

LAW OFFICES
TESCHER & SPALLINA, P.A.

BOCA VILLAGE CORPORATE CENTER I
4855 TECHNOLOGY WAY, SUITE 720
BOCA RATON, FLORIDA 33431

ATTORNEYS

DONALD R. TESCHER
ROBERT L. SPALLINA
LAUREN A. GALVANI

TEL: 561-997-7008
FAX: 561-997-7308
TOLL FREE: 888-997-7008
WWW.TESCHERSPALLINA.COM

SUPPORT STAFF

DIANE DUSTIN
KIMBERLY MORAN
SUANN TESCHER

May 10, 2013

Personal & Confidential

FEDERAL EXPRESS

Adam Simon, Esq.
The Simon Law Firm
303 E. Wacker Drive, Suite 210
Chicago, IL 60601

Re: Simon Bernstein Estate

Dear Adam:

Enclosed for your records is a copy of the Heritage Union Life Insurance file for the above referenced Estate.

If you have any questions, please do not hesitate to call the office.

Sincerely

ROBERT L. SPALLINA

RLS/ac
Enclosure

TS006542



Shipment Receipt

Address Information

Ship to:	Ship from:
Adam Simon, Esq.	Lauren Galvani
The Simon Law Firm	
303 E. Wacker Drive	4855 Technology Way
Suite 210	Suite 720
CHICAGO, IL	Boca Raton, FL
60601	33431
US	US
312-819-0730	5619977008

Shipment Information:

Tracking no.: 799732615270
Ship date: 05/10/2013
Estimated shipping charges: 33.50

Package Information

Service type: Standard Overnight
Package type: FedEx Pak
Number of packages: 1
Total weight: 2 LBS
Declared Value: 0.00 USD
Special Services:
Pickup/Drop-off: Drop off package at FedEx location

Billing Information:

Bill transportation to: MyAccount-343
Your reference: e/o Bernstein - 11187.006
P.O. no.:
Invoice no.:
Department no.:

Thank you for shipping online with FedEx ShipManager at fedex.com.

Please Note

FedEx will not be responsible for any claim in excess of \$100 per package, whether the result of loss, damage, delay, non-delivery, misdelivery, or misinformation, unless you declare a higher value, pay an additional charge, document your actual loss and file a timely claim. Limitations found in the current FedEx Service Guide apply. Your right to recover from FedEx for any loss, including intrinsic value of the package, loss of sales, income, interest, profit, attorney's fees, costs, and other forms of damage whether direct, incidental, consequential, or special is limited to the greater of \$100 or the authorized declared value. Recovery cannot exceed actual documented loss. Maximum for items of extraordinary value is \$500, e.g., jewelry, precious metals, negotiable instruments and other items listed in our Service Guide. Written claims must be filed within strict time limits; Consult the applicable FedEx Service Guide for details.

The estimated shipping charge may be different than the actual charges for your shipment. Differences may occur based on actual weight, dimensions, and other factors. Consult the applicable [FedEx Service Guide](#) or the [FedEx Rate Sheets](#) for details on how shipping charges are calculated.

Robert Spallina

From: Robert Spallina
Sent: Friday, May 03, 2013 6:41 PM
To: Welling, Scott
Cc: Donald Tescher
Subject: Re: Simon Bernstein Irrevocable Insurance Trust dtd 6/21/95 v. Heritage Union Life Insurance Company- Case Number 2013L003498

Scott there is no trust instrument to be found. That was what the Dec action was all about.

Sent from my iPhone

On May 3, 2013, at 5:58 PM, "Welling, Scott" <scott.welling@jackson.com> wrote:

Hello,

Can you gentlemen pdf me a copy of the trust?

Thanks.

Scott

From: Donald Tescher [<mailto:dtescher@tescherspallina.com>]
Sent: Friday, April 19, 2013 6:01 PM
To: Welling, Scott; Robert Spallina
Cc: asimon21@att.net; David (Scooter) Simon; Ted Bernstein
Subject: RE: Simon Bernstein Irrevocable Insurance Trust dtd 6/21/95 v. Heritage Union Life Insurance Company- Case Number 2013L003498

Ted: This is principally addressed to you but have included others so that they are aware. I feel that we have serious conflicts in continuing to represent you as Trustee of the Life Insurance Trust and need to withdraw from further representation in regard to that matter. We have been under the impression that the interpleader action to be filed in Palm Beach County, Florida would be filed in the Circuit Court which is a State court. That is where Sy's estate is being administered. I have spent the past couple of days acting as an intermediary with Scooter and Scott and thought that we had reached a reasonable resolution that would permit the carrier to bring the action here and have Adam then dismiss the Cook County suit. It appears that I was unsuccessful. Given the conflicting issues of who is representing the Trust, our removal will at least solve that issue. If you gave written authority to the Simon Lawfirm it was without our knowledge.

Should our testimony or affidavits regarding Sy's intent or any other aspects of this matter that we may have knowledge be useful we will certainly be available to assist.

Donald R. Tescher, Esq.
TESCHER & SPALLINA, P.A.
4855 Technology Way, Suite 720
Boca Raton, FL 33431
Telephone: 561-997-7008
Facsimile: 561-997-7308
dtescher@tescherspallina.com

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be imposed on the taxpayer, and (b) any statement contained herein relating to any Federal tax issue, may not be used by any person to support the promotion or marketing of, or to recommend, any Federal tax transaction(s) or matter(s) addressed herein. We would be happy to discuss the effect of this disclaimer, and alternatives to this disclaimer, with you if desired.

