children 1) now "exist" when he previously admitted these did not exist; and 2) the Trusts are the Trusts dated 7-25-2012 when the Trusts he "SERVED with NOTICE" allegedly were created 9-13-12 the day my father passed away and yet in BOTH instances Rose has Never Disclosed or Turned over copies of these Trusts that somehow "now" at the end of the case he is claiming these "exist" but not providing copies.

Just in Alan Rose's Motion for Approval which is attached hereto (see - 20161109 Simon Estate Case 4391 - Trustee Motion (i) APPROVE COMPROMISE AND SETTLEMENT Appoint Trustee for Trusts Created for Josh Jake Danny Comp for Guardian.pdf) this is shown when he "sues" and "Notices" Trusts allegedly dated and created 9-13-12 in the CAPTION of the case but then in the body of the Motion at Paragraph 7 these same Trusts allegedly were created 7-25-12 but again, does NOT provide a copy or have a copy of these Trusts.

To remind this Court of the seriousness of the matters at hand, I remind this Court that one of my Witnesses ready to come forward on appropriate Notice at an appropriate time is a Washington, DC contact currently referred to as "DC No. 1" who has direct relevant testimony to the underlying Iviewit Patent frauds which are and should and must be a part of Simon's Estate which have also been disregarded thus far by the alleged Fiduciaries Ted Bernstein and PR O'Connell.

On an equally, if not more, serious level, "DC No. 1" has also advised that I should send all materials on the death of Mitchell Huhem to Federal authorities. Mitchell Huhem, a Motivational Speaker and friend of Donald Trump, or President Trump, of course, allegedly was found deceased in Feb. of 2016 in my parents garage with gunshot wounds to the head the day before I filed the All Writs Injunction in Fed Court when Mitchell Huhem's attorney Laurence Pino of Orlando, Florida who was involved in the illegal sale of the Lions Head Home of my

parents in Boca Raton, Fl became aware on the Friday before Mitch Huhem's body was discovered that the creation of the LIONS HEAD LAND TRUST Inc. a fraudulent "SHELL COMPANY" that was used to "transfer" the home was done so Fraudulently and illegally and that Attorney Pino's office was directly involved in the fraud as it had not only been exposed at the Florida Secretary of State Division of Corporations but also was going into my federal papers in the All Writs act Petition. These crimes have since been reported to State and Federal authorities by myself, again the Court has failed to take any corrective actions despite having Prima Facie evidence already presented to the Court of continuing and ongoing frauds on and by the Court which have severely damaged my family and young children.

This Court should be aware that Attorney Alan Rose's conduct is directly a "key" part in a proper investigation of Mitchell Huhem's death as a Murder as attorney Alan Rose, in pattern and practice, submitted False Written information about Ted Bernstein's relationship with Mitchell Huhem in April of 2016 which has already been forwarded to the FBI.

Thus, this Court should monetarily Sanction Alan Rose for this improper UMC Hearing, strike and deny the motions of Alan Rose altogether and schedule proper Hearings on the Fraud after full Discovery as required by law.

Respectfully,

Eliot I. Bernstein

Eliot I. Bernstein
Inventor, really cool shit that changed your world!
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