

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,

Motion for Rehearing 1.530

-against-

BERNSTEIN FAMILY REALTY, LLC,
And defendants.

Defendants.

AFFIDAVIT FOR
Rehearing 1.530

State of Florida)
)
County of Palm Beach)

Eliot I. Bernstein, being duly sworn, declares under oath and penalty of perjury as
follows:

COMES NOW, Petitioner Eliot I. Bernstein, a named party defendant proceeding pro se and being duly Sworn under oath and penalties of perjury makes this Motion for Rehearing under 1.530 of the Order of March 6, 2025 DE No. 314 and incorporate by reference the allegations in a mandatory disqualification of Judge Parnofiello who should be Disqualified and the Order vacated. I am a named party Defendant who resides at the subject property address which was part of Asset Protection and Estate Planning by my parents Simon and Shirley Bernstein now deceased.

1. This asset protection planning was done in part after a Car Bombing of my family mini-van as my Technology Inventions “Iviewit” used worldwide by the US Defense industry, Telecom providers and many other uses heralded as the “Holy Grail” of the Internet by leading industry experts having been tested, validated and approved at Lockheed Martin property with Real3d Inc co-owned by Lockheed, the Intel Corp, and Silicon Graphics Inc and others had been stolen by my own attorneys at Proskauer Rose with offices in Boca Raton, Florida and after I had reported matters to the FBI, USPTO and other federal and state authorities.
2. The technologies have been valued in the hundreds of billions of US dollars and my allegations have been reviewed by former Federal Agents as well

and District of Columbia (DC) persons with access to “SigInt” or Signal Intelligence.

3. I have never once been contacted by any Federal authority to question the veracity of my integrity or allegations but have had State Court authorities weaponize the justice system against me for years being left pro se many times and having attorneys who tried to represent me threatened.
4. Judge Parnofiello has now left me in again in a compromised position with no attorney after an Order threatening Licensed attorney Inger Garcia and myself and family and family company with Criminal Contempt merely for exercising rights under the Florida Rules which all litigants have.
5. This foreclosure action came years after these events after my parents passed away and I had exposed Fraud in Judge Martin Colin’s court by attorneys Tescher and Spallina and have repeatedly reported this fraud to the Palm Beach Sheriff’s Office and DC persons and the FBI.
6. The threat to “foreclose” on the property were first raised in Judge Colin’s Court and Ted Bernstein, Alan Rose and others have repeatedly used the threat of foreclosure of the home as an extortion like tool to extract concessions and agreements from me and my family while simultaneously being denied basic rights to documents, discovery and justice in several cases in the 15th Judicial including this very court.

7. I have made multiple appearances in this case challenging personal Service and Jurisdiction in this case which I have not waived and now file this Sworn Statement and Affidavit under oath and penalties of perjury under FS Sec. 38.10 for the mandatory disqualification of Judge Parnofiello and under applicable Judicial Rules and the US Constitution and Florida Constitution and will seek leave under Court Rule to Vacate all Orders and Decisions of Judge Parnofiello herein including but not limited to actions under DE No. 314, 315, 316, 321, 324 who must now be mandatorily Disqualified by law.
8. I, Eliot I. Bernstein state sworn under oath and in good faith that I will not receive a fair trial or hearing before Judge Parnofiello because of specifically described prejudice or bias of Judge Parnofiello and that this fear is both reasonable, objective and supported by other Witness Observers to the conduct of Judge Parnofiello.
9. The conduct and actions of Judge Parnofiella which support this mandatory Disqualification occurred on or about March 6, 2025 to the present including but not limited to actions under DE No. 314, 315, 316, 321, 324 thus making this motion for mandatory Disqualification timely under the law as within 20 days.
10. This is a first motion for mandatory Disqualification of Judge Parnofiello under FS 38.10 and Rule and rules of a first motion apply.

11. Under Florida Statutes Sec. 38.10, “Whenever a party to any action or proceeding makes and files an affidavit stating fear that he or she will not receive a fair trial in the court where the suit is pending on account of the prejudice of the judge of that court against the applicant or in favor of the adverse party, the judge shall proceed no further, but another judge shall be designated in the manner prescribed by the laws of this state for the substitution of judges for the trial of causes in which the presiding judge is disqualified.”
12. This motion for mandatory disqualification is also filed under Florida Rules of Judicial Administration Rule 2.330, disqualification of trial judges,
13. This rule applies to county and circuit judges in all matters in all divisions of Court.
14. Judge Parnofiello is a Circuit judge in the 15th Judicial Circuit and this rule thus applies to his office.
15. Petitioner further moves for mandatory disqualification and to otherwise disqualify Judge Parnofiello for mandatory grounds provided by the Florida rules, statutes, laws, Florida Code of Judicial Conduct and US Constitution and Florida Constitution.
16. This motion is legally sufficient as it is in writing, filed in good faith, is timely under the law, establishes reasonable grounds to believe I can not

receive a fair trial before Judge Parnofiello and is certified in good faith and sworn to under oath and served properly and is legally sufficient in all respects.