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From: Welling, Scott [<mailto:scott.welling@jackson.com>]
Sent: Friday, April 19, 2013 5:26 PM
To: Robert Spallina; Donald Tescher
Subject: FW: Simon Bernstein Irrevocable Insurance Trust dtd 6/21/95 v. Heritage Union Life Insurance Company- Case Number 2013L003498

Gentlemen,

Can you advise on the below...?

From: adam simon [<mailto:asimon21@att.net>]
Sent: Friday, April 19, 2013 5:25 PM
To: Welling, Scott
Subject: Re: Simon Bernstein Irrevocable Insurance Trust dtd 6/21/95 v. Heritage Union Life Insurance Company- Case Number 2013L003498

Mr. Welling:

You have been given inaccurate information. I have received written authorization from Ted Bernstein as Tstee of the Trust to file the action that was filed in Cook County.

Thank you,
Adam Simon

Sent from my iPhone

On Apr 19, 2013, at 4:02 PM, "Welling, Scott" <scott.welling@jackson.com> wrote:

Dear Mr. Simon,

Thank you for your correspondence.

I just tried to call you, but neither you nor your colleague David Simon were available.

I have briefly discussed this matter with Cook County counsel.

It is my understanding that Jackson has a very short timeframe in which to remove this action to federal court, should it choose to do so. Inasmuch as I am out of the office all next week, I would like to resolve this issue sooner rather than later.

My understanding of this matter is that the Trustee of the Simon Bernstein Irrevocable Insurance Trust has not authorized you to file this lawsuit on behalf of the Trust. Indeed, the Trust's counsel (Robert Spallina) and I have had several amicable and productive dialogues regarding this matter, and have agreed that the best way to

resolve this matter is for Jackson to file a federal interpleader action in Palm Beach Florida, where venue indisputably lies.

If I am incorrect, and if the Trustee of the Trust HAS directed you to file this suit, please advise me of same at your soonest convenience.

I will allow you until Wednesday, April 24, 2013 to voluntarily dismiss the above action, and provide me with email confirmation of the dismissal.

If I do not receive confirmation of the dismissal by that date, I will instruct our Cook County counsel to file an Appearance, and then seek to dismiss the action on the grounds that the Trust never authorized the suit.

Naturally, I will ask that our fees and costs be recovered from whichever person or entity is appropriate.

I remain committed to working with the Trust to resolve this matter amicably and with as little expense as possible. However, I decline to do so with an improperly filed lawsuit hanging over my head.

Please give this matter your prompt attention.

From: Cheryl Sychowski [<mailto:cheryl@stpcorp.com>]
Sent: Friday, April 19, 2013 3:48 PM
To: Welling, Scott
Cc: dtescher@tescherspallina.com; Adam Simon; Adam Simon
Subject: Simon Bernstein Irrevocable Insurance Trust dtd 6/21/95 v. Heritage Union Life Insurance Company- Case Number 2013L003498

Mr. Welling,

Please see attached for a letter from Adam Simon regarding Simon Bernstein Irrevocable Insurance Trust dtd 6/21/95 v. Heritage Union Life Insurance Company - Case Number 2013L003498.

Thank you,

Cheryl Sychowski

The Simon Law Firm
303 E. Wacker Drive, Suite 210
Chicago, IL 60601
P: (312) 819-0730
F: (312) 819-0773
E: cheryl@stpcorp.com

Bernstein - Life Ins.

Donald Tescher

From: Donald Tescher
Sent: Friday, April 19, 2013 6:01 PM
To: 'Welling, Scott'; Robert Spallina
Cc: 'asimon21@att.net'; 'David (Scooter) Simon'; Ted Bernstein
Subject: RE: Simon Bernstein Irrevocable Insurance Trust dtd 6/21/95 v. Heritage Union Life Insurance Company- Case Number 2013L003498

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 Telephone: 561-997-7008
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Thank you,
Adam Simon

Sent from my iPhone

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Dear Mr. Simon,

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I remain committed to working with the Trust to resolve this matter amicably and with as little expense as possible. However, I decline to do so with an improperly filed lawsuit hanging over my head.

4/19/2013

TS006548

Please give this matter your prompt attention.

From: Cheryl Sychowski [<mailto:cheryl@stpcorp.com>]
Sent: Friday, April 19, 2013 3:48 PM
To: Welling, Scott
Cc: dtescher@tescherspallina.com; Adam Simon; Adam Simon
Subject: Simon Bernstein Irrevocable Insurance Trust dtd 6/21/95 v. Heritage Union Life Insurance Company- Case Number 2013L003498

Mr. Welling,

Please see attached for a letter from Adam Simon regarding Simon Bernstein Irrevocable Insurance Trust dtd 6/21/95 v. Heritage Union Life Insurance Company - Case Number 2013L003498.

Thank you,

Cheryl Sychowski

The Simon Law Firm
303 E. Wacker Drive, Suite 210
Chicago, IL 60601
P: (312) 819-0730
F: (312) 819-0773
E: cheryl@stpcorp.com

Donald Tescher

From: Welling, Scott [scott.welling@jackson.com]
Sent: Friday, April 19, 2013 5:03 PM
To: 'Cheryl Sychowski'
Cc: Donald Tescher; Adam Simon; Adam Simon; Robert Spallina
Subject: RE: Simon Bernstein Irrevocable Insurance Trust dtd 6/21/95 v. Heritage Union Life Insurance Company- Case Number 2013L003498
Importance: High

Dear Mr. Simon,

Thank you for your correspondence.

I just tried to call you, but neither you nor your colleague David Simon were available.

I have briefly discussed this matter with Cook County counsel.

It is my understanding that Jackson has a very short timeframe in which to remove this action to federal court, should it choose to do so. Inasmuch as I am out of the office all next week, I would like to resolve this issue sooner rather than later.

