

SHORT RECORD
NO. 17-3595
FILED 12/20/2017

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

Simon Bernstein Irrevocable
Insurance Trust Dtd 6/21/95,
et al.,

Plaintiffs,

v.

Heritage Union Life
Insurance Co., et al.,
Defendants.

Case No. 13-cv-3643

Honorable John Robert Blakey

Filers:

Eliot Ivan Bernstein, Pro Se
Appellant

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN that Eliot Ivan Bernstein, Third Party Defendant and Cross Plaintiff in the above named case, hereby appeals to the United States Court of Appeals for the Seventh Circuit from the order of Dismissal titled “**AGREED MOTION FOR ENTRY OF ORDERS OF DISMISSAL AND DISTRIBUTION OF INTERPLEADED FUNDS PURSUANT TO SETTLEMENT**”, entered in this action on the 20th day of November, 2017, and appeals from each and every part of said Order above and further appeals each and every Order in the case issued from inception.

Dated: December 19, 2017

Respectfully submitted,



/s/ Eliot Ivan Bernstein

Third Party Defendant/

Cross Plaintiff PRO SE

2753 NW 34th St.

Boca Raton, FL 33434

Telephone (561) 245-8588

iviewit@iviewit.tv

www.iviewit.tv

CERTIFICATE OF SERVICE

The undersigned, Eliot Bernstein acting PRO SE, hereby certifies that on December 19, 2017, he served a copy of the above Notice of Appeal and this certificate of service, on the parties in the Service List below by email and electronic means pursuant to Electronic Case Filing (ECF). Pursuant to FRCP 5, the undersigned certifies that, to his best information and belief, there are no non-CM/ECF participants in this matter that are not served via email.


/s/ Eliot Ivan Bernstein

Third Party Defendant/

Cross Plaintiff PRO SE

2753 NW 34th St.

Boca Raton, FL 33434

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iviewit@iviewit.tv

www.iviewit.tv

SERVICE LIST

James J. Stamos and STAMOS & TRUCCO LLP One East Wacker Drive, Third Floor Chicago, IL 60601 Attorney for Intervenor, Estate of Simon Bernstein jstamos@stamostrucco.co m, dvasquez@stamostrucco.c om and Kevin Patrick Horan sberkin@stamostrucco.co m, khoran@stamostrucco.co m	Adam Michael Simon, Esq. #6205304 303 East Wacker Drive, Suite 2725 Chicago, Illinois 60601 Attorney for Plaintiffs (312) 819-0730 asimon@chicago- law.com	Ted Bernstein, 880 Berkeley Boca Raton, FL 33487 tbernstein@lifeinsurancecon cepts.com
Alan B. Rose, Esq. PAGE, MRACHEK, FITZ GERALD, ROSE, KONOPKA, THOMAS & WEISS, P.A. 505 South Flagler Drive, Suite 600 West Palm Beach, Florida 33401 arose@pm-law.com and arose@mrachek-law.com	Pamela Simon President STP Enterprises, Inc. 303 East Wacker Drive Suite 210 Chicago IL 60601- 5210 psimon@stpcorp.co m	Estate of Simon Bernstein Personal Representative Brian M. O'Connell, Partner and Joielle Foglietta, Esq. Ciklin Lubitz Martens & O'Connell 515 N Flagler Drive 20th Floor West Palm Beach, FL 33401 boconnell@ciklinlubitz.com
Jill Iantoni 2101 Magnolia Lane Highland Park, IL 60035	Lisa Friedstein 2142 Churchill Lane Highland Park, IL	David B. Simon, Esq. #6205304 303 East Wacker Drive,

jilliantoni@gmail.com	60035 Lisa@friedsteins.co m lisa.friedstein@gma il.com lisa@friedsteins.co m	Suite 2725 Chicago, Illinois 60601 Attorney for Plaintiffs (312) 819-0730
Michael Duane Sanders mds@pw-law.com, sjohnson@pw-law.com	Glenn E. Heilizer glenn@heilizer.com	John M. O'Halloran joh@mcveyparsky-law.com

LB

**UNITED STATES DISTRICT COURT
FOR THE Northern District of Illinois – CM/ECF LIVE, Ver 5.1.1
Eastern Division**

Simon Bernstein Irrevocable Insurance Trust Dtd
6/21/95

Plaintiff,

v.

Case No.:
1:13-cv-03643
Honorable Amy J. St.
Eve

Heritage Union Life Insurance Company

Defendant.

NOTIFICATION OF DOCKET ENTRY

This docket entry was made by the Clerk on Wednesday, May 29, 2013:

MINUTE entry before Honorable Amy J. St. Eve: Motion hearing held on 5/29/2013. Defendant's motion to tender insurance policy proceeds to Court [10] is granted. Parties shall submit an agreed proposed order to Judge St. Eve's proposed order email, the link for which can be found on her web page. Joint status report shall be filed by 7/12/13. Status hearing set for 6/7/13 is stricken and reset to 7/23/13 at 8:30 a.m. Mailed notice(kef,)

ATTENTION: This notice is being sent pursuant to Rule 77(d) of the Federal Rules of Civil Procedure or Rule 49(c) of the Federal Rules of Criminal Procedure. It was generated by CM/ECF, the automated docketing system used to maintain the civil and criminal dockets of this District. If a minute order or other document is enclosed, please refer to it for additional information.

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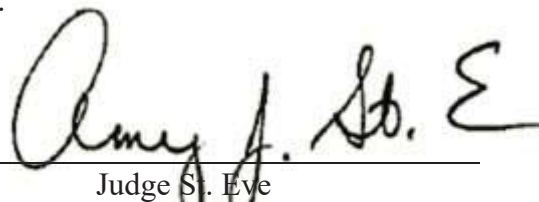
IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

SIMON BERNSTEIN IRREVOCABLE)	
INSURANCE TRUST DTD 6/21/95,)	
)	
Plaintiff,)	
v.)	Case No. 13 cv 3643
)	
HERITAGE UNION LIFE INSURANCE)	Honorable Amy J. St. Eve
COMPANY,)	
)	
Defendant.)	

**AGREED ORDER FOR DEFENDANT'S MOTION TO
TENDER INSURANCE POLICY PROCEEDS TO COURT**

This matter coming to be heard on the Motion by Defendant to tender the relevant insurance death benefit proceeds, which are at issue in this dispute, to the registry of the Court, due notice being given and the Court being fully advised in the premises, it is HEREBY ORDERED:

- 1) The motion is granted and Defendant is to tender the \$1,703,567.09 death benefit proceeds to the registry of the Court, which includes four percent (4%) interest from the date of death through June 25, 2013;
- 2) Plaintiff retains its rights to raise any further interest issues, including under the Illinois Insurance Code, 215 ILCS 5/224, at a later date; and,
- 3) Defendant's counsel to provide Plaintiffs' counsel with a receipt of deposit upon tender of the funds to the Court's registry.



Judge St. Eve

Date: June 25, 2013

Prepared By:

Frederic A. Mendelsohn
Alexander D. Marks
Burke, Warren, MacKay & Serritella, P.C. (#414704)
330 N. Wabash Avenue, 21st Floor
Chicago, IL 60611
312-840-7000 (telephone)
312-840-7900 (facsimile)

**UNITED STATES DISTRICT COURT
FOR THE Northern District of Illinois – CM/ECF LIVE, Ver 5.1.1
Eastern Division**

Simon Bernstein Irrevocable Insurance Trust Dtd
6/21/95, et al.

Plaintiff,

v.

Case No.:
1:13-cv-03643
Honorable Amy J.
St. Eve

Heritage Union Life Insurance Company

Defendant.

NOTIFICATION OF DOCKET ENTRY

This docket entry was made by the Clerk on Thursday, August 29, 2013:

MINUTE entry before Honorable Amy J. St. Eve: Status hearing held on 8/29/2013 and continued to 9/25/2013 at 08:30 AM. Rule 26(a)(1) disclosures by 10/1/13. Written discovery shall be issued by 10/15/13. Fact discovery shall be completed by 2/17/14. Parties are directed to meet and confer pursuant to Rule 26(f) and exhaust all settlement possibilities prior to the next status hearing. Mailed notice(kef,)

ATTENTION: This notice is being sent pursuant to Rule 77(d) of the Federal Rules of Civil Procedure or Rule 49(c) of the Federal Rules of Criminal Procedure. It was generated by CM/ECF, the automated docketing system used to maintain the civil and criminal dockets of this District. If a minute order or other document is enclosed, please refer to it for additional information.

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

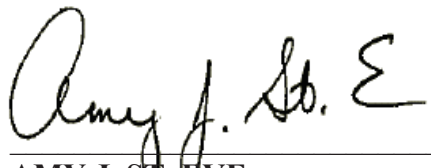
Simon Bernstein Irrevocable Ins Trust)	
)	Case No: 13 C 3643
)	
v.)	
)	Judge Amy J. St. Eve
Heritage Union Life Ins Co. et al.)	
)	
)	

ORDER

(0:03) Motion hearing held on 10/16/13. Defendant Jackson National Life Insurance Company's motion to substitute third-party defendant [41] is granted. The Clerk's Office is directed to substitute JPMorgan Chase Bank, N.A. for First Arlington National Bank as a third-party defendant.

Dated: October 16, 2013

ENTERED



AMY J. ST. EVE

United States District Court Judge

**UNITED STATES DISTRICT COURT
FOR THE Northern District of Illinois – CM/ECF LIVE, Ver 5.1.1
Eastern Division**

Simon Bernstein Irrevocable Insurance Trust Dtd
6/21/95, et al.

Plaintiff,

v.

Case No.:
1:13-cv-03643
Honorable Amy J.
St. Eve

Heritage Union Life Insurance Company

Defendant.

NOTIFICATION OF DOCKET ENTRY

This docket entry was made by the Clerk on Friday, December 20, 2013:

MINUTE entry before the Honorable Amy J. St. Eve: The Court denies Cross-Plaintiff Eliot Ivan Bernstein's motion to strike and disqualify counsel [58] without prejudice for failure to notice the motion before the Court as required by Northern District of Illinois Local Rule 5.3 Mailed notice(kef,)

ATTENTION: This notice is being sent pursuant to Rule 77(d) of the Federal Rules of Civil Procedure or Rule 49(c) of the Federal Rules of Criminal Procedure. It was generated by CM/ECF, the automated docketing system used to maintain the civil and criminal dockets of this District. If a minute order or other document is enclosed, please refer to it for additional information.

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**UNITED STATES DISTRICT COURT
FOR THE Northern District of Illinois – CM/ECF LIVE, Ver 5.1.1
Eastern Division**

Simon Bernstein Irrevocable Insurance Trust Dtd
6/21/95, et al.

Plaintiff,

v.

Case No.:
1:13-cv-03643
Honorable Amy J.
St. Eve

Heritage Union Life Insurance Company

Defendant.

NOTIFICATION OF DOCKET ENTRY

This docket entry was made by the Clerk on Monday, January 13, 2014:

MINUTE entry before the Honorable Amy J. St. Eve: Motion hearing held on 1/13/2014. Plaintiffs' motion for leave to file first amended complaint [66] is granted. Counsel shall separately file the amended complaint upon receipt of this order. Eliot Bernstein's motion to strike and for default judgment [69] is denied. Parties shall answer or otherwise plead to the amended complaint by 2/3/14. Discovery is hereby stayed until the proper Trustee is determined. Status hearing set for 1/22/14 is stricken and reset to 2/6/14 at 8:30 a.m. Mailed notice(kef,)

ATTENTION: This notice is being sent pursuant to Rule 77(d) of the Federal Rules of Civil Procedure or Rule 49(c) of the Federal Rules of Criminal Procedure. It was generated by CM/ECF, the automated docketing system used to maintain the civil and criminal dockets of this District. If a minute order or other document is enclosed, please refer to it for additional information.

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

SIMON BERNSTEIN IRREVOCABLE)	
INSURANCE TRUST DTD 6/21/95,)	
)	
Plaintiff,)	
)	Case No. 13 C 3643
v.)	
)	Judge Amy St. Eve
)	
HERITAGE UNION LIFE INSURANCE)	
COMPANY,)	
)	
Defendant.)	

ORDER

The Court denies non-party William E. Stansbury’s motion to intervene [56].

STATEMENT

On May 20, 2013, Defendant Jackson National Life Insurance Company (“Defendant” or “Jackson”), as successor in interest to Heritage Union Life Insurance Company (“Heritage”), filed an amended notice of removal pursuant to 28 U.S.C. § 1441 removing the present lawsuit from the Circuit Court of Cook County based on the Court’s diversity jurisdiction. *See* 28 U.S.C. § 1332(a). In the Complaint filed on April 5, 2013, Plaintiff Simon Bernstein Irrevocable Insurance Trust (“Bernstein Trust”) alleged a breach of contract claim against Heritage based on Heritage’s failure to pay Plaintiff proceeds from the life insurance policy of decedent Simon Bernstein.¹ On June 26, 2013, Defendant filed a Third-Party Complaint and Counter-Claim for Interpleader pursuant to 28 U.S.C. § 1335(a) and Federal Rule of Civil Procedure 14 seeking a declaration of rights under the life insurance policy for which it is responsible to administer. Before the Court is non-party William E. Stansbury’s motion to intervene both as of right and permissibly under Federal Rule of Civil Procedure 24(a)(2) and Rule 24(b)(1)(B). For the following reasons, the Court denies Stansbury’s motion brought pursuant to Rule 24(a)(2) and denies, in its discretion, Stansbury’s motion brought under Rule 24(b)(1)(B).

¹ On January 13, 2014, Plaintiffs — who now include not only the Bernstein Trust, but four of the five adult children of decedent Simon Bernstein — filed a First Amended Complaint. (R. 73.)

BACKGROUND

Plaintiffs allege that at all times relevant to this lawsuit the Bernstein Trust was a common law trust established in Chicago, Illinois by Simon Bernstein. (R. 73, Am. Compl. ¶ 1.) Further, Plaintiffs assert that Ted Bernstein is the trustee of the Bernstein Trust and that the Bernstein Trust was a beneficiary of Simon Bernstein's life insurance policy. (*Id.* ¶¶ 2, 4.) According to Plaintiffs, at the time of his death, Simon Bernstein was the owner of the life insurance policy and the Bernstein Trust was the sole surviving beneficiary under the policy. (*Id.* ¶ 20.)

In its Counter-Claim and Third-Party Complaint for Interpleader, Jackson alleges that it did not originate or administer the life insurance policy at issue, but inherited the policy from its predecessors. (R. 17, Counter ¶ 2.) Jackson further alleges that on December 27, 1982, Capitol Bankers Life Insurance Company issued the policy to Simon Bernstein and that over the years, the owners, beneficiaries, contingent beneficiaries, and issuers of the policy have changed. (*Id.* ¶¶ 15, 16.) At the time of the insured's death, the policy's death benefits were \$1,689,070.00. (*Id.* ¶ 17.) It is undisputed that no one has been able to locate an executed copy of the Bernstein Trust. (*Id.* ¶ 19.) Jackson further alleges that Eliot Bernstein has also claimed that he and/or his children are potential beneficiaries under the policy. (*Id.* ¶ 22.) Indeed, Eliot Bernstein has filed a pro se Cross-Claim and Counter-Claim against Ted Bernstein and the Bernstein Trust. (R. 35, Cross-Claim, Counter.)

In the present motion to intervene, Stansbury maintains that he filed a lawsuit in the Circuit Court of Palm Beach County, Florida against Simon Bernstein, Ted Bernstein, and several Florida corporate defendants in August 2012 to collect compensation and corporate distributions arising from a Florida business venture. (R. 56, Mot. Intervene ¶ 1.) Also, Stansbury substituted the Estate of Simon Bernstein ("Estate") as a Defendant in the Florida lawsuit and asserted claims against the Estate in the Probate Court of Palm Beach, County, Florida based on this business venture. (*Id.* ¶¶ 2, 3.) Stansbury contends that because no one can locate an executed copy of the Bernstein Trust, the Bernstein Trust does not exist. (*Id.* ¶ 5.) As such, Stansbury argues that the proceeds of the life insurance policy are an asset of the Estate and should be distributed to creditors, such as himself. (*Id.* ¶ 7.)

LEGAL STANDARD

"Rule 24 provides two avenues for intervention, either of which must be pursued by a timely motion." *Grochocinski v. Mayer Brown Rowe & Maw, LLP*, 719 F.3d 785, 797 (7th Cir. 2013). Intervention as of right under "Rule 24(a)(2) requires that the applicant claim 'an interest relating to the property or transaction that is the subject of the action.'" *Flying J, Inc. v. Van Hollen*, 578 F.3d 569, 571 (7th Cir. 2009) (citation omitted); *see also Wisconsin Educ. Ass'n Council v. Walker*, 705 F.3d 640, 658 (7th Cir. 2013) ("Intervention as of right requires a 'direct, significant[,] and legally protectable' interest in the question at issue in the lawsuit.") (citation omitted). Rule 24(a)(2) does not define "interest," but case law makes it clear that "a mere economic interest" is not enough. *See Flying J, Inc.*, 578 F.3d at 571. As the Seventh Circuit

explains, “the fact that you might anticipate a benefit from a judgment in favor of one of the parties to a lawsuit — maybe you’re a creditor of one of them — does not entitle you to intervene in their suit.” *Id.* “Whether an applicant has an interest sufficient to warrant intervention as a matter of right is a highly fact-specific determination, making comparison to other cases of limited value.” *Security Ins. Co. of Hartford v. Schipporeit, Inc.*, 69 F.3d 1377, 1381 (7th Cir. 1995).

Permissive intervention under Rule 24(b), permits “anyone to intervene who ... has a claim or defense that shares with the main action a common question of law or fact,” unless intervention would “unduly delay or prejudice the adjudication of the original parties’ rights.” Fed. R.Civ.P. 24(b)(1)(B), (b)(3); *see also City of Chicago v. FEMA*, 660 F.3d 980, 987 (7th Cir. 2011) (“Rule 24(b) is ... about economy in litigation.”). In addition, Rule 24(b) “plainly dispenses with any requirement that the intervenor shall have a direct personal or pecuniary interest in the subject of the litigation.” *Bond v. Utreras*, 585 F.3d 1061, 1069 (7th Cir. 2009) (citation omitted). Permissive intervention under Rule 24(b) is within the district court’s discretion. *See Foster v. Maram*, 478 F.3d 771, 775 (7th Cir. 2007).

ANALYSIS

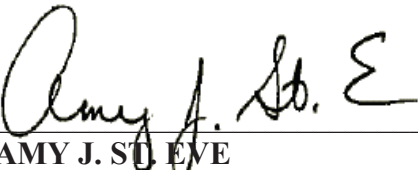
First, Stansbury argues that he is entitled to intervention as of right under Rule 24(a)(2) because he is a creditor of the Estate, albeit an unsecured creditor. (R. 56-3, Probate Stmt. of Claim ¶¶ 1-5.) Assuming Stansbury is a creditor of the Estate based on his Florida lawsuit against certain Florida corporate entities and Ted and Simon Bernstein, being a creditor does not establish the requisite “interest” under Rule 24(a)(2), especially if the purported injury is remote. *See Flying J, Inc.*, 578 F.3d at 571; *see also City of Chicago*, 660 F.3d at 985. Here, Stansbury’s claimed interest is merely an economic interest that is too remote for purposes of Rule 24(a)(2) because the Estate is not a party to this lawsuit, and Stansbury does not assert that he or the Estate are beneficiaries to the life insurance proceeds nor the Bernstein Trust. *See Flying J, Inc.*, 578 F.3d at 571. In other words, the property or transaction at stake in this lawsuit involves Simon Bernstein’s life insurance policy, the beneficiaries of the policy, and the policy’s proceeds — not Stansbury’s compensation for a Florida business venture.

Stansbury’s alleged “interest” is not only remote, but it is speculative. *Solid Waste Agency of No. Cook County v. U.S. Army Corps of Eng’rs*, 101 F.3d 503, 507 (7th Cir. 1996) (“It is not enough to show a purely theoretical possibility that the suit might impair an interest.”). In fact, in the Seventh Circuit, the interest requirement under Rule 24(a)(2) incorporates Article III standing requirements. *See City of Chicago*, 660 F.3d at 984-85; *Aurora Loan Servs., Inc. v. Craddieth*, 442 F.3d 1018, 1022 (7th Cir. 2006). It is well-established that Article III standing requires a causal connection between the alleged injury and one of the party’s conduct. *See Scherr v. Marriott Int’l, Inc.*, 703 F.3d 1069, 1074 (7th Cir. 2013) (citing *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560, 112 S.Ct. 2130, 119 L.Ed.2d 351 (1992)). Here, Stansbury’s injury, namely, his unpaid compensation and corporate distributions, is not fairly traceable to any of the alleged conduct pertaining to the life insurance policy proceeds.

In addition, Stansbury does not have a redressable claim as required for Article III standing because he is asking the Court to interfere with the probate proceedings by determining that the life insurance proceeds are part of the Estate's assets and that these assets must be distributed to pay creditors of the Estate, such as himself. *See Swanson v. City of Chetek*, 719 F.3d 780, 783 (7th Cir. 2013) (to have standing "it must be likely that the injury will be redressed by a favorable decision"). In short, because the remedy Stansbury seeks interferes with the probate court's control and administration of the Estate, the probate exception to federal jurisdiction applies. *See Marshall v. Marshall*, 547 U.S. 293, 311-12, 126 S.Ct. 1735, 164 L.Ed.2d 480 (2006). Thus, Stansbury does not have standing to insert his claim into this lawsuit nor does he have the appropriate "interest" under Rule 24(a)(2).

Next, Stansbury argues that he is entitled to permissive intervention under Rule 24(b)(1)(B) because his claim shares common questions of fact or law with the underlying action involving insurance proceeds. Even if Stansbury's claim shared common questions of fact or law, allowing Stansbury to intervene would not serve the interests of judicial economy and would unduly prejudice the present parties to this lawsuit. *See City of Chicago*, 660 F.3d at 987. Not only does the Court lack jurisdiction to interfere with the probate court's administration of the Estate, but Stansbury's claims regarding a business venture that started sometime in 2003 would unduly delay the determination of the beneficiaries of the life insurance policy at issue in this lawsuit. In sum, the most efficient way to handle the case before the Court is to deny Stansbury's motion to intervene. *See SEC v. Homa*, 7 Fed.Appx. 441, 447 (7th Cir. 2001) (unpublished). Therefore, the Court, in its discretion, denies Stansbury's Rule 24(b)(1)(B) motion to intervene.

Dated: January 14, 2014



AMY J. ST. EVE
United States District Court Judge

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

SIMON BERNSTEIN IRREVOCABLE)
INSURANCE TRUST DTD 6/21/95,)
)
Plaintiff,)
)
v.)
)
HERITAGE UNION LIFE INSURANCE CO.,)
)
Defendant.)
)

HERITAGE UNION LIFE INSURANCE CO.,)
)
Counter-Plaintiff,)
)
v.)
)
SIMON BERNSTEIN IRREVOCABLE)
INSURANCE TRUST DTD 6/21/95,)
)
Counter-Defendant,)
)
)
FIRST ARLINGTON NATIONAL BANK, et al.,)
)
Third-Party Defendants.)
)

ELIOT IVAN BERNSTEIN,)
)
Cross-Plaintiff,)
)
v.)
)
TED BERNSTEIN,)
Cross-Defendant,)
)
PAMELA B. SIMON, et al.,)
)
Third-Party Defendants.)
)
_____)

Case No. 13 C 3643

Judge Amy St. Eve

ORDER

The Court, in its discretion, denies pro se Cross-Plaintiff Eliot Bernstein's motion to disqualify Plaintiffs' counsel and to strike the pleadings [63].

STATEMENT

On May 20, 2013, Defendant Jackson National Life Insurance Company ("Defendant" or "Jackson"), as successor in interest to Heritage Union Life Insurance Company ("Heritage"), filed an amended notice of removal pursuant to 28 U.S.C. § 1441, removing the present lawsuit from the Circuit Court of Cook County based on the Court's diversity jurisdiction. *See* 28 U.S.C. § 1332(a). In their First Amended Complaint, Plaintiffs allege a breach of contract claim against Defendant based on Defendant's failure to pay Plaintiffs proceeds from the life insurance policy of decedent Simon Bernstein. Before the Court is pro se Cross-Plaintiff Eliot Bernstein's ("Eliot") motion to disqualify Plaintiffs' counsel and to strike the pleadings. For following reasons, the Court, in its discretion, denies Eliot's motion.

BACKGROUND

In their First Amended Complaint, Plaintiffs, who are the Bernstein Trust and four of the five adult children of decedent Simon Bernstein, allege that at all times relevant to this lawsuit, the Bernstein Trust was a common law trust established in Chicago, Illinois by Simon Bernstein. (R. 73, Am. Compl. ¶¶ 1, 7.) Plaintiffs assert that Ted Bernstein is the trustee of the Bernstein Trust and that the Bernstein Trust was a beneficiary of Simon Bernstein's life insurance policy. (*Id.* ¶¶ 2, 4.) In addition, Plaintiffs allege that the beneficiaries to the Bernstein Trust are all of Simon Bernstein's children, including Eliot, although Eliot did not consent to being a Plaintiff in this lawsuit. (*Id.* ¶¶ 5, 8.) According to Plaintiffs, at the time of his death, Simon Bernstein was the owner of the life insurance policy and the Bernstein Trust was the sole surviving beneficiary under the policy. (*Id.* ¶ 20.) Following Simon Bernstein's death on September 13, 2012, the Bernstein Trust, by and through its counsel in Palm Beach County, Florida, submitted a death claim to Heritage under the life insurance policy at issue. (*Id.* ¶ 22.)

On June 26, 2013, Jackson filed a Third-Party Complaint and Counter-Claim for Interpleader pursuant to 28 U.S.C. § 1335(a) and Federal Rule of Civil Procedure 14 seeking a declaration of rights under the life insurance policy for which it is responsible to administer. In its Counter-Claim and Third-Party Complaint for Interpleader, Jackson alleges that it did not originate or administer the life insurance policy at issue, but inherited the policy from its predecessors. (R. 17, Counter ¶ 2.) Meanwhile, it is undisputed that no one has been able to locate a fully executed copy of the Bernstein Trust. (*Id.* ¶ 19.)

On September 22, 2013, Eliot filed pro se Cross-Claims against Ted Bernstein and Plaintiffs' counsel Adam Simon, among others. (R. 35, Cross-Claim.) Construing his pro se allegations liberally, *see Luevano v. Wal-Mart Stores, Inc.*, 722 F.3d 1014, 1027 (7th Cir. 2013), Eliot alleges claims of fraudulent conversion, breach of fiduciary duty, legal malpractice, abuse

of the legal process, common law conversion, civil conspiracy, and negligence in connection with the administration of Simon Bernstein's Estate in the Probate Court of Palm Beach County, Florida.

I. Motion to Disqualify Plaintiffs' Counsel

A. Legal Standard

When determining a motion to disqualify counsel, courts must strike a balance between two important considerations — “the sacrosanct privacy of the attorney-client relationship (and the professional integrity implicated by that relationship) and the prerogative of a party to proceed with counsel of its choice.” *Schiessle v. Stephens*, 717 F.2d 417, 419-20 (7th Cir. 1983). Disqualification of an attorney is a “drastic measure which courts should hesitate to impose except when absolutely necessary.” *Id.* at 420. Motions to disqualify should be “viewed with extreme caution for they can be misused as techniques of harassment.” *Freeman v. Chicago Musical Instrument Co.*, 689 F.2d 715, 722 (7th Cir. 1982). The moving party has the burden to establish facts warranting attorney disqualification. *See Black Rush Min., LLC v. Black Panther Min.*, 840 F.Supp.2d 1085, 1090 (N.D. Ill. 2012). Moreover, district courts have broad discretion in determining whether to disqualify counsel. *See Hutchinson v. Spanierman*, 190 F.3d 815, 822 (7th Cir. 1999).

B. Analysis

In his motion, Eliot argues that the Court should disqualify Plaintiffs' counsel Adam Simon and his law firm because it “appears” that counsel has personal feelings and emotions involving Eliot that interfere with counsel's ability to act independently and without malice toward Eliot. Also, Eliot bases his disqualification argument on the fact that he has named Adam Simon and his law firm as Cross-Defendants in the present matter. Eliot's claims against these Cross-Defendants are based on Adam Simon filing the present lawsuit instead of submitting this dispute to the Probate Court of Palm Beach County in conjunction with Simon Bernstein's Estate.

Typically, motions to disqualify are premised on an attorney's prior representation of a client in relation to counsel's present representation of another client and whether the matters are “substantially related.” *See Westinghouse Elec. Corp. v. Gulf Oil. Corp.*, 588 F.2d 221, 223 (7th Cir. 1978) (“Where an attorney represents a party in a matter in which the adverse party is that attorney's former client, the attorney will be disqualified if the subject matter of the two representations are ‘substantially related.’”). More specifically, “‘substantially related’ boils down to whether the lawyer could have obtained confidential information in the first representation that is potentially relevant in the second.” *Analytica, Inc. v. NPD Research, Inc.*, 708 F.2d 1263, 1266 (7th Cir. 1983).

Here, Eliot's disqualification motion is based on Adam Simon's conduct in the present lawsuit as it relates to Simon Bernstein's Estate — not any previous representation of Eliot —

which calls into question whether Eliot has standing to bring the present motion to disqualify because he is a third-party to the attorney-client relationship at issue. Although district courts in this Circuit have concluded that a third-party to the attorney-client relationship has standing to bring a motion to disqualify, the third-party must provide evidence “clearly calling into question the fair or efficient administration of justice.” *See Tizes v. Curico*, No. 94 C 7657, 1997 WL 116797, at *2 (N.D. Ill. Mar. 12, 1997) (Williams, J.); *see also Rudzinski v. Metropolitan Life Ins. Co.*, No. 05 C 0474, 2007 WL 3171338, at *4 (N.D. Ill. Oct. 25, 2007) (“courts in this Circuit largely have ... found that a third party has standing to move to disqualify opposing counsel only if it has ‘evidence clearly calling into question the fair or efficient administration of justice.’”); *Emmis Operating Co. v. CBS Radio, Inc.*, 480 F.Supp.2d 1111, 1116 (S.D. Ind. 2007) (collecting cases).

Eliot has not presented any evidence that calls into question the fair or efficient administration of justice in the present matter to support his motion to qualify. Instead, Eliot attaches various unauthenticated documents concerning the Bernstein Trust, the life insurance policy, emails, and other materials regarding the probate proceedings in Palm Beach County. *See Devbrow v. Gallegos*, 735 F.3d 584, 587 (7th Cir. 2013); Fed.R.Evid. 901. Moreover, none of these documents speak to Adam Simon or his representation in this matter. In addition, Eliot’s motion and legal memoranda are not verified pursuant to 28 U.S.C. § 1746, therefore, Eliot bases his motion on bare-boned allegations that Adam Simon facilitated insurance fraud in connection with bringing this lawsuit. Without more, Eliot has not provided sufficient evidence that clearly calls into question the fair or efficient administration of justice, and thus he does not have standing to bring the present motion to disqualify. Therefore, the Court denies his motion to disqualify Plaintiffs’ counsel.

II. Motion to Strike the Pleadings

A. Legal Standard

Next, Eliot moves to strike Plaintiffs’ pleadings, which is governed by Federal Rule of Civil Procedure 12(f). “Rule 12(f) provides that a district court ‘may strike from a pleading an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter.’” *Delta Consulting Group, Inc. v. R. Randle Const., Inc.*, 554 F.3d 1133, 1141 (7th Cir. 2009) (quoting Fed.R.Civ.P. 12(f)). District courts have considerable discretion to strike allegations under Rule 12(f). *See id.* at 1141-42.

B. Analysis

In support of his motion to strike the pleadings, Eliot gives his version of the proceedings in the Probate Court of Palm Beach County, including the proceedings regarding his mother’s estate. According to Eliot, the alleged misconduct in probate court involves Robert Spallina, his parent’s estate planner and attorney, as well as Spallina’s law firm and its staff. In this context, Eliot maintains that because the Bernstein Trust is lost, the insurance policy proceeds should be paid to the Simon Bernstein Estate in the Probate Court of Palm Beach County. In essence,

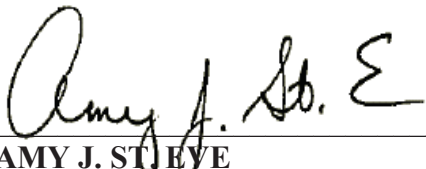
Eliot's motion to strike is a motion to dismiss this lawsuit and remand it to the Probate Court of Palm Beach County. Not only does the Court lack jurisdiction to remand this matter to the Florida probate court, but Eliot's motion seeks a final determination of the merits of Plaintiffs' claims, which is a remedy the Court cannot grant at this procedural posture. To clarify, Eliot's pro se status does not absolve him from complying with the federal and local procedural rules. *See Pearle Vision, Inc. v. Romm*, 541 F.3d 751, 758 (7th Cir. 2008). As the Supreme Court instructs, "we have never suggested that procedural rules in ordinary civil litigation should be interpreted so as to excuse mistakes by those who proceed without counsel." *McNeil v. United States*, 508 U.S. 106, 113, 113 S.Ct. 1980, 124 L.Ed.2d 21 (1993). Accordingly, Eliot, just like other civil litigants, must follow the procedural rules and bring the proper dispositive motions at the appropriate time. In addition, Eliot must follow the Northern District of Illinois Local Rules, such as Local Rule 7.1, in which he must ask for leave of court before filing a brief over fifteen pages long. His memorandum in support of the present motion is over 60 pages long and his reply brief is approximately 132 pages long.

