

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT

CASE NO. 4D16-64

ELIOT BERNSTEIN

L.T. CASE NOS.:502014CP003698XXXXNBIJ

v.

TED S. BERNSTEIN, AS TRUSTEE,
et al.

Respondent.

**RESPONDENT'S RESPONSE TO MOTION FOR EXTENSION
TO FILE PETITION FOR WRIT OF PROHIBITION**

Respondent, Ted S. Bernstein, as Successor Trustee of the Shirley Bernstein Trust ("Trustee"), responds to the *pro se* Petitioner's Motion for Extension to File Petition for Writ of Prohibition, and states:

1. Eliot Bernstein, although *pro se*, is an experienced, serial and vexatious filer of legal papers. Indeed, he filed in October 2015 a nearly identical Petition for All Writs seeking disqualification of the prior assigned judge, accusing the former judge of the same nonsense for which he now accuses the presiding judge, Hon. John L. Phillips. *See* Case No. 4D15-3849. This Court dismissed that Petition on November 30, 2015, and denied his Motion for Rehearing En Banc on January 7, 2016. (His Notice of Appeal to the Supreme Court from the denial of his prior Petition for All Writs was dismissed on the same day, January 7, 2016.)

2. The instant proceeding arises from multiple motions to disqualify Judge Phillips. Eliot Bernstein filed his Petition one-day late and seeks an extension of time to permit a late-filing. Petitioner does not concede the truthfulness of the alleged reasons for the delayed filing. Indeed, this filing appears to be mostly a cut-and-paste of the Petition filed seeking removal of the last judge, and therefore easily could have been timely filed by Eliot Bernstein. Petitioner also does not concede that an extension was necessary or warranted. This *pro se* petitioner still needs to follow the rules.

3. Regardless, Petitioner does not oppose this Court granting the requested extension and deeming the late-filed Petition to be timely. Petitioner requests that the Petition be summarily denied *on the merits*, rather than due to the delay in filing.

WHEREFORE, Petitioner advises the Court that it does not oppose a one-day extension, and otherwise requests that the Petition be summarily denied on the merits.

CERTIFICATE OF SERVICE

I CERTIFY that a copy of the foregoing has been furnished to parties listed on attached Service List by: ☐ Facsimile **and** ☐ U.S. Mail; ☐ U.S. Mail; ☒ E-mail Electronic Transmission; ☐ FedEx; ☐ Hand Delivery this 4th day of February, 2016.

MRACHEK, FITZGERALD, ROSE, KONOPKA,
THOMAS & WEISS, P.A.
505 South Flagler Drive, Suite 600
West Palm Beach, FL 33401
(561) 655-2250 Telephone / (561) 655-5537 Facsimile
email: arose@mrachek-law.com
Attorneys for Ted S. Bernstein

By: /s/ Alan B. Rose
Alan B. Rose (Fla. Bar No. 961825)

SERVICE LIST - CASE NO. 4D15-3849

Eliot Bernstein, individually
and Eliot and Candice Bernstein,
as Parents and Natural Guardians of
D.B., Ja. B. and Jo. B, Minors
2753 NW 34th Street
Boca Raton, FL 33434
(561) 245-8588 - Telephone
(561) 886-7628 - Cell
(561) 245-8644 - Facsimile
Email: Eliot I. Bernstein (iviewit@iviewit.tv)

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
(john@jmorrisseylaw.com)
Counsel for Molly Simon, Alexandra Bernstein,
Eric Bernstein, Michael Bernstein

Lisa Friedstein
2142 Churchill Lane
Highland Park, IL 60035
lisa@friedsteins.com
Individually and as trustee for her children, and
as natural guardian for M.F. and C.F., Minors

Jill Iantoni
2101 Magnolia Lane
Highland Park, IL 60035
jilliantoni@gmail.com
Individually and as trustee for her children, and
as natural guardian for J.I. a minor

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
Counsel for William Stansbury

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

Robert Spallina, Esq.
Donald Tescher, Esq.
Tescher & Spallina
925 South Federal Hwy., Suite 500
Boca Raton, Florida 33432

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;
jfoglietta@ciklinlubitz.com;
service@ciklinlubitz.com;
slobdell@ciklinlubitz.com