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Sent: Friday, April 19, 2013 3:48 PM

To: Welling, Scott
Cc: dtescher@tescherspallina.com; Adam Simon; Adam Simon
Subject: Simon Bernstein Irrevocable Insurance Trust dtd 6/21/95 v. Heritage Union Life Insurance Company- Case Number 2013L003498

Mr. Welling,

Please see attached for a letter from Adam Simon regarding Simon Bernstein Irrevocable Insurance Trust dtd 6/21/95 v. Heritage Union Life Insurance Company - Case Number 2013L003498.

Thank you,

Cheryl Sychowski

The Simon Law Firm
303 E. Wacker Drive, Suite 210
Chicago, IL 60601
P: (312) 819-0730
F: (312) 819-0773
E: cheryl@stpcorp.com

THE SIMON LAW FIRM

303 EAST WACKER DRIVE
SUITE 210
CHICAGO, IL 60601-5210
PHONE: (312) 819-0730 • FAX: (312) 819-0773

April 19, 2013

Scott D. Welling
Associate General Counsel
Jackson National Life Insurance Company
One Corporate Way
Lansing, Michigan 48951

RE: Simon Bernstein Irrevocable Insurance Trust dtd 6/21/95 v. Heritage Union Life
Insurance Company, Case Number 2013L003498

Mr. Welling:

This email confirms that the Simon Bernstein Irrevocable Insurance Trust dtd 6/21/95 will dismiss the action filed in Cook County upon a filing of the interpleader action in the Palm Beach County Circuit Court within the later of (i) 30 days from today; or (ii) the time for filing an answer or other responsive pleading in the Cook County matter. Heritage need not file an answer or other pleading provided if and only if Heritage files the interpleader action in the Palm Beach County Circuit Court within the time stated.

Thank you for your participation in this resolution.

Very truly yours,
THE SIMON LAW FIRM



Adam M. Simon

Donald Tescher

From: Donald Tescher
Sent: Friday, April 19, 2013 2:18 PM
To: 'David (Scooter) Simon'; Ted Bernstein
Cc: Robert Spallina
Subject: RE: Heritage Union

Scooter, as per my telephone conversation with you where I advised you of my subsequent telephone conversation with Heritage's counsel, please revise the message as modified below and have it typed on your letterhead, signed and addressed to Scott D. Welling, Associate General Counsel, Jackson National Life Insurance Company, One Corporate Way, Lansing, Michigan 48951. Email is scott.welling@jackson.com.
Please copy us also. Thank you.

Donald R. Tescher, Esq.
TESCHER & SPALLINA, P.A.
4855 Technology Way, Suite 720
Boca Raton, FL 33431
Telephone: 561-997-7008
Facsimile: 561-997-7308
dtescher@tescherspallina.com

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From: David (Scooter) Simon [mailto:dsimon@stpcorp.com]
Sent: Friday, April 19, 2013 1:36 PM
To: Ted Bernstein; Donald Tescher
Subject: RE: Heritage Union

Mr. Welling:

This email confirms that the Insurance Trust will dismiss the action filed in Cook County upon a filing of the interpleader action in the Palm Beach County Circuit Court within the later of (i) 30 days from today; or (ii) the time for filing an answer or other responsive pleading in the Cook County matter. Heritage need not file an answer or other pleading provided if and only if Heritage files the interpleader action in the Palm Beach County Circuit Court within the time stated.

Thank you for your participation in this resolution.

Adam Simon

From: Ted Bernstein [mailto:tbernstein@lifeinsuranceconcepts.com]

4/19/2013

TS006553

Sent: Friday, April 19, 2013 8:24 AM
To: Donald Tescher
Cc: Robert Spallina; David (Scooter) Simon
Subject: Re: Bernstein

Thanks Don.

Ted Bernstein
561-988-8984
tbernstein@lifeinsuranceconcepts.com

On Apr 19, 2013, at 9:22 AM, "Donald Tescher" <dtescher@tescherspallina.com> wrote:

Good. Spoke to Scooter yesterday. They are sending us a letter agreeing to dismiss the Cook County lawsuit upon a filing of the interpleader action in the Palm Beach County Circuit Court. However, a new wrinkle has cropped up: the insurance company has now been formally served. I will ask Scooter to modify the letter to indicate that they need not file an answer or other pleading and the suit will be dismissed provided they file the interpleader here within the time for filing an answer or other responsive pleading in the Cook County matter. I will call the in house counsel at the carrier and make sure that this will be acceptable.

Donald R. Tescher, Esq.
TESCHER & SPALLINA, P.A.
4855 Technology Way, Suite 720
Boca Raton, FL 33431
Telephone: 561-997-7008
Facsimile: 561-997-7308
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From: Ted Bernstein [mailto:tbernstein@lifeinsuranceconcepts.com]
Sent: Friday, April 19, 2013 8:28 AM
To: Robert Spallina
Cc: Donald Tescher
Subject: Re: Bernstein

Condo closed yesterday. Money should be wired today. One down, one to go.

Ted Bernstein
561-988-8984
tbernstein@lifeinsuranceconcepts.com

On Apr 18, 2013, at 9:19 PM, "Robert Spallina" <rspallina@tescherspallina.com> wrote:

See below

Sent from my iPhone

Begin forwarded message:

From: "Welling, Scott" <scott.welling@jackson.com>
Date: April 18, 2013, 4:22:55 PM EDT
To: 'Robert Spallina' <rspallina@tescherspallina.com>
Subject: Bernstein

Hi Bob,

Not only has the Cook County lawsuit not been dismissed, I was just informed it was formally served on the 17th...??

I cannot file the Palm Beach interpleader with this action pending.

