

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

IN RE:

Case No.: 50 2012 CP 004391 SB
JUDGE MARTIN COLIN

ESTATE OF SIMON
BERNSTEIN,

Deceased.

Division: IY

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**SUPPLEMENTAL MEMORANDUM IN SUPPORT OF PETITION FOR
APPOINTMENT OF ADMINISTRATOR AD LITEM**

COMES NOW, William E. Stansbury (“Stansbury”), creditor of and Interested Person in the Estate of Simon Bernstein, and Plaintiff in a lawsuit against the Estate of Simon Bernstein, et al., by and through his undersigned counsel, and does hereby file the following Supplemental Memorandum in Support of his previously filed Petition for Appointment of Administrator Ad Litem:

1. On March 14, 2012, Stansbury filed and served a Petition for Appointment of Administrator Ad Litem (“Petition”) to represent the interests of the Estate of Simon Bernstein in Simon Bernstein Irrevocable Trust DTD 6/21/95 v. Heritage Union Life Insurance Company, Case No. 13 cv 3643 (N.D. Ill., E. Div.) (the “Life Insurance Litigation”).

2. The arguments in support of the Petition are incorporated herein as if fully reiterated.

3. In the Petition, Stansbury did not nominate an individual for consideration by the Court as a candidate to serve as Administrator Ad Litem.

4. Stansbury hereby nominates himself, as an Interested Party in the Estate of Simon Bernstein, to serve as Administrator Ad Litem to represent the Estate of Simon Bernstein in its

efforts to intervene in the Life Insurance Litigation. The reasons in support of this intervention are fully set forth in the Petition.

5. Under §733.302, Fla. Stat. (2013), any person who is *sui juris* and is a resident of Florida is qualified to act as a personal representative. Logically, the same criteria applicable to personal representatives should apply in determining eligibility of other fiduciaries, such as an Administrator Ad Litem. Applying that criteria, Stansbury is *sui juris*, is a resident of Florida and would be qualified.

6. Additionally, the fact that Stansbury is a creditor of the Estate does not disqualify him to serve as an Administrator Ad Litem. Creditors are not ineligible to serve as personal representatives. *See*, §733.303 Fla. Stat. (2013), **Persons not qualified**. Courts also have recognized that creditors are eligible to serve as personal representatives. *See*, Estate of Langford v. Brickhill, 2013 WL 5940286 (Ariz. App. Div. I, 2013), (Personal representative was eligible for appointment despite the absence of a biological or adoptive relation to the Decedent because he was a creditor of the estate) This standard should apply as well to fiduciaries such as Administrators Ad Litem. Finally, Stansbury has no conflict of interest with the Estate that would disqualify him on the narrow issue for which appointment of the Administrator Ad Litem is sought, i.e., the collection of life insurance proceeds for the benefit of the Estate.

7. In this case, Stansbury is not only qualified to serve as Administrator Ad Litem under Florida law, but he may be the most qualified person to serve in this capacity since he, along with the grandchildren of Simon Bernstein, stand to benefit the most if the intervention efforts are successful and the proceeds of the life insurance are paid to the Estate. No other persons stand to benefit from a successful outcome of the Life Insurance Litigation other than the grandchildren and Stansbury.

8. As a result of the foregoing, Stansbury would be the representative to most zealously represent the interests of the Estate in the Life Insurance Litigation because, other than the grandchildren, he stands to benefit the most from its successful resolution.

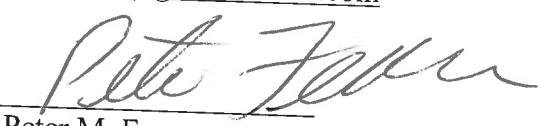
WHEREFORE, Interested Person, William E. Stansbury moves this Honorable Court for an Order Appointing William E. Stansbury as Administrator Ad Litem to protect the interests of the Estate of Simon Bernstein in Simon Bernstein Irrevocable Trust DTD 6/21/95 v. Heritage Union Life Insurance Company, Case No. 13 cv 3643 (N.D. Ill., E. Div.), together with any other relief this court deems just and proper.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above Motion was forwarded via e-mail service to: Alan Rose, Esq., PAGE, MRACHEK, 505 So. Flagler Drive, Suite 600, West Palm Beach, FL 33401, arose@pm-law.com and mchandler@pm-law.com; John Pankauski, Esq., PANKAUSKI LAW FIRM, 120 So. Olive Avenue, Suite 701, West Palm Beach, FL 33401, courtfilings@pankauskilawfirm.com; Eliot Bernstein, 2753 NW 34th Street, Boca Raton, FL 33434, iviewit@iviewit.tv; William H. Glasko, Esq., Golden Cowan, P.A., Palmetto Bay Law Center, 17345 S. Dixie Highway, Palmetto Bay, FL 33157, bill@palmettobaylaw.com on this 3 day of April, 2014.

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