

Donald R. Tescher
Wells Fargo Plaza
925 South Federal Highway, Suite 500
Boca Raton, FL 33432

September 22, 2018

Via Electronic Mail: arose@mrachek-law.com

And Regular Mail

Alan B. Rose, Esq.
Mrachek, Fitzgerald, Rose, et al
505 S. Flagler Drive, Suite 600
West Palm Beach, FL 33401-5945

Re: Bernstein Family Realty, LLC

Dear Alan:

Enclosed is a copy of another summons served on us on Thursday, September 20, 2018, for the Bernstein Family Realty, LLC that I accepted as the last registered agent for the company.

This entity is showing as inactive with the State of Florida Division of Corporations. I believe that the interested parties to the foreclosure action are trusts for Eliot Bernstein's three children. I will take no actions regarding this lawsuit and can give you no legal advice as I am currently serving a suspension of my law license.

Very truly yours,

DONALD R. TESCHER

DRT/ag
Enclosure

cc: Eliot Bernstein (Via e-mail and Regular Mail)
Ted Bernstein (Via e-mail only)
Marc J. Soss, Esq. (Via e-mail only)
Paul D. Turner, Esq. (Via e-mail only)
Brian M. O'Connell, Esq. (Via e-mail only)

PL
CPS # 1982
9/20/18
YBSP

IN THE CIRCUIT COURT OF THE 15TH
JUDICIAL CIRCUIT, IN AND FOR PALM
BEACH COUNTY, FLORIDA

CASE NO.: 50-2018-CA-002317

WALTER E. SAHM and
PATRICIA SAHM

Plaintiffs,

v.

BERNSTEIN FAMILY REALTY, LLC and
ALL UNKNOWN TENANTS.

Defendant

SUMMONS

TO DEFENDANT: BERNSTEIN FAMILY REALTY LLC
C/o DONALD R. TESCHER
925 S. FEDERAL HIGHWAY
SUITE 500
BOCA RATON, FL 33432

IMPORTANTE/IMPORTANT
En Espaniol Al Dorso/Français Au Verso
IMPORTANT

A lawsuit has been filed against you. You have twenty (20) calendar days after this Summons is served on you to file a written response to the attached 2nd Amended Complaint in this Court. A phone call will not protect you; your written response, including the above case number and named parties must be filed if you want the Court to hear your case. If you do not file your response on time, you may lose the case, and your wages, money and property may thereafter be taken without further warning from the Court. There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may call an attorney referral service or legal aid office (listed in the phone book).

If you choose to file a written response yourself, at the same time you file your written response to the Court, located at: Palm Beach County Courthouse, Clerk of Courts, 205 North Dixie Highway, West Palm Beach, FL 33401, you must also mail or take a carbon copy or photocopy of your written response to the Plaintiff's Attorney named below:

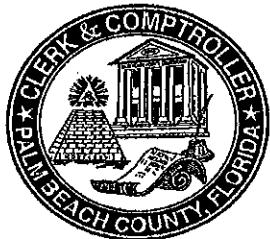
Plaintiff's Attorney: Robert Sweetapple, Esquire
SWEETAPPLE, BROEKER & VARKAS, PL
4800 N. Federeal Highway, Suite B105
Boca Raton, Florida 33431
Telephone: (561) 392-1230

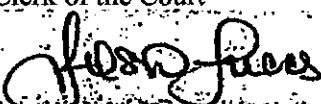
THE STATE OF FLORIDA

TO EACH SHERIFF OF THE STATE: You are commanded to serve this Summons and a copy of the Complaint in this lawsuit on the above named Defendant.

Sep 20 2018
DATED on September 18, 2018.