Scott D. Welling

Associate General Counsel

Jackson National Life Insurance Company

One Corporate Way

Lansing, Michigan 48951

Phone: (517) 367-4337

Fax: (517) 706-5517

**Please note: Jackson's email address has changed to
@jackson.com**

Donald Tescher

From: David (Scooter) Simon [dsimon@stpcorp.com]
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To: Ted Bernstein; Donald Tescher
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One Corporate Way

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Phone: (517) 367-4337

Fax: (517) 706-5517

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Sent from my iPhone

Begin forwarded message:

From: "Welling, Scott" <scott.welling@jackson.com>
Date: April 18, 2013, 4:22:55 PM EDT
To: 'Robert Spallina' <rspallina@tescherspallina.com>
Subject: Bernstein

Hi Bob,

Not only has the Cook County lawsuit not been dismissed, I was just informed it was formally served on the 17th...??

I cannot file the Palm Beach interpleader with this action pending.

Scott D. Welling
Associate General Counsel
Jackson National Life Insurance Company
One Corporate Way
Lansing, Michigan 48951
Phone: (517) 367-4337
Fax: (517) 706-5517

Please note: Jackson's email address has changed to @jackson.com

30 days
[- help out next week]

Donald Tescher

From: Alexa Collevechio
Sent: Thursday, April 18, 2013 3:09 PM
To: Donald Tescher
Subject: David Simon "Scooter" 312-819-0730

d.simon@stpcorp.com

Ted Mentioned to him that you called him and left him a voicemail but has no recollection of that happening

Alexa Collevechio, Receptionist
Tescher & Spallina, P.A.
4855 Technology Way, Suite 720
Boca Raton, FL 33431
Telephone: 561.997.7008
Facsimile 561.997.7308

Robert Spallina

From: Ted Bernstein [tbernstein@lifeinsuranceconcepts.com]
Sent: Monday, April 15, 2013 6:34 PM
To: Robert Spallina
Cc: Donald Tescher
Subject: RE: FW: Simon Bernstein Irrv Trust v Heritage Union

No, still not.

Ted Bernstein
561-988-8984

Sent from my Samsung Galaxy Note™

----- Original message -----

Subject: RE: FW: Simon Bernstein Irrv Trust v Heritage Union
From: Robert Spallina <rspallina@tescherspallina.com>
To: Ted Bernstein <tbernstein@lifeinsuranceconcepts.com>
CC: RE: FW: Simon Bernstein Irrv Trust v Heritage Union

Have you spoken to them now? We want the filing in Cook County withdrawn ASAP.

From: Ted Bernstein [mailto:tbernstein@lifeinsuranceconcepts.com]
Sent: Monday, April 15, 2013 12:27 PM
To: Robert Spallina
Subject: RE: FW: Simon Bernstein Irrv Trust v Heritage Union

Hmmmm - haven't spoken with him since being on phone in your office.

Ted
561-988-8984

Sent from my Samsung Galaxy Note™

----- Original message -----

Subject: FW: Simon Bernstein Irrv Trust v Heritage Union
From: Robert Spallina <rspallina@tescherspallina.com>
To: Ted Bernstein <tbernstein@lifeinsuranceconcepts.com>
CC: FW: Simon Bernstein Irrv Trust v Heritage Union

Ted – see below. Instructions from ms clients??? Convenient how he didn't copy you.

From: Adam Simon [<mailto:asimon21@att.net>]
Sent: Monday, April 15, 2013 12:01 PM
To: Robert Spallina
Subject: Re: Simon Bernstein Irrv Trust v Heritage Union

Mr. Spallina:

I am trying to get final instructions from my clients, and will be back to you as soon as I can.

Thank you.

Adam Simon

From: Robert Spallina <rspallina@tescherspallina.com>
To: Adam Simon <asimon21@att.net>
Cc: Ted Bernstein <tbernstein@lifeinsuranceconcepts.com>; David (Scooter) Simon <dsimon@stpcorp.com>; Donald Tescher <dtescher@tescherspallina.com>
Sent: Monday, April 15, 2013 10:53 AM
Subject: RE: Simon Bernstein Irrv Trust v Heritage Union

Please advise timing as we have not received a response on the below email.

From: Robert Spallina
Sent: Friday, April 12, 2013 11:22 AM
To: 'Adam Simon'
Cc: 'Welling, Scott'; 'Ted Bernstein'; David (Scooter) Simon; Donald Tescher
Subject: RE: Simon Bernstein Irrv Trust v Heritage Union

Mr. Simon - I have spoken to Scott Welling at Jackson (who is copied on this email) and he will interplead here in South Palm Beach County which was the path he and I have been on since we discovered the defect in the ownership change. He is in the process of speaking to counsel here in Palm Beach County. As discussed

Monday, please withdraw the pleading filed in Cook County and provide notice of same to all the parties on this email. He cannot file his inter-pleader with this matter pending in Cook County. Thank you

Robert L. Spallina, Esq.

TESCHER & SPALLINA, P.A.

4855 Technology Way, Suite 720

Boca Raton, Florida 33431

Telephone: 561-997-7008

Facsimile: 561-997-7308

E-mail: rspallina@tescherspallina.com

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<http://www.tescherspallina.com/>

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From: Robert Spallina
Sent: Monday, April 08, 2013 1:59 PM
To: 'Adam Simon'
Cc: 'Welling, Scott'; 'Ted Bernstein'; Donald Tescher
Subject: RE: Simon Bernstein Irrv Trust v Heritage Union

Mr. Simon - we would like an explanation as well. Our client, Ted Bernstein (and the alleged successor trustee of the subject trust), never had a conversation with us that his family would be taking it upon themselves to attempt to collect the proceeds from the carrier through his brother-in-law's firm. We have represented this

trust from the date of Mr. Bernstein's death. Is our client even aware that this was filed? He did not sign the pleading. Please advise.

