

**IN THE DISTRICT COURT OF APPEAL OF
THE STATE OF FLORIDA FOURTH
DISTRICT, 1525 PALM BEACH LAKES
BLVD., WEST PALM BEACH, FL 33401**

**Motion for 1 Day Late Filing
Prohibition and Appendix
Florida Rule App. Procedure 9.300
CASE NO.: 4D16-0064
L.T. No.: 2014CP003698XXXXNB**

ELIOT IVAN BERNSTEIN v. TED BERNSTEIN, AS TRUSTEE. ET AL.

Appellant / Petitioner(s)

Appellee / Respondent(s)

Now comes ELIOT IVAN BERNSTEIN (“PETITIONER”) who respectfully petitions and pleads and shows this court as follows:

1. I am the Petitioner in this case and was directed by an Order of this Court dated Jan. 8, 2016 to file a Petition for a Writ of Prohibition to appeal the denial of Judge Phillips of a motion for mandatory disqualification and also file an Appendix within 20 days of this Order.
2. I have been denied counsel and the funds for counsel in this case by actions of the Trustees and PRs of the Estates and have had counsel I consulted with end up working with Ted Bernstein and Alan Rose.
3. During the relevant 20 day time period I had filed a Notice of Unavailability at the Trial Court due to being on medication and medical procedures which all of the parties are

aware of but still had to respond to multiple filings by Ted Bernstein, Alan Rose and Steven Lessnee. see attached

4. On the 28th day of January, 2016 yesterday I had my entire Comcast system down, scanner down shown by Comcast Repair Ticket Number CR553566921 which further delayed and prevented me from uploading and filing the Petition and Appendix yesterday which I understand may have been the last date to file.
5. I filed the Petition and Appendix today, Friday Jan. 29, 2016 and spoke with the Clerk at the 4th DCA to file a Motion to extend the time or deem the one day later period timely.
6. I have emailed all the parties to get their consent or determine if an objection would be filed and sent this email today, Jan. 29, 2016 after speaking with the Clerk which I understand is required by Florida Rules of Appellate Procedure 9.300.
7. I now ask this Court to deem the filings timely and waive any 1 day defect based upon this excusable neglect.

Wherefore, it is respectfully prayed that this Court deem my Petition and Appendix filing herein timely and correct any defect based on the one day delay.

Dated: January 29, 2016

Respectfully submitted,

/s/Eliot Ivan Bernstein

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

CERTIFICATE OF SERVICE

I CERTIFY that a copy of the foregoing has been furnished to parties listed on attached Service List by E-mail Electronic Transmission; Court ECF; this 29th day of January, 2016.

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

SERVICE LIST - LOWER CASES DEFENDANTS, RESPONDENTS, COUNTER DEFENDANTS

John P. Morrissey, Esq. 330 Clematis Street, Suite 213 West Palm Beach, FL 33401 (561) 833-0766-Telephone (561) 833-0867 -Facsimile Email: John P. Morrissey (iohn@jrnoiTisseylaw.com)	Lisa Friedstein 2142 Churchill Lane Highland Park, IL 60035 lisa@friedsteins.com
Peter M. Feaman, Esq. Peter M. Feaman, P.A. 3695 West Boynton Beach Blvd., Suite 9 Boynton Beach, FL 33436 (561) 734-5552 -Telephone (561) 734-5554 -Facsimile Email: service@feamanlaw.com: mkoskey@feamanlaw.com	Jill Iantoni 2101 Magnolia Lane Highland Park, IL 60035 jilliantoni@gmail.com
Gary R. Shendell, Esq. Kenneth S. Pollock, Esq. Shendell & Pollock, P.L. 2700 N. Military Trail, Suite 150 Boca Raton, FL 33431 (561)241-2323 - Telephone (561)241-2330- Facsimile Email: gary@shendellpollock.com ken@shendellpollock.com estella@shendellpollock.com britt@shendellpollock.com grs@shendellpollock.com	Counter Defendant Robert Spallina, Esq. Donald Tescher, Esq. Tescher & Spallina 925 South Federal Hwy., Suite 500 Boca Raton, Florida 33432