(COURT SEAL)



SHARON R. BOCK,
As Clerk of the Court
By: 
As Deputy Clerk **JOSIE LUCCE**

IMPORTANTE

Usted ha sido demandado legalmente. Tiene 20 Dias, contados a partir del recibo de esta notificacion, para contestar la demanda adjunta, por escrito, y presentarla ante este tribunal. Una llamada telefonica no lo protegera. Si usted desea que el tribunal considere su defensa, debe presentar su respuesta por escrito, incluyendo el numero del caso y los nobres de las partes interesadas. Si usted no contesta la demanda a tiempo, pudiese perder el caso y prodria ser despojado de sus ingresos y propiedades, o privado de sus derechos, sin previo aviso del tribunal. Existen otros requisitorios legales. Si lo desea, puede usted consultar a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a una de las oficinas de asistencia legal que aparecen en la guia telefonica.

Si desea responder a la demanda por su cuenta, al mismo tiempo en que presenta su respuesta ante el tribunal, debera usted enviar por correo o entregar una copia de su respuesta a la persona denominada abajo como "Plaintiff/Plaintiff's Attorney" (Demandante o Abogado del Demandante).

IMPORTANT

Des poursuites judiciaires ont ete entreprises contre vous. Vous avez 20 jours consécutifs à partir de la date de l'assignation de cette citation pour déposer une réponse écrite à la plainte ci-jointe auprès de ce tribunal. Un simple coup de téléphone avec mention du numéro de dossier ci-dessus et du nom des parties nommées ici, si vous souhaitez que le tribunal entende votre cause. Si vous ne déposez pas votre réponse écrite dans le délai requis, vous risquez de perdre la cause ainsi que votre salaire, votre argent, et vos biens peuvent être saisis par la suite, sans aucun préavis ultérieur du tribunal. Il ya d'autres obligations juridiques et vous pouvez requérir les services d'un service de référence d'avocats ou à un bureau d'assistance juridique (figurant à l'annuaire de téléphones).

Si vous choisissez de déposer vous-même une réponse écrite, il vous faudra également en même temps que cette formalité, faire parvenir ou expédier une copie de votre réponse écrite au "Plaintiff/Plaintiff's Attorney" (Plaignant ou à son avocat) nommé ci-dessous.

IN THE CIRCUIT COURT OF THE 15TH
JUDICIAL CIRCUIT IN AND FOR
PALM BEACH COUNTY, FLORIDA

CASE NO.: 50-2018-CA-002317-XXXX-MB

WALTER E. SAHM and
PATRICIA SAHM

Plaintiffs,

v.

BERNSTEIN FAMILY REALTY, LLC and
ALL UNKNOWN TENANTS.

Defendant

SECOND AMENDED COMPLAINT FOR FORECLOSURE

Plaintiffs, WALTER E. SAHM, an individual, and PATRICIA SAHM, an individual, by and through their undersigned counsel, hereby sue BERNSTEIN FAMILY REALTY, LLC, a Florida Limited Liability Company, and ALL UNKNOWN TENANTS, and allege:

JURISDICTION AND VENUE

1. The Court has subject matter jurisdiction over this action because it is both an action in equity seeking to foreclose a mortgage on real property, and because it is an action seeking to enforce a promissory note for damages in excess of fifteen thousand dollars (\$15,000.00).

2. Venue is proper in Palm Beach County, pursuant to § 47.011, Florida Statutes, because Palm Beach County is the county in which the subject property is located.

3. All conditions precedent and necessary to bring this cause of action either have been performed, have occurred, have been waived, or otherwise excused.

PARTIES¹

4. Plaintiff, WALTER E. SAHM ("Mr. Sahm"), is an individual residing in Palm Beach County, Florida, and at all times material was *sui juris*.

5. Plaintiff, PATRICIA SAHM ("Mrs. Sahm"), is an individual residing in Palm Beach County, Florida; and all times material was *sui juris*.

6. Defendant, BERNSTEIN FAMILY REALTY, LLC ("BFR") is an administratively dissolved Florida Limited Liability, with its principal place of business in Boca Raton, Florida, and its registered agent, T&S Registered Agents, LLC, also located in Boca Raton, Florida.