Robert L. Spallina, Esq.

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Boca Raton, Florida 33431

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From: Welling, Scott [<mailto:scott.welling@jackson.com>]
Sent: Monday, April 08, 2013 12:47 PM
To: 'Adam Simon'; Robert Spallina
Subject: RE: Simon Bernstein Irrv Trust v Heritage Union

I have been working with attorney Robert Spallina to try and amicably resolve this matter.

Who do you represent, and why are you suing us? Have you been apprised of attorney Spallina's efforts to help us resolve this matter?

From: Adam Simon [<mailto:asimon21@att.net>]
Sent: Monday, April 08, 2013 12:15 PM
To: Welling, Scott
Subject: Simon Bernstein Irrv Trust v Heritage Union

Mr. Welling:

Attached please find a complaint in this matter filed in the Circuit Court of Cook County. My client has attempted to reach you but has been unsuccessful. We remain hopeful that this matter can be resolved quickly. If you have any questions and need to speak with me today, please try my cell phone at 312-320-4491. Thank you.

Adam Simon

Robert Spallina

From: Adam Simon [asimon21@att.net]
Sent: Monday, April 15, 2013 12:01 PM
To: Robert Spallina
Subject: Re: Simon Bernstein Irrv Trust v Heritage Union

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Thank you.

Adam Simon

From: Robert Spallina <rspallina@tescherspallina.com>
To: Adam Simon <asimon21@att.net>
Cc: Ted Bernstein <tbernstein@lifeinsuranceconcepts.com>; David (Scooter) Simon <dsimon@stpcorp.com>; Donald Tescher <dtescher@tescherspallina.com>
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Mr. Simon - I have spoken to Scott Welling at Jackson (who is copied on this email) and he will interplead here in South Palm Beach County which was the path he and I have been on since we discovered the defect in the ownership change. He is in the process of speaking to counsel here in Palm Beach County. As discussed Monday, please withdraw the pleading filed in Cook County and provide notice of same to all the parties on this email. He cannot file his inter-pleader with this matter pending in Cook County. Thank you

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Cc: 'Welling, Scott'; 'Ted Bernstein'; Donald Tescher
Subject: RE: Simon Bernstein Irrv Trust v Heritage Union

Mr. Simon - we would like an explanation as well. Our client, Ted Bernstein (and the alleged successor trustee of the subject trust), never had a conversation with us that his family would be taking it upon themselves to attempt to collect the proceeds from the carrier through his brother-in-law's firm. We have represented this trust from the date of Mr. Bernstein's death. Is our client even aware that this was filed? He did not sign the pleading. Please advise.

Robert L. Spallina, Esq.
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Sent: Monday, April 08, 2013 12:47 PM
To: 'Adam Simon'; Robert Spallina
Subject: RE: Simon Bernstein Irrv Trust v Heritage Union

I have been working with attorney Robert Spallina to try and amicably resolve this matter.

Who do you represent, and why are you suing us? Have you been apprised of attorney Spallina's efforts to help us resolve this matter?

From: Adam Simon [<mailto:asimon21@att.net>]
Sent: Monday, April 08, 2013 12:15 PM
To: Welling, Scott
Subject: Simon Bernstein Irrv Trust v Heritage Union

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Attached please find a complaint in this matter filed in the Circuit Court of Cook County. My client has attempted to reach you but has been unsuccessful. We remain hopeful that this matter can be resolved quickly. If you have any questions and need to speak with me today, please try my cell phone at 312-320-4491. Thank you.

Robert Spallina

From: Welling, Scott [scott.welling@jackson.com]
Sent: Monday, April 08, 2013 2:01 PM
To: Robert Spallina
Subject: RE: Simon Bernstein Irrv Trust v Heritage Union

Appreciate it Bob. My assistant was actually assembling the file to send to outside counsel to file an interpleader.

From: Robert Spallina [<mailto:rspallina@tescherspallina.com>]
Sent: Monday, April 08, 2013 1:59 PM
To: Adam Simon
Cc: Welling, Scott; Ted Bernstein; Donald Tescher
Subject: RE: Simon Bernstein Irrv Trust v Heritage Union

Mr. Simon - we would like an explanation as well. Our client, Ted Bernstein (and the alleged successor trustee of the subject trust), never had a conversation with us that his family would be taking it upon themselves to attempt to collect the proceeds from the carrier through his brother-in-law's firm. We have represented this trust from the date of Mr. Bernstein's death. Is our client even aware that this was filed? He did not sign the pleading. Please advise.

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Sent: Monday, April 08, 2013 12:47 PM
To: 'Adam Simon'; Robert Spallina
Subject: RE: Simon Bernstein Irrv Trust v Heritage Union

I have been working with attorney Robert Spallina to try and amicably resolve this matter.

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Adam Simon

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Sent: Monday, April 08, 2013 12:15 PM
To: Welling, Scott
Subject: Simon Bernstein Irrv Trust v Heritage Union

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Adam Simon

Robert Spallina

From: Welling, Scott [scott.welling@jackson.com]
Sent: Monday, April 08, 2013 12:58 PM
To: Robert Spallina
Subject: FW: Simon Bernstein Irrv Trust v Heritage Union
Attachments: COMPLAINT AT LAW-heritage union.pdf

Hello,

Did you know anything about this?

From: Adam Simon [<mailto:asimon21@att.net>]
Sent: Monday, April 08, 2013 12:19 PM
To: Welling, Scott
Subject: Fw: Simon Bernstein Irrv Trust v Heritage Union

I believe the complaint may have been missing from the prior email. Here it is. Thanks.