<p>Brian M. O'Connell, Esq. Joielle A. Foglietta, Esq. Ciklin Lubitz Martens & O'Connell 515 N. Flagler Dr., 20th Floor West Palm Beach, FL 33401 561-832-5900-Telephone 561-833-4209 - Facsimile Email: boconnell@ciklinlubitz.com; ifoglietta@ciklinlubitz.com; service@ciklinlubitz.com; slobdell@ciklinliibitz.com</p>	<p>Counter Defendant John J. Pankauski, Esq. Pankauski Law Firm PLLC 120 South Olive Avenue 7th Floor West Palm Beach, FL 33401 courtfilings@pankauskilawfirm.com john@pankauskilawfirm.com</p>
<p>Counter Defendant Mark R. Manceri, Esq., and Mark R. Manceri, P.A., 2929 East Commercial Boulevard Suite 702 Fort Lauderdale, FL 33308 mrmlaw@comcast.net</p>	<p>Counter Defendant Donald Tescher, Esq., Tescher & Spallina, P.A. Wells Fargo Plaza 925 South Federal Hwy Suite 500 Boca Raton, Florida 33432 dtescher@tescherspallina.com</p>
<p>Theodore Stuart Bernstein 880 Berkeley Boca Raton, FL 33487 tbernstein@lifeinsuranceconcepts.com</p>	<p>Counter Defendant TESCHER & SPALLINA, P.A.. Wells Fargo Plaza 925 South Federal Hwy Suite 500 Boca Raton, Florida 33432 dtescher@tescherspallina.com</p>
<p>Theodore Stuart Bernstein Life Insurance Concepts, Inc. 950 Peninsula Corporate Circle Suite 3010 Boca Raton, FL 33487 tbernstein@lifeinsuranceconcepts.com</p>	<p>Counter Defendant Alan B. Rose, Esq. PAGE, MRACHEK, FITZGERALD, ROSE, KONOPKA, THOMAS & WEISS, P.A. 505 South Flagler Drive, Suite 600 West Palm Beach, Florida 33401 561-355-6991 arose@pm-law.com arose@mrachek-law.com</p>
<p>Pamela Beth Simon 950 N. Michigan Avenue Apartment 2603 Chicago, IL 60611 psimon@stpcorp.com</p>	<p>Counter Defendant L. Louis Mrachek, Esq. PAGE, MRACHEK, FITZGERALD, ROSE, KONOPKA, THOMAS & WEISS, P.A. 505 South Flagler Drive, Suite 600 West Palm Beach, Florida 33401 561-355-6991 lmrachek@mrachek-law.com</p>
<p>Jill Iantoni</p>	<p>Counter Defendant</p>

2101 Magnolia Lane Highland Park, IL 60035 jilliantoni@gmail.com	Pankauski Law Firm PLLC 120 South Olive Avenue 7th Floor West Palm Beach, FL 33401
Lisa Sue Friedstein 2142 Churchill Lane Highland Park, IL 60035 lisa.friedstein@gmail.com lisa@friedsteins.com	Dennis McNamara Executive Vice President and General Counsel Oppenheimer & Co. Inc. Corporate Headquarters 125 Broad Street New York, NY 10004 800-221-5588 Dennis.mcnamara@opco.com info@opco.com
Dennis G. Bedley Chairman of the Board, Director and Chief Executive Officer Legacy Bank of Florida Glades Twin Plaza 2300 Glades Road Suite 120 West – Executive Office Boca Raton, FL 33431 info@legacybankfl.com DBedley@LegacyBankFL.com	Hunt Worth, Esq. President Oppenheimer Trust Company of Delaware 405 Silverside Road Wilmington, DE 19809 302-792-3500 hunt.worth@opco.com
James Dimon Chairman of the Board and Chief Executive Officer JP Morgan Chase & CO. 270 Park Ave. New York, NY 10017-2070 Jamie.dimon@jpmchase.com	Neil Wolfson President & Chief Executive Officer Wilmington Trust Company 1100 North Market Street Wilmington, DE 19890-0001 nwolfson@wilmingtontrust.com
William McCabe Oppenheimer & Co., Inc. 85 Broad St Fl 25 New York, NY 10004 William.McCabe@opco.com	STP Enterprises, Inc. 303 East Wacker Drive Suite 210 Chicago IL 60601-5210 psimon@stpcorp.com
Charles D. Rubin Managing Partner Gutter Chaves Josepher Rubin Forman Fleisher Miller PA Boca Corporate Center 2101 NW Corporate Blvd., Suite 107	Ralph S. Janvey Krage & Janvey, L.L.P. Federal Court Appointed Receiver Stanford Financial Group 2100 Ross Ave, Dallas, TX 75201 rjanvey@kjllp.com