Moreover, Eliot's memoranda in support of the present motion is filled with accusations and allegations that he has also brought in the Probate Court for Palm Beach County regarding the Simon Bernstein Estate and his mother's estate. (R. 35, Ex. 1, Probate Hr'g Tr.; R. 75-3, Ex. B, 1/04/14 Probate Motion.) As discussed, the Federal Rules of Civil Procedure apply to the present proceedings, including Rule 11, which grants the Court discretion to sanction a litigant's misconduct, including a pro se litigant's misconduct. *See Cooney v. Casady*, 735 F.3d 514, 518, 523 (7th Cir. 2013). Conduct that warrants Rule 11 sanctions includes filing claims that are frivolous or malicious, filing legally baseless claims, or bringing claims for an improper purpose, such as for the purpose of harassing parties or counsel. *See Fabriko Acquisition Corp. v. Prokos*, 536 F.3d 605, 610 (7th Cir. 2008); *Brunt v. Serv. Emp. Int'l Union*, 284 F.3d 715, 721 (7th Cir. 2002); *Independent Lift Truck Builders Union v. NACCO Materials Handling Grp., Inc.*, 202 F.3d 965, 968-69 (7th Cir. 2000). Rule 11 sanctions can include monetary fines, fees, expenses, or non-monetary sanctions. *See Fed.R.Civ.P. 11(c)(4)*; *United States Bank Nat'l Ass'n, N.D. v. Sullivan-Moore*, 406 F.3d 465, 471 (7th Cir. 2005) ("The district court has wide latitude to determine what sanctions should be imposed for a Rule 11 violation, and may impose non-monetary sanctions when appropriate to deter repetition of the offending conduct.").

In addition to Rule 11, "federal courts have the inherent power to impose a wide range of sanctions upon parties for abusive litigation," in "cases in which a litigant has engaged in bad-faith conduct or willful disobedience of a court's orders." *Grochocinski v. Mayer Brown Rowe & Maw, LLP*, 719 F.3d 785, 799 (7th Cir. 2013) (citation omitted). In other words, "[s]anctions imposed pursuant to the district court's inherent power are appropriate where a party has willfully abused the judicial process or otherwise conducted litigation in bad faith." *Tucker v. Williams*, 682 F.3d 654, 661-62 (7th Cir. 2012). Under these circumstances, the sanction of dismissal is well within the district court's discretion. *See Salmeron v. Enterprise Recovery Sys., Inc.*, 579 F.3d 787, 793 (7th Cir. 2009).

As this case proceeds, the Court expects the litigants to act according to their Rule 11 obligations.

Dated: February 6, 2014



AMY J. ST. EVE
United States District Court Judge

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

SIMON BERNSTEIN IRREVOCABLE)
INSURANCE TRUST DTD 6/21/95,)
)
Plaintiff,)
)
v.)
)
HERITAGE UNION LIFE INSURANCE CO.,)
)
Defendant.)
)

HERITAGE UNION LIFE INSURANCE CO.,)
)
Counter-Plaintiff,)
)
v.)
)
SIMON BERNSTEIN IRREVOCABLE)
INSURANCE TRUST DTD 6/21/95,)
)
Counter-Defendant,)
)
)
FIRST ARLINGTON NATIONAL BANK, et al.,)
)
Third-Party Defendants.)
)

ELIOT IVAN BERNSTEIN,)
)
Cross-Plaintiff,)
)
v.)
)
TED BERNSTEIN,)
Cross-Defendant,)
)
PAMELA B. SIMON, et al.,)
)
Third-Party Defendants.)
)
_____)

Case No. 13 C 3643

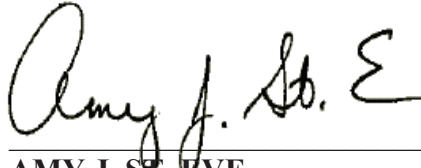
Judge Amy St. Eve

ORDER

Pursuant to Heritage Union Life Insurance Company's notice of voluntary dismissal [97], Bank of America, successor in interest to LaSalle National Trust, is hereby dismissed, with prejudice and without costs. Heritage's Rule 12(b)(6) motion to dismiss [94] is granted. Heritage Union Life Insurance Company is hereby dismissed as a party from this action, including dismissal of all claims against it, with prejudice. Heritage Union Life Insurance Company is discharged of all liability under the Policy.

Dated: February 18, 2014

ENTERED

A handwritten signature in black ink, appearing to read "Amy J. St. Eve", written over a horizontal line.

AMY J. ST. EVE

United States District Court Judge

**UNITED STATES DISTRICT COURT
FOR THE Northern District of Illinois – CM/ECF LIVE, Ver 6.1
Eastern Division**

Simon Bernstein Irrevocable Insurance Trust Dtd
6/21/95, et al.

Plaintiff,

v.

Case No.:
1:13-cv-03643
Honorable Amy J.
St. Eve

Eliot Bernstein

Defendant.

NOTIFICATION OF DOCKET ENTRY

This docket entry was made by the Clerk on Wednesday, March 12, 2014:

MINUTE entry before the Honorable Amy J. St. Eve: Motion hearing held on 3/12/2014. Third-party defendants Tescher & Spallina's motion to dismiss third-party complaint [100] is entered. Reply by 3/26/14. Third-party defendant JP Morgan Chase Bank's motion for judgment on the pleadings in its favor on the counterclaim and third-party complaint [102] is granted without costs. JPMorgan Chase Bank, N.A. terminated. Mailed notice(kef,)

ATTENTION: This notice is being sent pursuant to Rule 77(d) of the Federal Rules of Civil Procedure or Rule 49(c) of the Federal Rules of Criminal Procedure. It was generated by CM/ECF, the automated docketing system used to maintain the civil and criminal dockets of this District. If a minute order or other document is enclosed, please refer to it for additional information.

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

SIMON BERNSTEIN IRREVOCABLE)
INSURANCE TRUST DTD 6/21/95,)
)
Plaintiff,)
)
v.)
)
HERITAGE UNION LIFE INSURANCE CO.,)
)
Defendant.)
)

HERITAGE UNION LIFE INSURANCE CO.,)
)
Counter-Plaintiff,)
)
v.)
)
SIMON BERNSTEIN IRREVOCABLE)
INSURANCE TRUST DTD 6/21/95,)
)
Counter-Defendant,)
)
)
FIRST ARLINGTON NATIONAL BANK, et al.,)
)
Third-Party Defendants.)
)

ELIOT IVAN BERNSTEIN,)
)
Cross-Plaintiff,)
)
v.)
)
TED BERNSTEIN,)
Cross-Defendant,)
)
PAMELA B. SIMON, et al.,)
)
Third-Party Defendants.)
)
_____)

Case No. 13 C 3643

Judge Amy St. Eve

ORDER

The Court grants the Third-Party Defendants' motion to dismiss and dismisses the Third-Party Defendants from this lawsuit [100].

STATEMENT

On May 20, 2013, Defendant Jackson National Life Insurance Company ("Defendant" or "Jackson"), as successor in interest to Heritage Union Life Insurance Company ("Heritage"), filed an amended notice of removal pursuant to 28 U.S.C. § 1441, removing the present lawsuit from the Circuit Court of Cook County based on the Court's diversity jurisdiction. *See* 28 U.S.C. § 1332(a). On June 26, 2013, Defendant filed a Third-Party Complaint and Counter-Claim for Interpleader pursuant to 28 U.S.C. § 1335(a) and Federal Rule of Civil Procedure 14 seeking a declaration of rights under the life insurance policy for which it is responsible to administer. On September 22, 2013, Eliot Ivan Bernstein, a Third-Party Defendant to Jackson's interpleader claim, filed a Third-Party Complaint against Third-Party Defendants Tescher & Spallina, P.A., Donald Tescher, and Robert Spallina (hereinafter "Third-Party Defendants" or "Tescher and Spallina"). Before the Court is Tescher and Spallina's motion to dismiss the Third-Party Complaint pursuant to Federal Rules of Civil Procedure 12(b)(1), (2), and (6). For the following reasons, the Court grants the Third-Party Defendants' motion to dismiss pursuant to Rule 12(b)(6) and dismisses the Third-Party Defendants from this lawsuit.

BACKGROUND

In their First Amended Complaint filed on January 13, 2014, Plaintiffs, who are the Bernstein Trust and four of the five adult children of decedent Simon Bernstein, allege that at all times relevant to this lawsuit, the Bernstein Trust was a common law trust established in Chicago, Illinois by Simon Bernstein. (R. 73, Am. Compl. ¶¶ 1, 7.) Plaintiffs assert that Ted Bernstein is the trustee of the Bernstein Trust and that the Bernstein Trust was a beneficiary of Simon Bernstein's life insurance policy. (*Id.* ¶¶ 2, 4.) In addition, Plaintiffs allege that the beneficiaries to the Bernstein Trust are all of Simon Bernstein's children, including Eliot, although Eliot did not consent to being a Plaintiff in this lawsuit. (*Id.* ¶¶ 5, 8.) According to Plaintiffs, at the time of his death, Simon Bernstein was the owner of the life insurance policy and the Bernstein Trust was the sole surviving beneficiary under the policy. (*Id.* ¶ 20.) Following Simon Bernstein's death on September 13, 2012, the Bernstein Trust, by and through its counsel in Palm Beach County, Florida, submitted a death claim to Heritage under the life insurance policy at issue. (*Id.* ¶ 22.)

On September 22, 2013, Eliot filed a pro se Third-Party Complaint against Tescher and Spallina, who are Florida probate attorneys. Construing his pro se allegations liberally, *see Luevano v. Wal-Mart Stores, Inc.*, 722 F.3d 1014, 1027 (7th Cir. 2013), Eliot alleges claims of fraudulent conversion, breach of fiduciary duty, legal malpractice, abuse of the legal process, common law conversion, civil conspiracy, and negligence in connection with the administration of Simon Bernstein's Estate in the Probate Court of Palm Beach County, Florida.

LEGAL STANDARDS

“A motion under Rule 12(b)(6) tests whether the complaint states a claim on which relief may be granted.” *Richards v. Mitcheff*, 696 F.3d 635, 637 (7th Cir. 2012). Under Rule 8(a)(2), a complaint must include “a short and plain statement of the claim showing that the pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2). The short and plain statement under Rule 8(a)(2) must “give the defendant fair notice of what the claim is and the grounds upon which it rests.” *Bell Atlantic v. Twombly*, 550 U.S. 544, 555, 127 S. Ct. 1955, 167 L. Ed. 2d 929 (2007) (citation omitted). Under the federal notice pleading standards, a plaintiff’s “factual allegations must be enough to raise a right to relief above the speculative level.” *Twombly*, 550 U.S. at 555. Put differently, a “complaint must contain sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’” *Ashcroft v. Iqbal*, 556 U.S. 662, 678, 129 S. Ct. 1937, 1949, 173 L. Ed. 2d 868 (2009) (quoting *Twombly*, 550 U.S. at 570). “In reviewing the sufficiency of a complaint under the plausibility standard, [courts] accept the well-pleaded facts in the complaint as true.” *Alam v. Miller Brewing Co.*, 709 F.3d 662, 665-66 (7th Cir. 2013).

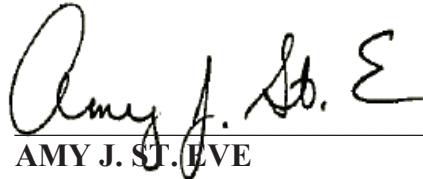
ANALYSIS

The Third-Party Defendants move to dismiss the Third-Party Complaint as improper under Rule 14(a). *See Mizuho Corp. Bank (USA) v. Cory & Assoc. Inc.*, 341 F.3d 644, 649 (7th Cir. 2003). Rule 14(a) sets forth the circumstances in which a defendant may bring a third party into a lawsuit and states in relevant part: “A defending party may, as third-party plaintiff, serve a summons and complaint on a nonparty who is or may be liable to it for all or part of the claim against it.” Put differently, bringing in a third party “presupposes liability on the part of the original defendant which he is attempting to pass on to the third-party defendant.” *Parr v. Great Lakes Exp. Co.*, 484 F.2d 767, 769 (7th Cir. 1973); *see also* 6 Charles Alan Wright, Arthur R. Miller, & Mary Kay Kane, Federal Practice & Procedure § 1441 (“Impleader, or third-party practice as it is called in Rule 14, is the procedure by which a defendant can bring in as a third-party defendant one alleged to be liable to defendant for all or part of plaintiff’s claim against defendant.”).

Here, Eliot is not an original Defendant to Plaintiffs’ First Amended Complaint in which they bring a breach of contract claim based on Simon Bernstein’s life insurance policy against Jackson. Instead, Eliot is a Third-Party Defendant in Jackson’s interpleader action. More importantly, because Eliot is a Third-Party Defendant to the interpleader claim, he is not facing any liability in this lawsuit. *See MetLife Investors USA Ins. Co. v. Zeidman*, 734 F.Supp.2d 304, 310 (E.D.N.Y. 2010) (“Rule 14 limits a defendant to joining third parties that share or supersede the defendant’s liability to the plaintiff.”). Instead, Eliot is seeking damages against Tescher and Spallina for other claims, namely, fraudulent conversion, breach of fiduciary duty, legal malpractice, abuse of the legal process, common law conversion, civil conspiracy, and negligence in connection with the administration of Simon Bernstein’s Estate in the Probate

Court of Palm Beach County, Florida. Rule 14(a) does not authorize Eliot to seek any such relief in the present lawsuit because Eliot is not facing any liability in the first instance. The Court therefore grants Tescher and Spallina's motion to dismiss.

Dated: March 17, 2014



AMY J. ST. EVE
United States District Court Judge

**UNITED STATES DISTRICT COURT
FOR THE Northern District of Illinois – CM/ECF LIVE, Ver 6.1
Eastern Division**

Simon Bernstein Irrevocable Insurance Trust Dtd
6/21/95, et al.

Plaintiff,

v.

Case No.:
1:13-cv-03643
Honorable Amy J.
St. Eve

Eliot Bernstein

Defendant.

NOTIFICATION OF DOCKET ENTRY

This docket entry was made by the Clerk on Thursday, August 28, 2014:

MINUTE entry before the Honorable Amy J. St. Eve: Status hearing held on 8/28/2014 and continued to 11/3/2014 at 08:30 AM. Fact discovery shall be completed by 1/9/15. Any dispositive motions, with supporting memoranda, shall be filed by 3/6/15. Mailed notice(kef,)

ATTENTION: This notice is being sent pursuant to Rule 77(d) of the Federal Rules of Civil Procedure or Rule 49(c) of the Federal Rules of Criminal Procedure. It was generated by CM/ECF, the automated docketing system used to maintain the civil and criminal dockets of this District. If a minute order or other document is enclosed, please refer to it for additional information.

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**UNITED STATES DISTRICT COURT
FOR THE Northern District of Illinois – CM/ECF LIVE, Ver 6.1
Eastern Division**

Simon Bernstein Irrevocable Insurance Trust Dtd
6/21/95, et al.

Plaintiff,

v.

Case No.: 1:13-cv-03643
Honorable John Robert
Blakey

Eliot Bernstein

Defendant.

NOTIFICATION OF DOCKET ENTRY

This docket entry was made by the Clerk on Monday, April 6, 2015:

MINUTE entry before the Honorable John Robert Blakey: Intervenor's motion to stay discovery [154] is denied, as discovery closed on 1/9/15 (see [123], [133]). Motion by Third-Party Defendant/Counter-claimant Eliot Bernstein for an extension of time to file a response to Plaintiffs' motion for summary judgment [155] is granted. Third-Party Defendant/Counter-claimant Eliot Bernstein shall file his response on or before 5/15/15. Plaintiffs shall file their reply on or before 5/27/15. The notice of motion date set for 4/9/15 is stricken, the parties need not appear. The case is already set for a status hearing on 4/13/15 at 9:45 a.m. in Courtroom 1725, and that date stands. Mailed notice(gel,)

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**UNITED STATES DISTRICT COURT
FOR THE Northern District of Illinois – CM/ECF LIVE, Ver 6.1
Eastern Division**

Simon Bernstein Irrevocable Insurance Trust Dtd
6/21/95, et al.

Plaintiff,

v.

Case No.:
1:13-cv-03643
Honorable John
Robert Blakey

Eliot Bernstein

Defendant.

NOTIFICATION OF DOCKET ENTRY

This docket entry was made by the Clerk on Monday, April 13, 2015:

MINUTE entry before the Honorable John Robert Blakey: Status and motion hearing held on 4/13/2015. Oral motion to reopen discovery to permit the depositions of Ted Bernstein and Don Sanders is granted. The depositions shall be completed on or before 4/27/2015. Status hearing set for 5/6/2015 at 9:45 AM in Courtroom 1725. Mailed notice(gel,)

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**UNITED STATES DISTRICT COURT
FOR THE Northern District of Illinois – CM/ECF LIVE, Ver 6.1
Eastern Division**

Simon Bernstein Irrevocable Insurance Trust Dtd
6/21/95, et al.

Plaintiff,

v.

Case No.: 1:13-cv-03643
Honorable John Robert
Blakey

Eliot Bernstein

Defendant.

NOTIFICATION OF DOCKET ENTRY

This docket entry was made by the Clerk on Wednesday, May 6, 2015:

MINUTE entry before the Honorable John Robert Blakey: Pursuant to LR 7.1, Third Party Defendant Eliot Bernstein's omnibus motion [173] is hereby stricken. Third Party Defendant Bernstein may re-file his motion so long as it is in compliance with LR 7.1 and does not exceed 15 pages double spaced. The Court encourages Third Party Defendant Bernstein to confine his motion to matters over which this Court has jurisdiction including time limits for discovery and summary judgment briefing. Because the omnibus motion [173] has been stricken, Third Party Defendant Bernstein's May 5, 2015 motion [176] is denied as moot. The local rules are available at <http://www.ilnd.uscourts.gov/>. Mailed notice(gel,)

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**UNITED STATES DISTRICT COURT
FOR THE Northern District of Illinois – CM/ECF LIVE, Ver 6.1
Eastern Division**

Simon Bernstein Irrevocable Insurance Trust Dtd
6/21/95, et al.

Plaintiff,

v.

Case No.:
1:13-cv-03643
Honorable John
Robert Blakey

Eliot Bernstein

Defendant.

NOTIFICATION OF DOCKET ENTRY

This docket entry was made by the Clerk on Friday, May 22, 2015:

MINUTE entry before the Honorable John Robert Blakey: Eliot Bernstein's motion for interim disbursement of interpled funds [181] is denied. Bernstein's representations to the contrary notwithstanding, at this time the Court is unable to say that anyone has a clear right to the proceeds deposited by Heritage Union Life Insurance Company, let alone what each interested party's share should be. In his answer [35], Bernstein concedes that he does not know who the beneficiaries are under the Trust. And although Bernstein and his siblings may claim to be entitled to the funds, the Intervenor has claimed an interest in the funds as well. Bernstein has not cited, and the Court is not aware of, any authority that would allow it to award damages before resolving the merits of the parties' dispute. Plaintiffs' motion to strike [183] is denied as moot. The 5/28/15 Notice of Motion dates are stricken; the parties need not appear. Mailed notice(gel,)

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FOR THE Northern District of Illinois – CM/ECF LIVE, Ver 6.1
Eastern Division**

Simon Bernstein Irrevocable Insurance Trust Dtd
6/21/95, et al.

Plaintiff,

v.

Case No.:
1:13-cv-03643
Honorable John
Robert Blakey

Eliot Bernstein

Defendant.

NOTIFICATION OF DOCKET ENTRY

This docket entry was made by the Clerk on Friday, June 5, 2015:

MINUTE entry before the Honorable John Robert Blakey: Eliot Bernstein's motion in opposition to summary judgment [186] is stricken for failing to comply with Local Rules 7.1 and 56.1(b). Mailed notice(gel,)

ATTENTION: This notice is being sent pursuant to Rule 77(d) of the Federal Rules of Civil Procedure or Rule 49(c) of the Federal Rules of Criminal Procedure. It was generated by CM/ECF, the automated docketing system used to maintain the civil and criminal dockets of this District. If a minute order or other document is enclosed, please refer to it for additional information.

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**UNITED STATES DISTRICT COURT
FOR THE Northern District of Illinois – CM/ECF LIVE, Ver 6.1
Eastern Division**

Simon Bernstein Irrevocable Insurance Trust Dtd
6/21/95, et al.

Plaintiff,

v.

Case No.:
1:13-cv-03643
Honorable John
Robert Blakey

Eliot Bernstein

Defendant.

NOTIFICATION OF DOCKET ENTRY

This docket entry was made by the Clerk on Friday, June 5, 2015:

MINUTE entry before the Honorable John Robert Blakey: Eliot Bernstein's response to motion for summary judgment [189] is stricken for failing to comply with Local Rules 7.1 and 56.1(b). Mailed notice(gel,)

ATTENTION: This notice is being sent pursuant to Rule 77(d) of the Federal Rules of Civil Procedure or Rule 49(c) of the Federal Rules of Criminal Procedure. It was generated by CM/ECF, the automated docketing system used to maintain the civil and criminal dockets of this District. If a minute order or other document is enclosed, please refer to it for additional information.

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FOR THE Northern District of Illinois – CM/ECF LIVE, Ver 6.1
Eastern Division**

Simon Bernstein Irrevocable Insurance Trust Dtd
6/21/95, et al.

Plaintiff,

v.

Case No.:
1:13-cv-03643
Honorable John
Robert Blakey

Eliot Bernstein

Defendant.

NOTIFICATION OF DOCKET ENTRY

This docket entry was made by the Clerk on Monday, August 17, 2015:

MINUTE entry before the Honorable John Robert Blakey: Eliot Ivan Bernstein's application to proceed in forma pauperis [210] is denied. First, the filing fee was paid in full years ago in this case, and no fees are required of Mr. Bernstein. Additionally, the parties have briefed summary judgment and nothing further is required of Mr. Bernstein at this time; To the extent future filings should become necessary, Mr. Bernstein has proven himself more than capable of filing pleadings. Mailed notice(gel,)

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FOR THE Northern District of Illinois – CM/ECF LIVE, Ver 6.1
Eastern Division**

Simon Bernstein Irrevocable Insurance Trust Dtd
6/21/95, et al.

Plaintiff,

v.

Case No.:
1:13-cv-03643
Honorable John
Robert Blakey

Eliot Bernstein

Defendant.

NOTIFICATION OF DOCKET ENTRY

This docket entry was made by the Clerk on Thursday, February 25, 2016:

MINUTE entry before the Honorable John Robert Blakey: Emergency motion hearing held on 2/25/2016. Oral request for additional filings is denied. Third Party Defendant's motion for preliminary injunction [214] is denied as stated in open Court. Plaintiff's motion to strike [217] is denied. Status hearing date of 3/15/2016 at 9:45 a.m. in Courtroom 1725, to stand. Mailed notice(gel,)

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FOR THE Northern District of Illinois – CM/ECF LIVE, Ver 6.1
Eastern Division**

Simon Bernstein Irrevocable Insurance Trust Dtd
6/21/95, et al.

Plaintiff,

v.

Case No.:
1:13-cv-03643
Honorable John
Robert Blakey

Eliot Bernstein

Defendant.

NOTIFICATION OF DOCKET ENTRY

This docket entry was made by the Clerk on Tuesday, March 15, 2016:

MINUTE entry before the Honorable John Robert Blakey: Enter Order. Plaintiffs' motions for summary judgment, [148], [153], are denied as explained in the accompanying Order. This matter remains set for a status hearing on 3/15/16 at 9:45 a.m. in Courtroom 1725. Mailed notice(gel,)

ATTENTION: This notice is being sent pursuant to Rule 77(d) of the Federal Rules of Civil Procedure or Rule 49(c) of the Federal Rules of Criminal Procedure. It was generated by CM/ECF, the automated docketing system used to maintain the civil and criminal dockets of this District. If a minute order or other document is enclosed, please refer to it for additional information.

For scheduled events, motion practices, recent opinions and other information, visit our web site at www.ilnd.uscourts.gov.

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

Simon Bernstein Irrevocable
Insurance Trust Dtd 6/21/95, *et al.*,

Plaintiffs,

v.

Heritage Union Life Insurance Co.,

Defendant.

Case No. 13 C 3643

Judge John Robert Blakey

ORDER

This is an interpleader action concerning the distribution of the proceeds from a life insurance policy that insured the life of Simon Bernstein. The Heritage Union Life Insurance Company interpleaded the funds at issue, and was subsequently dismissed from the case. The principal parties remaining in the case are: (1) Plaintiff Simon Bernstein Irrevocable Insurance Trust Dated 6/21/95 (the “Trust”); (2) the four Bernstein sibling Plaintiffs, who believe the proceeds of the policy should be distributed to the Trust (Ted Bernstein, Lisa Friedstein, Jill Iantoni and Pam Simon); (3) the fifth Bernstein sibling, Eliot Bernstein, a third party Plaintiff who disputes that approach; and (4) the intervenor estate of Simon Bernstein, as represented by Brian O’Connell.

Plaintiffs (the Trust and the four Bernstein siblings) assert three causes of action: (1) breach of contract against the Heritage Union Life Insurance Company; (2) a request for a declaratory judgment that the Trust is entitled to the proceeds of Simon Bernstein’s life insurance policy; and (3) in the alternative, a request for a finding of a resulting trust.

Currently before the Court is Plaintiffs’ motion for summary judgment with regard to Counts I and II of their Complaint. [148], [153]. As explained below, that motion is denied.

Legal Standard

Summary judgment is appropriate if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law. *Spurling v. C & M Fine Pack, Inc.*, 739 F.3d 1055, 1060 (7th Cir.

2014). The party seeking summary judgment has the burden of establishing that there is no genuine dispute as to any material fact. *See Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986). Further, summary judgment is not appropriate “if the evidence is such that a reasonable jury could return a verdict for the non-moving party,” and the Court must “construe all facts and reasonable inferences in the light most favorable to the nonmoving party.” *Liberty Lobby*, 477 U.S. at 255; *see also Carter v. City of Milwaukee*, 743 F.3d 540, 543 (7th Cir. 2014).

Plaintiffs propose a different legal standard, arguing that in an “interpleader action each claimant has the burden of establishing its entitlement to the Stake, and it is insufficient to negate or rely on the weakness of the claims of others.” [153] at 8 (citing *Eskridge v. Farmers New World Life Ins. Co.*, 250 Ill.App.3d 603, 608-609 (Ill. App. Ct. 1983)). According to Plaintiffs, because Eliot and the Estate have failed to establish their entitlement to the proceeds, the Plaintiffs’ motion for summary judgment should be granted. They argue that since “they lacked viable claims of their own, both Eliot and the Estate sought simply to poke a few holes in Movants’ case which is insufficient to prevail in an Interpleader Action.” [200] at 13. This misunderstands the applicable standard at summary judgment. Even though this may be an interpleader action, the normal standards apply to motions for summary judgment. *See Protective Life Ins. Co. v. Hansen*, 632 F.3d 388, 392 (7th Cir. 2011); *Abstract & Title Guar. Co. v. Chicago Ins. Co.*, 489 F.3d 808, 810 (7th Cir. 2007). The Court will proceed accordingly.

Count I

Plaintiffs’ motion for summary judgment on Count I is denied. Count I alleges a breach of contract against Heritage Union Life Insurance Company. However, Heritage Union is no longer a party to this matter. On February 18, 2014, the Court entered an order stating: “Heritage Union Life Insurance Company is hereby dismissed as a party from this action, including dismissal of all claims against it, with prejudice. Heritage Union Life Insurance Company is discharged of all liability under the Policy.” [101]. Because Heritage Union was dismissed from this matter, and Count I against Heritage Union was also dismissed, Plaintiffs’ motion for summary judgment on Count I is denied.

Count II

Plaintiffs’ motion for summary judgment on Count II is denied. To prevail on their motion, Plaintiffs must show that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law. *Spurling v. C & M Fine Pack, Inc.*, 739 F.3d 1055, 1060 (7th Cir. 2014). Count II requests a declaratory judgment that: (1) the Trust was established on or about June 21, 1995; (2) the beneficiaries of the Trust are the five children of Simon Bernstein; (3) Ted Bernstein is the Trustee of the Trust; and (4) the Trust is entitled to the proceeds from Simon Bernstein’s life insurance policy. Unfortunately, Plaintiffs have been

unable to produce the executed Trust, and the Intervenor and Third Party Plaintiff dispute its existence. The parties also dispute the terms of any trust. If the Trust was established as claimed by Plaintiffs, they would be entitled to summary judgment here.

Because they have been unable to produce the executed Trust, Plaintiffs rely on extrinsic evidence to prove that the Trust existed as they claim. “However, one seeking to establish an express trust by parol evidence bears the burden of proving the trust by clear and convincing evidence. The acts or words relied upon must be so unequivocal and unmistakable as to lead to only one conclusion.” *Eychaner v. Gross*, 779 N.E.2d 1115, 1135 (Ill. 2002). If such evidence is “doubtful or capable of reasonable explanation upon any other theory, it is not sufficient to establish an express trust.” *Id.*

Here, there is a genuine dispute of fact concerning the existence of the Trust and its terms. To establish the existence of the Trust, Plaintiffs rely primarily on testimony from Ted Bernstein and David Simon. According to that testimony, Simon Bernstein executed the trust documents as set out in Plaintiffs’ Exhibits 15 and 16. However, the testimony of David Simon and Ted Bernstein, along with the testimony of the other Plaintiffs, is barred by the Illinois Dead Man’s Act to the extent it relates to conversations with the deceased or to any events which took place in the presence of the deceased. *See* 735 ILCS 5/8-201.¹ This dramatically limits the testimony upon which Plaintiffs may rely in support of their motion, and leaves the Court without any direct testimony describing the Trust’s creation.

In addition to testimony, Plaintiffs rely on a series of documents purporting to show that the Trust was created. As mentioned above, Plaintiffs offer Exhibits 15 and 16 as unexecuted versions of the Trust. Yet those documents offer Plaintiffs little support in the absence of the testimony from David Simon and Ted Bernstein describing how some form of those exhibits was executed by Simon Bernstein. In addition to Exhibits 15 and 16, Plaintiffs offer the following:

- Ex. 19 – A 6/21/95 IRS Form SS-4 “Application for Employer Identification Number” on behalf of the “Simon Bernstein Irrevocable Insurance Trust.” The Form SS-4 purports to be signed by Shirley Bernstein, Simon’s wife. It is unclear from the face of the document whether it was submitted to or approved by the IRS.

¹ There is an exception to the Dead Man’s Act that reads: “If any person testifies on behalf of the representative to any conversation with the deceased . . . or to any event which took place in the presence of the deceased . . . any adverse party or interested person, if otherwise competent, may testify concerning the same conversation or event.” This exception does not apply to the testimony cited by the Intervenor here because that testimony was given by Ted Bernstein and David Simon *on behalf of the Plaintiffs*. It was not given on behalf of the estate’s representative. The Intervenor merely cited to Plaintiffs’ evidence as a way of showing that the resolution of this matter would involve credibility determinations with regard to Plaintiffs’ witnesses.

- Ex. 18 – An 8/8/95 “Request for Service” asking to transfer the ownership of Simon Bernstein’s life insurance policy to the “Simon Bernstein Irrevocable Insurance Trust dtd 6/21/1995.” This document refers to “ownership” of the policy, and does not affect the policy’s beneficiaries.
- Exhibit 4 – An “Employee Death Benefit Plan and Trust . . . Beneficiary Designation” in which Simon Bernstein designated the “Simon Bernstein Irrevocable Insurance Trust” as the beneficiary to receive his death benefits. Note that this document does not refer to the Trust at issue here, the “Simon Bernstein Irrevocable Insurance Trust dated 6/21/95.” It is unclear from the record if that was an oversight, or was intentionally done to refer to a distinct trust. This document is dated 8/26/1995.
- Exhibit 8 – An 11/7/95 “Request Letter” asking to change the successor beneficiary of Simon Bernstein’s life insurance policy to the “Simon Bernstein Irrevocable Insurance Trust Dated June 21, 1995.” This document includes a response from the insurance company stating that the “Simon Bernstein Ins. Trust” had been named a contingent beneficiary.
- Exhibit 36 – A 4/23/2010 letter from Heritage Union Life Insurance to Simon Bernstein that lists the contingent beneficiary of Simon Bernstein’s life insurance policy as “Simon Bernstein Trust, N.A.” However, the insurance company’s representative explained that no one had ever submitted a change of beneficiary request designating “Simon Bernstein Trust, N.A.” as a beneficiary of the policy. That representative explained, without apparent firsthand knowledge, that he thought that the “Simon Bernstein Trust, N.A.” name was used by mistake by an employee of the insurance company. Don Sanders Aff. at ¶¶ 69-71.

While the above sources do provide some evidence that the Trust was created, as Plaintiffs contend, that evidence is far from dispositive of the issue. In fact, the Intervenor has presented argument and evidence casting material doubt on whether: (1) the Trust was actually created; and (2) the terms of the Trust are as explained by Plaintiffs. The Intervenor argues as follows:

- The results and timing of the Plaintiffs search for the Trust raise doubts about their version of events. Plaintiffs claim that David Simon found both a hard copy and an electronic version of the Trust in his office. David Simon has offered testimony here that he aided Simon Bernstein in creating the Trust, and then kept both versions of the unexecuted Trust. However, David Simon’s search for the Trust documents occurred approximately a year after Simon Bernstein had died. Almost a year

earlier, immediately after Simon Bernstein's death, the family had conducted an "exhaustive search" for the Trust, and none was found. Between the two searches, the Bernstein siblings and their former attorney exchanged many emails addressing how best to obtain the insurance proceeds. Intervenor's Ex. A, Dep. Exs. 1-5, 8-18. Many of the emails reference the inability to locate the Trust document. *Id.* David Simon was a participant in those emails, but he did not relate a recollection of the critical facts from his affidavit regarding his memory of Simon Bernstein executing the Trust. Nor did those emails cause David Simon to search his own office for the missing documents. That search did not occur until after David Simon's brother (Adam Simon) and his firm were retained as counsel in this matter.

