

IN THE CIRCUIT COURT OF THE 15<sup>TH</sup>  
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,  
BRIAN O'CONNELL, AS SUCCESSOR PERSONAL REPRESENTATIVE OF THE ESTATE  
OF SIMON L. BERNSTEIN;  
ALEXANDRA BERNSTEIN,  
ERIC BERNSTEIN,  
MICHAEL BERNSTEIN,  
MOLLY SIMON,  
PAMELA B. SIMON,  
JILL IANTONI,  
MAX FRIEDSTEIN,  
LISA FRIEDSTEIN, INDIVIDUALLY AND TRUSTEES OF THE SIMON L. BERNSTEIN  
REVOCABLE TRUST AGREEMENT DATED MAY 20, 2008, AS AMENDED AND  
RESTATE;  
ELIOT BERNSTEIN, AND CANDICE BERNSTEIN, INDIVIDUALLY AND AS NATURAL  
GUARDIANS OF MINOR CHILDREN JO., JA. AND D. BERNSTEIN; AND  
ALL UNKNOWN TENANTS.

Defendants.

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**PLAINTIFFS AMENDED MOTION FOR ENTRY OF COURT'S DEFAULT AGAINST  
ALL DEFENDANTS FOR FAILURE TO FILE RESPONSES TO PLAINTIFF'S THIRD  
AMENDED COMPLAINT**

Plaintiffs, WALTER E. SAHM and PATRICIA SAHM, by and through their undersigned  
counsel, and pursuant to Florida Rule of Civil Procedure 1.500, hereby move for the entry of  
Default against Defendants, **BERNSTEIN FAMILY REALTY, LLC, BRIAN O'CONNELL,**  
**AS SUCCESSOR PERSONAL REPRESENTATIVE OF THE ESTATE OF SIMON L.**

**BERNSTEIN, ALEXANDRA BERNSTEIN, ERIC BERNSTEIN, MICHAEL BERNSTEIN, MOLLY SIMON, PAMELA B. SIMON, JILL IANTONI, MAX FRIEDSTEIN, LISA FRIEDSTEIN, INDIVIDUALLY AND TRUSTEES OF THE SIMON L. BERNSTEIN REVOCABLE TRUST AGREEMENT DATED MAY 20, 2008, AS AMENDED AND RESTATED, ELIOT BERNSTEIN, AND CANDICE BERNSTEIN, INDIVIDUALLY AND AS NATURAL GUARDIANS OF MINOR CHILDREN JO., JA. AND D. BERNSTEIN, AND ALL UNKNOWN TENANTS, and as grounds in support thereof, state:**

1. On July 29, 2016, the Court entered an Order Granting Plaintiff's Amended Motion for Leave to File Amend Complaint ("Amended Complaint"), and deemed the Third Amended Complaint filed as of June 18, 2019. **Exhibit "1".**

2. Defendants have been served with a copy of both Plaintiff's Third Amended Complaint and the Court's July 29, 2016 Order, but have failed to file any responses to Plaintiff's Third Amended Complaint.

3. In fact, on August 19, 2019, counsel for Defendants filed a Motion for Extension of Time asking for an extension to respond by September 17, 2019. Counsel for Defendant did not meet the September 17<sup>th</sup> deadline, but instead filed a Supplement to Motion for Extension of Time to respond by October 17, 2019. Counsel for Defendant failed to meet this deadline as well.

4. Florida Rule of Civil Procedure 1.500 governs the entry of defaults. Subsection (b) of this Rule states that:

**(b) By the Court.** When a party against whom affirmative relief is sought has failed to plead or otherwise defend as provided by these rules or any applicable statute or any order of court, the court may enter a default against such party; provided that if such party has filed or served any paper in the action, that party shall be served with notice of the application for default.

5. Defendants have been on notice of the above referenced documents because Defendants have been served with copies of them via email through the e-filing portal and US Mail to each party individually. Accordingly, Plaintiff's request for the Court's entry of a default against Defendants, **BERNSTEIN FAMILY REALTY, LLC, BRIAN O'CONNELL, AS SUCCESSOR PERSONAL REPRESENTATIVE OF THE ESTATE OF SIMON L. BERNSTEIN, ALEXANDRA BERNSTEIN, ERIC BERNSTEIN, MICHAEL BERNSTEIN, MOLLY SIMON, PAMELA B. SIMON, JILL IANTONI, MAX FRIEDSTEIN, LISA FRIEDSTEIN, INDIVIDUALLY AND TRUSTEES OF THE SIMON L. BERNSTEIN REVOCABLE TRUST AGREEMENT DATED MAY 20, 2008, AS AMENDED AND RESTATED, ELIOT BERNSTEIN, AND CANDICE BERNSTEIN, INDIVIDUALLY AND AS NATURAL GUARDIANS OF MINOR CHILDREN JO., JA. AND D. BERNSTEIN, AND ALL UNKNOWN TENANTS** is proper, as a matter of law. *See generally, Ziegler v. Huston, 626 So.2d 1046, 1047 (Fla. 4th DCA 1993).*

**WHEREFORE**, Plaintiffs, WALTER E. SAHM and PATRICIA SAHM, respectfully request that this Court enter Defaults against Defendants, **BERNSTEIN FAMILY REALTY, LLC, BRIAN O'CONNELL, AS SUCCESSOR PERSONAL REPRESENTATIVE OF THE ESTATE OF SIMON L. BERNSTEIN, ALEXANDRA BERNSTEIN, ERIC BERNSTEIN, MICHAEL BERNSTEIN, MOLLY SIMON, PAMELA B. SIMON, JILL IANTONI, MAX FRIEDSTEIN, LISA FRIEDSTEIN, INDIVIDUALLY AND TRUSTEES OF THE SIMON L. BERNSTEIN REVOCABLE TRUST AGREEMENT DATED MAY 20, 2008, AS AMENDED AND RESTATED, ELIOT BERNSTEIN, AND CANDICE BERNSTEIN, INDIVIDUALLY AND AS NATURAL GUARDIANS OF MINOR CHILDREN JO., JA. AND D. BERNSTEIN, AND ALL UNKNOWN TENANTS.**

Respectfully submitted,

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By: /S/ Robert A. Sweetapple  
ROBERT A. SWEETAPPLE  
Florida Bar No. 0296988  
BERKLEY SWEETAPPLE  
Florida Bar No. 112756

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that a true and correct copy of the foregoing has been furnished via the E-Filing Portal this 14th day of February, 2020 to: Eliot Ivan Bernstein, 2753 NW 34<sup>th</sup> St., Boca Raton, FL 33434, (iviewit@iviewit.tv); Brian O'Connell, Esq., and Ashley Crispin Ackal, Esq., O'Connell & Crispin, PLLC, 420 Royal Palm Way, Palm Beach, FL 33480 (boconnell@ocalawyers.com; acrispinackal@ocalawyers.com); Cary P. Sabol, Esq., Law Offices of Cary P. Sabol, P.O. Box 15981, West Palm Beach, Florida 33416 CSabol@sabollaw.com; Alan B. Rose, Esq., Mrachek-law, Fitzgerald & Rose, P; and [Arose@Mrachek-law.com](mailto:Arose@Mrachek-law.com).

By: /S/ Robert A. Sweetapple  
ROBERT A. SWEETAPPLE  
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