Boca Raton, FL 33431-7343 crubin@floridatax.com	
Kimberly Moran Teschler & Spallina, P.A. Wells Fargo Plaza 925 South Federal Hwy Suite 500 Boca Raton, Florida 33432 kmoran@tescherspallina.com	Lindsay Baxley aka Lindsay Giles Life Insurance Concepts 950 Peninsula Corporate Circle Suite 3010 Boca Raton, FL 33487 lindsay@lifeinsuranceconcepts.com
Gerald R. Lewin CBIZ MHM, LLC 1675 N Military Trail Fifth Floor Boca Raton, FL 33486	CBIZ MHM, LLC General Counsel 6480 Rockside Woods Blvd. South Suite 330 Cleveland, OH 44131 ATTN: General Counsel generalcounsel@cbiz.com (216)447-9000
Albert Gortz, Esq. Proskauer Rose LLP One Boca Place 2255 Glades Road Suite 421 Atrium Boca Raton, FL 33431-7360 agortz@proskauer.com	Heritage Union Life Insurance Company A member of WiltonRe Group of Companies 187 Danbury Road Wilton, CT 06897 cstroup@wiltonre.com
Estate of Simon Bernstein Brian M O'Connell Pa 515 N Flagler Drive West Palm Beach, FL 33401 boconnell@ciklinlubitz.com	Counter Defendant Steven Lessne, Esq. Gray Robinson, PA 225 NE Mizner Blvd #500 Boca Raton, FL 33432 steven.lessne@gray-robinson.com
Byrd F. "Biff" Marshall, Jr. President & Managing Director Gray Robinson, PA 225 NE Mizner Blvd #500 Boca Raton, FL 33432 biff.marshall@gray-robinson.com	Steven A. Lessne, Esq. Gunster, Yoakley & Stewart, P.A. 777 South Flagler Drive, Suite 500 East West Palm Beach, FL 33401 Telephone: (561) 650-0545 Facsimile: (561) 655-5677 E-Mail Designations: slessne@gunster.com jhoppel@gunster.com eservice@gunster.com
T&S Registered Agents, LLC Wells Fargo Plaza	David Lanciotti Executive VP and General Counsel

<p>925 South Federal Hwy Suite 500 Boca Raton, Florida 33432 dtescher@tescherspallina.com</p>	<p>LaSalle National Trust NA CHICAGO TITLE LAND TRUST COMPANY, as Successor 10 South LaSalle Street Suite 2750 Chicago, IL 60603 David.Lanciotti@ctt.com</p>
<p>Joseph M. Leccese Chairman Proskauer Rose LLP Eleven Times Square New York, NY 10036 jleccese@proskauer.com</p>	<p>Brian Moynihan Chairman of the Board and Chief Executive Officer 100 N Tryon St #170, Charlotte, NC 28202 Phone:(980) 335-3561</p>

RONIK S. SEECHARAN**RS****D.M.D., P.A.***Practice limited to Prosthodontics*

November 3, 2015


To whom it may concern;

This is a formal statement regarding patient Elliott Bernstein. Mr. Bernstein is currently an active patient of the practice and has ongoing dental treatment. He suffers from transient TMD (temporo mandibular dysfunction) for approximately 2-3 weeks after treatment; he experiences effects from his TMD, especially after cementation of lower arch temporaries.

Patient was dispensed 20 Vicodin 6s 7.5/300 on 12/29/15 and was scheduled an appointment January 4th, 2016; however, subsequently he has rescheduled this appointment.

Should you have any further questions, please do not hesitate to contact me.

Sincerely,


Dr. Ron Seecharan