- In the course of their attempts to obtain the policy proceeds, the Bernstein siblings discussed using a different trust that had been established by Simon Bernstein – the "2000 Trust." Intervenor's Ex. A at 37:4-18; 48:21-49:19; Dep. Ex. 1. That option was rejected because Pam Simon was not included as a beneficiary of that trust. *Id.* The 2000 Trust is important, however, in that it identifies the proceeds of the policy at issue here as an asset of that trust. Intervenor's Ex. A, Dep. Ex. 23 at Schedule A. The 2000 Trust does not refer to an alleged 1995 trust, which the 2000 trust would have superseded.
- The original complaint in this matter does not refer to a written trust. Despite David Simon's statement that he recalls having created the trust on his own computer and having seen it after execution, the original Complaint in this matter makes no reference to the execution of a written trust. Instead, it refers only to the existence of a "common law trust." [1]. It makes no mention of the trust documents from Exhibits 15 and 16.
- Plaintiffs have offered testimony that, when Simon Bernstein took his trust to be executed at his law firm (then Hopkins & Sutter), the firm changed the identity of the successor trustee. This implies that the firm would have had an electronic version of the Trust, and possibly a hard copy. David Simon testified that the firm was contacted to see if it had a copy of the executed trust and did not; but David Simon could not recall who contacted the firm, which attorneys were contacted, or if he himself reached out to the firm at all. Intervenor's Ex. B at 44:12-45:15; 46:22-47:15.
- David Simon also testified that when Simon Bernstein returned from executing the Trust he helped Mr. Bernstein prepare documents to be submitted to the insurance company in order to give effect to the Trust. He also testified that he would have expected the insurance company to


retain copies. David Simon does not remember any details about who contacted the insurance company. But it is clear that the company retained no copies of documents relevant to the Trust. Intervenor's Ex. B at 43:10-44:2.

- The purported trust documents, Exhibit 15 and 16, contain inconsistencies as to who would serve as the trustee. Exhibit 16 lists the potential trustees as "Shirley," "David," and an illegible name. It then lists the successor trustees as "Pam, Ted." Exhibit 15 lists Shirley as the trustee, and David B. Simon as the successor trustee. However, when the Trust first made a claim to the insurance company, it represented that an attorney by the name of Spallina was the trustee. Intervenor's Ex. B at 59:13-60:3; 81:15-83:12. Despite all of this, in the current proceeding the Plaintiffs claim that Ted Bernstein is the trustee.

Based on the evidence in the record, and "construing all facts and reasonable inferences in the light most favorable to the nonmoving party," the Court finds that there are genuine issues of material fact as to whether the Trust was executed and, if so, upon what terms. There remains a triable issue of fact such that a "reasonable jury could return a verdict for the non-moving party," *Liberty Lobby*, 477 U.S. at 255, and therefore summary judgment is inappropriate. Plaintiffs' motion is denied with regard to Count II.

IT IS SO ORDERED

Dated: March 15, 2016



Judge John Robert Blakey
United States District Court

UNITED STATES DISTRICT COURT
FOR THE Northern District of Illinois – CM/ECF LIVE, Ver 6.1
Eastern Division

Simon Bernstein Irrevocable Insurance Trust Dtd
6/21/95, et al.

Plaintiff,

v.

Case No.:
1:13-cv-03643
Honorable John
Robert Blakey

Eliot Bernstein

Defendant.

NOTIFICATION OF DOCKET ENTRY

This docket entry was made by the Clerk on Tuesday, March 15, 2016:

MINUTE entry before the Honorable John Robert Blakey: Status hearing held on 3/15/2016 and continued to 4/14/2016 at 10:00 a.m. in Courtroom 1725. Parties wishing to appear by telephone should contact the Courtroom Deputy at 312-818-6699, by 4/13/2016, to arrange for a telephonic appearance. Mailed notice(gel,)

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**UNITED STATES DISTRICT COURT
FOR THE Northern District of Illinois – CM/ECF LIVE, Ver 6.1
Eastern Division**

Simon Bernstein Irrevocable Insurance Trust Dtd
6/21/95, et al.

Plaintiff,

v.

Case No.:
1:13-cv-03643
Honorable John
Robert Blakey

Eliot Bernstein

Defendant.

NOTIFICATION OF DOCKET ENTRY

This docket entry was made by the Clerk on Wednesday, March 16, 2016:

MINUTE entry before the Honorable John Robert Blakey: The Court is in receipt of Third Party Plaintiff Eliot Bernstein's "status report." [221]. In the future, Third Party Plaintiff Bernstein is directed to submit his requests to the Court in the form of a motion, and not as a letter or status report. Any future submissions by Third Party Plaintiff Bernstein that do not comply with this directive, this District's Local Rules, and the Federal Rules of Civil Procedure will be summarily stricken. To the extent the "status report" can be seen as a motion, the Court rules as follows: (1) Third Party Plaintiff Bernstein's request for leave to amend his counter-complaint/cross complaint is denied because Bernstein has not indicated how he would like to amend his pleadings, and his motion for leave to amend has been brought so late in the proceedings that it would constitute undue delay and would unfairly prejudice the other parties in this matter, see *Stanard v. Nygren*, 658 F.3d 792, 797 (7th Cir. 2011); and (2) Third Party Plaintiff Bernstein's request for additional discovery is denied, as fact discovery closed on 1/9/15 and Bernstein has provided no justification for allowing the late discovery sought here. As to Third Party Plaintiff Bernstein's request for clarification regarding LR 7.1., the request is denied. See *Commonwealth Plaza Condo. Ass'n v. City of Chicago*, 693 F.3d 743, 747 (7th Cir. 2012) (Court "may not issue advisory opinions"). Mailed notice(gel,)

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**UNITED STATES DISTRICT COURT
FOR THE Northern District of Illinois – CM/ECF LIVE, Ver 6.1
Eastern Division**

Simon Bernstein Irrevocable Insurance Trust Dtd
6/21/95, et al.

Plaintiff,

v.

Case No.:
1:13-cv-03643
Honorable John
Robert Blakey

Eliot Bernstein

Defendant.

NOTIFICATION OF DOCKET ENTRY

This docket entry was made by the Clerk on Monday, April 18, 2016:

MINUTE entry before the Honorable John Robert Blakey: Third Party Plaintiff Eliot Bernstein's motion for leave to file excess pages [228] is denied. The notice of motion date set for 4/21/16 is stricken, the parties need not appear at that time. Mailed notice(gel,)

ATTENTION: This notice is being sent pursuant to Rule 77(d) of the Federal Rules of Civil Procedure or Rule 49(c) of the Federal Rules of Criminal Procedure. It was generated by CM/ECF, the automated docketing system used to maintain the civil and criminal dockets of this District. If a minute order or other document is enclosed, please refer to it for additional information.

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**UNITED STATES DISTRICT COURT
FOR THE Northern District of Illinois – CM/ECF LIVE, Ver 6.1.1
Eastern Division**

Simon Bernstein Irrevocable Insurance Trust Dtd
6/21/95, et al.

Plaintiff,

v.

Case No.:
1:13-cv-03643
Honorable John
Robert Blakey

Eliot Bernstein

Defendant.

NOTIFICATION OF DOCKET ENTRY

This docket entry was made by the Clerk on Thursday, May 26, 2016:

MINUTE entry before the Honorable John Robert Blakey: Status hearing held on 5/26/2016. Motion for leave to file amended complaint [231] is denied. Any response to dispositive motions shall be filed on or before 7/26/2016; replies shall be filed on or before 9/6/2016. Status hearing set for 9/20/2016 at 9:45 a.m. in Courtroom 1725. Mailed notice(gel,)

ATTENTION: This notice is being sent pursuant to Rule 77(d) of the Federal Rules of Civil Procedure or Rule 49(c) of the Federal Rules of Criminal Procedure. It was generated by CM/ECF, the automated docketing system used to maintain the civil and criminal dockets of this District. If a minute order or other document is enclosed, please refer to it for additional information.

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Hon. John R. Blakey
United States District Court
ATTN: Courtroom Deputy -- Gloria Lewis
Room 1732
219 S. Dearborn St.
Chicago, IL 60604

**RE: Simon Bernstein Irrv. Trust Dtd 6/21/95 v. Heritage Union Ins. et al, No. 13 cv 3463 -
Clarification of Last Conference Call of Jan. 25, 2017 and pending Motions**

Courtroom Deputy Lewis:

I did want to Clarify a few matters from the last Court Conference of Wed, Jan. 25th 2017 last week and see from an Oct. 18, 2016 submission by Adam Simon that his office had contacted the Judge's law Clerk to clarify matters thus I am using the same procedure. (See Attached Adam Simon Letter of Oct. 18, 2016 delivered Via Messenger).

As you know, I had trouble getting On the Call last week on Jan. 25th as I had been waiting on the Conference Line until Disconnected and then called again and waited and then after I contacted your office and was told the case was being called by the time I got on the line the Judge was already moving forward with the parties. It was also difficult to fully hear everything and understand what was going on.

One of the issues I had planned to address with the Court by way of formal filing - motion before this Conference was the Oct. 18, 2016 Ex Parte Letter and Submission by Adam Simon's Office on behalf of the Plaintiff's and Ted Bernstein which enclosed Binders and Submissions to the Court which I never received a copy of. Part of what has been going on in the Florida Courts with these parties is Providing AND Filing Directly FALSE and Fraudulent Information to the Court that the Court then uses in making subsequent determinations.

Now first I want to point out that as far as I know, this Oct. 18th, 2016 Submission by Adam Simon is not part of the DOCKET Listed anywhere on PACER and I didn't know if this was a mistake or not?

Second, I want to get Access to the Exact Submissions that Adam Simon provided to this Court to Review and ensure that Further Fraud has not been committed by these parties after proven fraud has already occurred. It should also be noted that Adam Simon's Letter of Oct. 18, 2016 is incorrect in that the Exhibit referenced was 7,202 (seven-thousand two-hundred and two) pages, not 1100, thus raising an issue to clarify there as what has or has not been received and provided to the Court.

Third, I had planned to both Notify the Court and make a motion 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 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 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 Plaintiff's are relying upon for Collateral Estoppel before this Court were issued by a Judge Phillips who has now left the Bench prematurely and retired.

I believe I can show in a Motion how these Conflicts are relevant to this Court's proceedings and even the Motions for Summary Judgment and would seek Leave to file a

Supplemental Motion in this regard and also had planned to Ask for Leave anyway since the Plaintiff Ted Bernstein had in "essence" filed a New Summary Judgment Motion that had never been the Subject of a Briefing Schedule by this Court and thus I should have had further opportunity to respond in writing formally.

I had planned to bring these matters up previously but for months I was under Serious Life Threatening Medical Emergency and Doctor's Orders and kept trying to get Extensions in the Florida Courts so I could address matters in this Court as well and also preserve my life but had to continually respond to a series of multiple motions and filings in the Florida Courts which has delayed me in responding to this Court which had changed the Conference Dates on more than one occasion anyway.

I also wish to Note that filings with the new Judge in Florida will also be attacking and moving to Vacate many of the Orders relied upon by Plaintiffs in this Court as such Orders were issued at least in part on direct frauds.

Thus, I do want to file a Supplemental Motion for the Court to Consider before finalizing the Summary Judgment Decisions and at least want to be on Record that I am trying to get these matters to the Court immediately.

Because of the pending Decisions of this Court, I seek direction at this time.

Thank you,

/s/ Eliot Bernstein
Eliot Ivan Bernstein
2753 NW 34th St.
Boca Raton, FL 33434
(561) 245-8588
iviewit@iviewit.tv
www.iviewit.tv

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on January 30, 2017 I electronically filed the foregoing with the Clerk of the Court using CM/ECF. I also certify that the foregoing is being served this day on all counsel of record identified below via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner.

/s/ Eliot Ivan Bernstein
Third Party Defendant/Cross
Plaintiff PRO SE
Eliot Ivan Bernstein
2753 NW 34th St.
Boca Raton, FL 33434
Phone (561) 245-8588
iviewit@iviewit.tv
www.iviewit.tv

SERVICE LIST

James J. Stamos and STAMOS & TRUCCO LLP One East Wacker Drive, Third Floor Chicago, IL 60601 Attorney for Intervenor, Estate of Simon Bernstein jstamos@stamostrucco.com, dvasquez@stamostrucco.com and Kevin Patrick Horan sberkin@stamostrucco.com, khoran@stamostrucco.com	Adam Michael Simon, Esq. #6205304 303 East Wacker Drive, Suite 2725 Chicago, Illinois 60601 Attorney for Plaintiffs (312) 819-0730 asimon@chicago- law.com	Ted Bernstein, 880 Berkeley Boca Raton, FL 33487 tbernstein@lifeinsuranceconcepts. com
Alan B. Rose, Esq. PAGE,MRACHEK,FITZGER ALD, ROSE, KONOPKA, THOMAS & WEISS, P.A. 505 South Flagler Drive, Suite	Pamela Simon President STP Enterprises, Inc. 303 East Wacker Drive Suite 210	Estate of Simon Bernstein Personal Representative Brian M. O'Connell, Partner and Joielle Foglietta, Esq. Ciklin Lubitz Martens &

600 West Palm Beach, Florida 33401 arose@pm-law.com and arose@mrachek-law.com	Chicago IL 60601-5210 psimon@stpcorp.com	O'Connell 515 N Flagler Drive 20th Floor West Palm Beach, FL 33401 boconnell@ciklinlubitz.com
Jill Iantoni 2101 Magnolia Lane Highland Park, IL 60035 jilliantoni@gmail.com	Lisa Friedstein 2142 Churchill Lane Highland Park, IL 60035 Lisa@friedsteins.com lisa.friedstein@gmail.c om lisa@friedsteins.com	David B. Simon, Esq. #6205304 303 East Wacker Drive, Suite 2725 Chicago, Illinois 60601 Attorney for Plaintiffs (312) 819-0730
Michael Duane Sanders mds@pw-law.com, sjohnson@pw-law.com	Glenn E. Heilizer glenn@heilizer.com	John M. O'Halloran joh@mcveyparsky-law.com

EXHIBIT 1

THE SIMON LAW FIRM

303 EAST WACKER DRIVE
SUITE 2725
CHICAGO, IL 60601-5210
PHONE: (312) 819-0730 • FAX: (312) 819-0773

DAVID B. SIMON*
E-Mail: dsimon@chicago-law.com

ADAM M. SIMON
E-Mail: asimon@chicago-law.com

*ALSO ADMITTED IN CA

VIA MESSENGER
October 18, 2016

Hon. John R. Blakey
United States District Court
ATTN: Courtroom Deputy -- Gloria Lewis
Room 1732
219 S. Dearborn St.
Chicago, IL 60604

Re: *Simon Bernstein Irrv. Trust Dtd 6/21/95 v. Heritage Union Ins. et al*,
No. 13 cv 3463 -- Counter-Party Motion for Summary Judgment as to the Claims of
Eliot Bernstein

Dear Judge Blakey:

Enclosed please find a three-ring binder containing courtesy copies of the following documents relating to the above-referenced motion for summary judgment:

1. Movants' Motion for Summary Judgment as to Eliot Bernstein's claims, counter-claims, cross-claims and third-party claims;
2. Movants' Memorandum of Law in Support of their Motion;
3. Movants' Statement of Undisputed Facts;
4. Movants' Appendix to Statement of Undisputed Facts- Exhibit List;
5. Movants' Exhibits No. 1-14;
6. Eliot Bernstein's Reply to Statement of Undisputed Facts;
7. Eliot Bernstein's Memorandum in Opposition to the Motion for Summary Judgment; and
8. Movants' Memorandum in Reply to Eliot Bernstein's Opposition.

Please note that respondent, Eliot Bernstein electronically filed an Exhibit in support of his opposition that is approximately 1100 pages in length. As a result, I contacted Judge Blakey's law clerk and confirmed that the court did not want this exhibit included in the courtesy copies due to its length. If needed, Movants will provide a hard copy of this Exhibit upon the court's request.

Thank you for your consideration of this motion.

Very truly yours,

Adam M. Simon
Attorney for Movants

**UNITED STATES DISTRICT COURT
FOR THE Northern District of Illinois – CM/ECF LIVE, Ver 6.1.1
Eastern Division**

Simon Bernstein Irrevocable Insurance Trust Dtd
6/21/95, et al.

Plaintiff,

v.

Case No.: 1:13-cv-03643
Honorable John Robert
Blakey

Eliot Bernstein

Defendant.

NOTIFICATION OF DOCKET ENTRY

This docket entry was made by the Clerk on Wednesday, January 25, 2017:

MINUTE entry before the Honorable John Robert Blakey: Enter Memorandum Opinion and Order. For the reasons stated in the accompanying Memorandum Opinion and Order, Plaintiffs' Motion for Summary Judgment [239] is granted and Intervenor's Motion for Summary Judgment [245] is denied. The status hearing previously set for 2/21/2017 at 9:45 AM in Courtroom 1725 to stand, at which time the parties shall be prepared to set a trial date. Mailed notice(gel,)

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

SIMON BERNSTEIN IRREVOCABLE
INSURANCE TRUST DTD 6/21/95, *et al.*,

Plaintiffs,

v.

HERITAGE UNION LIFE INSURANCE
CO.,

Defendant.

Case No. 1:13-cv-3643

Judge John Robert Blakey

HERITAGE UNION LIFE INSURANCE
COMPANY,

Counter-Plaintiff,

v.

SIMON BERNSTEIN IRREVOCABLE
INSURANCE TRUST DTD 6/21/95,

Counter-Defendant,

and

FIRST ARLINGTON NATIONAL BANK,
et al.,

Third-Party Defendants.

ELIOT IVAN BERNSTEIN,

Cross-Plaintiff,

v.

TED BERNSTEIN, *et al.*,

Cross-Defendants,

and

PAMELA B. SIMON, *et al.*,

Third-Party Defendants.

MEMORANDUM OPINION AND ORDER

This action concerns the distribution of proceeds from a life insurance policy (the “Policy Proceeds”) previously held by decedent Simon Bernstein. The principal parties remaining in the case are: (1) Plaintiff Simon Bernstein Irrevocable Insurance Trust Dated 6/21/95 (the “1995 Trust”); (2) the four Bernstein siblings who believe the Policy Proceeds should be distributed to the 1995 Trust (Ted Bernstein, Lisa Friedstein, Jill Iantoni and Pam Simon; collectively, the “Agreed Siblings”); (3) the fifth Bernstein sibling, Eliot Bernstein, a *pro se* third-party Plaintiff who disputes that approach (“Eliot”); and (4) the intervenor estate of Simon Bernstein (the “Estate”), which contends that the 1995 Trust was never actually created, such that the Policy Proceeds should default to the Estate.

Before the Court are two motions for summary judgment. In the first, [239] at 1-4, the 1995 Trust and the Agreed Siblings seek judgment on Eliot’s third-party claims. In the second, [245] at 1-6, the Estate seeks judgment against the 1995 Trust and the Agreed Siblings on their claims in the Second Amended Complaint, [73], and entry of judgment in the Estate’s favor on its Complaint for Declaratory Judgment. [112] at 1-17. For the reasons explained below, the former is granted while the latter is denied.

I. Background¹

A. Procedural Posture

Following Simon Bernstein's death on September 13, 2012, the 1995 Trust submitted a death claim to Heritage pursuant to Simon Bernstein's life insurance policy. [150] at 15; [240] at 13. After Heritage failed to pay, the 1995 Trust initiated this lawsuit in the Circuit Court of Cook County, alleging that Heritage had breached its contractual obligations. [1-1] at 1-3. On May 20, 2013, Jackson National Life Insurance Company ("Jackson"), as successor in interest to Heritage, removed the case to this Court. [1] at 1-2.

On June 26, 2013, Heritage, through Jackson, filed a Third-Party Complaint and Counter-Claim for Interpleader pursuant to 28 U.S.C. § 1335(a) and Federal Rule of Civil Procedure 14, seeking a declaration of rights under the life insurance policy. [17] at 1-10. Heritage was eventually dismissed in February of 2014 after interpleading the Policy Proceeds. [101] at 2.

On September 22, 2013, Eliot, a third-party Defendant to Jackson's interpleader claim, filed a 177-page Answer, Cross-Claim and Counter-Claim. [35] at 1-117. Eliot brought claims against the 1995 Trust, the Agreed Siblings, and

¹ 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. [247] refers to the Estate's statement of material facts. [255], which incorporates [150] by reference, refers to Plaintiffs' statement of additional facts. [257] refers to both Eliot's responses to Plaintiffs' statement of material facts and Eliot's statement of additional material facts. [260] refers to Eliot's responses to the Estate's statement of material facts. [266] refers to the Estate's responses to Plaintiffs' statement of additional facts.

The Estate correctly notes that [255] deviates in certain respects from the procedure enumerated in Local Rule 56.1. Given this lawsuit's convoluted history, and in the interests of justice and judicial economy, the Court nevertheless elects to consider [255] and [150] in support of Plaintiffs' opposition to the Estate's motion for summary judgment.

multiple third-party Defendants (including the law firm of Tescher & Spallina, P.A., The Simon Law Firm, Donald Tescher, Robert Spallina, David Simon, Adam Simon, S.B. Lexington, Inc., S.B. Lexington, Inc. Employee Death Benefit Trust, and S.T.P. Enterprises, Inc.). *Id.*

On January 13, 2014, the Agreed Siblings and the 1995 Trust filed their First Amended Complaint. [73] at 1-11. Plaintiffs alleged that: (1) the 1995 Trust was a common law trust established in Chicago by Simon Bernstein; (2) Ted Bernstein is the trustee of the 1995 Trust; and (3) the 1995 Trust was the beneficiary of Simon Bernstein's life insurance policy. *Id.* In addition, Plaintiffs alleged that all of Simon Bernstein's children, *including Eliot*, are equal beneficiaries to the Trust. *Id.*

On March 3, 2014, the Court dismissed Eliot's claims against Tescher & Spallina, P.A., Donald Tescher, and Robert Spallina. [106] at 1-4. The Court explained that Eliot, as a third-party Defendant to an interpleader claim, was "not facing any liability" in this action, and he was accordingly not authorized to seek relief against other third parties. *Id.*

On June 5, 2014, the Estate filed its Complaint for Declaratory Judgment, [112] at 1-16, and on July 28, 2014, the Court granted the Estate's motion to intervene. [121] at 3-4.

Fact discovery closed on January 9, 2015, [123], and on March 15, 2016 the Court denied Plaintiffs' motion for summary judgment. [220] at 1-6. The Court found, *inter alia*, that while Plaintiffs were able to adduce "some evidence that the [1995] Trust was created," this evidence was "far from dispositive." *Id.* at 4.

B. Probate Actions

The Probate Division of the Palm Beach County Circuit Court recently resolved two other cases related to the disposition of Simon Bernstein's assets: *In re Estate of Simon L. Bernstein*, No. 502012CP004391XXXNBIH (Fla. Cir. Ct.) and *Ted Bernstein, as Trustee of the Shirley Bernstein Trust Agreement dtd 5/20/2008 v. Alexandra Bernstein, et al.*, No. 502014CP003698XXXXNBIJ (Fla. Cir. Ct.) (collectively, the "Probate Actions").

Judge John L. Phillips presided over a joint trial of the Probate Actions in December of 2015. A full recitation of Judge Phillips' findings is unnecessary here, but relevant portions of his final orders include:

- The testamentary document identified as the "Will of Simon Bernstein" was "genuine and authentic," and "valid and enforceable according to [its] terms."
- Ted Bernstein "was not involved in the preparation or creation of" the Will of Simon Bernstein, "played no role in any questioned activities of the law firm of Tescher & Spallina, P.A.," there was "no evidence to support the assertions of Eliot Bernstein that Ted Bernstein forged or fabricated" the Will of Simon Bernstein, and, in fact, "Ted Bernstein played no role in the preparation of any improper documents, the presentation of any improper documents to the Court, or any other improper act, contrary to the allegations of Eliot Bernstein."
- The beneficiaries of the testamentary trust identified in the Will of Simon Bernstein are "Simon Bernstein's then living grandchildren," while "Simon's children – including Eliot Bernstein – are not beneficiaries."
- Eliot "should not be permitted to continue representing the interests of his minor children, because his actions have been adverse and destructive to his children's interest," such that it became necessary to appoint a *guardian ad litem*.

[240-11] at 2-5; [240-12] at 2-3.

II. Legal Standard

Summary judgment is appropriate if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law. *Spurling v. C & M Fine Pack, Inc.*, 739 F.3d 1055, 1060 (7th Cir. 2014). A genuine dispute as to any material fact exists if “the evidence is such that a reasonable jury could return a verdict for the nonmoving party.” *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). The party seeking summary judgment has the burden of establishing that there is no genuine dispute as to any material fact. *See Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986). In determining whether a genuine issue of material fact exists, this Court must construe all facts and reasonable inferences in the light most favorable to the nonmoving party. *See CTL ex rel. Trebatoski v. Ashland Sch. Dist.*, 743 F.3d 524, 528 (7th Cir. 2014).

III. Analysis

A. Motion for Summary Judgment on Eliot’s Claims

Eliot currently has seven claims pending against the 1995 Trust, the Agreed Siblings, David Simon, Adam Simon, The Simon Law Firm, S.B. Lexington, Inc., S.B. Lexington, Inc. Employee Death Benefit Trust, and S.T.P. Enterprises, Inc.²

² As Judge St. Eve (the District Judge originally assigned to this case) previously explained before dismissing third-party Defendants Tescher & Spallina, P.A., Donald Tescher, and Robert Spallina: “Eliot is not an original Defendant to Plaintiffs’ First Amended Complaint Instead, Eliot is a Third-Party Defendant in Jackson’s interpleader action [such that] he is not facing any liability in this lawsuit Rule 14(a) does not authorize Eliot to seek any such relief in the present lawsuit because Eliot is not facing any liability in the first instance.” [106] at 3-4. This reasoning applies with equal force to the remaining third-party Defendants. The Federal Rules of Civil Procedure permit a defendant to “serve a summons and complaint on a nonparty who is or may be liable to it for all or part of the claim against it.” Fed. R. Civ. P. 14(a)(1). Here, Eliot is not facing any liability, and his claims against the remaining third-party Defendants are procedurally

[35] at 61-117. Eliot's causes of action sound in fraud, negligence, breach of fiduciary duty, conversion, abuse of legal process, legal malpractice, and civil conspiracy.³

1. Fraud, Negligence, Breach of Fiduciary Duty & Legal Malpractice

Plaintiffs argue that Eliot's claims for fraud, negligence, breach of fiduciary duty, and legal malpractice fail because Eliot "cannot show that he sustained damages or that he has standing to assert damages on behalf of his children or the Estate." [241] at 14; *see also Damato v. Merrill Lynch, Pierce, Fenner & Smith, Inc.*, 878 F. Supp. 1156, 1162 (N.D. Ill. 1995) (damages are a requisite element of a claim for fraud); *Elliot v. Chicago Hous. Auth.*, No. 98-cv-6307, 1999 WL 519200, at *9 (N.D. Ill. July 14, 1999) (damages are a requisite element of a claim for negligence); *Pearson v. Garrett-Evangelical Theological Seminary, Inc.*, 790 F. Supp. 2d 759, 768 (N.D. Ill. 2011) (damages are a requisite element of a claim for breach of fiduciary duty); *Snyder v. Heidelberg*, 953 N.E.2d 415, 424 (Ill. 2011) (damages are a requisite element of a claim for legal malpractice).

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

defective. Because all of Eliot's claims also fail as a substantive matter, however, they are dismissed on that basis, as discussed *infra*.

³ The Court construes Eliot's arguments on each claim liberally, in light of his *pro se* status. *See Johnson v. Cook Cty. Jail*, No. 14-cv-0007, 2015 WL 2149468, at *2 (N.D. Ill. May 6, 2015) ("Motions for summary judgment involving *pro se* litigants are construed liberally for the benefit of the unrepresented party, so as to ensure that otherwise understandable filings are not disregarded if the *pro se* litigant stumbles on a technicality. That said, *pro se* litigants are not entitled to a general dispensation from the rules of procedure.") (internal quotations omitted).

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. Instead, Simon Bernstein’s grandchildren (including Eliot’s children) are the testamentary trust’s beneficiaries. *Id.* Eliot also has no interest in the disposition of the testamentary trust vis-à-vis his own children, as the Probate Court was forced to appoint a *guardian ad litem* in light of Eliot’s “adverse and destructive” actions relative “to his children’s interest.” *Id.* These findings have preclusive effect in this case,⁴ such that Eliot cannot demonstrate cognizable damages relative to the disposition of the Estate or the testamentary trust.

Second, Eliot cannot identify cognizable damages relating to the disposition of the Policy Proceeds, as Plaintiffs have consistently argued that Eliot is entitled to

⁴ All four elements of collateral estoppel are present in this case. *See Westport Ins. Corp. v. City of Waukegan*, 157 F. Supp. 3d 769, 778 (N.D. Ill. 2016) (“Collateral estoppel applies if the following four elements are met: (1) the issue sought to be precluded must be the same as that involved in the prior action; (2) the issue must have been actually litigated; (3) the determination of the issue must have been essential to the final judgment; and (4) the party against whom estoppel is invoked must be fully represented in the prior action.”) (internal quotation omitted). Here, the “issue sought to be precluded” is Eliot’s lack of a cognizable interest in the Estate and the testamentary trust, precisely “the same as that involved” in the Probate Court. This issue was “actually litigated,” as the Probate Court held a full trial on this issue, and resolution of this question formed the crux of the Probate Court’s final judgments. Finally, Eliot, the party against whom estoppel is invoked, was “fully represented,” as he had a full and fair opportunity to litigate this question at trial. *See Murray v. Nationwide Better Health*, No. 10-cv-3262, 2014 WL 53255, at *4 (C.D. Ill. Jan. 7, 2014) (The “overarching concern when applying issue preclusion is that the party against whom the prior action is invoked must have had a full and fair opportunity to litigate the issue.”).

Eliot argues that the application of collateral estoppel is inappropriate, given that he was proceeding *pro se* in the Probate Court and the Probate Court’s orders were appealed. Neither of these concerns have merit. *See DeGuelle v. Camilli*, 724 F.3d 933, 938 (7th Cir. 2013) (The “idea that litigating *pro se* should insulate a litigant from application of the collateral estoppel doctrine, or, more broadly, the doctrine of *res judicata*, of which collateral estoppel is an aspect, is absurd.”); *Robinson v. Stanley*, No. 06-cv-5158, 2011 WL 3876903, at *5 (N.D. Ill. Aug. 31, 2011), *aff’d*, 474 F. App’x 456 (7th Cir. 2012) (The Seven Circuit “has adhered to the general rule in American jurisprudence that a final judgment of a court of first instance can be given collateral estoppel effect even while an appeal is pending.”) (internal quotation omitted).

an equal share of the same. [265] at 3 (asserting a claim to the Policy Proceeds “on behalf of all five siblings, *including* Eliot”) (emphasis in original).

In his response opposing summary judgment, Eliot fails to articulate a coherent response to Plaintiffs’ argument. *See generally* [261]. Indeed, Eliot does not identify any material in the record to support his vague and conclusory damages allegations. Eliot has simply recycled his previous arguments, and cited only his pleadings in support of the same. *See, e.g.*, [261] at 3 (“Moreover, the Counterclaims have express language seeking claims to the proceeds and damages from the wrongful conduct . . . See ECF No. 35.”).

Eliot’s exclusive reliance on his pleadings rather than evidence, at this point in the proceedings, is both: (1) inconsistent with Federal Rule of Civil Procedure 56, this district’s local rules, and this Court’s standing orders; and (2) insufficient to defeat a motion for summary judgment. *See Essex Crane Rental Corp. v. C.J. Mahan Const. Co.*, No. 07-cv-439, 2008 WL 3978345, at *10 (N.D. Ill. Aug. 25, 2008) (“Unlike a motion to dismiss, summary judgment is the put up or shut up moment in a lawsuit, and the nonmovant must do more than merely rest on its pleadings.”) (internal quotation omitted).

Plaintiffs have cited ample evidence in the record to support their argument that Eliot’s claims for fraud, negligence, breach of fiduciary duty, and legal malpractice must fail, as Eliot cannot adduce any evidence of the requisite damages. Eliot’s opposition fails to formulate a cogent response, much less cite any

countervailing evidence in the record. Plaintiffs' motion for summary judgment is accordingly granted with respect to these four claims.

2. Conversion

The elements of conversion under Illinois law are: "(1) the unauthorized and wrongful assumption of control or ownership by one person over the personalty of another; (2) the other person's right in the property; (3) the right to immediate possession of the property; and (4) a demand for possession." *Jordan v. Dominick's Finer Foods*, 115 F. Supp. 3d 950, 956 (N.D. Ill. 2015).

Plaintiffs argue that Eliot's claim for conversion fails, because Eliot cannot identify "a specific asset or piece of property that was converted" or "show an unfettered right of ownership to such property." [241] at 15. This argument similarly turns on Eliot's lack of legal interest in the Estate or testamentary trust, and the Plaintiffs' acknowledgement that Eliot, under their theory, is entitled to an equal share of the Policy Proceeds. *Id.*

Here again, Eliot has failed to formulate an intelligible response. His brief does not even mention his conversion claim. *See generally* [261]. Eliot makes no effort to either identify any purportedly converted property or cite material in the record in support of his conversion claim. *See id.* In light of the foregoing, Plaintiffs' motion for summary judgment is also granted with respect to Eliot's conversion claim.