----- Forwarded Message -----

From: Adam Simon <asimon21@att.net>
To: "scott.welling@jackson.com" <scott.welling@jackson.com>
Sent: Monday, April 8, 2013 11:14 AM
Subject: Simon Bernstein Irrv Trust v Heritage Union

Mr. Welling:

Attached please find a complaint in this matter filed in the Circuit Court of Cook County. My client has attempted to reach you but has been unsuccessful. We remain hopeful that this matter can be resolved quickly. If you have any questions and need to speak with me today, please try my cell phone at 312-320-4491. Thank you.

Adam Simon

- Free Doc for..

- Once in a

- The first time down
is 4

- Scott, Warren@fclaw.com

Robert Spallina

From: Robert Spallina
Sent: Thursday, March 14, 2013 7:17 AM
To: Pam Simon
Cc: David (Scooter) Simon; Ted Bernstein
Subject: Re: Simon Bernstein

Waiting for carrier to clear up title and beneficiary designation. Did you get the email I sent everyone from the carrier last week? Scooter knows where we are in process.

Sent from my iPhone

On Mar 14, 2013, at 12:41 AM, "Pam Simon" <psimon@stpcorp.com> wrote:

Next step? By who? Or is it whom?

On Mar 13, 2013, at 7:42 PM, "Robert Spallina" <rspallina@tescherspallina.com> wrote:

Thanks.

Sent from my iPhone

On Mar 13, 2013, at 6:02 PM, "David \Scooter\ Simon" <dsimon@stpcorp.com> wrote:

last of the docs we can dig up.

Very Truly Yours,
David B. Simon
The Simon Law Firm
303 East Wacker Drive, Suite 210
Chicago, IL 60601

Phone: (312) 819-0730
Fax: (312) 819-0773
E-mail: dsimon@chicago-law.com

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From: Cheryl Sychowski
Sent: Wednesday, March 13, 2013 4:32 PM
To: David (Scooter) Simon
Subject: Simon Bernstein

<DOC (9).PDF>

Robert Spallina

From: David (Scooter) Simon [dsimon@stpcorp.com]
Sent: Friday, March 08, 2013 11:21 AM
To: Robert Spallina
Subject: LaSalle

Robert,

The policy was originally bought by a 501(c)(9) Death Benefit VEBA Trust. LaSalle was a successor Trustee and the last Trustee before the VEBA was dissolved. SB Lexington, the corporation that established the VEBA Trust was also dissolved. Simon, as sole owner of SB Lexington at the time of dissolution, became the owner of the policy and he named the Simon Bernstein Irrevocable Insurance Trust dated June 21, 1995 as beneficiary. LaSalle has also since been dissolved or merged into Bank of America.

Very Truly Yours,

David B. Simon

The Simon Law Firm

303 East Wacker Drive, Suite 210
Chicago, IL 60601

Phone: (312) 819-0730

Fax: (312) 819-0773

E-mail: dsimon@chicago-law.com

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Robert Spallina

From: Welling, Scott [scott.welling@jackson.com]
Sent: Friday, March 08, 2013 1:44 PM
To: Robert Spallina
Subject: Bernstein; Policy No. 1009208

Hi Bob,

First, let me thank you for discussing this matter with me, and for your continued cooperation in helping ensure that the \$1 – million – plus proceeds of this policy are paid correctly.

As I noted during our conversation, Jackson recently acquired Reassure Life Insurance Company, and is now responsible for administering this policy. I have been working with former Reassure personnel to obtain the necessary documentation confirming the last-named owner and beneficiary of the policy. Unfortunately, due to the age of this policy, this is proving to be a difficult task.

My assistant, who is quite thorough, went through the policy file and prepared a detailed outline noting all policy activity, including owner changes and beneficiary changes. This outline revealed instances where letters were sent confirming ownership and/or beneficiary changes, for which no valid ownership change or beneficiary change directive could be found. I have sent the Reassure folks several emails pointing out these issues and I have asked them to provide all documentation substantiating the confirmation letters.

Clearly, Jackson wants to pay the proceeds of this policy to the correct beneficiary as swiftly as possible. If we need to seek the court's determination of who that beneficiary is, it is vitally important that we name in any pleading all entities which may have a claim to the proceeds. Hence the need to confirm, to the extent possible, all beneficiary designations which may (rightly or wrongly) have been recorded against the policy.

At this point, my hope is to resolve this matter by way of a Petition which (i) names all possible beneficiaries/claimants, and (ii) specifically asks for an order directing Jackson to pay a specific beneficiary. As I noted, the Petition should name Jackson as a party, so we will be bound by the Order. Assuming no hostile allegations are made against Jackson, I will not oppose the entry of the Order, but will simply await entry of the final Order, at which time payment can be made.

I will help you draft the Petition and Order.

Alternately, Jackson could simply interplead the funds and let the court decide who is entitled to the proceeds. I would like to avoid this if possible, as it would prove to be more expensive for both your clients and Jackson.

I pledge to work with you to resolve this matter as swiftly and economically as possible.

Please let me know if you need anything else.

Scott D. Welling
Associate General Counsel
Jackson National Life Insurance Company
One Corporate Way
Lansing, Michigan 48951
Phone: (517) 367-4337
Fax: (517) 706-5517

Please note: Jackson's email address has changed to @jackson.com

Robert Spallina

From: David (Scooter) Simon [dsimon@stpcorp.com]
Sent: Friday, March 08, 2013 11:21 AM
To: Robert Spallina
Subject: LaSalle

Robert,

The policy was originally bought by a 501(c)(9) Death Benefit VEBA Trust. LaSalle was a successor Trustee and the last Trustee before the VEBA was dissolved. SB Lexington, the corporation that established the VEBA Trust was also dissolved. Simon, as sole owner of SB Lexington at the time of dissolution, became the owner of the policy and he named the Simon Bernstein Irrevocable Insurance Trust dated June 21, 1995 as beneficiary. LaSalle has also since been dissolved or merged into Bank of America.

