



ORDERED in the Southern District of Florida on July 21, 2022.



Erik P. Kimball, Judge
United States Bankruptcy Court

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION

In re:
BERNSTEIN FAMILY REALTY, LLC
Debtor.

Case No. 22-13009-EPK
Chapter 7

ORDER DENYING MOTIONS FOR CONTINUANCE AND DISQUALIFICATION

At 8:54 a.m. on July 20, 2022, the clerk docketed the *Interested Party – Creditor and Acting Manager of Bernstein Family Realty, LLC Omnibus Opposition-Response and Motion for any Extension as Needed to Stay in Bankruptcy* [ECF No. 71], just then filed by Mr. Eliot Bernstein. In that document, comprising 19 pages of text and an additional 96 pages of exhibits, Mr. Bernstein responds to the *Motion to Dismiss with Prejudice* [ECF No. 52] filed by Joanna Sahm, as personal representative of the estate of Walter Sahm, and Patricia Sahm, which, as Mr. Bernstein well knew, was set for hearing about 30 minutes later at 9:30 a.m. Mr. Bernstein had already filed a document opposing the same relief. ECF Nos. 54, 55, 56 (docketed three times). In addition to opposing the motion to dismiss with prejudice, Mr.

Bernstein yet again asked the Court to delay ruling to permit members of his family to obtain counsel.

Local Rule 5005-1(F) provides that responses to matters already set for hearing must be filed not later than 4:30 p.m. two business days prior to the hearing or may not be considered by the Court and may be stricken. There is an exception permitting certain emergency papers to be considered, but Mr. Bernstein did not comply with that provision nor, under the circumstances, could he have complied.

As the Court has repeatedly stated in orders and in open court, Mr. Bernstein is not a lawyer and is not authorized to file documents or present argument on behalf of the debtor. Nor is he authorized to represent any members of his family before this Court, including his three adult sons who were the petitioners in this ill-conceived involuntary case. Mr. Bernstein acts only in his own behalf, as alleged manager and creditor of the debtor.

This case has been pending for three months. Mr. Bernstein and members of his family have had ample opportunity to retain counsel. At this late date, their failure to retain counsel is not cause for a continuance of any matter in this case.

During the hearing, Mr. Bernstein made an *ore tenus* motion to disqualify the presiding judge. The Court previously denied a motion filed by Mr. Bernstein seeking the same relief. ECF Nos. 44, 57. Mr. Bernstein presented no new arguments in his *ore tenus* motion. It will be denied for the same reasons stated in the Court's order at ECF No. 57.

For the foregoing reasons and for the reasons stated on the record, the Court ORDERS and ADJUDGES as follows:

1. To the extent the *Interested Party – Creditor and Acting Manager of Bernstein Family Realty, LLC Omnibus Opposition-Response and Motion for any Extension as Needed to Stay in Bankruptcy* [ECF No. 71] seeks a continuance of any matter in this case, it is DENIED.

2. Mr. Bernstein's *ore tenus* motion to disqualify the presiding judge in this case, made on the record during a hearing on July 20, 2022, is DENIED.

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All parties of record.