3. Abuse of Process

Under Illinois law, abuse of process “is the misuse of legal process to accomplish some purpose outside the scope of the process itself.” *Neurosurgery & Spine Surgery, S.C. v. Goldman*, 790 N.E.2d 925, 929 (Ill. App. Ct. 2003). The “two distinct elements of an abuse of process claim are: (1) the existence of an ulterior purpose or motive; and (2) some act in the use of process that is not proper in the regular course of proceedings.” *Id.* at 930. The “tort of abuse of process is not favored under Illinois law,” and its “elements must be strictly construed.” *Id.*

Plaintiffs argue that Eliot cannot satisfy either element of his abuse of process claim. More specifically, they claim that the Probate Actions were simply “filed by the named beneficiary of a life insurance policy to pursue a death claim against a life insurer for the Policy Proceeds,” and that no “act in the use of” that process was improper. [241] at 13.

Eliot’s response does not specifically address his claim for abuse of process; indeed, the phrase “abuse of process” does not appear in his briefing. *See generally* [261]. Instead, Eliot asserts, without citation to the record, that Plaintiffs have “repeatedly taken action to barrage and occupy” him in one case in order “to improperly gain advantage” in the other. *Id.* at 6. These allegations, in addition to having no evidentiary basis in the record, are insufficient under Illinois law. *Goldman*, 790 N.E.2d at 930 (“abuse of process is a very narrow tort” typically “found only in cases in which a plaintiff has suffered an actual arrest or seizure of

property”). Plaintiffs are entitled to summary judgment on Eliot’s abuse of process claim.

4. Civil Conspiracy

Under Illinois law, the elements for a civil conspiracy are: (1) a combination of two or more persons; (2) for the purpose of accomplishing by some concerted action either an unlawful purpose or a lawful purpose by unlawful means; and (3) in the furtherance of the same, one of the conspirators committed an overt tortious or unlawful act. *See Fritz v. Johnston*, 807 N.E.2d 461, 470 (Ill. 2004). As “the third element of this test indicates, however, civil conspiracy is not an independent tort: if a plaintiff fails to state an independent cause of action underlying his conspiracy allegations, the claim for conspiracy also fails.” *Jones v. City of Chicago*, No. 08-cv-3501, 2011 WL 1898243, at *6 (N.D. Ill. May 18, 2011) (internal quotation omitted).

Plaintiffs argue that Eliot’s civil conspiracy claim fails, because it remains predicated upon his other deficient claims. Eliot fails to respond to this argument. *See Jones*, 2011 WL 1898243, at *6 (“Because defendants are entitled to summary judgment on Jones’s state law claim for malicious prosecution, and Jones’s conspiracy claim is predicated on her malicious prosecution claim, defendants are also entitled to summary judgment on count four.”); *Siegel v. Shell Oil Co.*, 656 F. Supp. 2d 825, 836 (N.D.Ill. 2009), *aff’d*, 612 F.3d 932 (7th Cir. 2010) (granting summary judgment in favor of defendants on plaintiff’s civil conspiracy claim because “Siegel has failed to establish his ICFA deceptive and unfair practices claim or his unjust enrichment claims”).

In short, Eliot “fails to present any evidence or legal arguments as to the underlying elements of his conspiracy claim,” such that the Plaintiffs are entitled to summary judgment. *Siegel*, 656 F. Supp. 2d at 836.

5. Additional Discovery

Eliot, in the alternative, also “respectfully seeks application of Federal Rules of Civil Procedure 56(f) to obtain either a continuance or Deposition and Discovery.” [261] at 11. The Court presumes that Eliot actually intended to invoke Federal Rule of Civil Procedure 56(d), which provides that a “nonmovant” may receive “time to obtain affidavits or declarations or to take discovery” when that same party demonstrates that it currently “cannot present facts essential to justify its opposition.” In either event, this effort is rejected. Eliot’s untimely request is not supported by the requisite “affidavit or declaration,” the discovery he seeks would not alter the Court’s analysis, and fact discovery has been closed since January of 2015. Fed. R. Civ. P. 56(d).

B. The Estate’s Motion for Summary Judgment

In the other summary judgment motion pending before the Court, the Estate argues that Plaintiffs cannot establish the existence of the 1995 Trust, such that the Estate is entitled to the Policy Proceeds as Simon Bernstein’s default beneficiary. The Trust and the Agreed Siblings essentially concede that: (1) absent valid countervailing provisions in the 1995 Trust, the Estate would be entitled to the Policy Proceeds; and (2) they are unable to produce the executed version of the 1995

Trust, and they must rely on extrinsic evidence to support their claim that the 1995 Trust actually exists.

A party “seeking to establish an express trust” by such evidence “bears the burden of proving the trust by clear and convincing evidence” and the “acts or words relied upon must be so unequivocal and unmistakable as to lead to only one conclusion.” *Eychaner v. Gross*, 779 N.E.2d 1115, 1135 (Ill. 2002). If such evidence is “doubtful or capable of reasonable explanation upon any other theory, it is not sufficient to establish an express trust.” *Id.*

1. Evidence Suggesting That The 1995 Trust Was Created

Plaintiffs’ extrinsic evidence falls into three discrete categories: (1) testimony from the Agreed Siblings (and Linda Simon’s spouse, David Simon) regarding the creation of the 1995 Trust by Simon Bernstein; (2) the affidavit of attorney Robert Spallina regarding the creation of the 1995 Trust and his understanding of Simon Bernstein’s intentions; and (3) six documents that Plaintiffs characterize as “a comprehensive and cohesive bundle of evidence” supporting their allegation that the 1995 Trust exists. *Id.* Before deciding whether a reasonable factfinder could infer that the 1995 Trust exists based on this evidence, however, the Court must first determine whether this material is cognizable on summary judgment.

a) The Agreed Siblings’ Testimony

As the Court previously explained, “the testimony of David Simon and Ted Bernstein, along with the testimony of the other Plaintiffs, is barred by the Illinois Dead Man’s Act to the extent it relates to conversations with the deceased or to any

events which took place in the presence of the deceased.” [220] at 3. The Agreed Siblings and their spouses remain “directly interested” in this action, and the Court accordingly disregards their testimony regarding “any conversation with the deceased person,” Simon Bernstein. 735 Ill. Comp. Stat. 5/8-201.⁵

b) Mr. Spallina’s Affidavit and Notes

In the affidavit relied upon by Plaintiffs, Mr. Spallina avers, *inter alia*, that:

- He “provided estate planning advice and represented Simon Bernstein in connection with the preparation and execution of various testamentary documents from late 2007 until his death on September 13, 2012.”
- “Simon Bernstein told me he owned a life insurance policy with a current death benefit of \$1.6 million (the ‘Policy’). This is reflected in my attached notes of a meeting with Simon Bernstein on February 1, 2012. During this meeting and over the course of the next few months, Simon Bernstein and I discussed the Policy as part of his estate planning.”
- “Simon Bernstein told me the intended beneficiaries of the Policy were his five children equally, through an irrevocable life insurance trust that was named beneficiary of the Policy.”
- “Simon Bernstein also wanted to change other parts of his estate plan in 2012. Primarily, he wanted to change his current estate plan, which benefitted only three of his five children, and had caused some family disharmony. As part of these discussions, Simon Bernstein and I again discussed the Policy. In the end, Simon Bernstein told me he had decided to leave the Policy unchanged, so that all of the proceeds would go equally to his five children through the 1995 Trust. Having thus provided for all of his children, Simon Bernstein decided to alter his testamentary documents and to exercise a power of appointment he

⁵ While it is true that “as a general rule federal rather than state law governs the admissibility of evidence in federal diversity cases, there are a number of express exemptions to this rule, including state dead man laws.” *Campbell v. RAP Trucking Inc.*, No. 09-CV-2256, 2011 WL 4001348, at *3 (C.D. Ill. Sept. 8, 2011).

held to leave all of his family's wealth to his ten grandchildren equally."

- "Simon Bernstein never showed me the 1995 Trust, although we discussed several times the fact that (i) the 1995 Trust had been created, and (ii) now that his wife had died, the beneficiaries of the 1995 Trust were his five adult children: Ted, Pam, Eliot, Jill and Lisa, each of whom would receive one-fifth, or 20%, of the proceeds of the Policy."
- "Having discussed these matters with Simon Bernstein, and based upon my years of experience as an estate planning lawyer, Simon Bernstein understood that he retained ownership of the Policy. Simon Bernstein always wanted maximum flexibility to change his estate plan, and putting ownership of the Policy into an irrevocable trust (such as the 2000 trust drafted by lawyers at Proskauer Rose) would have taken away Simon Bernstein's ability to change the Policy or the beneficiaries. Because Simon Bernstein remained the owner of the policy, he had the ability to change the beneficiary from the ILIT to a different beneficiary or beneficiaries up until the moment he died."
- "In light of Simon Bernstein's overall estate plan, including our specific discussions about the beneficiaries of the proceeds of the Policy, Simon Bernstein in fact executed new testamentary documents. Under Simon Bernstein's new Will and his Amended and Restated Trust Agreement, both of which were formally executed on July 25, 2012, his ten grandchildren are the ultimate beneficiaries of all of his wealth other than the Policy, which I have no doubt he intended to go to his children."
- "I believe that Simon Bernstein intended the Policy proceeds to be paid to his 1995 Trust, for the benefit of his five children."

[255-2] at 2-7.

The Estate argues that these statements by Mr. Spallina constitute inadmissible hearsay or expressions of subjective belief, which "cannot be used to defeat a motion for summary judgment." *Sys. Dev. Integration, LLC v. Computer Scis. Corp.*, 739 F. Supp. 2d 1063, 1069, 1078 (N.D. Ill. 2010); *see also Richardson v. Rush Presbyterian St. Luke's Med. Ctr.*, 63 Fed. App'x 886, 890 (7th Cir. 2003)

(“Lampkin’s averment [of what “she was informed by other patients”] is inadmissible hearsay and is not based upon her personal knowledge, so it cannot be used to defeat a motion for summary judgment.”); *Hammer v. Residential Credit Sols., Inc.*, No. 13-cv-6397, 2015 WL 7776807, at *12 (N.D. Ill. Dec. 3, 2015) (“A testimonial statement about contract formation would be a statement to the effect that a contract does or does not exist. Such an out-of-court statement would be impermissible hearsay.”); *Hindin/Owen/Engelke, Inc. v. GRM Indus., Inc.*, 869 F. Supp. 539, 544 (N.D. Ill. 1994) (“A statement by an employee that his employer agrees to make a proposal would be a statement offered for the truth of the matter asserted, *i.e.*, that his employer agreed to make a proposal, and constitutes hearsay.”); Fed. R. Civ. P. 56(c)(4) (“An affidavit or declaration used to support or oppose a motion must be made on personal knowledge, set out facts that would be admissible in evidence, and show that the affiant or declarant is competent to testify on the matters stated.”).

The Estate, however, paints with too broad a brush. Mr. Spallina’s statements regarding his work for Simon Bernstein (including his statements regarding Simon Bernstein’s modifications to his testamentary documents) are based upon Mr. Spallina’s personal knowledge, and ostensibly are not hearsay. For example, Mr. Spallina might competently testify that: (1) Simon Bernstein modified his testamentary documents in 2012 to name his grandchildren (instead of his children) as the sole beneficiaries of his Estate; (2) when Simon Bernstein made those modifications in 2012, he was aware of the life insurance policy at issue here;

and (3) Simon Bernstein, in 2000, considered but ultimately decided against placing that same life insurance policy into an irrevocable trust. Considered in conjunction, this testimony suggests that Simon Bernstein provided for his children in a manner outside of his testamentary documents.

c) Plaintiffs' Documentary Evidence

In their attempt to resist the Estate's motion for summary judgment, Plaintiffs also identify six separate documents that they contend represent evidence of the 1995 Trust's existence.

The Court previously considered this same documentary evidence when it rejected *Plaintiffs'* motion for summary judgment in March of 2016. At that time, the Court noted that this documentary evidence does "provide some evidence that the Trust was created," though it was "far from dispositive." [220] at 4. Ultimately, while the party moving for summary judgment may have changed, the weight of this documentary evidence has not, as discussed below.

(1) Drafts Of The 1995 Trust

Two of the principal documents relied upon by Plaintiffs are unexecuted drafts of the 1995 Trust itself. As the Court previously explained, however, these "documents offer Plaintiffs little support in the absence of the testimony from David Simon and Ted Bernstein describing how some form of those exhibits was executed by Simon Bernstein," and that same testimony is excluded by the Illinois Dead Man's Act. *Id.* at 3.

(2) The Request Letter

Plaintiffs identify a “Request Letter” dated November 7, 1995 in support of their claim that the 1995 Trust actually exists. The Request Letter is a standardized form, which instructs Capitol Bankers Life to “Change Beneficiary As Follows”—the “Simon Bernstein Irrevocable Insurance Trust Dated June 21, 1995” is the new “successor” to the Policy Proceeds. [150-9] at 2.

(3) The Request for Service

Plaintiffs also rely upon a “Request for Service” form dated August 8, 1995, which seeks to transfer ownership of the life insurance policy to the “Simon Bernstein Irrevocable Insurance Trust dtd 6/21/1995.” [150-19]. As the Court previously noted, however, this “document refers to ‘ownership’ of the policy, and does not affect the policy’s beneficiaries.” [220] at 4.

(4) The Beneficiary Designation

In a “Beneficiary Designation” dated August 26, 1995, Simon Bernstein designated the “Simon Bernstein Irrevocable Insurance Trust” as the beneficiary to receive his death benefits. Plaintiffs suggest that this designation is probative of the fact that the Trust actually exists; however, “this document does not refer to the Trust at issue here, the ‘Simon Bernstein Irrevocable Insurance Trust dated 6/21/95.’” [220] at 4. It remains “unclear from the record if that was an oversight, or was intentionally done to refer to a distinct trust.” *Id.*

(5) The IRS Form 22-4

Finally, Plaintiffs point to an IRS “Form 22-4” (or application for an Employer Identification Number) in support of their contention that the 1995 Trust exists as alleged. [150-20]. The Form 22-4 reflects that it was executed on behalf of the “Simon Bernstein Irrevocable Insurance Trust” and signed by Shirley Bernstein, Simon’s wife. *Id.* It is unclear from the record whether the Form 22-4 was actually submitted to, or approved by, the IRS. *Id.*

2. The Weight of the Evidence

As the Court previously explained, Plaintiffs’ documents, while not “dispositive,” provide “some evidence that the Trust was created.” [220] at 4. In fact, Plaintiffs’ case has improved since the Court first considered their evidence in March of 2016, in light of the new affidavit from Mr. Spallina, and the Court remains incapable of resolving these disputed factual questions on summary judgment.

A reasonable factfinder could infer, based upon both the potential testimony of Mr. Spallina and the documentary evidence previously discussed, that Simon Bernstein created the 1995 Trust in the manner alleged by Plaintiffs. The Estate’s motion for summary judgment is accordingly denied.

IV. Conclusion

For the foregoing reasons, Plaintiffs' motion for summary judgment on Eliot Bernstein's claims [239] is granted, and the Estate's motion for summary judgment [245] is denied.

Dated: January 30, 2016

Entered:


John Robert Blakey
United States District Judge

**UNITED STATES DISTRICT COURT
FOR THE Northern District of Illinois – CM/ECF LIVE, Ver 6.1.1
Eastern Division**

Simon Bernstein Irrevocable Insurance Trust Dtd
6/21/95, et al.

Plaintiff,

v.

Case No.:
1:13-cv-03643
Honorable John
Robert Blakey

United Bank of Illinois

Defendant.

NOTIFICATION OF DOCKET ENTRY

This docket entry was made by the Clerk on Tuesday, February 21, 2017:

MINUTE entry before the Honorable John Robert Blakey: Status hearing held on 2/21/2017. Additional case management dates set as follows: the parties shall file their proposed final pretrial order and motions in limine on or before 7/3/2017; responses to motions in limine are due 7/10/2017; final pretrial conference set for 7/24/2017 at 1:30 p.m. in Courtroom 1725; bench trial set for 8/7/2017 at 10:00 a.m. in Courtroom 1725. The parties should review and strictly comply with the Court's standing orders, including the order on proposed pretrial procedures (including motions in limine) which is available on the Courts homepage at www.ilnd.uscourts.gov. Additionally, the case is set for a settlement conference on 7/14/2017 at 11:00 a.m. in Courtroom 1725. The parties are directed to exchange position letters as follows: Plaintiff shall provide Defendant with a demand letter by 7/3/2017, and Defendants shall provide a response by 7/10/2017. By 5:00 p.m. on 7/11/2017, Plaintiff shall submit copies of all letters exchanged by the parties to: Proposed_Order_Blakey@ilnd.uscourts.gov. Copies of the settlement conference letters shall not be filed with the Clerk's Office. The Parties shall come to the settlement conference on 7/14/2017 with an accounting of costs properly taxable under 28 U.S.C. §1920, both incurred in the litigation to date and an estimate of taxable costs that would be incurred should the matter proceed to trial. Parties with full and complete settlement authority must attend the conference personally. The term full and complete settlement authority includes the authority to negotiate and agree to a binding settlement agreement at any level up to the settlement demand of Plaintiff or any level as low as the offer provided by Defendant. Parties attending the conference should be sure to review and consider the settlement letters exchanged between the parties in advance of the conference. The Court generally will follow a mediation format; that is, each side will have an opportunity to make a presentation, followed by joint discussion with the Court and private meetings by the Court with each side individually. The Court expects both the lawyers and the party representatives to be fully prepared to participate in the discussions and meetings. All statements made during the settlement conference will remain confidential and will not be admissible at trial. Mailed notice(gel,)

ATTENTION: This notice is being sent pursuant to Rule 77(d) of the Federal Rules of Civil Procedure or Rule 49(c) of the Federal Rules of Criminal Procedure. It was generated by CM/ECF, the automated docketing system used to maintain the civil and criminal dockets of this District. If a minute order or other document is enclosed, please refer to it for additional information.

For scheduled events, motion practices, recent opinions and other information, visit our web site at www.ilnd.uscourts.gov.

**UNITED STATES DISTRICT COURT
FOR THE Northern District of Illinois – CM/ECF LIVE, Ver 6.1.1.2
Eastern Division**

Simon Bernstein Irrevocable Insurance Trust Dtd
6/21/95, et al.

Plaintiff,

v.

Case No.:
1:13-cv-03643
Honorable John
Robert Blakey

United Bank of Illinois

Defendant.

NOTIFICATION OF DOCKET ENTRY

This docket entry was made by the Clerk on Monday, June 26, 2017:

MINUTE entry before the Honorable John Robert Blakey: Eliot Ivan Bernstein has filed a Notice of Appeal, seeking review of this Court's summary judgment decision. He seeks leave to appeal in forma pauperis. Federal Rule of Appellate Procedure 24(a)(1) requires a party seeking leave to proceed on appeal in forma pauperis to attach an affidavit that: (A) shows in the detail prescribed by Form 4 of the Appendix of Forms the party's inability to pay or to give security for fees and costs; (B) claims an entitlement to redress; and (C) states the issues that the party intends to present on appeal. Eliot's affidavit satisfies subparts (A) and (B): his financial affidavit includes a statement claiming an entitlement to redress and also indicates that he is unemployed and earns no income, that his wife earns less than \$1,600 per month, and that their combined monthly expenses total almost \$3,000. Eliot's affidavit does not, however, set forth the issues he plans to present on appeal, as required by Rule 24(a)(1)(C). In fact, he left that section of the form blank. Accordingly, his motion for leave to appeal in forma pauperis [283] is denied. Mailed notice(gel,)

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For scheduled events, motion practices, recent opinions and other information, visit our web site at www.ilnd.uscourts.gov.

**UNITED STATES DISTRICT COURT
FOR THE Northern District of Illinois – CM/ECF LIVE, Ver 6.1.1.2
Eastern Division**

Simon Bernstein Irrevocable Insurance Trust Dtd
6/21/95, et al.

Plaintiff,

v.

Case No.:
1:13-cv-03643
Honorable John
Robert Blakey

United Bank of Illinois

Defendant.

NOTIFICATION OF DOCKET ENTRY

This docket entry was made by the Clerk on Wednesday, July 5, 2017:

MINUTE entry before the Honorable John Robert Blakey: Oral motion to extend deadline for submitting the pretrial order is granted. Pretrial order shall be submitted on or before 7/7/2017. Mailed notice(gel,)

ATTENTION: This notice is being sent pursuant to Rule 77(d) of the Federal Rules of Civil Procedure or Rule 49(c) of the Federal Rules of Criminal Procedure. It was generated by CM/ECF, the automated docketing system used to maintain the civil and criminal dockets of this District. If a minute order or other document is enclosed, please refer to it for additional information.

For scheduled events, motion practices, recent opinions and other information, visit our web site at www.ilnd.uscourts.gov.

**UNITED STATES DISTRICT COURT
FOR THE Northern District of Illinois – CM/ECF LIVE, Ver 6.1.1.2
Eastern Division**

Simon Bernstein Irrevocable Insurance Trust Dtd
6/21/95, et al.

Plaintiff,

v.

Case No.:
1:13-cv-03643
Honorable John
Robert Blakey

United Bank of Illinois

Defendant.

NOTIFICATION OF DOCKET ENTRY

This docket entry was made by the Clerk on Monday, July 10, 2017:

MINUTE entry before the Honorable John Robert Blakey: The 7/7/17 final pretrial order due date and the 7/14/17 settlement conference date are stricken. This case is set for a status hearing on 7/13/17 at 9:45 a.m. in Courtroom 1725. Parties wishing to appear by phone should contact the Courtroom Deputy, Gloria Lewis, at (312) 818-6699 by noon on 7/12/17. Mailed notice(gel,)

ATTENTION: This notice is being sent pursuant to Rule 77(d) of the Federal Rules of Civil Procedure or Rule 49(c) of the Federal Rules of Criminal Procedure. It was generated by CM/ECF, the automated docketing system used to maintain the civil and criminal dockets of this District. If a minute order or other document is enclosed, please refer to it for additional information.

For scheduled events, motion practices, recent opinions and other information, visit our web site at www.ilnd.uscourts.gov.

**UNITED STATES DISTRICT COURT
FOR THE Northern District of Illinois – CM/ECF LIVE, Ver 6.1.1.2
Eastern Division**

Simon Bernstein Irrevocable Insurance Trust Dtd
6/21/95, et al.

Plaintiff,

v.

Case No.:
1:13-cv-03643
Honorable John
Robert Blakey

United Bank of Illinois

Defendant.

NOTIFICATION OF DOCKET ENTRY

This docket entry was made by the Clerk on Thursday, July 13, 2017:

MINUTE entry before the Honorable John Robert Blakey: Status hearing held on 7/13/2017 and continued to 8/29/2017 at 9:45 a.m. in Courtroom 1725. All other deadlines and hearings are stricken. Status will be stricken if parties file dismissal documents prior to the next hearing. Mailed notice(gel,)

ATTENTION: This notice is being sent pursuant to Rule 77(d) of the Federal Rules of Civil Procedure or Rule 49(c) of the Federal Rules of Criminal Procedure. It was generated by CM/ECF, the automated docketing system used to maintain the civil and criminal dockets of this District. If a minute order or other document is enclosed, please refer to it for additional information.

For scheduled events, motion practices, recent opinions and other information, visit our web site at www.ilnd.uscourts.gov.

**UNITED STATES DISTRICT COURT
FOR THE Northern District of Illinois – CM/ECF LIVE, Ver 6.1.1.2
Eastern Division**

Simon Bernstein Irrevocable Insurance Trust Dtd
6/21/95, et al.

Plaintiff,

v.

Case No.:
1:13-cv-03643
Honorable John
Robert Blakey

United Bank of Illinois

Defendant.

NOTIFICATION OF DOCKET ENTRY

This docket entry was made by the Clerk on Tuesday, August 29, 2017:

MINUTE entry before the Honorable John Robert Blakey: Status hearing held on 8/29/2017 and continued to 12/6/2017 at 9:45 a.m. in Courtroom 1203. Mailed notice(gel,)

ATTENTION: This notice is being sent pursuant to Rule 77(d) of the Federal Rules of Civil Procedure or Rule 49(c) of the Federal Rules of Criminal Procedure. It was generated by CM/ECF, the automated docketing system used to maintain the civil and criminal dockets of this District. If a minute order or other document is enclosed, please refer to it for additional information.

For scheduled events, motion practices, recent opinions and other information, visit our web site at www.ilnd.uscourts.gov.

**UNITED STATES DISTRICT COURT
FOR THE Northern District of Illinois – CM/ECF LIVE, Ver 6.1.1.2
Eastern Division**

Simon Bernstein Irrevocable Insurance Trust Dtd
6/21/95, et al.

Plaintiff,

v.

Case No.:
1:13-cv-03643
Honorable John
Robert Blakey

United Bank of Illinois

Defendant.

NOTIFICATION OF DOCKET ENTRY

This docket entry was made by the Clerk on Monday, November 13, 2017:

MINUTE entry before the Honorable John Robert Blakey: Eliot Bernstein's motion for relief pursuant to Rule 60(b)(3) [297] is denied. The motion recycles the same arguments made in prior pleadings, and none of the cited evidence alters the Court's prior conclusion that Plaintiffs are entitled to summary judgment on Eliot Bernstein's claims. Docket Entry [299] is stricken from the docket, as it appears to be a motion directed to the Florida Circuit Court, Probate Division. The 11/14/17 Notice of Motion date is stricken as to this motion, but remains as to docket entry [296]. Mailed notice(gel,)

ATTENTION: This notice is being sent pursuant to Rule 77(d) of the Federal Rules of Civil Procedure or Rule 49(c) of the Federal Rules of Criminal Procedure. It was generated by CM/ECF, the automated docketing system used to maintain the civil and criminal dockets of this District. If a minute order or other document is enclosed, please refer to it for additional information.

For scheduled events, motion practices, recent opinions and other information, visit our web site at www.ilnd.uscourts.gov.

**UNITED STATES DISTRICT COURT
FOR THE Northern District of Illinois – CM/ECF LIVE, Ver 6.1.1.2
Eastern Division**

Simon Bernstein Irrevocable Insurance Trust Dtd
6/21/95, et al.

Plaintiff,

v.

Case No.:
1:13-cv-03643
Honorable John
Robert Blakey

United Bank of Illinois

Defendant.

NOTIFICATION OF DOCKET ENTRY

This docket entry was made by the Clerk on Tuesday, November 14, 2017:

MINUTE entry before the Honorable John Robert Blakey: Case called for a motion hearing. First Motion for Interpleader Disbursement [296] is entered and continued to 11/21/2017 at 9:45 a.m. in Courtroom 1203. Mailed notice(gel,)

ATTENTION: This notice is being sent pursuant to Rule 77(d) of the Federal Rules of Civil Procedure or Rule 49(c) of the Federal Rules of Criminal Procedure. It was generated by CM/ECF, the automated docketing system used to maintain the civil and criminal dockets of this District. If a minute order or other document is enclosed, please refer to it for additional information.

For scheduled events, motion practices, recent opinions and other information, visit our web site at www.ilnd.uscourts.gov.

UNITED STATES DISTRICT COURT
FOR THE Northern District of Illinois – CM/ECF LIVE, Ver 6.1.1.2
Eastern Division

Simon Bernstein Irrevocable Insurance Trust Dtd
6/21/95, et al.

Plaintiff,

v.

Case No.:
1:13-cv-03643
Honorable John
Robert Blakey

United Bank of Illinois

Defendant.

NOTIFICATION OF DOCKET ENTRY

This docket entry was made by the Clerk on Tuesday, November 21, 2017:

MINUTE entry before the Honorable John Robert Blakey: Motion hearing held. The parties' agreed motion for entry of orders of dismissal and distribution of interpleaded funds pursuant to settlement [302] is granted. Enter Disbursement Order. The parties' first motion for disbursement order [296] is denied as moot. The parties having reached settlement of this matter on all outstanding claims with this Court having entered an agreed order disbursing all interpleaded funds, this matter is dismissed with prejudice and without costs under Rule 41(a). All set dates and deadlines, including the 11/28/17 motion hearing date, are stricken. Civil case terminated. Mailed notice(gel,)

ATTENTION: This notice is being sent pursuant to Rule 77(d) of the Federal Rules of Civil Procedure or Rule 49(c) of the Federal Rules of Criminal Procedure. It was generated by CM/ECF, the automated docketing system used to maintain the civil and criminal dockets of this District. If a minute order or other document is enclosed, please refer to it for additional information.

For scheduled events, motion practices, recent opinions and other information, visit our web site at www.ilnd.uscourts.gov.

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

SIMON BERNSTEIN IRREVOCABLE)	
INSURANCE TRUST DTD 6/21/95,)	
)	
Plaintiff,)	Case No. 13 cv 3643
)	
)	
v.)	
)	Judge John Robert Blakey
HERITAGE UNION LIFE INSURANCE)	
COMPANY,)	
)	
Defendant,)	
)	
)	
HERITAGE UNION LIFE INSURANCE)	
COMPANY)	
)	
Counter-Plaintiff)	
)	
v.)	
)	
SIMON BERNSTEIN IRREVOCABLE)	
INSURANCE TRUST DTD 6/21/95)	
)	
Counter-Defendant)	

DISBURSEMENT ORDER

Pursuant to 28 U.S.C. 1335, this Court hereby authorizes and directs the Clerk of the Court for the United States District Court for the Northern District of Illinois to disburse the amount placed on deposit as interpleaded funds (initially, the sum of \$1,703,567.09) in the Court Registry by Payer Heritage Union Life, on June 26, 2013, as evidenced by Receipt Number 4624102327, *see* [16], as follows:

- (i) First, the sum of \$1,000,000.00 (One Million Dollars) payable to: The Simon Law Firm Client Trust Account f/b/o Ted Bernstein, solely in his capacity as Trustee for the Simon Bernstein Irrevocable Insurance Trust dated 6/21/95, and his attorney, Adam M. Simon; and mailed to: **ADAM M. SIMON, THE SIMON LAW FIRM CLIENT TRUST, 303 E. WACKER DRIVE, STE. 2725, CHICAGO, IL 60601-5210.**
- (ii) Second, the remaining principal balance, plus all accrued interest, to Brian O'Connell, solely in his capacity as successor Personal Representative of the Estate of Simon L. Bernstein, and mailed to: **Estate of Simon Bernstein, c/o Brian O'Connell, 515 N. Flagler Dr., 20th Floor, West Palm Beach, FL 33401.**

Dated: November 21, 2017

ENTERED:


John Robert Blakey
United States District Judge

**United States District Court
Northern District of Illinois – CM/ECF LIVE, Ver 6.2.1 (Chicago)
CIVIL DOCKET FOR CASE #: 1:13-cv-03643**

Simon Bernstein Irrevocable Insurance Trust Dtd 6/21/95 v.
Heritage Union Life Insurance Company
Assigned to: Honorable John Robert Blakey
Case in other court: 17-01461
Circuit Court of Cook County, 2013 L
003498

Date Filed: 05/16/2013
Date Terminated: 11/21/2017
Jury Demand: None
Nature of Suit: 110 Contract: Insurance
Jurisdiction: Diversity

Cause: 28:1441 Petition for Removal

Plaintiff

**Simon Bernstein Irrevocable Insurance
Trust Dtd 6/21/95**
by Ted S. Bernstein, its Trustee

represented by **Adam Michael Simon**
The Simon Law Firm
303 E. Wacker Drive
Suite 2725
Chicago, IL 60601
(312) 819-0730
Email: asimon@chicago-law.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

Bank of America
TERMINATED: 01/13/2014

Plaintiff

Eliot Bernstein
TERMINATED: 01/13/2014

represented by **Eliot Bernstein**
Pro Se
2753 NW 34th Street
Boca Raton, FL 33434
561 245 8588
Email: jviewit@iviewit.tv
PRO SE

Plaintiff

United Bank of Illinois
TERMINATED: 01/13/2014

Plaintiff

Simon Bernstein Trust, N.A.
TERMINATED: 01/13/2014

Plaintiff

Ted Bernstein

represented by **Adam Michael Simon**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

First Arlington National Bank

Plaintiff

Eliot Ivan Bernstein
TERMINATED: 01/13/2014

represented by **Eliot Ivan Bernstein**
PRO SE

Plaintiff

Ted Bernstein
an individual

represented by **Adam Michael Simon**
The Simon Law Firm
303 E. Wacker Drive
Suite 210
Chicago, IL 60601
(312) 819-0730
Email: asimon@chicago-law.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

Lisa Sue Friedstein
an individual,

represented by **Lisa Sue Friedstein**
2142 Churchill Lane
Highland Park, IL 60035
(847) 831-1360
Email: Lisa@friedsteins.com
PRO SE

Adam Michael Simon
(See above for address)
TERMINATED: 04/14/2016
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

Jill Marla Iantoni
an individual,

represented by **Jill Marla Iantoni**
2101 Magnolia Lane
Highland Park, IL 60035
312.804.2318
Email: jilliantoni@gmail.com
PRO SE

Adam Michael Simon
(See above for address)
TERMINATED: 04/14/2016
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

Pamela Beth Simon

represented by **Adam Michael Simon**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

Defendant

Heritage Union Life Insurance Company
TERMINATED: 02/18/2014

represented by **Alexander David Marks**
Burke, Warren, MacKay & Serritella, P.C.
330 North Wabash Avenue
21st Floor
Chicago, IL 60611-3607
(312) 840-7022
Email: amarks@burkelaw.com
TERMINATED: 02/18/2014

Frederic A. Mendelsohn
Burke, Warren, MacKay & Serritella PC
330 North Wabash Avenue
21st Floor

Chicago, IL 60611
(312) 840-7000
Email: fmendelsohn@burkelaw.com
TERMINATED: 02/18/2014

Third Party Defendant

Eliot Ivan Bernstein
TERMINATED: 02/21/2017

represented by **Eliot Ivan Bernstein**
2753 NW 34th St.
Boca Raton, FL 33434
561-245-8588
Email: iviewit@iviewit.tv
PRO SE

Third Party Defendant

JPMorgan Chase Bank, N.A.
TERMINATED: 03/12/2014

represented by **Glenn E. Heilizer**
Law Offices of Glenn E. Heilizer
Five North Wabash Avenue
Suite 1304
Chicago, IL 60602
(312) 759-9000
Email: glenn@heilizer.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Intervenor Plaintiff

Benjamin P Brown
*Benjamin P. Brown, Curator and
Adminsitrator Ad Litem of The Estate of
Simon L. Bernstein*
TERMINATED: 11/03/2014

represented by **James John Stamos**
Stamos & Trucco LLP
One East Wacker Drive
Suite 300
Chicago, IL 60601
(312) 630-7979
Email: jstamos@stamostrucco.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Kevin Patrick Horan
Stamos & Trucco Llp
1 E. Wacker Dr.
3rd Floor
Chicago, IL 60601
(312) 630-7979
Email: khoran@stamostrucco.com
ATTORNEY TO BE NOTICED

Intervenor Plaintiff

Brian M. O'Connell
*Curator and Administrator Ad Litem of
The
estate of
Simon L. Bernstein*

represented by **James John Stamos**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Kevin Patrick Horan
(See above for address)
ATTORNEY TO BE NOTICED

Theodore Herbert Kuyper
Stamos & Trucco LLP
One Ease Wacker Drive,
Third Floor
Chicago, IL 60601
(312) 630-7979
Email: tkuyper@stamostrucco.com
ATTORNEY TO BE NOTICED

Intervenor

William E. Stansbury
TERMINATED: 01/14/2014

represented by **John M. O'Halloran**
McVey & Parsky, LLC
30 North LaSalle Street
Suite 2100
Chicago, IL 60602
(312) 551-2457
Email: joh@mcveyparsky-law.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Third Party Plaintiff

Heritage Union Life Insurance Company
TERMINATED: 02/18/2014

represented by **Alexander David Marks**
(See above for address)
TERMINATED: 02/18/2014

Frederic A. Mendelsohn
(See above for address)
TERMINATED: 02/18/2014

V.