Very Truly Yours,

David B. Simon

The Simon Law Firm

303 East Wacker Drive, Suite 210
Chicago, IL 60601

Phone: (312) 819-0730

Fax: (312) 819-0773

E-mail: dsimon@chicago-law.com

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Robert Spallina

From: Robert Spallina
Sent: Wednesday, March 06, 2013 5:26 PM
To: 'Ted Bernstein'; 'Pam Simon'; lisa.friedstein@gmail.com; Jill Iantoni
Cc: Donald Tescher
Subject: Dec Action and Waivers
Attachments: Declaratory Action to Establish a Lost Trust.pdf; Jill Waiver Consent and Joinder.pdf; Lisa Waiver Consent and Joinder.pdf; Pam Waiver Consent and Joinder.pdf

All – attached is the petition we intend to file along with the waivers that each of you will need to sign. We have not heard from the attorney at Heritage but as discussed we intend to file the attached on Monday regardless. We did check with his office and he is out until tomorrow so we will reach out to him again to see if he has any comments as a courtesy prior to filing. Please sign your waivers and send us the originals in the overnight mail so I can receive them on Friday. Ted does not need to sign a waiver as he is signing the petition.

If we need to have a call on any of this I am available tomorrow afternoon or on Friday most of the day.

Thanks,

Robert L. Spallina, Esq.
TESCHER & SPALLINA, P.A.
4855 Technology Way, Suite 720
Boca Raton, Florida 33431
Telephone: 561-997-7008
Facsimile: 561-997-7308
E-mail: rspallina@tescherspallina.com

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Robert Spallina

From: Robert Spallina
Sent: Wednesday, March 06, 2013 5:32 PM
To: 'Scott.welling@jackson.com'
Subject: Simon Bernstein Trust - Policy #1009208
Attachments: Declaratory Action to Establish a Lost Trust.pdf

Scott – I understand you are out of the office until tomorrow. We sent this to you previously and in error addressed it to the wrong email address. We would like to file this on Monday so if you could take a few minutes to review it would be greatly appreciated. We have not attached a copy of the Order but it will obviously be in the form of the relief requested.

Thanks,

Robert L. Spallina, Esq.
TESCHER & SPALLINA, P.A.
4855 Technology Way, Suite 720
Boca Raton, Florida 33431
Telephone: 561-997-7008
Facsimile: 561-997-7308
E-mail: rspallina@tescherspallina.com

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IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL
IN RE: SIMON BERNSTEIN PROBATE DIVISION
IRREVOCABLE INSURANCE
TRUST dated JUNE 21, 1995 FILE NO.:

**DECLARATORY ACTION TO ESTABLISH A LOST
TRUST
AND APPOINT A SUCCESSOR TRUSTEE**

COMES NOW TED BERNSTEIN, son of SIMON BERNSTEIN ("SIMON"), deceased, and alleges the following:

Parties, Jurisdiction and Venue

1. This is an action to establish the terms of a lost trust, including the determination of a successor trustee, pursuant to Florida Statutes 86.011, 86.041 and 736.0201(2) and (4).
2. Florida Statutes 86.736.0201 provides, in part, for the Court to intervene in the administration of a trust when invoked by an interested person relating to the validity, administration or distribution of a trust, appoint or remove a trustee and ascertain beneficiaries.
3. Petitioner, TED S. BERNSTEIN (“TED”), is of legal age and a resident of Palm Beach County, Florida, and the former Personal Representative and current trustee of the FAMILY TRUST F/B/O SIMON BERNSTEIN under the SHIRLEY BERNSTEIN REVOCABLE TRUST.
4. SHIRLEY BERNSTEIN is the predeceased spouse of SIMON, who upon information and belief was the Trustee of the SIMON BERNSTEIN IRREVOCABLE INSURANCE TRUST (the “ILIT”), an irrevocable trust established by SIMON on June 21, 1995 .
5. SIMON died on September 13, 2012 and his estate is now being probated in the Circuit Court for Palm Beach County, Florida. SIMON is survived by the following adult children:

TED S. BERNSTEIN, resident of Palm Beach County, Florida ;
PAMELA BERNSTEIN, resident of Chicago, Illinois;
ELIOT BERNSTEIN, resident of Palm Beach County, Florida;
JILL IANTONI, resident of Highland Park, Illinois; and
LISA S. FRIEDSTEIN, resident of Highland Park, Illinois (hereinafter sometimes referred to as the "Children").

All of the Children are *sui juris* and have either executed and filed Consents to the relief sought or have been served with this Petition.

6. Venue of this proceeding is proper in this Court pursuant to Florida Statutes 737.0204 and Chapter 47 because the ILIT's principal place of administration and Trust situs was and remained in Palm Beach County, Florida.

General Allegations

7. Attached as Exhibit "A" is a copy of the Form SS-4, Application for Employer Identification Number, reflecting the name of the ILIT and signed by SHIRLEY as the Trustee and dated June 21, 1995.
8. Diligent search for the ILIT or a copy of it has been made, including inquiry with the insurance carrier, HERITAGE UNION LIFE INSURANCE COMPANY ("HERITAGE"), search of SIMON'S and SHIRLEY's papers and documents, lawyer files and accountant files, and no original or copy has been located.
9. Upon information and belief, the Petitioner, TED, was named as the successor Trustee to SHIRLEY of the ILIT. (See Affidavit of David Simon, Esq., son-in-law of SIMON and SHIRLEY, attached hereto as Exhibit "B").
10. Upon information and belief, the beneficiaries of the ILIT were the children of SIMON and SHIRLEY, in equal shares and per stirpes. (See Affidavit of Robert L. Spallina, Esq., personal attorney to SIMON and SHIRLEY during their lifetimes, attached hereto as Exhibit "C").
11. HERITAGE has advised counsel for the Petitioner that their records reflect the owner of the life insurance policy to be SIMON and the beneficiary to be the ILIT. (See copy of communication from carrier dated _____ attached hereto as Exhibit

“D “).