7. All UNKNOWN TENANTS ("Tenants") who are unidentified but are either residing on the subject property or may claim an interest in the subject property, as a spouse, heir, devisee, grantee, or other name, are joined as defendants, and whose interest is subordinate, junior, and inferior to Plaintiff's interest.

COUNT I – FORECLOSURE OF MORTGAGE

8. This action seeks to foreclose a mortgage on real property which secures an outstanding debt owed under a promissory note between the parties.

9. On June 20, 2008, BFR entered into a Promissory Note ("Note") with the Sahms, agreeing to pay the Sahms the sum of \$110,000.00 plus interest under terms set forth in the Note.

Exhibit "1".

10. On June 20, 2008, BFR executed a Mortgage on real property in favor of the Sahms as collateral to the debt owed under the Note. **Composite Exhibit "2".**

¹ Mr. Sahm and Mrs. Sahm may collectively be referred to as the "Sahms".

11. The Mortgage was recorded on June 26, 2008 in the Public Records of Palm Beach County, Florida: O.R. Book 22723, Page 0691.

12. On February 15, 2012, BFR and the Sahms executed an Amendment to Mortgage and Promissory Note ("Amendment" to the Note and Mortgage). **Composite Exhibit "3".**

13. The Amendment was recorded on April 12, 2012 in the Public Records of Palm Beach County, Florida: O.R. Book 25132, Page 1051.

14. The Sahms both own and hold both the Note and Mortgage.

15. BFR owns the subject property and is in possession of it.

16. BFR defaulted under, and subsequently breached its obligations under both the Note and Mortgage by failing to make all necessary payments under the Note, Mortgage, and Amendment.

17. As of the date of the filing of this lawsuit, BFR owes the Sahms at least \$187,163.80, exclusive of both attorney's fees and costs.

[THIS SPACE INTENTIONALLY LEFT BLANK]

WHEREFORE, Plaintiffs, WALTER E. SAHM and PATRICIA SAHM, pray for a final judgment of foreclosure against Defendants, BERNSTEIN FAMILY REALTY, LLC and ALL UNKNOWN TENANTS:

- a. concluding that Plaintiffs' Mortgage is a valid Lien on the subject property and is superior to any lien of record;
- b. foreclosing Plaintiffs' Mortgage;
- c. foreclosing of all Defendants named in this action;
- d. delivering full possession of the subject property to Plaintiffs;
- e. retaining jurisdiction for the Court to determine any deficiency to which Plaintiffs may be entitled; and
- f. retaining jurisdiction to determine the reasonable amount of both attorney's fees and costs which Plaintiffs are entitled to recover against Defendant; and
- g. any other relief which the Court deems just and proper.

ATTORNEY FEE DEMAND

Plaintiffs, WALTER E. SAHM and PATRICIA SAHM, have retained the undersigned law firm to represent them in this action. The Note, which the Sahm's are suing to enforce, contains an attorney's fees provision. Florida Statute §57.105(7) state that "if a contract contains a provision allowing attorney's fees to a party when he or she is required to take any action to enforce the contract, the court may also allow reasonable attorney's fees when that party prevails in any action, whether as plaintiff or defendant, with respect to the contract." Thus, if the Sahms are the prevailing party in this action, then the Sahm's are entitled to recover their attorney's fees and

costs from Defendant, BERNSTEIN FAMILY REALTY, LLC. Plaintiffs hereby exercise that right.

Respectfully submitted,

SWEETAPPLE, BROEKER & VARKAS, P.L.
Attorneys for Plaintiffs
4800 N. Federal Highway, Suite B105
Boca Raton, Florida 33431
Telephone: (561) 392-1230
Email: Pleadings@sweetapplelaw.com

By: /s/ Alexander D. Varkas III
ALEXANDER D. VARKAS III
Florida Bar No.: 95773