Third Party Defendant

Bank of America
TERMINATED: 02/14/2014

Third Party Defendant

Eliot Bernstein
TERMINATED: 02/21/2017

Third Party Defendant

United Bank of Illinois

Third Party Defendant

Simon Bernstein Trust, N.A.

Third Party Defendant

Ted Bernstein

represented by **Adam Michael Simon**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Third Party Defendant

First Arlington National Bank
TERMINATED: 10/16/2013

Counter Claimant

Heritage Union Life Insurance Company
TERMINATED: 02/18/2014

represented by **Alexander David Marks**
(See above for address)
TERMINATED: 02/18/2014

Frederic A. Mendelsohn
(See above for address)
TERMINATED: 02/18/2014

V.

Counter Defendant

Case: 17-3595 Document: 1-1
Simon Bernstein Irrevocable Insurance
Trust Dtd 6/21/95

Filed: 12/20/2017 Pages: 122
represented by **Adam Michael Simon**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

ThirdParty Plaintiff

Eliot Bernstein
TERMINATED: 02/21/2017

V.

Third Party Defendant

Adam M Simon
Professionally and Personaly

represented by **Adam Michael Simon**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Third Party Defendant

National Service Association, Inc. (of Illinois)

Third Party Defendant

Esq. Donald R Tescher
Professionally and Personally
TERMINATED: 03/17/2014

represented by **Thomas B. Underwood**
Purcell & Wardrope, Chtd.
10 South LaSalle Street
Suite 1200
Chicago, IL 60603
(312) 427-3900
Email: tbu@pw-law.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Michael Duane Sanders
Purcell & Wardrope, Chtd.
10 South LaSalle Street
Suite 1200
Chicago, IL 60603
(312) 427-3900
Email: mds@pw-law.com
ATTORNEY TO BE NOTICED

Third Party Defendant

Jill Marla Iantoni

represented by **Jill Marla Iantoni**
(See above for address)
PRO SE

Adam Michael Simon
(See above for address)
TERMINATED: 04/14/2016
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Third Party Defendant

Tescher & Spallina, P.A.
Professionally and Personally
TERMINATED: 03/17/2014

represented by **Thomas B. Underwood**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Michael Duane Sanders
(See above for address)
ATTORNEY TO BE NOTICED

Third Party Defendant

The Simon Law Firm

represented by **Adam Michael Simon**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Third Party Defendant

David B Simon

Professionally and Personally

represented by **Adam Michael Simon**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Third Party Defendant

**S.B. Lexington, Inc. Employee Death
Benefit Trust**

Third Party Defendant

Esq. Robert L Spallina

TERMINATED: 03/17/2014

represented by **Thomas B. Underwood**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Michael Duane Sanders
(See above for address)
ATTORNEY TO BE NOTICED

Third Party Defendant

S.T.P. Enterprises, Inc.

represented by **Adam Michael Simon**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Third Party Defendant

Pamela Beth Simon

represented by **Adam Michael Simon**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Third Party Defendant

SB Lexington, Inc.

Third Party Defendant

Lisa Sue Friedstein

represented by **Adam Michael Simon**
(See above for address)
TERMINATED: 04/14/2016
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Third Party Defendant

**National Service Association, Inc.
(Florida)**

Third Party Defendant

Ted Bernstein

*individually and as alleged Trustee of the
Simon Bernstein Irrevocable Insurance
Trust Dtd. 6/21/95*

represented by **Adam Michael Simon**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Cross Claimant**Eliot Bernstein**

TERMINATED: 02/21/2017

V.

Cross Defendant**Ted Bernstein**

represented by **Adam Michael Simon**
 (See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Counter Claimant**Eliot Bernstein**

TERMINATED: 02/21/2017

V.

Counter Defendant**Ted Bernstein**

*individually and as alleged Trustee of
 the Simon Berustein Irrevocable
 Insurance Trust Dtd. 6/21/95*

represented by **Adam Michael Simon**
 (See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
05/16/2013	<u>1</u>	NOTICE of Removal from Circuit Court of Cook County, case number (2013 L 003498) filed by Jackson National Life Insurance Company Filing fee \$ 400, receipt number 0752-8351218. (Attachments: # <u>1</u> Exhibit Circuit Court Complaint and Summons)(Marks, Alexander) (Entered: 05/16/2013)
05/16/2013	<u>2</u>	CIVIL Cover Sheet (Marks, Alexander) (Entered: 05/16/2013)
05/16/2013	<u>3</u>	ATTORNEY Appearance for Defendant Jackson National Life Insurance Company by Alexander David Marks (Marks, Alexander) (Entered: 05/16/2013)
05/16/2013	<u>4</u>	NOTICE by Jackson National Life Insurance Company re notice of removal, <u>1</u> (Marks, Alexander) (Entered: 05/16/2013)
05/16/2013		CASE ASSIGNED to the Honorable Amy J. St. Eve. Designated as Magistrate Judge the Honorable Mary M. Rowland. (nsf,) (Entered: 05/16/2013)
05/20/2013	<u>5</u>	MINUTE entry before Honorable Amy J. St. Eve: Defendant has failed to allege subject matter jurisdiction. Defendant has until 5/24/13 to file an Amended Notice of Removal properly alleging diversity or some other basis for federal jurisdiction. Failure to do so will result in remand of the case to the Circuit Court of Cook County. [For further details, see minute order.] Mailed notice (kef,) (Entered: 05/20/2013)
05/20/2013	<u>6</u>	MAILED Notice of Removal letter with an attorney appearance form to counsel of record. (pcs,) (Entered: 05/20/2013)
05/20/2013	<u>7</u>	NOTICE of Removal from Circuit Court of Cook County, case number (2013-L-003498) filed by Jackson National Life Insurance Company (<i>amended notice</i>) (Attachments: # <u>1</u> Exhibit 1 – Complaint and Summons)(Marks, Alexander) (Entered: 05/20/2013)
05/20/2013	<u>8</u>	MINUTE entry before Honorable Amy J. St. Eve: Initial status hearing set for 6/7/13 at 9:00 a.m. in courtroom 1241. Parties shall refer to Judge St. Eve's web page at www.ilnd.uscourts.gov and file a joint status report by 6/4/13 as set forth in the Initial Status Conferences procedure. Mailed notice (kef,) (Entered: 05/20/2013)
05/23/2013	<u>9</u>	MOTION by Defendant Heritage Union Life Insurance Company for extension of time to file answer <i>and counterclaim to Plaintiff's Complaint</i> (Attachments: # <u>1</u>

		Exhibit 1– Eliot Bernstein Letter)(Marks, Alexander) (Entered: 05/23/2013)
05/23/2013	<u>10</u>	MOTION by Defendant Heritage Union Life Insurance Company to deposit funds (Marks, Alexander) (Entered: 05/23/2013)
05/23/2013	<u>11</u>	NOTICE of Motion by Alexander David Marks for presentment of motion to deposit funds <u>10</u> , motion for extension of time to file answer <u>9</u> before Honorable Amy J. St. Eve on 5/29/2013 at 08:30 AM. (Marks, Alexander) (Entered: 05/23/2013)
05/23/2013	<u>12</u>	ATTORNEY Appearance for Defendant Heritage Union Life Insurance Company by Frederic A. Mendelsohn (Mendelsohn, Frederic) (Entered: 05/23/2013)
05/23/2013	<u>13</u>	ATTORNEY Appearance for Plaintiff Simon Bernstein Irrevocable Insurance Trust Dtd 6/21/95 by Adam Michael Simon (Simon, Adam) (Entered: 05/23/2013)
05/28/2013	<u>14</u>	MINUTE entry before Honorable Amy J. St. Eve: Defendant's motion for an extension of time <u>9</u> is granted. Defendant shall answer or otherwise plead by 6/27/13. Mailed notice (kef,) (Entered: 05/28/2013)
05/29/2013	<u>15</u>	MINUTE entry before Honorable Amy J. St. Eve: Motion hearing held on 5/29/2013. Defendant's motion to tender insurance policy proceeds to Court <u>10</u> is granted. Parties shall submit an agreed proposed order to Judge St. Eve's proposed order email, the link for which can be found on her web page. Joint status report shall be filed by 7/12/13. Status hearing set for 6/7/13 is stricken and reset to 7/23/13 at 8:30 a.m. Mailed notice (kef,) (Entered: 05/29/2013)
06/25/2013	<u>16</u>	AGREED ORDER for Defendant's Motion to Tender Insurance Policy Proceeds to Court Signed by the Honorable Amy J. St. Eve on 6/25/2013:Mailed notice(kef,) (Entered: 06/25/2013)
06/26/2013	<u>17</u>	ANSWER to Complaint , THIRD party complaint by Heritage Union Life Insurance Company against Bank of America, Eliot Bernstein, United Bank of Illinois, Simon Bernstein Trust, N.A., Ted Bernstein, First Arlington National Bank ., COUNTERCLAIM filed by Heritage Union Life Insurance Company against Simon Bernstein Irrevocable Insurance Trust Dtd 6/21/95 . by Heritage Union Life Insurance Company (Attachments: # <u>1</u> Exhibit 1)(Marks, Alexander) (Entered: 06/26/2013)
06/26/2013	<u>18</u>	NOTICE by Heritage Union Life Insurance Company re answer to complaint,, third party complaint,, counterclaim, <u>17</u> (Marks, Alexander) (Entered: 06/26/2013)
06/26/2013		SUMMONS Issued as to Third Party Defendants Bank of America, Eliot Bernstein, Ted Bernstein, First Arlington National Bank, Simon Bernstein Trust, N.A., United Bank of Illinois (ym,) (Entered: 06/26/2013)
07/11/2013	<u>19</u>	MOTION by Defendant Heritage Union Life Insurance Company, Plaintiff Simon Bernstein Irrevocable Insurance Trust Dtd 6/21/95 for extension of time <i>to file initial status report (agreed)</i> (Marks, Alexander) (Entered: 07/11/2013)
07/11/2013	<u>20</u>	NOTICE of Motion by Alexander David Marks for presentment of extension of time <u>19</u> before Honorable Amy J. St. Eve on 7/15/2013 at 08:30 AM. (Marks, Alexander) (Entered: 07/11/2013)
07/11/2013	<u>21</u>	MINUTE entry before Honorable Amy J. St. Eve: Joint motion to extend <u>19</u> is granted. Joint status report shall be filed by 8/26/13. Status hearing set for 7/23/13 is stricken and reset to 8/29/13 at 8:30 a.m. No appearance is required on the 7/15/13 notice date. Mailed notice (kef,) (Entered: 07/11/2013)
07/22/2013	<u>22</u>	WAIVER OF SERVICE returned executed by Heritage Union Life Insurance Company. Eliot Bernstein waiver sent on 7/1/2013, answer due 8/30/2013. (Marks, Alexander) (Entered: 07/22/2013)
07/23/2013	<u>23</u>	WAIVER OF SERVICE returned executed by Heritage Union Life Insurance Company. Ted Bernstein waiver sent on 7/1/2013, answer due 8/30/2013. (Marks, Alexander) (Entered: 07/23/2013)
08/05/2013	<u>24</u>	SUMMONS Returned Executed by Heritage Union Life Insurance Company as to Bank of America on 7/29/2013, answer due 8/19/2013. (Marks, Alexander) (Docket text modified by Clerk's Office.) (Entered: 08/05/2013)

08/05/2013	<u>25</u>	SUMMONS Returned Executed by Heritage Union Life Insurance Company as to United Bank of Illinois n/k/a PNC Bank on 7/25/2013, answer due 8/15/2013. (Marks, Alexander) (Docket text modified by Clerk's Office.) (Entered: 08/05/2013)
08/23/2013	<u>26</u>	ATTORNEY Appearance for Third Party Defendant Ted Bernstein, Plaintiff Ted Bernstein by Adam Michael Simon (Simon, Adam) (Entered: 08/23/2013)
08/26/2013	<u>27</u>	STATUS Report (<i>Initial</i>) by Ted Bernstein, Heritage Union Life Insurance Company, Simon Bernstein Irrevocable Insurance Trust Dtd 6/21/95 (Simon, Adam) (Entered: 08/26/2013)
08/29/2013	<u>28</u>	MINUTE entry before Honorable Amy J. St. Eve:Status hearing held on 8/29/2013 and continued to 9/25/2013 at 08:30 AM. Rule 26(a)(1) disclosures by 10/1/13. Written discovery shall be issued by 10/15/13. Fact discovery shall be completed by 2/17/14. Parties are directed to meet and confer pursuant to Rule 26(f) and exhaust all settlement possibilities prior to the next status hearing. Mailed notice (kef,) (Entered: 08/29/2013)
08/30/2013	<u>29</u>	ANSWER to Third Party Complaint <i>and Counterclaims</i> by Ted Bernstein, Simon Bernstein Irrevocable Insurance Trust Dtd 6/21/95(Simon, Adam) (Entered: 08/30/2013)
09/03/2013	<u>30</u>	MINUTE entry before Honorable Amy J. St. Eve: Eliot Bernstein's oral request for an extension of time is granted. Eliot Bernstein shall answer or otherwise plead by 9/6/13. Mailed notice (kef,) (Entered: 09/03/2013)
09/04/2013	<u>31</u>	MINUTE entry before Honorable Amy J. St. Eve: Eliot Bernstein's oral request for an extension of time is granted. Eliot Bernstein shall answer or otherwise plead by 9/13/13.Mailed notice (kef,) (Entered: 09/04/2013)
09/11/2013	<u>32</u>	MINUTE entry before Honorable Amy J. St. Eve: Eliot Bernstein's oral request for an extension of time is granted. Eliot Bernstein shall answer or otherwise plead on or before 9/23/13. Mailed notice (kef,) (Entered: 09/11/2013)
09/21/2013	<u>33</u>	ATTORNEY Appearance by Plaintiff Eliot Bernstein (Bernstein, Eliot) (Entered: 09/21/2013)
09/21/2013	<u>34</u>	ATTORNEY Appearance by Plaintiff Eliot Ivan Bernstein, Third Party Defendant Eliot Ivan Bernstein (Bernstein, Eliot) (Entered: 09/21/2013)
09/22/2013	<u>35</u>	ANSWER to Third Party Complaint , THIRD party complaint by Eliot Bernstein against Adam M Simon, National Service Association, Inc. (of Illinois), Donald R Tescher, Jill Marla Iantoni, Tescher & Spallina, P.A., The Simon Law Firm, David B Simon, S.B. Lexington, Inc. Employee Death Benefit Trust, Ted Bernstein, Robert L Spallina, S.T.P. Enterprises, Inc., Pamela Beth Simon, SB Lexington, Inc., Lisa Sue Friedstein, National Service Association, Inc. (Florida) ., CROSSCLAIM by Eliot Bernstein against Ted Bernstein ., COUNTERCLAIM filed by Eliot Bernstein against Ted Bernstein . by Eliot Bernstein(Bernstein, Eliot) (Entered: 09/22/2013)
09/25/2013	<u>36</u>	Pursuant to Local Rule 72.1, this case is hereby referred to the calendar of Honorable Mary M. Rowland for the purpose of holding proceedings related to: settlement conference.(kef,)Mailed notice. (Entered: 09/25/2013)
09/25/2013	<u>37</u>	MINUTE entry before Honorable Amy J. St. Eve:Status hearing held on 9/25/2013 and continued to 11/21/2013 at 08:30 AM.Mailed notice (kef,) (Entered: 09/25/2013)
09/25/2013	<u>38</u>	MINUTE entry before Honorable Mary M. Rowland:Initial status hearing set for 9/30/2013 at 9:00 AM before Magistrate Judge Mary M. Rowland for the purpose of scheduling a settlement conference. Parties are to bring dates when both clients and counsel will be available for a settlement conference. Judge Rowland generally conducts settlement conferences Mondays through Thursdays at 1:00 p.m. Other dates and times may be available as required by the Court or the parties. The parties are directed to review and to comply with Judge Rowland's Standing Order regarding Setting Settlement Conferences, which is available on Judge Rowland's webpage located on the Court's website at www.ilnd.uscourts.gov.Mailed notice (gel,) (Entered: 09/25/2013)

09/30/2013	<u>39</u>	MINUTE entry before Honorable Mary M. Rowland: Status hearing held on 9/30/2013 and continued to 10/7/2013 at 09:15 AM. Mr. Eliot Bernstein must appear by telephone and should contact the court at 312-435-5857, at least one day before the next status with his telephonic information. Parties should be prepared to set a settlement conference at the next hearing. Mailed notice (gel,) (Entered: 09/30/2013)
09/30/2013		MAILED Copy of Minute Order dated 9/30/2013 to Eliot Bernstein. (gel,) (Entered: 09/30/2013)
10/07/2013	<u>40</u>	MINUTE entry before Honorable Mary M. Rowland: Status hearing previously set for 10/7/2013 is reset for 10/16/2013 at 09:00 AM. Mailed notice (gel,) (Entered: 10/07/2013)
10/08/2013	<u>41</u>	MOTION by Defendant Heritage Union Life Insurance Company to substitute party (Marks, Alexander) (Entered: 10/08/2013)
10/08/2013	<u>42</u>	NOTICE of Motion by Alexander David Marks for presentment of motion to substitute party <u>41</u> before Honorable Amy J. St. Eve on 10/16/2013 at 01:00 PM. (Marks, Alexander) (Entered: 10/08/2013)
10/16/2013	<u>43</u>	MINUTE entry before Honorable Mary M. Rowland: Status hearing held on 10/16/2013. The court believes that a settlement conference would not be productive at this time. The court will keep the referral open. The parties are encouraged to contact chambers if they believe the court can assist with settlement. Mailed notice (gel,) (Entered: 10/16/2013)
10/16/2013		MAILED Copy of Minute Order dated 10/16/2013 to Eliot Bernstein. (gel,) (Entered: 10/16/2013)
10/16/2013	<u>44</u>	ORDER Entered by the Honorable Amy J. St. Eve on 10/16/2013: Motion hearing held on 10/16/13. Defendant Jackson National Life Insurance Company's motion to substitute third-party defendant <u>41</u> is granted. The Clerk's Office is directed to substitute JPMorgan Chase Bank, N.A. for First Arlington National Bank as a third-party defendant. Mailed notice (tlm) (Entered: 10/17/2013)
10/22/2013	<u>45</u>	Rule 26(a)(1) Disclosure Response by Eliot Ivan Bernstein, Eliot Bernstein, Eliot Ivan Bernstein (Bernstein, Eliot) (Entered: 10/22/2013)
10/22/2013		SUMMONS Issued as to Third Party Defendant JPMorgan Chase Bank, N.A. (pg,) (Entered: 10/22/2013)
11/04/2013	<u>46</u>	ATTORNEY Appearance for Third Party Defendants Lisa Sue Friedstein, Jill Marla Iantoni, S.T.P. Enterprises, Inc., Adam M Simon, David B Simon, Pamela Beth Simon, The Simon Law Firm by Adam Michael Simon (Simon, Adam) (Entered: 11/04/2013)
11/04/2013	<u>47</u>	ANSWER to Third Party Complaint <i>and Affirmative Defenses</i> by Ted Bernstein, Lisa Sue Friedstein, Jill Marla Iantoni, S.T.P. Enterprises, Inc., Adam M Simon, David B Simon, Pamela Beth Simon, The Simon Law Firm (Simon, Adam) (Entered: 11/04/2013)
11/04/2013	<u>48</u>	CERTIFICATE of Service <i>of Appearance, Answer and Affirmative Defenses</i> by Adam Michael Simon on behalf of Ted Bernstein, Lisa Sue Friedstein, Jill Marla Iantoni, S.T.P. Enterprises, Inc., Adam M Simon, David B Simon, Pamela Beth Simon, The Simon Law Firm regarding attorney appearance <u>46</u> , answer to third party complaint <u>47</u> (Simon, Adam) (Entered: 11/04/2013)
11/06/2013	<u>49</u>	CERTIFICATE of Service <i>on JPMorgan Chase</i> by Alexander David Marks on behalf of Heritage Union Life Insurance Company (Marks, Alexander) (Entered: 11/06/2013)
11/19/2013	<u>50</u>	ATTORNEY Appearance for Third Party Defendant JPMorgan Chase Bank, N.A. by Glenn E. Heilizer (Heilizer, Glenn) (Entered: 11/19/2013)
11/19/2013	<u>51</u>	NOTIFICATION of Affiliates pursuant to Local Rule 3.2 by JPMorgan Chase Bank, N.A. (Heilizer, Glenn) (Entered: 11/19/2013)
11/19/2013	<u>52</u>	MOTION by Third Party Defendant JPMorgan Chase Bank, N.A. for extension of time <i>to respond to third-party complaint</i> (Heilizer, Glenn) (Entered: 11/19/2013)

11/19/2013	<u>53</u>	NOTICE by JPMorgan Chase Bank, N.A. re MOTION by Third Party Defendant JPMorgan Chase Bank, N.A. for extension of time <i>to respond to third-party complaint</i> <u>52</u> (Heilizer, Glenn) (Entered: 11/19/2013)
11/20/2013	<u>54</u>	MINUTE entry before the Honorable Amy J. St. Eve: JP Morgan Chase Bank's motion for extension of time <u>52</u> is granted. JP Morgan shall answer or otherwise plead to the third-party complaint by 12/11/13. Mailed notice (kef,) (Entered: 11/20/2013)
11/21/2013	<u>55</u>	MINUTE entry before the Honorable Amy J. St. Eve: Status hearing held on 11/21/2013 and continued to 1/22/2014 at 08:30 AM. Eliot Bernstein failed to appear. PNC Bank and Bank of America are given until 12/11/13 in which to answer or otherwise plead. Mailed notice (kef,) (Entered: 11/21/2013)
12/05/2013	<u>56</u>	MOTION by Intervenor William E. Stansbury to intervene (Attachments: # <u>1</u> Exhibit Complaint, # <u>2</u> Exhibit Petition for Administration, # <u>3</u> Exhibit Statement of Claim by William Stansbury, # <u>4</u> Exhibit Letter of Robert Spallina, # <u>5</u> Exhibit Intervenor Complaint for Declaratory Judgment)(O'Halloran, John) (Entered: 12/05/2013)
12/06/2013	<u>57</u>	NOTICE of Motion by John M. O'Halloran for presentment of before Honorable Amy J. St. Eve on 12/11/2013 at 01:30 PM. (O'Halloran, John) (Entered: 12/06/2013)
12/08/2013	<u>58</u>	MOTION by Third Party Defendants Eliot Ivan Bernstein, Eliot Bernstein, ThirdParty Plaintiff Eliot Bernstein, Counter Claimant Eliot Bernstein, Cross Claimant Eliot Bernstein, Plaintiffs Eliot Bernstein, Eliot Ivan Bernstein to disqualify counsel A. <i>SIMON</i> (Bernstein, Eliot) (Entered: 12/08/2013)
12/11/2013	<u>59</u>	MINUTE entry before the Honorable Amy J. St. Eve: Motion hearing held on 12/11/2013. Motion to intervene by interested party William Stansbury <u>56</u> is entered. Response by 1/6/14. Reply by 1/13/14. Mailed notice (kef,) (Entered: 12/11/2013)
12/11/2013	<u>60</u>	ANSWER to Third Party Complaint by JPMorgan Chase Bank, N.A.(Heilizer, Glenn) (Entered: 12/11/2013)
12/11/2013	<u>61</u>	NOTICE by JPMorgan Chase Bank, N.A. re answer to third party complaint <u>60</u> (Heilizer, Glenn) (Entered: 12/11/2013)
12/20/2013	<u>62</u>	MINUTE entry before the Honorable Amy J. St. Eve: The Court denies Cross-Plaintiff Eliot Ivan Bernstein's motion to strike and disqualify counsel <u>58</u> without prejudice for failure to notice the motion before the Court as required by Northern District of Illinois Local Rule 5.3 Mailed notice (kef,) (Entered: 12/20/2013)
12/20/2013	<u>63</u>	MOTION by Third Party Defendants Eliot Ivan Bernstein, Eliot Bernstein, ThirdParty Plaintiff Eliot Bernstein, Counter Claimant Eliot Bernstein, Cross Claimant Eliot Bernstein, Plaintiffs Eliot Bernstein, Eliot Ivan Bernstein to disqualify counsel <i>Adam Simon, Esquire</i> (Bernstein, Eliot) (Entered: 12/20/2013)
12/20/2013	<u>64</u>	NOTICE of Motion by Adam Michael Simon, Alexander David Marks, Frederic A. Mendelsohn, Glenn E. Heilizer, John M. O'Halloran for presentment of motion to disqualify counsel, <u>63</u> before Honorable Amy J. St. Eve on 1/6/2014 at 08:30 AM. (Bernstein, Eliot) (Entered: 12/20/2013)
01/03/2014	<u>65</u>	MINUTE entry before the Honorable Amy J. St. Eve: Eliot Bernstein's motion to disqualify counsel <u>63</u> is entered. Response by 1/17/14. Reply by 1/24/14. No appearance is required on the 1/6/14 notice date. Mailed notice (kef,) (Entered: 01/03/2014)
01/03/2014	<u>66</u>	MOTION by Plaintiffs Ted Bernstein, Simon Bernstein Irrevocable Insurance Trust Dtd 6/21/95 for leave to file <i>First Amended Complaint</i> (Attachments: # <u>1</u> Exhibit Exh. A -- Form of Amended Complaint)(Simon, Adam) (Entered: 01/03/2014)
01/03/2014	<u>67</u>	NOTICE of Motion by Adam Michael Simon for presentment of motion for leave to file <u>66</u> before Honorable Amy J. St. Eve on 1/13/2014 at 08:30 AM. (Attachments: # <u>1</u> Certificate of Service)(Simon, Adam) (Entered: 01/03/2014)
01/06/2014	<u>68</u>	MEMORANDUM by Ted Bernstein, Simon Bernstein Irrevocable Insurance Trust Dtd 6/21/95 in Opposition to motion to intervene, <u>56</u> (Attachments: # <u>1</u> Certificate of Service)(Simon, Adam) (Entered: 01/06/2014)

01/12/2014	<u>69</u>	MOTION by Third Party Defendants Eliot Ivan Bernstein, Eliot Bernstein, ThirdParty Plaintiff Eliot Bernstein, Counter Claimant Eliot Bernstein, Cross Claimant Eliot Bernstein, Plaintiffs Eliot Bernstein, Eliot Ivan Bernstein to strike MOTION by Plaintiffs Ted Bernstein, Simon Bernstein Irrevocable Insurance Trust Dtd 6/21/95 for leave to file <i>First Amended Complaint</i> <u>66</u> (Bernstein, Eliot) (Entered: 01/12/2014)
01/12/2014	<u>70</u>	NOTICE of Motion by Adam Michael Simon, Alexander David Marks, Frederic A. Mendelsohn, Glenn E. Heilizer, John M. O'Halloran for presentment of motion to strike, motion for relief,, <u>69</u> before Honorable Amy J. St. Eve on 1/13/2014 at 08:30 AM. (Bernstein, Eliot) (Entered: 01/12/2014)
01/13/2014	<u>71</u>	MINUTE entry before the Honorable Amy J. St. Eve: Motion hearing held on 1/13/2014. Plaintiffs' motion for leave to file first amended complaint <u>66</u> is granted. Counsel shall separately file the amended complaint upon receipt of this order. Eliot Bernstein's motion to strike and for default judgment <u>69</u> is denied. Parties shall answer or otherwise plead to the amended complaint by 2/3/14. Discovery is hereby stayed until the proper Trustee is determined. Status hearing set for 1/22/14 is stricken and reset to 2/6/14 at 8:30 a.m. Mailed notice (kef,) (Entered: 01/13/2014)
01/13/2014	<u>72</u>	REPLY by William E. Stansbury to MOTION by Intervenor William E. Stansbury to intervene <u>56</u> (O'Halloran, John) (Entered: 01/13/2014)
01/13/2014	<u>73</u>	FIRST AMENDED complaint by Ted Bernstein, Simon Bernstein Irrevocable Insurance Trust Dtd 6/21/95, Lisa Sue Friedstein, Jill Marla Iantoni, Pamela Beth Simon against Heritage Union Life Insurance Company (Attachments: # <u>1</u> Certificate of Service)(Simon, Adam) (Entered: 01/13/2014)
01/14/2014	<u>74</u>	ORDER Signed by the Honorable Amy J. St. Eve on 1/14/2014: The Court denies non-party William E. Stansbury's motion to intervene <u>56</u> . William E. Stansbury terminated. [For further details, see attached Order.] Mailed notice(kef,) (Entered: 01/14/2014)
01/17/2014	<u>75</u>	MEMORANDUM by Ted Bernstein(an individual), Lisa Sue Friedstein, Jill Marla Iantoni, S.T.P. Enterprises, Inc., Adam M Simon, David B Simon, Pamela Beth Simon, Simon Bernstein Irrevocable Insurance Trust Dtd 6/21/95 in Opposition to motion to disqualify counsel, <u>63</u> (Attachments: # <u>1</u> Affidavit Ex. 1-Affidavit of A. Simon, # <u>2</u> Exhibit Ex. A to Affidavit of A. Simon, # <u>3</u> Exhibit Ex B-v1 to Affidavit of A. Simon, # <u>4</u> Exhibit Ex. B-v2 to Affidavit of A. Simon)(Simon, Adam) (Entered: 01/17/2014)
01/17/2014	<u>76</u>	CERTIFICATE of Service <i>Memorandum in Opposition to E. Bernstein's motion to disqualify</i> by Adam Michael Simon on behalf of Ted Bernstein(an individual), Lisa Sue Friedstein, Jill Marla Iantoni, S.T.P. Enterprises, Inc., Adam M Simon, David B Simon, Pamela Beth Simon regarding memorandum in opposition to motion, <u>75</u> (Simon, Adam) (Entered: 01/17/2014)
01/22/2014	<u>77</u>	MINUTE entry before the Honorable Amy J. St. Eve: Cross-Plaintiff Eliot Bernstein must file proof of service of his cross-claims with the Court in accordance with Federal Rule of Civil Procedure 4(m) by no later than 1/31/14. Otherwise, his cross-claims may be dismissed pursuant to Rule 4(m). Mailed notice (kef,) (Entered: 01/22/2014)
01/23/2014	<u>78</u>	ANSWER To AMENDED COMPLAINT by Eliot Ivan Bernstein, Eliot Bernstein, Eliot Ivan Bernstein <u>73</u> (Attachments: # <u>1</u> Exhibit Jan 2012 P. Simon Letter to Simon with Attorney Letter)(Bernstein, Eliot) (Docket text modified by Clerk's Office.) Modified on 1/29/2014 (tlm,). (Entered: 01/23/2014)
01/23/2014	<u>79</u>	MINUTE entry before the Honorable Amy J. St. Eve: Because Heritage Union Life Insurance Company is the named Defendant in this lawsuit despite Jackson National Life Insurance Company's allegations that Heritage is a predecessor in interest, the Court directs Jackson's attention to Federal Rule of Civil Procedure 25(c), which pertains to the substitution of parties.Mailed notice (kef,) (Entered: 01/23/2014)
01/23/2014		SUMMONS Issued as to Third Party Defendant Donald R Tescher. (jp,) (Entered: 01/23/2014)
01/23/2014		SUMMONS Issued as to Third Party Defendants Robert L Spallina, Tescher & Spallina, P.A. (jp,) (Entered: 01/23/2014)