12. HERITAGE will not settle and pay the death benefit under policy #1009208 until receipt of a court order identifying the successor trustee of the ILIT.
13. In order to avoid delays occasioned by the need to open new banking arrangements for the ILIT to process and distribute the insurance proceeds, TED wishes to authorize HERITAGE to disburse the death benefit proceeds to Tescher & Spallina, P.A. Trust Account at Sabadell Bank.

WHEREFORE, Petitioner respectfully requests this Court to determine that

A. TED S. BERNSTEIN is the successor trustee to SHIRLEY BERNSTEIN of the SIMON BERNSTEIN IRREVOCABLE INSURANCE TRUST dated June 21, 1995;

B. The remainder beneficiaries of the SIMON BERNSTEIN IRREVOCABLE INSURANCE TRUST dated June 21, 1995 are the five (5) children of SIMON and SHIRLEY, in equal shares, per stirpes;

C. HERITAGE UNION LIFE INSURANCE COMPANY be directed to distribute the death benefit proceeds to the Tescher & Spallina, P.A. Trust Account at Sabadell Bank.

UNDER PENALTIES OF PERJURY, I declare that I have read the foregoing, and the facts alleged are true, to the best of my knowledge and belief.

Signed on _____, 2013

TED S. BERNSTEIN

Donald R. Tescher, Esq.
Attorney for Petitioner
Florida Bar No. 121086
Tescher & Spallina, P.A.
4855 Technology Way, Suite 720
Boca Raton, FL 33431
Telephone: (561) 997-7008
Fax: (561) 997-7308

N:\WPDATA\estates\Bernstein, Simon\Life Insurance Trust\Declaratory Action to Establish a Lost Trust.wpd

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing was served via U.S. Mail to the following individuals on this _____ day of _____, 2013:

TESCHER & SPALLINA, P.A.

By: _____

Donald R. Tescher, Esq.
Attorney for Petitioner
Florida Bar No. 121086
4855 Technology Way, Suite 720
Boca Raton, FL 33431
Telephone: (561) 997-7008

IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL

IN RE: SIMON BERNSTEIN PROBATE DIVISION

IRREVOCABLE INSURANCE

TRUST dated JUNE 21, 1995 FILE NO.:

/

**WAIVER, CONSENT AND JOINDER TO
DECLARATORY ACTION TO ESTABLISH A LOST TRUST
AND APPOINT A SUCCESSOR TRUSTEE**

The undersigned, a surviving child of SIMON BERNSTEIN and SHIRLEY BERNSTEIN, acknowledge receipt of the captioned pleading, waive formal service and join in and consent to the relief requested.

Dated this ___ day of March, 2013.

PAMELA BERNSTEIN

IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL

IN RE: SIMON BERNSTEIN PROBATE DIVISION

IRREVOCABLE INSURANCE

TRUST dated JUNE 21, 1995 FILE NO.:

/

**WAIVER, CONSENT AND JOINDER TO
DECLARATORY ACTION TO ESTABLISH A LOST TRUST
AND APPOINT A SUCCESSOR TRUSTEE**

The undersigned, a surviving child of SIMON BERNSTEIN and SHIRLEY BERNSTEIN, acknowledge receipt of the captioned pleading, waive formal service and join in and consent to the relief requested.

Dated this ___ day of March, 2013.

ELIOT BERNSTEIN

IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL

IN RE: SIMON BERNSTEIN PROBATE DIVISION

IRREVOCABLE INSURANCE

TRUST dated JUNE 21, 1995 FILE NO.:

/

**WAIVER, CONSENT AND JOINDER TO
DECLARATORY ACTION TO ESTABLISH A LOST TRUST
AND APPOINT A SUCCESSOR TRUSTEE**

The undersigned, a surviving child of SIMON BERNSTEIN and SHIRLEY BERNSTEIN, acknowledge receipt of the captioned pleading, waive formal service and join in and consent to the relief requested.

Dated this ____ day of March, 2013.

JILL IANTONI

IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL

IN RE: SIMON BERNSTEIN PROBATE DIVISION

IRREVOCABLE INSURANCE

TRUST dated JUNE 21, 1995 FILE NO.:

/

**WAIVER, CONSENT AND JOINDER TO
DECLARATORY ACTION TO ESTABLISH A LOST TRUST
AND APPOINT A SUCCESSOR TRUSTEE**

The undersigned, a surviving child of SIMON BERNSTEIN and SHIRLEY BERNSTEIN, acknowledge receipt of the captioned pleading, waive formal service and join in and consent to the relief requested.

Dated this ___ day of March, 2013.

LISA S. FRIEDSTEIN

2/25/13 Bernstein

6/21, 1995 ^{Trust exec'tn}
^{date}

Chapter 867.S.

~~Illinois resident?~~
~~trust executed fl~~

736.0108 Principal place of admin.

736.0201
736.0204(3) principal place of admin - FL

Ins - Heritage

- 1995 Trust reflected as best
in Ins. Co. docs

both
over
F.L. residents
new
Suey owned policy died 9/3/12
Suey was Trustee died 12/8/10

Pam, Jill, Lisa - all Illinois residents
Eliot, his minor children & Ted - Fl. residents

SB-4 6/21/95 - 65-6178916