

# United States Court of Appeals

FOR THE  
SECOND CIRCUIT

At a stated Term of the United States Court of Appeals for the Second Circuit, held at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, in the City of New York, on the 19<sup>th</sup> day of February, two thousand nine,

Before: Hon. Ralph K. Winter,  
Circuit Judge.

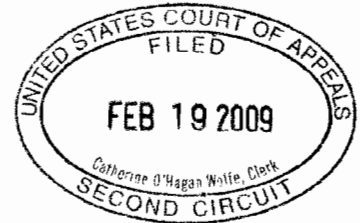
Bernstein

v.

Appellate Division First Department  
Disciplinary Committee

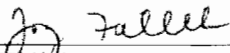
ORDER

08-4873-cv



IT IS HEREBY ORDERED that *pro se* Appellant's motion for reconsideration of the order denying a fifteen to eighteen month extension of time to file brief or stay of the appeal is DENIED. However, Appellant is accorded a grace period until **February 27, 2009**. If a brief is not filed by that date, the Clerk's Office is instructed to dismiss the appeal without further notice from the court. Appellant is advised that a motion seeking reconsideration or other relief from this order does not stay the due date. Appellee's brief is due on or before **March 30, 2009**. The appeal shall be heard no earlier than the week of **May 18, 2009**.

FOR THE COURT:  
Catherine O'Hagan Wolfe, Clerk  
by

  
\_\_\_\_\_  
Joy Fallék  
Administrative Attorney

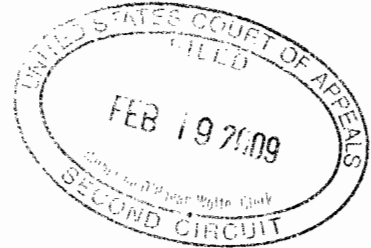
Eliot I. Bernstein

2753 Northwest 34th Street  
Boca Raton FL 33434

UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT  
THURGOOD MARSHALL U.S. COURT HOUSE  
40 FOLEY SQUARE  
NEW YORK 10007

Catherine O'Hagan Wolfe  
CLERK

Date: 2/19/09  
Docket Number: 08-4873-cv  
Short Title: Bernstein v. Appellate Division First Department Discipline  
DC Docket Number: 07-cv-11196  
DC: SDNY (NEW YORK CITY)  
DC Judge: Honorable Shira Scheindlin



PRO SE APPEAL SCHEDULING ORDER #2  
MAKE ALL TELEPHONE INQUIRES TO (212) 857 - 8527

Noting that *appellant* has filed a notice of appeal, *pro se*:

IT IS HEREBY ORDERED that the district court shall be responsible for filing the record on appeal on or before N/A .

IT IS FURTHER ORDERED that appellant's brief and appendix, which shall be filed in typewritten form, shall be served and filed on or before **02/27/2009**. If appellant's brief does not exceed ten (10) pages, it shall be filed in memorandum form.

IT IS FURTHER ORDERED that the appellee's brief shall be served and filed on or before **03/30/2009**. If appellee's brief does not exceed 10 pages, it shall be filed in memorandum form.

IT IS FURTHER ORDERED that 10 copies of each brief, memorandum or appendix shall be filed with the Clerk.

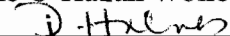
IT IS FURTHER ORDERED that the appellee may, without further order of the court, file 10 copies of an appendix to its brief, or 10 copies of attached to its memorandum.

IT IS FURTHER ORDERED that the argument of the appeal may be heard as early as the week of **05/18/2009**. All counsel should immediately advise the Clerk by letter of the dates thereafter that they are unavailable for oral argument. The time and place of oral argument may be separately noticed by the Clerk to counsel.

IT IS FURTHER ORDERED that in the event of default by appellant in timely filing the record on appeal, or the appellant's brief and appendix, or memorandum and appendix, or upon default by appellant regarding any other provision of this order, the appeal may be dismissed forthwith without further notice.

IT IS FURTHER ORDERED that if the appellee fails to file a brief or memorandum within the time directed by this order, the appellee may be subject to such sanctions as the court may deem appropriate.

Catherine O'Hagan Wolfe, Clerk

By: 

Deborah Holmes

Deputy Clerk, USCA

Dated: 2/19/2009