01/24/2014	<u>80</u>	MINUTE entry before the Honorable Mary M. Rowland: All matters relating to the referral of this action having been concluded, the referral is closed and the case is returned to the assigned Judge. Judge Honorable Mary M. Rowland no longer referred to the case. Mailed notice (gel,) (Entered: 01/24/2014)
01/24/2014	<u>81</u>	MINUTE entry before the Honorable Amy J. St. Eve: Eliot Bernstein's oral request for an extension of time is granted. Eliot Bernstein's reply to his motion to disqualify counsel <u>63</u> shall be filed by 1/31/14. Mailed notice (kef,) (Entered: 01/24/2014)
01/30/2014	<u>82</u>	SUMMONS Returned Executed by Eliot Ivan Bernstein, Eliot Bernstein as to Robert L Spallina on 1/28/2014, answer due 2/18/2014. (Bernstein, Eliot) (Entered: 01/30/2014)
01/30/2014	<u>83</u>	SUMMONS Returned Executed by Eliot Ivan Bernstein, Eliot Bernstein as to Donald R Tescher on 1/28/2014, answer due 2/18/2014. (Bernstein, Eliot) (Entered: 01/30/2014)
01/30/2014	<u>84</u>	SUMMONS Returned Executed by Eliot Ivan Bernstein, Eliot Bernstein as to Tescher & Spallina, P.A. on 1/28/2014, answer due 2/18/2014. (Bernstein, Eliot) (Entered: 01/30/2014)
01/31/2014	<u>85</u>	MINUTE entry before the Honorable Amy J. St. Eve: Eliot Bernstein's second oral request for extension of time is granted. Eliot Bernstein's reply to his motion to disqualify counsel <u>63</u> shall be filed by 2/5/14. No further extensions. Mailed notice (kef,) (Entered: 01/31/2014)
01/31/2014	<u>86</u>	MINUTE entry before the Honorable Amy J. St. Eve: Status hearing set for 2/6/14 is stricken and reset to 2/12/2014 at 08:30 AM. Mailed notice (kef,) (Entered: 01/31/2014)
02/03/2014	<u>87</u>	MOTION by Defendant Heritage Union Life Insurance Company Leave to File Amend Appearances, Amended Notice of Removal, and For Extension of Time to File Responsive Pleading to Amended Complaint (Marks, Alexander) (Entered: 02/03/2014)
02/03/2014	<u>88</u>	NOTICE of Motion by Alexander David Marks for presentment of motion for miscellaneous relief <u>87</u> before Honorable Amy J. St. Eve on 2/12/2014 at 08:30 AM. (Marks, Alexander) (Entered: 02/03/2014)
02/04/2014	<u>89</u>	MINUTE entry before the Honorable Amy J. St. Eve: The Court grants Heritage's motion to amend the attorney appearances in this matter and its notice of removal <u>87</u> . See 28 U.S.C. § 1653. The Court also grants Heritage's motion for an extension of time to respond to Plaintiffs' Amended Complaint. Heritage must answer or otherwise plead by 2/12/12. Mailed notice (kef,) (Entered: 02/04/2014)
02/05/2014	<u>90</u>	REPLY by Eliot Ivan Bernstein, Eliot Bernstein, Eliot Ivan Bernstein to memorandum in opposition to motion, <u>75</u> , MOTION by Third Party Defendants Eliot Ivan Bernstein, Eliot Bernstein, ThirdParty Plaintiff Eliot Bernstein, Counter Claimant Eliot Bernstein, Cross Claimant Eliot Bernstein, Plaintiffs Eliot Bernstein, Eliot Ivan Bernstein to disqualify counsel <i>Ada <u>63</u> Adam Simon, Esquire (Bernstein, Eliot)</i> (Entered: 02/05/2014)
02/06/2014	<u>91</u>	ORDER Signed by the Honorable Amy J. St. Eve on 2/6/2014: The Court, in its discretion, denies pro se Cross-Plaintiff Eliot Bernstein's motion to disqualify Plaintiffs' counsel and to strike the pleadings <u>63</u> . [For further details, see attached Order.] Mailed notice(kef,) (Entered: 02/06/2014)
02/11/2014	<u>92</u>	ATTORNEY Appearance for Defendant Heritage Union Life Insurance Company by Alexander David Marks (<i>amended</i>) (Marks, Alexander) (Entered: 02/11/2014)
02/11/2014	<u>93</u>	NOTICE of Removal from Circuit Court of Cook County, case number (2013-L-003498) filed by Heritage Union Life Insurance Company (<i>amended</i>) (Attachments: # <u>1</u> Exhibit)(Marks, Alexander) (Entered: 02/11/2014)
02/11/2014	<u>94</u>	MOTION by Defendant Heritage Union Life Insurance Company to dismiss (Marks, Alexander) (Entered: 02/11/2014)
02/11/2014	<u>95</u>	NOTICE by Heritage Union Life Insurance Company re attorney appearance <u>92</u> , notice of removal <u>93</u> , MOTION by Defendant Heritage Union Life Insurance

		Company to dismiss <u>94</u> (Marks, Alexander) (Entered: 02/11/2014)
02/12/2014	<u>96</u>	MINUTE entry before the Honorable Amy J. St. Eve: Status hearing held on 2/12/2014 and continued to 4/22/2014 at 08:30 AM. The Court hereby lifts the stay on discovery. Written discovery shall be issued by 2/28/14. Fact discovery shall be completed by 6/13/14. Third-party defendants shall answer or otherwise plead to Eliot Bernstein's third-party complaint <u>35</u> by 2/18/14. Response to any motion to dismiss third-party complaint shall be filed by 3/11/14. Reply by 3/18/14. Mailed notice (kef,) (Entered: 02/12/2014)
02/14/2014	<u>97</u>	NOTICE of Voluntary Dismissal by Heritage Union Life Insurance Company (<i>as to Bank of America</i>) (Marks, Alexander) (Entered: 02/14/2014)
02/18/2014	<u>98</u>	ATTORNEY Appearance for Third Party Defendants Robert L Spallina, Donald R Tescher, Tescher & Spallina, P.A. by Thomas B. Underwood (Underwood, Thomas) (Entered: 02/18/2014)
02/18/2014	<u>99</u>	ATTORNEY Appearance for Third Party Defendants Robert L Spallina, Donald R Tescher, Tescher & Spallina, P.A. by Michael Duane Sanders (Sanders, Michael) (Entered: 02/18/2014)
02/18/2014	<u>100</u>	MOTION by Third Party Defendants Tescher & Spallina, P.A., Robert L Spallina, Donald R Tescher to dismiss (Attachments: # <u>1</u> Notice of Filing)(Underwood, Thomas) (Entered: 02/18/2014)
02/18/2014	<u>101</u>	ORDER Entered by the Honorable Amy J. St. Eve on 2/18/2014: Pursuant to Heritage Union Life Insurance Company's notice of voluntary dismissal <u>97</u> , Bank of America, successor in interest to LaSalle National Trust, is hereby dismissed, with prejudice and without costs. Heritage's Rule 12(b)(6) motion to dismiss <u>94</u> is granted. Heritage Union Life Insurance Company is hereby dismissed as a party from this action, including dismissal of all claims against it, with prejudice. Heritage Union Life Insurance Company is discharged of all liability under the Policy. Mailed notice (tlm) (Entered: 02/19/2014)
02/26/2014	<u>102</u>	MOTION by Third Party Defendant JPMorgan Chase Bank, N.A. for judgment on the pleadings (Heilizer, Glenn) (Entered: 02/26/2014)
02/26/2014	<u>103</u>	NOTICE of Motion by Glenn E. Heilizer for presentment of motion for judgment on the pleadings <u>102</u> before Honorable Amy J. St. Eve on 3/12/2014 at 01:30 PM. (Heilizer, Glenn) (Entered: 02/26/2014)
03/10/2014	<u>104</u>	RESPONSE by Eliot Ivan Bernstein, Eliot Bernstein, Eliot Ivan Bernstein in Opposition to MOTION by Third Party Defendants Tescher & Spallina, P.A., Robert L Spallina, Donald R Tescher to dismiss <u>100</u> <i>due to Fraud on The Court and more</i> (Bernstein, Eliot) (Entered: 03/10/2014)
03/12/2014	<u>105</u>	MINUTE entry before the Honorable Amy J. St. Eve: Motion hearing held on 3/12/2014. Third-party defendants Tescher & Spallina's motion to dismiss third-party complaint <u>100</u> is entered. Reply by 3/26/14. Third-party defendant JP Morgan Chase Bank's motion for judgment on the pleadings in its favor on the counterclaim and third-party complaint <u>102</u> is granted without costs. JPMorgan Chase Bank, N.A. terminated. Mailed notice (kef,) (Entered: 03/12/2014)
03/17/2014	<u>106</u>	ORDER Signed by the Honorable Amy J. St. Eve on 3/17/2014: The Court grants the Third-Party Defendants' motion to dismiss and dismisses the Third-Party Defendants from this lawsuit <u>100</u> . Tescher & Spallina, P.A. (Professionally and Personally), Robert L Spallina and Donald R Tescher (Professionally and Personally) terminated. [For further details, see attached Order.] Mailed notice(kef,) (Entered: 03/17/2014)
04/22/2014	<u>107</u>	MINUTE entry before the Honorable Amy J. St. Eve: Status hearing held on 4/22/2014 and continued to 6/10/2014 at 08:30 AM. Any dispositive motions, with supporting memoranda, shall be filed by 7/14/14. Mailed notice (kef,) (Entered: 04/22/2014)
06/05/2014	<u>108</u>	ATTORNEY Appearance for Intervenor Benjamin P Brown by James John Stamos (Stamos, James) (Entered: 06/05/2014)
06/05/2014	<u>109</u>	ATTORNEY Appearance for Intervenor Benjamin P Brown by Kevin Patrick Horan (Horan, Kevin) (Entered: 06/05/2014)

06/05/2014	<u>110</u>	MOTION by Intervenor Benjamin P Brown to intervene <i>Pursuant to Fed. R.Civ. P. 24</i> (Stamos, James) (Entered: 06/05/2014)
06/05/2014	<u>111</u>	NOTICE of Motion by James John Stamos for presentment of motion to intervene <u>110</u> before Honorable Amy J. St. Eve on 6/10/2014 at 08:30 AM. (Stamos, James) (Entered: 06/05/2014)
06/05/2014	<u>112</u>	INTERVENOR complaint for <i>Declaratory Judgment</i> filed by Benjamin P Brown against Heritage Union Life Insurance Company, Simon Bernstein Irrevocable Insurance Trust Dtd 6/21/95(Stamos, James) (Entered: 06/05/2014)
06/06/2014	<u>113</u>	Rule 26(a)(1) Additional Disclosure Response by Eliot Ivan Bernstein by Eliot Ivan Bernstein, Eliot Bernstein (Bernstein, Eliot) (Entered: 06/06/2014)
06/09/2014	<u>114</u>	Rule 26 Additional Disclosure Eliot Jackson National Lawsuit by Eliot Ivan Bernstein, Eliot Bernstein (Bernstein, Eliot) (Entered: 06/09/2014)
06/10/2014	<u>115</u>	MINUTE entry before the Honorable Amy J. St. Eve:Status hearing held on 6/10/2014 and continued to 8/14/14 at 8:30 a.m. Motion to intervene by Benjamin Brown <u>110</u> is entered. Response by 7/1/14. Reply by 7/15/14. Any dispositive motions, with supporting memoranda, shall be filed by 8/8/14. Mailed notice (kef,) (Entered: 06/10/2014)
06/28/2014	<u>116</u>	MEMORANDUM by Ted Bernstein(an individual), Ted Bernstein, Lisa Sue Friedstein, Jill Marla Iantoni, Pamela Beth Simon, Simon Bernstein Irrevocable Insurance Trust Dtd 6/21/95 in Opposition to motion to intervene <u>110</u> (Attachments: # <u>1</u> Exhibit Exh. A- Transcript, # <u>2</u> Exhibit Exh. B- Aff. of Don Sanders)(Simon, Adam) (Entered: 06/28/2014)
07/15/2014	<u>117</u>	REPLY by Intervenor Benjamin P Brown <i>in Support of Motion to Intervene</i> (Stamos, James) (Entered: 07/15/2014)
07/23/2014	<u>118</u>	MOTION by Intervenor Benjamin P Brown for extension of time of <i>Deadline of Filing Dispositive Motions</i> (Stamos, James) (Entered: 07/23/2014)
07/23/2014	<u>119</u>	NOTICE of Motion by James John Stamos for presentment of extension of time <u>118</u> before Honorable Amy J. St. Eve on 7/29/2014 at 08:30 AM. (Stamos, James) (Entered: 07/23/2014)
07/28/2014	<u>120</u>	MINUTE entry before the Honorable Amy J. St. Eve: The Court grants Intervenor's motion for an extension of time <u>118</u> and will discuss the dispositive motion deadline at the next status hearing on 8/14/14. No appearance is required on the 7/29/14 notice date. Mailed notice(maf) (Entered: 07/28/2014)
07/28/2014	<u>121</u>	ORDER Entered by the Honorable Amy J. St. Eve on 7/28/2014: The Court grants Benjamin P. Brown's motion to intervene pursuant to Federal Rule of Civil Procedure 24(a)(2) <u>110</u> . Mailed notice (tlm) (Entered: 07/28/2014)
08/14/2014	<u>122</u>	MINUTE entry before the Honorable Amy J. St. Eve:Status hearing held on 8/14/2014 and continued to 8/28/2014 at 08:30 AM.Mailed notice (kef,) (Entered: 08/14/2014)
08/28/2014	<u>123</u>	MINUTE entry before the Honorable Amy J. St. Eve:Status hearing held on 8/28/2014 and continued to 11/3/2014 at 08:30 AM. Fact discovery shall be completed by 1/9/15. Any dispositive motions, with supporting memoranda, shall be filed by 3/6/15. Mailed notice (kef,) (Entered: 08/28/2014)
10/31/2014	<u>124</u>	MOTION by Intervenor Plaintiff Benjamin P Brown to substitute party <i>pursuant to Fed.R.Civ. P. 25(c)</i> (Horan, Kevin) (Entered: 10/31/2014)
10/31/2014	<u>125</u>	NOTICE of Motion by Kevin Patrick Horan for presentment of motion to substitute party <u>124</u> before Honorable Amy J. St. Eve on 11/10/2014 at 08:30 AM. (Horan, Kevin) (Entered: 10/31/2014)
11/03/2014	<u>126</u>	ORDER Entered by the Honorable Amy J. St. Eve on 11/3/2014: Status hearing held on 11/3/14 and continued to 1/6/15 at 8:30 a.m. Intervenor's uncontested motion to substitute party <u>124</u> is granted. The Clerk's Office is directed to substitute Brian M. O'Connell as Intervenor in place of Benjamin P. Brown. Notice motion date of 11/10/14 is stricken. Mailed notice (tlm) (Entered: 11/04/2014)

12/01/2014	<u>127</u>	Subpoena to Testify at Deposition by Brian M. O'Connell to <i>David Simon</i> (Horan, Kevin) (Entered: 12/01/2014)
12/12/2014	<u>128</u>	Amended Subpoena for Deposition of David Simon by Brian M. O'Connell (Horan, Kevin) (Entered: 12/12/2014)
01/06/2015	<u>129</u>	MINUTE entry before the Honorable Amy J. St. Eve: Status hearing set for 1/6/15 is stricken and reset to 1/20/2015 at 08:30 AM.Mailed notice (kef,) (Entered: 01/06/2015)
01/15/2015	<u>130</u>	EXECUTIVE COMMITTEE ORDER: It appearing that, pursuant to the Executive Committee Order entered on December 30, 2014, the civil cases on the attached list have been selected for reassignment to form the initial calendar of the Honorable John Robert Blakey; therefore IT IS HEREBY ORDERED that the attached list of 306 cases be reassigned to the Honorable John Robert Blakey. IT IS FURTHER ORDERED that this order shall become effective on January 15, 2015. Case reassigned to the Honorable John Robert Blakey for all further proceedings. Signed by Executive Committee on 1/15/15. Mailed notices. (sj) (Entered: 01/15/2015)
01/15/2015	<u>131</u>	MINUTE entry before the Honorable Amy J. St. Eve: This case having been reassigned, status hearing set for 1/20/15 before Judge St. Eve is stricken. Mailed notice (kef,) (Entered: 01/15/2015)
01/20/2015	<u>132</u>	MOTION by Plaintiff Simon Bernstein Irrevocable Insurance Trust Dtd 6/21/95 for leave to file <i>Answer to Intervenor Complaint</i> (Attachments: # <u>1</u> Certificate of Service cert of service– motion for leave)(Simon, Adam) (Entered: 01/20/2015)
01/22/2015	<u>133</u>	MINUTE entry before the Honorable John Robert Blakey:The following case has been reassigned to form the initial calendar of the Honorable John Robert Blakey. Unless otherwise ordered by the court, all previously–set discovery and briefing schedules and deadlines remain intact, and all existing referrals to the assigned magistrate judge remain in place. All previously–set status and motion hearing dates are stricken. The court may, in due course, set the case for a reassignment status conference. The parties are directed not to file or notice any motions, with the exception of emergency motions, prior to appearing at the reassignment status conference. For all emergency motions arising prior to the date scheduled for the reassignment status conference, the parties are directed to contact chambers at (312) 435–6058, or Judge Blakey's courtroom deputy, Gloria Lewis, at (312) 818–6699.To assist the court with its review of the case, the parties are directed, within 10 calendar days of this order's entry, to confer and then prepare and file a joint Reassignment Status Report, not to exceed five pages. A template of the Reassignment Status Report is available on Judge Blakey's homepage at www.ilnd.uscourts.gov. Additional dates will be set in a future order, as needed.Mailed notice (gel,) (Entered: 01/22/2015)
01/23/2015	<u>134</u>	MINUTE entry before the Honorable John Robert Blakey:Minute order dated 1/22/2015 is corrected as follows: This case has been reassigned to form the initial calendar of the Honorable John Robert Blakey. Unless otherwise ordered by the court, all previously set discovery and briefing schedules and deadlines remain intact, and all existing referrals to the assigned magistrate judge remain in place. All previously set status hearing and motion hearing dates are stricken. To assist the court with its initial review of the case, the parties are directed, within 10 calendar days of this order's entry, to confer and then prepare and file a joint Reassignment Status Report, not to exceed five pages. A template of the Reassignment Status Report is available on Judge Blakey's homepage at www.ilnd.uscourts.gov. The parties are directed not to file or notice any motions, with the exception of emergency motions, prior to filing the joint Reassignment Status Report. For all emergency motions arising prior to the due date for the Reassignment Status Report, the parties are directed to contact chambers at (312) 435–6058, or Judge Blakey's courtroom deputy, Gloria Lewis, at (312) 818–6699. Additional dates will be set in a future order, as needed. Mailed notice (gel,) (Entered: 01/23/2015)
02/02/2015	<u>135</u>	STATUS Report by <i>Plaintiff and Estate</i> by Brian M. O'Connell (Horan, Kevin) (Entered: 02/02/2015)
02/03/2015	<u>136</u>	STATUS Report by Eliot Ivan Bernstein, Eliot Bernstein (Bernstein, Eliot) (Entered: 02/03/2015)

02/10/2015	<u>137</u>	MOTION by Plaintiffs Ted Bernstein, Ted Bernstein, Lisa Sue Friedstein, Jill Marla Iantoni, Pamela Beth Simon, Simon Bernstein Irrevocable Insurance Trust Dtd 6/21/95 for leave to file <i>Answer to Intervenor Complaint</i> (Simon, Adam) (Duplicate filing of Motion <u>132</u> .Docket Text Modified by Clerk's Office on 2/10/2015) (mr,). (Entered: 02/10/2015)
02/10/2015	<u>138</u>	MINUTE entry before the Honorable John Robert Blakey: The case is set for a status hearing 3/11/15 at 9:45 a.m. in Courtroom 2201. Mailed notice (gel,) (Entered: 02/10/2015)
02/10/2015	<u>139</u>	NOTICE of Motion by Adam Michael Simon for presentment of motion for leave to file <u>132</u> before Honorable John Robert Blakey on 2/17/2015 at 09:45 AM. (Simon, Adam) (Entered: 02/10/2015)
02/11/2015	<u>140</u>	MINUTE entry before the Honorable John Robert Blakey: Plaintiffs' motion for leave to file an answer to intervenor complaint <u>132</u> , <u>137</u> is entered and continued to the scheduled status hearing on 3/11/15 at 9:45 a.m. The 2/17/15 Notice of Motion date is stricken; the parties need not appear on that date. Mailed notice (gel,) (Entered: 02/11/2015)
03/02/2015	<u>141</u>	MOTION by Intervenor Plaintiff Brian M. O'Connell for extension of time of <i>the Dispositive Motion Deadline</i> (Horan, Kevin) (Entered: 03/02/2015)
03/02/2015	<u>142</u>	NOTICE of Motion by Kevin Patrick Horan for presentment of extension of time <u>141</u> before Honorable John Robert Blakey on 3/5/2015 at 09:45 AM. (Horan, Kevin) (Entered: 03/02/2015)
03/03/2015	<u>143</u>	MINUTE entry before the Honorable John Robert Blakey: Plaintiff's motion for leave to file an answer to Intervenor's complaint <u>132</u> <u>137</u> is granted. Plaintiff is directed to file its answer as a separate docket entry by the close of business on 3/5/15. Additionally, Intervenor's motion to extend the deadline for filing dispositive motions <u>141</u> is granted. Dispositive motions are now due 4/3/15. The 3/5/15 Notice of Motion date is stricken; the parties need not appear. The status hearing set for 3/11/15 is also stricken and reset to 4/13/15 at 9:45 a.m. in Courtroom 2201. Mailed notice (gel,) (Entered: 03/03/2015)
03/05/2015	<u>144</u>	<i>PLAINTIFFS ANSWER</i> to Intervenor Complaint by Ted Bernstein(an individual), Ted Bernstein, Lisa Sue Friedstein, Jill Marla Iantoni, Pamela Beth Simon, Simon Bernstein Irrevocable Insurance Trust Dtd 6/21/95 (Attachments: # <u>1</u> Certificate of Service Notice of Filing/Cert of Serv)(Simon, Adam) (Entered: 03/05/2015)
03/16/2015	<u>145</u>	MOTION by Plaintiffs Eliot Bernstein, Ted Bernstein, Lisa Sue Friedstein, Jill Marla Iantoni, Pamela Beth Simon, Simon Bernstein Irrevocable Insurance Trust Dtd 6/21/95 for leave to file excess pages in <i>Plaintiffs' memorandum of law</i> (Simon, Adam) (Entered: 03/16/2015)
03/16/2015	<u>146</u>	<i>Certificate of Service and</i> NOTICE of Motion by Adam Michael Simon for presentment of motion for leave to file excess pages, <u>145</u> before Honorable John Robert Blakey on 3/19/2015 at 09:45 AM. (Simon, Adam) (Entered: 03/16/2015)
03/16/2015	<u>147</u>	MINUTE entry before the Honorable John Robert Blakey: Plaintiffs' motion for leave to file a brief in excess of fifteen pages <u>145</u> is granted. The 3/19/15 Notice of Motion date is stricken; the parties need not appear. Mailed notice (gel,) (Entered: 03/16/2015)
03/27/2015	<u>148</u>	MOTION by Plaintiffs Ted Bernstein, Simon Bernstein Irrevocable Insurance Trust Dtd 6/21/95, Jill Marla Iantoni, Lisa Sue Friedstein, Pamela Beth Simon, Ted Bernstein for summary judgment <i>as to Count I of Claims to Policy Proceeds</i> (Simon, Adam) (Entered: 03/27/2015)
03/27/2015	<u>149</u>	NOTICE by Ted Bernstein(an individual), Ted Bernstein, Lisa Sue Friedstein, Jill Marla Iantoni, Pamela Beth Simon, Simon Bernstein Irrevocable Insurance Trust Dtd 6/21/95 re MOTION by Plaintiffs Ted Bernstein, Simon Bernstein Irrevocable Insurance Trust Dtd 6/21/95, Jill Marla Iantoni, Lisa Sue Friedstein, Pamela Beth Simon, Ted Bernstein for summary judgment <i>as to Count I of Claims to Policy Proceeds</i> <u>148</u> <i>NOTICE TO PRO SE LITIGANT</i> (Simon, Adam) (Entered: 03/27/2015)

03/27/2015	<u>150</u>	RULE 56 (a) Statement by Ted Bernstein(an individual), Ted Bernstein, Lisa Sue Friedstein, Jill Marla Iantoni, Pamela Beth Simon, Simon Bernstein Irrevocable Insurance Trust Dtd 6/21/95 regarding motion for summary judgment, <u>148</u> <i>Undisputed Material Facts</i> (Attachments: # <u>1</u> Appendix Appendix to Statement of Facts, # <u>2</u> Exhibit Ex. 1, # <u>3</u> Exhibit Ex. 2, # <u>4</u> Exhibit Ex. 3, # <u>5</u> Exhibit Ex. 4, # <u>6</u> Exhibit Ex. 5, # <u>7</u> Exhibit Ex. 6, # <u>8</u> Exhibit Ex. 7, # <u>9</u> Exhibit Ex. 8, # <u>10</u> Exhibit Ex. 9, # <u>11</u> Exhibit Ex. 10, # <u>12</u> Exhibit Ex. 11, # <u>13</u> Exhibit Ex. 12, # <u>14</u> Exhibit Ex. 13, # <u>15</u> Exhibit Ex. 14, # <u>16</u> Exhibit Ex. 15, # <u>17</u> Exhibit Ex. 16, # <u>18</u> Exhibit Ex. 17, # <u>19</u> Exhibit Ex. 18, # <u>20</u> Exhibit Ex. 19, # <u>21</u> Exhibit Ex. 20, # <u>22</u> Exhibit Ex. 21, # <u>23</u> Exhibit Ex. 22, # <u>24</u> Exhibit Ex. 23, # <u>25</u> Exhibit Ex. 24, # <u>26</u> Exhibit Ex. 25, # <u>27</u> Exhibit Ex. 26, # <u>28</u> Exhibit Ex. 27, # <u>29</u> Exhibit Ex. 28, # <u>30</u> Exhibit Ex. 29, # <u>31</u> Exhibit Ex. 30, # <u>32</u> Exhibit Ex. 31, # <u>33</u> Exhibit Ex. 32, # <u>34</u> Exhibit Ex. 33, # <u>35</u> Exhibit Ex. 34, # <u>36</u> Exhibit Ex. 35, # <u>37</u> Exhibit Ex. 36)(Simon, Adam) (Entered: 03/27/2015)
03/27/2015	<u>151</u>	MEMORANDUM of Law in Support of Summary Judgment (Simon, Adam) (Entered: 03/27/2015)
03/27/2015	<u>152</u>	Certificate of Service and NOTICE of Motion by Adam Michael Simon for presentment of motion for summary judgment, <u>148</u> before Honorable John Robert Blakey on 4/13/2015 at 09:45 AM. (Simon, Adam) (Entered: 03/27/2015)
03/27/2015	<u>153</u>	MOTION by Plaintiffs Ted Bernstein, Simon Bernstein Irrevocable Insurance Trust Dtd 6/21/95, Jill Marla Iantoni, Lisa Sue Friedstein, Pamela Beth Simon, Ted Bernstein for summary judgment <i>AMENDED MOTION</i> (Simon, Adam) (Entered: 03/27/2015)
04/03/2015	<u>154</u>	MOTION by Intervenor Plaintiff Brian M. O'Connell for extension of time to complete discovery (Horan, Kevin) (Entered: 04/03/2015)
04/04/2015	<u>155</u>	MOTION by Third Party Defendants Eliot Ivan Bernstein, Eliot Bernstein, ThirdParty Plaintiff Eliot Bernstein, Cross Claimant Eliot Bernstein, Plaintiff Eliot Bernstein for extension of time to file response/reply (Bernstein, Eliot) (Entered: 04/04/2015)
04/04/2015	<u>156</u>	NOTICE of Motion by Eliot Ivan Bernstein, Eliot Bernstein for presentment of motion for extension of time to file response/reply <u>155</u> before Honorable John Robert Blakey on 4/9/2015 at 09:45 AM. (Bernstein, Eliot) (Entered: 04/04/2015)
04/06/2015	<u>157</u>	RESPONSE by Ted Bernstein(an individual), Ted Bernstein, Lisa Sue Friedstein, Jill Marla Iantoni, Pamela Beth Simon, Simon Bernstein Irrevocable Insurance Trust Dtd 6/21/95in Opposition to MOTION by Intervenor Plaintiff Brian M. O'Connell for extension of time to complete discovery <u>154</u> (Attachments: # <u>1</u> Notice of Filing CERT. OF SERVICE AND NOTICE OF FILING)(Simon, Adam) (Entered: 04/06/2015)
04/06/2015	<u>158</u>	MINUTE entry before the Honorable John Robert Blakey: Intervenor's motion to stay discovery <u>154</u> is denied, as discovery closed on 1/9/15 (see <u>123</u> , <u>133</u>). Motion by Third-Party Defendant/Counter-claimant Eliot Bernstein for an extension of time to file a response to Plaintiffs' motion for summary judgment <u>155</u> is granted. Third-Party Defendant/Counter-claimant Eliot Bernstein shall file his response on or before 5/15/15. Plaintiffs shall file their reply on or before 5/27/15. The notice of motion date set for 4/9/15 is stricken, the parties need not appear. The case is already set for a status hearing on 4/13/15 at 9:45 a.m. in Courtroom 1725, and that date stands. Mailed notice (gel,) (Entered: 04/06/2015)
04/07/2015	<u>159</u>	MOTION by Intervenor Plaintiff Brian M. O'Connell to set a briefing schedule – <i>Unopposed</i> (Attachments: # <u>1</u> Text of Proposed Order)(Horan, Kevin) (Entered: 04/07/2015)
04/07/2015	<u>160</u>	NOTICE of Motion by Kevin Patrick Horan for presentment of motion by filer to set a briefing schedule <u>159</u> before Honorable John Robert Blakey on 4/13/2015 at 09:45 AM. (Horan, Kevin) (Entered: 04/07/2015)
04/07/2015	<u>161</u>	MINUTE entry before the Honorable John Robert Blakey: Intervenor's unopposed motion to set a briefing schedule <u>159</u> is granted. Intervenor shall file any response to Plaintiffs' motion for summary judgment on or before 5/15/15. Plaintiffs shall file their reply, if any, on or before 5/27/15. The notice of motion date set for 4/13/15 is stricken with regard to the intervenor's motion <u>160</u> . However, this matter is already set for a status hearing on 4/13/15 at 9:45 a.m. in Courtroom 1725 [see 143]. That date stands and the parties shall appear in court at that time. Mailed notice (gel,) (Entered: 04/07/2015)

		04/07/2015)
04/13/2015	<u>162</u>	MINUTE entry before the Honorable John Robert Blakey: Status and motion hearing held on 4/13/2015. Oral motion to reopen discovery to permit the depositions of Ted Bernstein and Don Sanders is granted. The depositions shall be completed on or before 4/27/2015. Status hearing set for 5/6/2015 at 9:45 AM in Courtroom 1725. Mailed notice (gel,) (Entered: 04/13/2015)
04/17/2015	<u>163</u>	MOTION by Third Party Defendants Eliot Ivan Bernstein, Eliot Bernstein, ThirdParty Plaintiff Eliot Bernstein, Cross Claimant Eliot Bernstein, Plaintiff Eliot Bernstein for extension of time to file response/reply (Bernstein, Eliot) (Entered: 04/17/2015)
04/17/2015	<u>164</u>	NOTICE of Motion by Eliot Ivan Bernstein, Eliot Bernstein for presentment of motion for extension of time to file response/reply <u>163</u> before Honorable John Robert Blakey on 4/21/2015 at 09:45 AM. (Bernstein, Eliot) (Entered: 04/17/2015)
04/18/2015	<u>165</u>	MOTION by Third Party Defendants Eliot Ivan Bernstein, Eliot Bernstein, ThirdParty Plaintiff Eliot Bernstein, Cross Claimant Eliot Bernstein, Plaintiff Eliot Bernstein to amend/correct MOTION by Third Party Defendants Eliot Ivan Bernstein, Eliot Bernstein, ThirdParty Plaintiff Eliot Bernstein, Cross Claimant Eliot Bernstein, Plaintiff Eliot Bernstein for extension of time to file response/reply <u>163</u> (Bernstein, Eliot) (Entered: 04/18/2015)
04/20/2015	<u>166</u>	MINUTE entry before the Honorable John Robert Blakey: Third-party defendant Eliot Bernstein's motion for additional extension of time <u>163</u> and amended motion for additional extension of time <u>165</u> are granted. Third-party defendant's response to plaintiffs' summary judgment motion is now due 6/5/15, and plaintiffs' reply is now due 6/26/15. The Court is unlikely to grant additional extensions on this briefing schedule. The 4/21/15 Notice of Motion date is stricken; the parties need not appear. Mailed notice (gel,) (Entered: 04/20/2015)
04/21/2015	<u>167</u>	MOTION by Intervenor Plaintiff Brian M. O'Connell to set a briefing schedule <i>and extend time to complete deposition</i> (Attachments: # <u>1</u> Exhibit)(Horan, Kevin) (Entered: 04/21/2015)
04/21/2015	<u>168</u>	<i>Emergency Motion</i> NOTICE of Motion by Kevin Patrick Horan for presentment of motion by filer to set a briefing schedule <u>167</u> before Honorable John Robert Blakey on 4/23/2015 at 09:45 AM. (Horan, Kevin) (Entered: 04/21/2015)
04/22/2015	<u>169</u>	RESPONSE by Ted Bernstein(an individual), Ted Bernstein, Lisa Sue Friedstein, Jill Marla Iantoni, Pamela Beth Simon, Simon Bernstein Irrevocable Insurance Trust Dtd 6/21/95in Opposition to MOTION by Intervenor Plaintiff Brian M. O'Connell to set a briefing schedule <i>and extend time to complete deposition</i> <u>167</u> (Simon, Adam) (Entered: 04/22/2015)
04/22/2015	<u>170</u>	NOTICE by Ted Bernstein(an individual), Ted Bernstein, Jill Marla Iantoni, Pamela Beth Simon, Simon Bernstein Irrevocable Insurance Trust Dtd 6/21/95 re response in opposition to motion, <u>169</u> <i>Certificate of Service and Notice of Filing</i> (Simon, Adam) (Entered: 04/22/2015)
04/23/2015	<u>171</u>	MINUTE entry before the Honorable John Robert Blakey: Motion hearing held on 4/23/2015. ProSe third party defendant, Eliot Bernstein failed to appear by telephone. Eliot Bernstein is ordered to appear by telephone or in person at the next court date. If Eliot Bernstein fails to appear at the next Court date he is warned that his case can be dismissed for want of prosecution. Plaintiff intervenor's motion to set a briefing schedule and extend time to complete deposition <u>167</u> is granted. Plaintiff's motion for summary judgment is briefed as follows: Defendant's response is due on or before 6/5/2015; reply, if any, is due on or before 6/26/2015. Deposition of Ted Bernstein shall be taken on or before 5/7/2015. No further extension will be granted. Status hearing previously set for 5/6/2015 is stricken and reset for 5/12/2015 at 9:45 AM in Courtroom 1725. Mailed notice (gel,) (Entered: 04/23/2015)
05/01/2015	<u>172</u>	Notice of Deposition of Ted Bernstein by Brian M. O'Connell (Horan, Kevin) (Entered: 05/01/2015)
05/04/2015	<u>173</u>	MOTION by Third Party Defendants Eliot Ivan Bernstein, Eliot Bernstein, ThirdParty Plaintiff Eliot Bernstein, Cross Claimant Eliot Bernstein, Plaintiff Eliot BernsteinOmnibus Multiple Reliefs (Bernstein, Eliot) (Entered: 05/04/2015)

05/04/2015	<u>174</u>	NOTICE of Motion by Eliot Ivan Bernstein, Eliot Bernstein, Eliot Ivan Bernstein for presentment of (Bernstein, Eliot) (Entered: 05/04/2015)
05/04/2015	<u>175</u>	MINUTE entry before the Honorable John Robert Blakey: Third Party Defendant Eliot Bernstein's emergency omnibus motion <u>173</u> is taken under advisement. If Third Party Defendant Bernstein feels that he is in immediate life threatening danger he is advised to contact 911 emergency officials as needed. (rbf,) (Entered: 05/04/2015)
05/05/2015	<u>176</u>	MOTION by Third Party Defendants Eliot Ivan Bernstein, Eliot Bernstein, ThirdParty Plaintiff Eliot Bernstein, Cross Claimant Eliot Bernstein, Plaintiffs Eliot Bernstein, Eliot Ivan Bernstein Federal Protection (Bernstein, Eliot) (Entered: 05/05/2015)
05/05/2015	<u>177</u>	NOTICE of Motion by Eliot Ivan Bernstein, Eliot Bernstein, Eliot Ivan Bernstein for presentment of (Bernstein, Eliot) (Entered: 05/05/2015)
05/06/2015	<u>178</u>	MINUTE entry before the Honorable John Robert Blakey: Pursuant to LR 7.1, Third Party Defendant Eliot Bernstein's omnibus motion <u>173</u> is hereby stricken. Third Party Defendant Bernstein may re-file his motion so long as it is in compliance with LR 7.1 and does not exceed 15 pages double spaced. The Court encourages Third Party Defendant Bernstein to confine his motion to matters over which this Court has jurisdiction including time limits for discovery and summary judgment briefing. Because the omnibus motion <u>173</u> has been stricken, Third Party Defendant Bernstein's May 5, 2015 motion <u>176</u> is denied as moot. The local rules are available at http://www.ilnd.uscourts.gov/ . Mailed notice (gel,) (Entered: 05/06/2015)
05/12/2015	<u>179</u>	MINUTE entry before the Honorable John Robert Blakey: Status hearing held on 5/12/2015 and continued to 7/20/2015 at 9:45 AM in Courtroom 1725. Schedule for Plaintiff's motion for summary judgment to stand: Defendant's response is due on or before 6/5/2015; reply, if any, is due on or before 6/26/2015. Mailed notice (gel,) (Entered: 05/12/2015)
05/14/2015	<u>180</u>	Scheduling & Discovery Letter by Eliot Ivan Bernstein, Eliot Bernstein (Bernstein, Eliot) (Entered: 05/14/2015)
05/18/2015	<u>181</u>	MOTION by ThirdParty Plaintiff Eliot Bernstein, Cross Claimant Eliot Bernstein, Plaintiffs Eliot Bernstein, Eliot Ivan Bernstein, Third Party Defendant Eliot Bernstein for disbursement of funds <i>Interim Distribution of Interpled Funds</i> (Bernstein, Eliot) (Entered: 05/18/2015)
05/18/2015	<u>182</u>	NOTICE of Motion by Eliot Ivan Bernstein, Eliot Bernstein, Eliot Ivan Bernstein for presentment of motion for disbursement of funds, <u>181</u> before Honorable John Robert Blakey on 5/28/2015 at 09:45 AM. (Bernstein, Eliot) (Entered: 05/18/2015)
05/20/2015	<u>183</u>	MOTION by Plaintiffs Ted Bernstein, Ted Bernstein, Lisa Sue Friedstein, Jill Marla Iantoni, Pamela Beth Simon, Simon Bernstein Trust, N.A. to strike MOTION by ThirdParty Plaintiff Eliot Bernstein, Cross Claimant Eliot Bernstein, Plaintiffs Eliot Bernstein, Eliot Ivan Bernstein, Third Party Defendant Eliot Bernstein for disbursement of funds <i>Interim Distribution of Interpled Funds</i> <u>181</u> or For Briefing Schedule (Simon, Adam) (Entered: 05/20/2015)
05/20/2015	<u>184</u>	NOTICE of Motion by Adam Michael Simon for presentment of motion to strike, motion for relief,, <u>183</u> before Honorable John Robert Blakey on 5/28/2015 at 09:45 AM. (Simon, Adam) (Entered: 05/20/2015)
05/22/2015	<u>185</u>	MINUTE entry before the Honorable John Robert Blakey: Eliot Bernstein's motion for interim disbursement of interpled funds <u>181</u> is denied. Bernstein's representations to the contrary notwithstanding, at this time the Court is unable to say that anyone has a clear right to the proceeds deposited by Heritage Union Life Insurance Company, let alone what each interested party's share should be. In his answer <u>35</u> , Bernstein concedes that he does not know who the beneficiaries are under the Trust. And although Bernstein and his siblings may claim to be entitled to the funds, the Intervenor has claimed an interest in the funds as well. Bernstein has not cited, and the Court is not aware of, any authority that would allow it to award damages before resolving the merits of the parties' dispute. Plaintiffs' motion to strike <u>183</u> is denied as moot. The 5/28/15 Notice of Motion dates are stricken; the parties need not appear. Mailed notice (gel,) (Entered: 05/22/2015)

06/03/2015	<u>186</u>	RESPONSE by Eliot Ivan Bernstein, Eliot Bernstein, Eliot Ivan Bernsteinin Opposition to MOTION by Plaintiffs Ted Bernstein, Simon Bernstein Irrevocable Insurance Trust Dtd 6/21/95, Jill Marla Iantoni, Lisa Sue Friedstein, Pamela Beth Simon, Ted Bernstein for summary judgment <i>as to Count I of Claims to Policy Proceeds 148</i> , MOTION by Plaintiffs Ted Bernstein, Simon Bernstein Irrevocable Insurance Trust Dtd 6/21/95, Jill Marla Iantoni, Lisa Sue Friedstein, Pamela Beth Simon, Ted Bernstein for summary judgment <i>AMENDED MOTION 153</i> (Bernstein, Eliot) Docket Text Modified by Clerk's Office on 6/4/2015 (ph,). Modified on 6/5/2015 (ph,). (Entered: 06/03/2015)
06/03/2015	<u>187</u>	NOTICE of Motion by Eliot Ivan Bernstein, Eliot Bernstein, Eliot Ivan Bernstein for presentment of (Bernstein, Eliot) (Entered: 06/03/2015)
06/05/2015	<u>188</u>	MINUTE entry before the Honorable John Robert Blakey: Eliot Bernstein's motion in opposition to summary judgment <u>186</u> is stricken for failing to comply with Local Rules 7.1 and 56.1(b). Mailed notice (gel,) (Entered: 06/05/2015)
06/05/2015	<u>189</u>	RESPONSE by Third Party Defendants Eliot Ivan Bernstein, Eliot Bernstein, ThirdParty Plaintiff Eliot Bernstein, Cross Claimant Eliot Bernstein, Plaintiffs Eliot Bernstein, Eliot Ivan Bernstein to motion for summary judgment, <u>148</u> (Bernstein, Eliot) (Entered: 06/05/2015)
06/05/2015	<u>190</u>	MINUTE entry before the Honorable John Robert Blakey: Eliot Bernstein's response to motion for summary judgment <u>189</u> is stricken for failing to comply with Local Rules 7.1 and 56.1(b). Mailed notice (gel,) (Entered: 06/05/2015)
06/05/2015	<u>191</u>	RESPONSE by Brian M. O'Connellin Opposition to MOTION by Plaintiffs Ted Bernstein, Simon Bernstein Irrevocable Insurance Trust Dtd 6/21/95, Jill Marla Iantoni, Lisa Sue Friedstein, Pamela Beth Simon, Ted Bernstein for summary judgment <i>AMENDED MOTION 153</i> (Stamos, James) (Entered: 06/05/2015)
06/05/2015	<u>192</u>	RESPONSE by Intervenor Plaintiff Brian M. O'Connell to response in opposition to motion, <u>191</u> , Rule 56 statement,,, <u>150</u> (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit c)(Stamos, James) (Entered: 06/05/2015)
06/05/2015	<u>193</u>	RESPONSE by Brian M. O'Connellin Opposition to MOTION by Plaintiffs Ted Bernstein, Simon Bernstein Irrevocable Insurance Trust Dtd 6/21/95, Jill Marla Iantoni, Lisa Sue Friedstein, Pamela Beth Simon, Ted Bernstein for summary judgment <i>AMENDED MOTION 153 Corrected Response in Opposition</i> (Horan, Kevin) (Entered: 06/05/2015)
06/08/2015	<u>194</u>	RESPONSE by Eliot Ivan Bernsteinin Opposition to MOTION by Plaintiffs Ted Bernstein, Simon Bernstein Irrevocable Insurance Trust Dtd 6/21/95, Jill Marla Iantoni, Lisa Sue Friedstein, Pamela Beth Simon, Ted Bernstein for summary judgment <i>as to Count I of Claims to Policy Proceeds 148</i> , MOTION by Plaintiffs Ted Bernstein, Simon Bernstein Irrevocable Insurance Trust Dtd 6/21/95, Jill Marla Iantoni, Lisa Sue Friedstein, Pamela Beth Simon, Ted Bernstein for summary judgment <i>AMENDED MOTION 153</i> (Attachments: # <u>1</u> Supplement Response to Statement of Fact, # <u>2</u> Supplement Memorandum of Law)(Bernstein, Eliot) (Entered: 06/08/2015)
06/08/2015	<u>195</u>	RESPONSE by Eliot Ivan Bernstein, Eliot Bernsteinin Opposition to MOTION by Plaintiffs Ted Bernstein, Simon Bernstein Irrevocable Insurance Trust Dtd 6/21/95, Jill Marla Iantoni, Lisa Sue Friedstein, Pamela Beth Simon, Ted Bernstein for summary judgment <i>as to Count I of Claims to Policy Proceeds 148</i> , MOTION by Plaintiffs Ted Bernstein, Simon Bernstein Irrevocable Insurance Trust Dtd 6/21/95, Jill Marla Iantoni, Lisa Sue Friedstein, Pamela Beth Simon, Ted Bernstein for summary judgment <i>AMENDED MOTION 153</i> (Attachments: # <u>1</u> Supplement Amended Response to Statement of Facts, # <u>2</u> Supplement Amended Memorandum of Law)(Bernstein, Eliot) (Entered: 06/08/2015)
06/12/2015	<u>196</u>	Supplemental Exhibit 3rd Party Opposition Response to Motion for Summary Judgement by Eliot Ivan Bernstein, Eliot Bernstein <i>Pro Se</i> (Bernstein, Eliot) (Entered: 06/12/2015)
06/25/2015	<u>197</u>	MOTION by Plaintiffs Ted Bernstein, Ted Bernstein, Lisa Sue Friedstein, Jill Marla Iantoni, Pamela Beth Simon, Simon Bernstein Irrevocable Insurance Trust Dtd 6/21/95 for leave to file excess pages <i>Reply Brief for Summary Judgment</i> (Simon, Adam)

		(Entered: 06/25/2015)
06/25/2015	<u>198</u>	NOTICE of Motion by Adam Michael Simon for presentment of motion for leave to file excess pages, <u>197</u> before Honorable John Robert Blakey on 6/30/2015 at 09:45 AM. (Simon, Adam) (Entered: 06/25/2015)
06/25/2015	<u>199</u>	MINUTE entry before the Honorable John Robert Blakey: Plaintiffs' motion for leave to file a reply brief in excess of fifteen pages <u>197</u> is granted. Plaintiffs may file a consolidated reply brief of up to twenty pages. The 6/30/15 Notice of Motion date is stricken; the parties need not appear. Mailed notice (gel,) (Entered: 06/25/2015)
06/26/2015	<u>200</u>	REPLY by Plaintiffs Ted Bernstein, Ted Bernstein, Lisa Sue Friedstein, Jill Marla Iantoni, Pamela Beth Simon, Simon Bernstein Irrevocable Insurance Trust Dtd 6/21/95 to other <u>196</u> , response in opposition to motion, <u>193</u> , response in opposition to motion,, <u>195</u> to <i>Estate and Eliot's Responses</i> (Attachments: # <u>1</u> Notice of Filing Notice of Filing/Cert of Serv)(Simon, Adam) (Entered: 06/26/2015)
06/26/2015	<u>201</u>	REPLY by Plaintiffs Ted Bernstein, Ted Bernstein, Lisa Sue Friedstein, Jill Marla Iantoni, Pamela Beth Simon, Simon Bernstein Irrevocable Insurance Trust Dtd 6/21/95 to <i>Estate Stmt of Add'l Facts</i> (Attachments: # <u>1</u> Exhibit Ex 37)(Simon, Adam) (Entered: 06/26/2015)
06/26/2015	<u>202</u>	REPLY by Plaintiffs Ted Bernstein, Ted Bernstein, Lisa Sue Friedstein, Jill Marla Iantoni, Pamela Beth Simon, Simon Bernstein Irrevocable Insurance Trust Dtd 6/21/95 <i>Reply to Eliot's Stmt of Add'l Facts</i> (Simon, Adam) (Entered: 06/26/2015)
07/08/2015	<u>203</u>	NOTICE of Motion by James John Stamos for presentment of before Honorable John Robert Blakey on 7/20/2015 at 09:45 AM. (Attachments: # <u>1</u> Supplement Motion)(Stamos, James) (Entered: 07/08/2015)
07/10/2015	<u>204</u>	MINUTE entry before the Honorable John Robert Blakey: Intervenor Brian O'Connell's motion for leave to file a sur-reply <u>203</u> is granted. O'Connell is directed to file the sur-reply as a separate docket entry. The 7/20/15 Notice of Motion date is stricken; the parties need not appear. Additionally, the 7/20/15 status hearing is stricken and reset to 10/1/15 at 9:45 a.m. in Courtroom 1725. Mailed notice (gel,) (Entered: 07/10/2015)
07/13/2015	<u>205</u>	SUR-REPLY by Intervenor Plaintiff Brian M. O'Connell (Stamos, James) (Entered: 07/13/2015)
07/17/2015	<u>206</u>	MOTION by Plaintiffs Ted Bernstein, Ted Bernstein, Lisa Sue Friedstein, Jill Marla Iantoni, Pamela Beth Simon, Simon Bernstein Irrevocable Insurance Trust Dtd 6/21/95 for leave to file <i>Sur Sur Reply</i> (Attachments: # <u>1</u> Exhibit Ex A)(Simon, Adam) (Entered: 07/17/2015)
07/17/2015	<u>207</u>	NOTICE of Motion by Adam Michael Simon for presentment of motion for leave to file, <u>206</u> before Honorable John Robert Blakey on 8/4/2015 at 09:45 AM. (Simon, Adam) (Entered: 07/17/2015)
07/17/2015	<u>208</u>	MINUTE entry before the Honorable John Robert Blakey: Plaintiffs' motion to file a sur-reply <u>206</u> is granted. Plaintiffs are directed to file the sur-reply as a separate docket entry. No further briefing will be permitted on plaintiffs' motion for summary judgment. The 8/4/15 Notice of Motion date is stricken; the parties need not appear. Mailed notice (gel,) (Entered: 07/17/2015)
07/20/2015	<u>209</u>	SUR-REPLY by Plaintiffs Ted Bernstein, Ted Bernstein, Lisa Sue Friedstein, Jill Marla Iantoni, Pamela Beth Simon, Simon Bernstein Irrevocable Insurance Trust Dtd 6/21/95 to sur-reply <u>205</u> to <i>Intervenor's Sur Reply</i> (Attachments: # <u>1</u> Certificate of Service)(Simon, Adam) (Entered: 07/20/2015)
08/10/2015	<u>210</u>	APPLICATION by Third Party Defendants Eliot Ivan Bernstein, Eliot Bernstein, ThirdParty Plaintiff Eliot Bernstein, Cross Claimant Eliot Bernstein, Plaintiffs Eliot Bernstein, Eliot Ivan Bernstein for leave to proceed in forma pauperis <i>and Financial Affidavit</i> (Bernstein, Eliot) (Entered: 08/10/2015)
08/17/2015	<u>211</u>	MINUTE entry before the Honorable John Robert Blakey: Eliot Ivan Bernstein's application to proceed in forma pauperis <u>210</u> is denied. First, the filing fee was paid in full years ago in this case, and no fees are required of Mr. Bernstein. Additionally, the

		parties have briefed summary judgment and nothing further is required of Mr. Bernstein at this time; To the extent future filings should become necessary, Mr. Bernstein has proven himself more than capable of filing pleadings. Mailed notice (gel,) (Entered: 08/17/2015)
09/24/2015	<u>212</u>	MINUTE entry before the Honorable John Robert Blakey: On the Court's own motion, the 10/1/15 status hearing is stricken and reset to 12/15/15 at 9:45 a.m. in Courtroom 1725. Mailed notice (gel,) (Entered: 09/24/2015)
12/08/2015	<u>213</u>	MINUTE entry before the Honorable John Robert Blakey: On the Court's own motion, the 12/15/15 status hearing is stricken and reset to 3/15/16 at 9:45 a.m. in Courtroom 1725. Mailed notice (gel,) (Entered: 12/08/2015)
02/24/2016	<u>214</u>	MOTION by Third Party Defendants Eliot Ivan Bernstein, Eliot Bernstein, ThirdParty Plaintiff Eliot Bernstein, Cross Claimant Eliot Bernstein, Plaintiffs Eliot Bernstein, Eliot Ivan Bernstein for preliminary injunction (Bernstein, Eliot) (Entered: 02/24/2016)
02/24/2016	<u>215</u>	MEMORANDUM OF LAW FOR MOTION FOR INJUNCTION (Bernstein, Eliot) (Entered: 02/24/2016)
02/24/2016	<u>216</u>	NOTICE of Motion by Eliot Ivan Bernstein, Eliot Bernstein, Eliot Ivan Bernstein for presentment of motion for preliminary injunction <u>214</u> before Honorable John Robert Blakey on 2/25/2016 at 09:45 AM. (Bernstein, Eliot) (Entered: 02/24/2016)
02/24/2016	<u>217</u>	MOTION by Plaintiffs Ted Bernstein, Ted Bernstein, Lisa Sue Friedstein, Jill Marla Iantoni, Pamela Beth Simon, Simon Bernstein Irrevocable Insurance Trust Dtd 6/21/95 to strike MOTION by Third Party Defendants Eliot Ivan Bernstein, Eliot Bernstein, ThirdParty Plaintiff Eliot Bernstein, Cross Claimant Eliot Bernstein, Plaintiffs Eliot Bernstein, Eliot Ivan Bernstein for preliminary injunction <u>214</u> (Attachments: # <u>1</u> Certificate of Service CERT. OF SERVICE AND NOTICE OF FILING)(Simon, Adam) (Entered: 02/24/2016)
02/25/2016	<u>218</u>	MINUTE entry before the Honorable John Robert Blakey: Emergency motion hearing held on 2/25/2016. Oral request for additional filings is denied. Third Party Defendant's motion for preliminary injunction <u>214</u> is denied as stated in open Court. Plaintiff's motion to strike <u>217</u> is denied. Status hearing date of 3/15/2016 at 9:45 a.m. in Courtroom 1725, to stand. Mailed notice (gel,) (Entered: 02/25/2016)
03/15/2016	<u>219</u>	MINUTE entry before the Honorable John Robert Blakey: Enter Order. Plaintiffs' motions for summary judgment, <u>148</u> , <u>153</u> , are denied as explained in the accompanying Order. This matter remains set for a status hearing on 3/15/16 at 9:45 a.m. in Courtroom 1725. Mailed notice (gel,) (Entered: 03/15/2016)
03/15/2016	<u>220</u>	MEMORANDUM Opinion and Order Signed by the Honorable John Robert Blakey on 3/15/2016. Mailed notice(gel,) (Entered: 03/15/2016)
03/15/2016	<u>221</u>	STATUS Report by Eliot Ivan Bernstein, Eliot Bernstein (Bernstein, Eliot) (Entered: 03/15/2016)
03/15/2016	<u>222</u>	MINUTE entry before the Honorable John Robert Blakey: Status hearing held on 3/15/2016 and continued to 4/14/2016 at 10:00 a.m. in Courtroom 1725. Parties wishing to appear by telephone should contact the Courtroom Deputy at 312-818-6699, by 4/13/2016, to arrange for a telephonic appearance. Mailed notice (gel,) (Entered: 03/15/2016)
03/16/2016	<u>223</u>	MINUTE entry before the Honorable John Robert Blakey: The Court is in receipt of Third Party Plaintiff Eliot Bernstein's "status report." <u>221</u> . In the future, Third Party Plaintiff Bernstein is directed to submit his requests to the Court in the form of a motion, and not as a letter or status report. Any future submissions by Third Party Plaintiff Bernstein that do not comply with this directive, this District's Local Rules, and the Federal Rules of Civil Procedure will be summarily stricken. To the extent the "status report" can be seen as a motion, the Court rules as follows: (1) Third Party Plaintiff Bernstein's request for leave to amend his counter-complaint/cross complaint is denied because Bernstein has not indicated how he would like to amend his pleadings, and his motion for leave to amend has been brought so late in the proceedings that it would constitute undue delay and would unfairly prejudice the other parties in this matter, see Stanard v. Nygren, 658 F.3d 792, 797 (7th Cir. 2011);

		and (2) Third Party Plaintiff Bernstein's request for additional discovery is denied, as fact discovery closed on 1/9/15 and Bernstein has provided no justification for allowing the late discovery sought here. As to Third Party Plaintiff Bernstein's request for clarification regarding LR 7.1., the request is denied. See Commonwealth Plaza Condo. Ass'n v. City of Chicago, 693 F.3d 743, 747 (7th Cir. 2012) (Court "may not issue advisory opinions"). Mailed notice (gel,) (Entered: 03/16/2016)
04/02/2016	<u>224</u>	MOTION by Attorney Adam M. Simon to withdraw as attorney for Lisa Sue Friedstein, Lisa Sue Friedstein. New address information: Jill Iantoni, 2101 Magnolia Lane, Highland Park, IL 60035 (Attachments: # <u>1</u> Exhibit Ex 1- Party Contact Info)(Simon, Adam) (Entered: 04/02/2016)
04/02/2016	<u>225</u>	<i>Certificate of Service and</i> NOTICE of Motion by Adam Michael Simon for presentment of motion to withdraw as attorney, <u>224</u> before Honorable John Robert Blakey on 4/14/2016 at 10:00 AM. (Simon, Adam) (Entered: 04/02/2016)
04/14/2016	<u>226</u>	MINUTE entry before the Honorable John Robert Blakey: Motion and status hearing held on 4/14/2016. Motion to withdraw appearance on behalf of Lisa Sue Friedstein and Jill Iantoni <u>224</u> is granted. Pro se appearance form given to Lisa Sue Friedstein and Jill Iantoni in open court. Pro Se Plaintiffs may want to review the Court's standing order for pro se litigants, which is available on the Court's webpage at www.ilnd.uscourts.gov. Plaintiff may also wish to contact the District Court Pro Se Assistance Program, the Hibbler Help Desk, which may be reached at the Clerk's Office Intake desk, Dirksen Federal Building, 219 S. Dearborn, 20th floor, or by calling (312) 435-5691. Any motion for leave to file an amended complaint shall be filed on or before 4/29/2016. Any motions for summary judgment shall be filed on or before 5/25/2016. Status hearing set for 5/26/2016 at 9:45 a.m. in Courtroom 1725. Mailed notice (gel,) (Entered: 04/14/2016)
04/14/2016	<u>227</u>	PRO SE Appearance by Plaintiff Jill Marla Iantoni, Third Party Defendant Jill Marla Iantoni. (tt,) (Entered: 04/14/2016)
04/14/2016	<u>236</u>	PRO SE Appearance by Third Party Defendant Lisa Sue Friedstein, Plaintiff Lisa Sue Friedstein. (tt,) (Entered: 05/04/2016)
04/17/2016	<u>228</u>	MOTION by Third Party Defendants Eliot Ivan Bernstein, Eliot Bernstein, ThirdParty Plaintiff Eliot Bernstein, Cross Claimant Eliot Bernstein, Plaintiffs Eliot Bernstein, Eliot Ivan Bernstein for leave to file excess pages (Bernstein, Eliot) (Entered: 04/17/2016)
04/17/2016	<u>229</u>	NOTICE of Motion by Eliot Ivan Bernstein, Eliot Bernstein, Eliot Ivan Bernstein for presentment of motion for leave to file excess pages <u>228</u> before Honorable John Robert Blakey on 4/21/2016 at 09:45 AM. (Bernstein, Eliot) (Entered: 04/17/2016)
04/18/2016	<u>230</u>	MINUTE entry before the Honorable John Robert Blakey: Third Party Plaintiff Eliot Bernstein's motion for leave to file excess pages <u>228</u> is denied. The notice of motion date set for 4/21/16 is stricken, the parties need not appear at that time. Mailed notice (gel,) (Entered: 04/18/2016)
04/29/2016	<u>231</u>	MOTION by Third Party Defendants Eliot Ivan Bernstein, Eliot Bernstein, ThirdParty Plaintiff Eliot Bernstein, Cross Claimant Eliot Bernstein, Plaintiffs Eliot Bernstein, Eliot Ivan Bernstein for leave to file <i>Amended Complaint</i> <u>231</u> (Attachments: # <u>1</u> Exhibit Ex-A, # <u>2</u> Exhibit Ex-B)(Simon, Adam) (Entered: 04/29/2016)
04/29/2016	<u>232</u>	NOTICE of Motion by Eliot Ivan Bernstein, Eliot Bernstein, Eliot Ivan Bernstein for presentment of motion for leave to file, <u>231</u> before Honorable John Robert Blakey on 5/12/2016 at 09:45 AM. (Bernstein, Eliot) (Entered: 04/29/2016)
05/02/2016	<u>233</u>	RESPONSE by Ted Bernstein, Ted Bernstein(an individual), Ted Bernstein, Adam M Simon, Pamela Beth Simonin Opposition to MOTION by Third Party Defendants Eliot Ivan Bernstein, Eliot Bernstein, ThirdParty Plaintiff Eliot Bernstein, Cross Claimant Eliot Bernstein, Plaintiffs Eliot Bernstein, Eliot Ivan Bernstein for leave to file <i>Amended Complaint</i> <u>231</u> (Attachments: # <u>1</u> Exhibit Ex-A, # <u>2</u> Exhibit Ex-B)(Simon, Adam) (Entered: 05/02/2016)
05/02/2016	<u>234</u>	NOTICE by Ted Bernstein, Ted Bernstein(an individual), Ted Bernstein, Ted Bernstein(individually and as alleged Trustee of the Simon Bernstein Irrevocable Insurance Trust Dtd. 6/21/95), Adam M Simon, Simon Bernstein Irrevocable

		Insurance Trust Dtd 6/21/95, Simon Bernstein Irrevocable Insurance Trust Dtd 6/21/95 re response in opposition to motion, <u>233</u> NOTICE OF FILING/CERT SERV (Simon, Adam) (Entered: 05/02/2016)
05/02/2016	<u>235</u>	NOTICE by Ted Bernstein, Ted Bernstein(an individual), Ted Bernstein, Ted Bernstein(individually and as alleged Trustee of the Simon Bernstein Irrevocable Insurance Trust Dtd. 6/21/95), Adam M Simon, Pamela Beth Simon, Simon Bernstein Irrevocable Insurance Trust Dtd 6/21/95, Simon Bernstein Irrevocable Insurance Trust Dtd 6/21/95 re notice of filing, <u>234</u> AMENDED NOTICE OF FILING (Simon, Adam) (Entered: 05/02/2016)
05/12/2016	<u>237</u>	REPLY by Eliot Ivan Bernstein, Eliot Bernstein, Eliot Ivan Bernstein to response in opposition to motion, <u>233</u> (Bernstein, Eliot) (Entered: 05/12/2016)
05/12/2016	<u>238</u>	MINUTE entry before the Honorable John Robert Blakey: Case called for motion hearing on 5/12/2016 and no one appeared, either initially or when the case was recalled at the end of the Court's status and motion call. Neither side advised the Court of any conflict. Status hearing reset to 5/26/2016 at 9:45 AM in Courtroom 1725. Failure to appear on 5/26/2016 may result in dismissal of this case for want of prosecution pursuant to Local Rule 41.1. Mailed notice (gel,) (Entered: 05/12/2016)
05/21/2016	<u>239</u>	MOTION by Third Party Defendants David B Simon, Ted Bernstein, S.T.P. Enterprises, Inc., Adam M Simon, The Simon Law Firm, Ted Bernstein, Pamela Beth Simon, Cross Defendant Ted Bernstein for summary judgment <i>as to Eliot Bernstein's Claims</i> (Simon, Adam) (Entered: 05/21/2016)
05/21/2016	<u>240</u>	RULE 56 Statement by Ted Bernstein, Ted Bernstein(individually and as alleged Trustee of the Simon Bernstein Irrevocable Insurance Trust Dtd. 6/21/95), S.T.P. Enterprises, Inc., Adam M Simon, David B Simon, Pamela Beth Simon, The Simon Law Firm regarding motion for summary judgment, <u>239</u> STMT OF UNDISPUTED FACTS (Attachments: # <u>1</u> Appendix Appendix to Statement of Facts, # <u>2</u> Exhibit Ex. 1, # <u>3</u> Exhibit Ex. 2, # <u>4</u> Exhibit Ex. 3, # <u>5</u> Exhibit Ex. 4, # <u>6</u> Exhibit Ex. 5, # <u>7</u> Exhibit Ex. 6, # <u>8</u> Exhibit Ex. 7, # <u>9</u> Exhibit Ex. 8, # <u>10</u> Exhibit Ex. 9, # <u>11</u> Exhibit Ex. 10, # <u>12</u> Exhibit Ex. 11, # <u>13</u> Exhibit Ex. 12, # <u>14</u> Exhibit Ex. 13, # <u>15</u> Exhibit Ex. 14)(Simon, Adam) (Entered: 05/21/2016)
05/21/2016	<u>241</u>	MEMORANDUM by Ted Bernstein, Ted Bernstein(individually and as alleged Trustee of the Simon Bernstein Irrevocable Insurance Trust Dtd. 6/21/95), S.T.P. Enterprises, Inc., Adam M Simon, David B Simon, Pamela Beth Simon, The Simon Law Firm in support of motion for summary judgment, <u>239</u> <i>as to Eliot Bernstein's Claims</i> (Simon, Adam) (Entered: 05/21/2016)
05/21/2016	<u>242</u>	NOTICE by Ted Bernstein, Ted Bernstein(individually and as alleged Trustee of the Simon Bernstein Irrevocable Insurance Trust Dtd. 6/21/95), S.T.P. Enterprises, Inc., Adam M Simon, David B Simon, Pamela Beth Simon, The Simon Law Firm re MOTION by Third Party Defendants David B Simon, Ted Bernstein, S.T.P. Enterprises, Inc., Adam M Simon, The Simon Law Firm, Ted Bernstein, Pamela Beth Simon, Cross Defendant Ted Bernstein for summary judgment <i>as to Eliot Bernstein's Claims</i> <u>239</u> NOTICE OF FILING/CERT SERV (Simon, Adam) (Entered: 05/21/2016)
05/21/2016	<u>243</u>	NOTICE by Ted Bernstein, Ted Bernstein(individually and as alleged Trustee of the Simon Bernstein Irrevocable Insurance Trust Dtd. 6/21/95), S.T.P. Enterprises, Inc., Adam M Simon, David B Simon, Pamela Beth Simon, The Simon Law Firm re MOTION by Third Party Defendants David B Simon, Ted Bernstein, S.T.P. Enterprises, Inc., Adam M Simon, The Simon Law Firm, Ted Bernstein, Pamela Beth Simon, Cross Defendant Ted Bernstein for summary judgment <i>as to Eliot Bernstein's Claims</i> <u>239</u> NOTICE TO PRO SE LITIGANT (Simon, Adam) (Entered: 05/21/2016)
05/25/2016	<u>244</u>	ATTORNEY Appearance for Intervenor Plaintiff Brian M. O'Connell by Theodore Herbert Kuyper (Kuyper, Theodore) (Entered: 05/25/2016)
05/25/2016	<u>245</u>	MOTION by Intervenor Plaintiff Brian M. O'Connell for summary judgment (Stamos, James) (Entered: 05/25/2016)
05/25/2016	<u>246</u>	MEMORANDUM by Brian M. O'Connell in support of motion for summary judgment <u>245</u> (Stamos, James) (Entered: 05/25/2016)

05/25/2016	<u>247</u>	STATEMENT by Intervenor Plaintiff Brian M. O'Connellin Support of MOTION by Intervenor Plaintiff Brian M. O'Connell for summary judgment <u>245</u> (Stamos, James) (Entered: 05/25/2016)
05/25/2016	<u>248</u>	NOTICE by Brian M. O'Connell re MOTION by Intervenor Plaintiff Brian M. O'Connell for summary judgment <u>245</u> <i>Notice to Pro Se Litigants</i> (Stamos, James) (Entered: 05/25/2016)
05/25/2016	<u>249</u>	NOTICE of Motion by James John Stamos for presentment of motion for summary judgment <u>245</u> before Honorable John Robert Blakey on 6/7/2016 at 09:45 AM. (Stamos, James) (Entered: 05/25/2016)
05/26/2016	<u>250</u>	MINUTE entry before the Honorable John Robert Blakey: Status hearing held on 5/26/2016. Motion for leave to file amended complaint <u>231</u> is denied. Any response to dispositive motions shall be filed on or before 7/26/2016; replies shall be filed on or before 9/6/2016. Status hearing set for 9/20/2016 at 9:45 a.m. in Courtroom 1725. Mailed notice (gel,) (Entered: 05/26/2016)
06/02/2016	<u>251</u>	MINUTE entry before the Honorable John Robert Blakey: In light of the proceedings in court on 5/26/16, the 6/7/16 Notice of Motion date is stricken, and the parties need not appear. Mailed notice (gel,) (Entered: 06/02/2016)
07/17/2016	<u>252</u>	MOTION by Third Party Defendants Eliot Ivan Bernstein, Eliot Bernstein, ThirdParty Plaintiff Eliot Bernstein, Cross Claimant Eliot Bernstein, Plaintiffs Eliot Bernstein, Eliot Ivan Bernstein for extension of time , MOTION by Third Party Defendants Eliot Ivan Bernstein, Eliot Bernstein, ThirdParty Plaintiff Eliot Bernstein, Cross Claimant Eliot Bernstein, Plaintiffs Eliot Bernstein, Eliot Ivan Bernstein for extension of time to file response/reply (Bernstein, Eliot) (Entered: 07/17/2016)
07/17/2016	<u>253</u>	NOTICE of Motion by Eliot Ivan Bernstein, Eliot Bernstein, Eliot Ivan Bernstein for presentment of extension of time,, motion for extension of time to file response/reply, <u>252</u> before Honorable John Robert Blakey on 7/21/2016 at 09:45 AM. (Bernstein, Eliot) (Entered: 07/17/2016)
07/18/2016	<u>254</u>	MINUTE entry before the Honorable John Robert Blakey: Eliot Bernstein's motion for extension of time <u>252</u> is granted. Any response to dispositive motions shall be filed on or before 8/26/2016; replies shall be filed on or before 10/6/2016. The 7/21/16 Notice of Motion date is stricken, and the parties need not appear. The status hearing previously set for 9/20/2016 is stricken and reset for 10/27/2016 at 9:45 a.m. in Courtroom 1725. Mailed notice (gel,) (Entered: 07/18/2016)
08/24/2016	<u>255</u>	RULE 56 Statement by Ted Bernstein(an individual), Ted Bernstein, Pamela Beth Simon, Simon Bernstein Irrevocable Insurance Trust Dtd 6/21/95 regarding motion for summary judgment <u>245</u> <i>Supplemental</i> (Attachments: # <u>1</u> Appendix Supplemental Appx to Stmt of Facts, # <u>2</u> Exhibit Ex. 37 — Aff. of Spallina, # <u>3</u> Exhibit Ex. 38 — Probate Order 12/15/15)(Simon, Adam) (Entered: 08/24/2016)
08/24/2016	<u>256</u>	MEMORANDUM by Ted Bernstein(an individual), Ted Bernstein, Pamela Beth Simon, Simon Bernstein Irrevocable Insurance Trust Dtd 6/21/95 in Opposition to motion for summary judgment <u>245</u> <i>by Estate of Simon Bernstein</i> (Attachments: # <u>1</u> Notice of Filing cert of service/not filing)(Simon, Adam) (Entered: 08/24/2016)
08/26/2016	<u>257</u>	RESPONSE by Eliot Ivan Bernstein, Eliot Bernstein, Eliot Ivan Bernsteinin Opposition to MOTION by Intervenor Plaintiff Brian M. O'Connell for summary judgment <u>245</u> (Bernstein, Eliot) (Entered: 08/27/2016)
08/27/2016	<u>258</u>	RESPONSE by Eliot Ivan Bernsteinin Opposition to MOTION by Intervenor Plaintiff Brian M. O'Connell for summary judgment <u>245</u> (Attachments: # <u>1</u> Exhibit EXHIBIT 1 PART 1 – Pages 1 to 1000, # <u>2</u> Exhibit EXHIBIT 1 PART 2 – Pages 1001 to 2000, # <u>3</u> Exhibit EXHIBIT 1 PART 3 – Pages 2001 to 3000, # <u>4</u> Exhibit EXHIBIT 1 PART 4 – Pages 3001 to 3900, # <u>5</u> Exhibit EXHIBIT 1 PART 5 – Pages 3901 to 5000, # <u>6</u> Exhibit EXHIBIT 1 PART 6 – Pages 5001 to 6000, # <u>7</u> Exhibit EXHIBIT 1 PART 7 – Pages 6001 to 7000, # <u>8</u> Exhibit EXHIBIT 1 PART 8 – Pages 7001 to 7202, # <u>2</u> Exhibit EXHIBIT 2 – 20150608 AMENDED REDO Response To Plaintiffs Statement Of Facts)(Bernstein, Eliot) (Entered: 08/27/2016)
08/27/2016	<u>259</u>	MEMORANDUM by Eliot Ivan Bernstein, Eliot Bernstein in Opposition to motion for summary judgment <u>245</u> (Attachments: # <u>1</u> Exhibit 20150506 Ted Bernstein Deposition

		with Exhibits, # <u>2</u> Exhibit 20160826 Feaman Letter to Judge Phillips re Simon Estate and Motion for Retention of Counsel and to Appoint Ted Adminsitrator Ad Litem, # <u>3</u> Exhibit 20160826 FINAL ESIGNED ILLINOIS DECLARATION OF ELIOT BERNSTEIN OPPOSITION TO SUMMARY JBY INTERVENOR)(Bernstein, Eliot) (Entered: 08/27/2016)
08/27/2016	<u>260</u>	RESPONSE by Eliot Ivan Bernstein, Eliot Bernstein, Eliot Ivan Bernstein in Opposition to MOTION by Third Party Defendants David B Simon, Ted Bernstein, S.T.P. Enterprises, Inc., Adam M Simon, The Simon Law Firm, Ted Bernstein, Pamela Beth Simon, Cross Defendant Ted Bernstein for summary judgment <i>as to Eliot Bernstein's Claims</i> <u>239</u> (Bernstein, Eliot) (Entered: 08/27/2016)
08/27/2016	<u>261</u>	MEMORANDUM by Eliot Ivan Bernstein, Eliot Bernstein, Eliot Ivan Bernstein in Opposition to motion for summary judgment, <u>239</u> (Attachments: # <u>1</u> Exhibit Exhibit 1)(Bernstein, Eliot) (Entered: 08/27/2016)
09/15/2016	<u>262</u>	MOTION by Intervenor Plaintiff Brian M. O'Connell for extension of time to file response/reply <i>in further support of Motion for Summary Judgment</i> (Stamos, James) (Entered: 09/15/2016)
09/15/2016	<u>263</u>	NOTICE of Motion by James John Stamos for presentment of motion for extension of time to file response/reply <u>262</u> before Honorable John Robert Blakey on 9/22/2016 at 09:45 AM. (Stamos, James) (Entered: 09/15/2016)
09/19/2016	<u>264</u>	MINUTE entry before the Honorable John Robert Blakey: Intervenor's motion for extension of time to file reply <u>262</u> is granted. Intervenor's reply brief is now due 10/27/16. The 9/22/16 Notice of Motion date is stricken, and the parties need not appear. Additionally, the status hearing previously set for 10/27/16 is stricken and reset to 12/6/16 at 9:45 a.m. in Courtroom 1725. Mailed notice (gel,) (Entered: 09/19/2016)
10/06/2016	<u>265</u>	REPLY by Ted Bernstein, Ted Bernstein, Ted Bernstein(individually and as alleged Trustee of the Simon Bernstein Irrevocable Insurance Trust Dtd. 6/21/95), S.T.P. Enterprises, Inc., Adam M Simon, David B Simon, Pamela Beth Simon, Simon Bernstein Irrevocable Insurance Trust Dtd 6/21/95, The Simon Law Firm to response in opposition to motion, <u>260</u> (Attachments: # <u>1</u> Certificate of Service Notice of Filing/Cert of Serv)(Simon, Adam) (Entered: 10/06/2016)
10/27/2016	<u>266</u>	REPLY by Intervenor Plaintiff Brian M. O'Connell (Stamos, James) (Entered: 10/27/2016)
10/27/2016	<u>267</u>	REPLY by Intervenor Plaintiff Brian M. O'Connell <i>to Plaintiff's Response to Intervenor's Motion for Summary Judgment</i> (Stamos, James) (Entered: 10/27/2016)
10/27/2016	<u>268</u>	REPLY by Intervenor Plaintiff Brian M. O'Connell <i>to Eliot Bernstein's Response to Intervenor's Motion for Summary Judgment</i> (Stamos, James) (Entered: 10/27/2016)
11/14/2016		On 11/14/16 the Clerk audited this case file and discovered that Thomas B. Underwood is not receiving electronic notice. The Clerk modified CM/ECF to provide notice to the attorney. The record indicates you are counsel of record in this case. If you are no longer representing this client, you must file a motion to withdraw from this case pursuant to LR 83.17. (tt,) (Entered: 11/14/2016)
12/02/2016	<u>269</u>	MINUTE entry before the Honorable John Robert Blakey: On the Court's own motion, the status hearing previously set for 12/6/2016 is reset for 12/9/2016 at 9:45 a.m. in Courtroom 1725. Mailed notice (gel,) (Entered: 12/02/2016)
12/06/2016	<u>270</u>	MINUTE entry before the Honorable John Robert Blakey: On the Court's own motion, the status hearing previously set for 12/9/2016 is reset for 1/25/2017 at 9:45 a.m. in Courtroom 1725. Mailed notice (gel,) (Entered: 12/06/2016)
01/25/2017	<u>272</u>	MINUTE entry before the Honorable John Robert Blakey: Enter Memorandum Opinion and Order. For the reasons stated in the accompanying Memorandum Opinion and Order, Plaintiffs' Motion for Summary Judgment <u>239</u> is granted and Intervenor's Motion for Summary Judgment <u>245</u> is denied. The status hearing previously set for 2/21/2017 at 9:45 AM in Courtroom 1725 to stand, at which time the parties shall be prepared to set a trial date. Mailed notice (gel,) (Entered: 01/30/2017)

01/30/2017	<u>271</u>	Simon Bernstein Irrv. Trust Dtd 6/21/95 v. Heritage Union Ins. et al, No. 13 cv 3463 – Clarification of Last Conference Call of Jan. 25, 2017 and pending Motions STATEMENT by Eliot Ivan Bernstein, Eliot Bernstein (Bernstein, Eliot) (Linked document has the incorrect case number (bg)) (Entered: 01/30/2017)
01/30/2017	<u>273</u>	MEMORANDUM Opinion and Order Signed by the Honorable John Robert Blakey on 1/30/2017. Mailed notice(gel,) (Entered: 01/30/2017)
02/21/2017	<u>274</u>	MINUTE entry before the Honorable John Robert Blakey: Status hearing held on 2/21/2017. Additional case management dates set as follows: the parties shall file their proposed final pretrial order and motions in limine on or before 7/3/2017; responses to motions in limine are due 7/10/2017; final pretrial conference set for 7/24/2017 at 1:30 p.m. in Courtroom 1725; bench trial set for 8/7/2017 at 10:00 a.m. in Courtroom 1725. The parties should review and strictly comply with the Court's standing orders, including the order on proposed pretrial procedures (including motions in limine) which is available on the Courts homepage at www.ilnd.uscourts.gov. Additionally, the case is set for a settlement conference on 7/14/2017 at 11:00 a.m. in Courtroom 1725. The parties are directed to exchange position letters as follows: Plaintiff shall provide Defendant with a demand letter by 7/3/2017, and Defendants shall provide a response by 7/10/2017. By 5:00 p.m. on 7/11/2017, Plaintiff shall submit copies of all letters exchanged by the parties to: Proposed_Order_Blakey@ilnd.uscourts.gov. Copies of the settlement conference letters shall not be filed with the Clerk's Office. The Parties shall come to the settlement conference on 7/14/2017 with an accounting of costs properly taxable under 28 U.S.C. §1920, both incurred in the litigation to date and an estimate of taxable costs that would be incurred should the matter proceed to trial. Parties with full and complete settlement authority must attend the conference personally. The term full and complete settlement authority includes the authority to negotiate and agree to a binding settlement agreement at any level up to the settlement demand of Plaintiff or any level as low as the offer provided by Defendant. Parties attending the conference should be sure to review and consider the settlement letters exchanged between the parties in advance of the conference. The Court generally will follow a mediation format; that is, each side will have an opportunity to make a presentation, followed by joint discussion with the Court and private meetings by the Court with each side individually. The Court expects both the lawyers and the party representatives to be fully prepared to participate in the discussions and meetings. All statements made during the settlement conference will remain confidential and will not be admissible at trial. Mailed notice (gel,) (Entered: 02/21/2017)
02/22/2017	<u>275</u>	TRANSCRIPT OF PROCEEDINGS held on 02/21/17 before the Honorable John Robert Blakey. Court Reporter Contact Information: Lisa Breiter lisa_breiter@ilnd.uscourts.gov (312) 818-6683. <P>IMPORTANT: The transcript may be viewed at the court's public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through the Court Reporter/Transcriber or PACER. For further information on the redaction process, see the Court's web site at www.ilnd.uscourts.gov under Quick Links select Policy Regarding the Availability of Transcripts of Court Proceedings.</P> Redaction Request due 3/15/2017. Redacted Transcript Deadline set for 3/27/2017. Release of Transcript Restriction set for 5/23/2017. (Breiter, Lisa) (Entered: 02/22/2017)
03/02/2017	<u>276</u>	NOTICE of appeal by Eliot Ivan Bernstein, Eliot Bernstein, Eliot Ivan Bernstein regarding orders <u>273</u> Filing fee \$ 505. (Bernstein, Eliot) (Entered: 03/02/2017)
03/03/2017	<u>277</u>	NOTICE of Appeal Due letter sent to counsel of record regarding notice of appeal <u>276</u> (ek,) (Entered: 03/03/2017)
03/03/2017	<u>278</u>	TRANSMITTED to the 7th Circuit the short record on notice of appeal <u>276</u> . Notified counsel (ek,) (Entered: 03/03/2017)
03/06/2017	<u>279</u>	ACKNOWLEDGMENT of receipt of short record on appeal regarding notice of appeal <u>276</u> ; USCA Case No. 17-1461. (jh,) (Entered: 03/06/2017)
03/06/2017	<u>280</u>	CIRCUIT Rule 3(b) Fee Notice. (jh,) (Entered: 03/06/2017)
05/31/2017	<u>281</u>	NOTICE by Simon Bernstein Irrevocable Insurance Trust Dtd 6/21/95 <i>Matrix Mediation-Notice of Mediation</i> (Attachments: # <u>1</u> Notice of Filing Notice of Filing/Cert of Serv)(Simon, Adam) (Entered: 05/31/2017)

06/23/2017	<u>282</u>	COPY of Order dated 6/23/17 from the USCA for the 7th Circuit regarding notice of appeal <u>276</u> ;The pro se appellant has erroneously filed the motion for leave to appeal in forma pauperis in this court. The pro se appellant should have filed the motion in the district court in the first instance. Accordingly,IT IS ORDERED that the clerk of this court transfer the motion to the clerk of the district court for a ruling on the motion, along with a copy of this order. The pro se appellant is reminded that if the district court denies the in forma pauperis motion, he must refile the motion in this court pursuant to Fed. R. App. P. 24. ; Appellate case no. : 17-1461. (gcy,) (Entered: 06/23/2017)
06/23/2017	<u>283</u>	AFFIDAVIT Accompanying motion for permission to appeal in forma pauperis by Plaintiff. (gcy,) (Entered: 06/23/2017)
06/26/2017	<u>284</u>	MINUTE entry before the Honorable John Robert Blakey: Eliot Ivan Bernstein has filed a Notice of Appeal, seeking review of this Court's summary judgment decision. He seeks leave to appeal in forma pauperis. Federal Rule of Appellate Procedure 24(a)(1) requires a party seeking leave to proceed on appeal in forma pauperis to attach an affidavit that: (A) shows in the detail prescribed by Form 4 of the Appendix of Forms the party's inability to pay or to give security for fees and costs; (B) claims an entitlement to redress; and (C) states the issues that the party intends to present on appeal. Eliot's affidavit satisfies subparts (A) and (B): his financial affidavit includes a statement claiming an entitlement to redress and also indicates that he is unemployed and earns no income, that his wife earns less than \$1,600 per month, and that their combined monthly expenses total almost \$3,000. Eliot's affidavit does not, however, set forth the issues he plans to present on appeal, as required by Rule 24(a)(1)(C). In fact, he left that section of the form blank. Accordingly, his motion for leave to appeal in forma pauperis <u>283</u> is denied. Mailed notice (gel,) (Entered: 06/26/2017)
06/26/2017	<u>285</u>	FINANCIAL Affidavit (Bernstein, Eliot) (Entered: 06/26/2017)
06/27/2017	<u>286</u>	CIRCUIT Rule 3(b) Fee Notice: USCA NO: 17-1461. (gcy,) (Entered: 06/27/2017)
07/05/2017	<u>287</u>	MINUTE entry before the Honorable John Robert Blakey: Oral motion to extend deadline for submitting the pretrial order is granted. Pretrial order shall be submitted on or before 7/7/2017. Mailed notice (gel,) (Entered: 07/05/2017)
07/10/2017	<u>288</u>	MINUTE entry before the Honorable John Robert Blakey: The 7/7/17 final pretrial order due date and the 7/14/17 settlement conference date are stricken. This case is set for a status hearing on 7/13/17 at 9:45 a.m. in Courtroom 1725. Parties wishing to appear by phone should contact the Courtroom Deputy, Gloria Lewis, at (312) 818-6699 by noon on 7/12/17. Mailed notice (gel,) (Entered: 07/10/2017)
07/13/2017	<u>289</u>	STATUS Report by Eliot Bernstein Irrevocable Insurance Trust Dtd 6/21/95 (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4, # <u>5</u> Exhibit 5, # <u>6</u> Exhibit 6)(Bernstein, Eliot) Docket text modified by Clerk's Office on 7/13/2017 (mma,) (Entered: 07/13/2017)
07/13/2017	<u>290</u>	MINUTE entry before the Honorable John Robert Blakey: Status hearing held on 7/13/2017 and continued to 8/29/2017 at 9:45 a.m. in Courtroom 1725. All other deadlines and hearings are stricken. Status will be stricken if parties file dismissal documents prior to the next hearing. Mailed notice (gel,) (Entered: 07/13/2017)
07/20/2017	<u>291</u>	TRANSCRIPT OF PROCEEDINGS held on 07/13/17 before the Honorable John Robert Blakey. Court Reporter Contact Information: Lisa Breiter lisa_breiter@ilnd.uscourts.gov (312) 818-6683. <P>IMPORTANT: The transcript may be viewed at the court's public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through the Court Reporter/Transcriber or PACER. For further information on the redaction process, see the Court's web site at www.ilnd.uscourts.gov under Quick Links select Policy Regarding the Availability of Transcripts of Court Proceedings.</P> Redaction Request due 8/10/2017. Redacted Transcript Deadline set for 8/21/2017. Release of Transcript Restriction set for 10/18/2017. (Breiter, Lisa) (Entered: 07/20/2017)
08/04/2017	<u>292</u>	CERTIFIED copy of order dated 7/12/2017 from the Seventh Circuit Court of Appeals regarding notice of appeal <u>276</u> ; Appellate case no. : 17-1461; On consideration of the papers filed in this appeal and review of the short record, IT IS ORDERED that the appeal is DISMISSED for lack of jurisdiction. (ks,) (Entered: 08/04/2017)

08/04/2017	<u>293</u>	MANDATE of USCA dated 8/4/2017 regarding notice of appeal <u>276</u> ;USCA No.17-1461 ; No record to be returned. (ks,) (Entered: 08/04/2017)
08/29/2017	<u>294</u>	MINUTE entry before the Honorable John Robert Blakey: Status hearing held on 8/29/2017 and continued to 12/6/2017 at 9:45 a.m. in Courtroom 1203. Mailed notice (gel,) (Entered: 08/30/2017)
09/06/2017	<u>295</u>	TRANSCRIPT OF PROCEEDINGS held on 08/29/17 before the Honorable John Robert Blakey. Court Reporter Contact Information: Lisa Breiter lisa_breiter@ilnd.uscourts.gov (312) 818-6683. <P>IMPORTANT: The transcript may be viewed at the court's public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through the Court Reporter/Transcriber or PACER. For further information on the redaction process, see the Court's web site at www.ilnd.uscourts.gov under Quick Links select Policy Regarding the Availability of Transcripts of Court Proceedings.</P> Redaction Request due 9/27/2017. Redacted Transcript Deadline set for 10/10/2017. Release of Transcript Restriction set for 12/5/2017. (Breiter, Lisa) (Entered: 09/06/2017)
11/07/2017	<u>296</u>	First MOTION for Interpleader Disbursement (28 U.S.C. Section 1335) <i>and entry of Final Judgment</i> (Attachments: # <u>1</u> Exhibit Exh 1-Probate Order, # <u>2</u> Certificate of Service Notice of Mot./Cert Serv)(Simon, Adam) (Entered: 11/07/2017)
11/09/2017	<u>297</u>	MOTION by Third Party Defendants Eliot Ivan Bernstein, Eliot Bernstein, ThirdParty Plaintiff Eliot Bernstein, Cross Claimant Eliot Bernstein, Plaintiffs Eliot Bernstein, Eliot Ivan Bernstein to vacate (Attachments: # <u>1</u> Exhibit Exhibit 1, # <u>2</u> Exhibit Exhibit 2, # <u>3</u> Exhibit Exhibit 3, # <u>4</u> Exhibit Exhibit 4, # <u>5</u> Exhibit Exhibit 5, # <u>6</u> Exhibit Exhibit 6, # <u>7</u> Exhibit Exhibit 7, # <u>8</u> Exhibit Exhibit 8, # <u>9</u> Exhibit Exhibit 9, # <u>10</u> Exhibit Exhibit 10, # <u>11</u> Exhibit Exhibit 11, # <u>12</u> Exhibit Exhibit 12, # <u>13</u> Exhibit Exhibit 13, # <u>14</u> Exhibit Exhibit 14, # <u>15</u> Exhibit Exhibit 15, # <u>16</u> Exhibit Exhibit 16, # <u>17</u> Exhibit Exhibit 17, # <u>18</u> Exhibit Exhibit 18, # <u>19</u> Exhibit Exhibit 19, # <u>20</u> Exhibit Exhibit 20, # <u>21</u> Exhibit Exhibit 21, # <u>22</u> Exhibit Exhibit 22, # <u>23</u> Exhibit Exhibit 23, # <u>24</u> Exhibit Exhibit 24, # <u>25</u> Exhibit Exhibit 25, # <u>26</u> Exhibit Exhibit 26, # <u>27</u> Exhibit Exhibit 27, # <u>28</u> Exhibit Exhibit 28, # <u>29</u> Exhibit Exhibit 29, # <u>30</u> Exhibit Exhibit 30, # <u>31</u> Exhibit Exhibit 31, # <u>32</u> Exhibit Exhibit 32, # <u>33</u> Exhibit Exhibit 34, # <u>34</u> Exhibit Exhibit 35, # <u>35</u> Exhibit Exhibit 36, # <u>36</u> Exhibit Exhibit 37)(Bernstein, Eliot) (Entered: 11/09/2017)
11/09/2017	<u>298</u>	NOTICE of Motion by Eliot Ivan Bernstein, Eliot Bernstein for presentment of motion to vacate,,,, <u>297</u> before Honorable John Robert Blakey on 11/14/2017 at 09:45 AM. (Bernstein, Eliot) (Entered: 11/09/2017)
11/09/2017	<u>299</u>	MOTION by Third Party Defendants Eliot Ivan Bernstein, Eliot Bernstein, ThirdParty Plaintiff Eliot Bernstein, Cross Claimant Eliot Bernstein, Plaintiffs Eliot Bernstein, Eliot Ivan Bernstein to amend/correct MOTION by Third Party Defendants Eliot Ivan Bernstein, Eliot Bernstein, ThirdParty Plaintiff Eliot Bernstein, Cross Claimant Eliot Bernstein, Plaintiffs Eliot Bernstein, Eliot Ivan Bernstein to vacate <u>297</u> EXHIBIT 33 (Bernstein, Eliot) (Entered: 11/09/2017)
11/13/2017	<u>300</u>	MINUTE entry before the Honorable John Robert Blakey: Eliot Bernstein's motion for relief pursuant to Rule 60(b)(3) <u>297</u> is denied. The motion recycles the same arguments made in prior pleadings, and none of the cited evidence alters the Court's prior conclusion that Plaintiffs are entitled to summary judgment on Eliot Bernstein's claims. Docket Entry <u>299</u> is stricken from the docket, as it appears to be a motion directed to the Florida Circuit Court, Probate Division. The 11/14/17 Notice of Motion date is stricken as to this motion, but remains as to docket entry <u>296</u> . Mailed notice (gel,) (Entered: 11/13/2017)
11/14/2017	<u>301</u>	MINUTE entry before the Honorable John Robert Blakey: Case called for a motion hearing. First Motion for Interpleader Disbursement <u>296</u> is entered and continued to 11/21/2017 at 9:45 a.m. in Courtroom 1203. Mailed notice (gel,) (Entered: 11/15/2017)
11/20/2017	<u>302</u>	Agreed Motion for Entry of Orders of Dismissal and Distribution of Interpleaded Funds Pursuant to Settlement by Brian M. O'Connell (Attachments: # <u>1</u> Exhibit Exhibit 1)(Stamos, James) (Entered: 11/20/2017)

11/20/2017	<u>303</u>	Case: 17-3595 Document: 1-1 Filed: 12/20/2017 Pages: 122 <i>Notice of Agreed Motion for Entry of Orders of Dismissal and Distribution of Interpleaded Funds Pursuant to Settlement</i> NOTICE of Motion by James John Stamos for presentment of before Honorable John Robert Blakey on 11/28/2017 at 09:45 AM. (Stamos, James) (Entered: 11/20/2017)
11/21/2017	<u>304</u>	MINUTE entry before the Honorable John Robert Blakey: Motion hearing held. The parties' agreed motion for entry of orders of dismissal and distribution of interpleaded funds pursuant to settlement <u>302</u> is granted. Enter Disbursement Order. The parties' first motion for disbursement order <u>296</u> is denied as moot. The parties having reached settlement of this matter on all outstanding claims with this Court having entered an agreed order disbursing all interpleaded funds, this matter is dismissed with prejudice and without costs under Rule 41(a). All set dates and deadlines, including the 11/28/17 motion hearing date, are stricken. Civil case terminated. Mailed notice (gel,) (Entered: 11/21/2017)
11/21/2017	<u>305</u>	DISBURSEMENT ORDER Signed by the Honorable John Robert Blakey on 11/21/2017. Mailed notice(gel,) (Entered: 11/21/2017)
11/25/2017	<u>306</u>	TRANSCRIPT OF PROCEEDINGS held on 11/14/17 before the Honorable John Robert Blakey. Order Number: 29035. Court Reporter Contact Information: Lisa Breiter, lisa_breiter@ilnd.uscourts.gov (312) 818-6683. <P>IMPORTANT: The transcript may be viewed at the court's public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through the Court Reporter/Transcriber or PACER. For further information on the redaction process, see the Court's web site at www.ilnd.uscourts.gov under Quick Links select Policy Regarding the Availability of Transcripts of Court Proceedings.</P> Redaction Request due 12/18/2017. Redacted Transcript Deadline set for 12/26/2017. Release of Transcript Restriction set for 2/23/2018. (Breiter, Lisa) (Entered: 11/25/2017)
11/25/2017	<u>307</u>	TRANSCRIPT OF PROCEEDINGS held on 11/21/17 before the Honorable John Robert Blakey. Order Number: 29088. Court Reporter Contact Information: Lisa Breiter, lisa_breiter@ilnd.uscourts.gov (312) 818-6683. <P>IMPORTANT: The transcript may be viewed at the court's public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through the Court Reporter/Transcriber or PACER. For further information on the redaction process, see the Court's web site at www.ilnd.uscourts.gov under Quick Links select Policy Regarding the Availability of Transcripts of Court Proceedings.</P> Redaction Request due 12/18/2017. Redacted Transcript Deadline set for 12/26/2017. Release of Transcript Restriction set for 2/23/2018. (Breiter, Lisa) (Entered: 11/25/2017)
12/19/2017	<u>308</u>	APPLICATION by Third Party Defendants Eliot Ivan Bernstein, Eliot Bernstein, ThirdParty Plaintiff Eliot Bernstein, Cross Claimant Eliot Bernstein, Plaintiffs Eliot Bernstein, Eliot Ivan Bernstein for leave to proceed in forma pauperis <i>MOTION TO PROCEED IN FORMA PAUPERIS</i> (Bernstein, Eliot) (Entered: 12/19/2017)
12/19/2017	<u>309</u>	NOTICE of Motion by Eliot Ivan Bernstein, Eliot Bernstein, Eliot Ivan Bernstein for presentment of application for leave to proceed in forma pauperis, <u>308</u> before Honorable John Robert Blakey on 12/26/2017 at 09:45 AM. (Bernstein, Eliot) (Entered: 12/19/2017)
12/19/2017	<u>310</u>	MOTION by Third Party Defendants Eliot Ivan Bernstein, Eliot Bernstein, ThirdParty Plaintiff Eliot Bernstein, Cross Claimant Eliot Bernstein, Plaintiffs Eliot Bernstein, Eliot Ivan Bernstein for attorney representation (Bernstein, Eliot) (Entered: 12/19/2017)
12/19/2017	<u>311</u>	NOTICE of Motion by Eliot Ivan Bernstein, Eliot Bernstein, Eliot Ivan Bernstein for presentment of motion for attorney representation <u>310</u> , application for leave to proceed in forma pauperis, <u>308</u> before Honorable John Robert Blakey on 12/26/2017 at 09:45 AM. (Bernstein, Eliot) (Entered: 12/19/2017)
12/19/2017	<u>312</u>	NOTICE of appeal by Eliot Ivan Bernstein, Eliot Bernstein, Eliot Ivan Bernstein regarding orders <u>220</u> , <u>190</u> , <u>250</u> , <u>301</u> , <u>287</u> , <u>273</u> , <u>185</u> , <u>219</u> , <u>178</u> , <u>305</u> , <u>123</u> , <u>158</u> , <u>223</u> , <u>105</u> , <u>15</u> , <u>71</u> , <u>101</u> , <u>272</u> , <u>271</u> , <u>91</u> , <u>284</u> , <u>288</u> , <u>290</u> , <u>274</u> , <u>218</u> , <u>44</u> , <u>230</u> , <u>162</u> , <u>188</u> , <u>222</u> , <u>304</u> , <u>211</u> , <u>28</u> , <u>62</u> , <u>106</u> , <u>300</u> , <u>294</u> , <u>74</u> , <u>16</u> Filing fee \$ 505. (Bernstein, Eliot) (Entered: 12/19/2017)

12/20/2017	<u>313</u>	NOTICE of Appeal Due letter sent to counsel of record regarding notice of appeal, <u>312</u> . (tt,) (Entered: 12/20/2017)
12/20/2017	<u>314</u>	TRANSMITTED to the 7th Circuit the short record on notice of appeal, <u>312</u> . Notified counsel. (tt,) (Entered: 12/20/2017)