17. Judge Parnofiello must now be immediately Disqualified from all matters herein.

EMERGENCY GROUNDS

18. This motion is filed as an Emergency as in addition to the mandatory nature of the Disqualification as immediate, Judge Parnofiello is knowingly, willingly and wantonly permitting the continuation of fraud in the proceedings and acting in deliberate indifference and against US and Florida Constitutional due process standards and immediate rights of myself and family and family's company are at stake.

19. Judge Parnofiello has committed the cardinal sin of Judges by knowingly, willfully and wantonly Pre-judging motions before even filed or heard and unlawfully and illegally exceeding his authority and jurisdiction by taking away Florida Civil rights by the Civil Rules including no right to Rehearing which every litigant in the State of Florida is allowed and has done so upon the threat of Criminal prosecution all while knowing he has not ever fully heard the frauds before this Court alleged by Florida Licensed attorneys and knowing multiple missing Witnesses and evidence were not present before

the Court making his finding of “beyond a reasonable doubt” in some alleged “scheme” and defamatory and slanderous allegations of “elder abuse” in this civil case highly biased and prejudicial comments mandating his Disqualification immediately.

20. Given my long history of reporting matters to the FBI, other federal authorities and available state authorities including actions in this very case with the PBSO and specifically relating to Pat Sahm, Sr. it is highly prejudicial and lacks a rational basis and lacks substantial competent evidence for Judge Parnofiello to have made the findings he has thus making his actions biased, highly prejudicial and mandating disqualification.
21. Judge Parnofiello's conduct implicates the continuing use of the “machinery of the courts” to continue fraud and false claims to generate improper attorneys fees in bad faith litigation which involves several cases in the 15th Judicial including but not limited to the Shirley Bernstein Trust case and the MH and GA cases of Pat Sahm, Sr.
22. Judge Parnofiello was specifically notified of the bad faith litigation by Kevin Hall who sought to intervene but Judge Parnofiello denied and then made rulings implicating his conduct without ever hearing from him or giving him due process even though he was present at the last hearing to be

called as a witness and upon information and belief even messaged Judge Parnofiello on Zoom who never responded.

23. Judge Parnofiello wholly, willfully and wantonly failed to inquire of either licensed attorneys Sweetapple or Garcia while Mr. Hall was not called as a witness yet appears the Judge prejudicially and without factual basis “assumed” Kevin Hall was in some scheme with Inger Garcia when the Judge cited in the March 6, 2025 Order which illegally took away rights on threat of criminal contempt a Text from Inger Garcia to Amber Patwell showing Ms. Garcia’s efforts to “cut” Kevin out.
24. These facts alone are sufficient for mandatory disqualification.
25. AI research shows it unlawful for a Judge to “take away” rights to a Rehearing and further this is “prejudging” the cardinal sin of Judges.
26. AI also shows it is improper to conceal parties acting by a Power of Attorney in this type of case which Judge Parnofiello’s own order under DE No. 314 has done now apparently going back to 2018 by Robert Sweetapple while Judge Parnofiello did not ask Mr. Sweetapple one question relating to the fraud allegations against him or if he was proceeding with proper authority from the GA Court of Pat Sahm, Sr all which appears as highly biased and prejudicial conduct mandating Disqualification as the Order dE

No. 314 and Record show multiple comments negative and adverse to my counsel Garcia who I had the right to Trust and rely on.

BACKGROUND

27. Judge Parnofiello is alleged to be a former “State Attorney” which makes the conduct in this case more egregious and wanton as Judge Parnofiello presumably had some basic, fundamental training in that role and his role as Judge all of which makes the belief a fair trial can not be had before him objectively reasonable and legally sufficient as any reasonable person knows no one can get to the Truth and proper Fact finding where witnesses and evidence are missing and Judge Parnofiello had to learn this somewhere along the way making his actions appear deliberate, willful,, wanton and highly prejudicial.

28. Judge Parnofiello has knowingly, willingly, wantonly with deliberate indifference disregarded frauds alleged with specificity, conflicts of interest raised in writing and presented before the Court, and specifically disregarded multiple Missing Witnesses in the Hearing / Trial recently concluded before him where Licensed Florida attorneys Robert Sweetapple and Inger Garcia each implicated each other in Fraud yet “somehow” Judge Parnofiello came to a Finding “beyond a reasonable doubt” knowing he had not heard from Witnesses he made findings against and knowing a full presentation of

evidence could not possibly have been made all making the fear a Fair trial
can not be had before him reasonable and objective mandating
Disqualification.

29. Judge Parnofiello was specifically aware in writing by the very Motion he granted in DE No. 314 by Robert Sweetapple in DE No. 226 that conflicts of interest were claimed by Sweetapple who sought the Disqualification of my counsel Inger Garcia.
30. Judge Parnofiello was aware Ms. Garcia was representing multiple parties and wholly failed to determine if proper waivers were in place and if myself and family and company had properly been advised of all the risks of multiple representation.
31. Despite knowing his own failure on this judicial obligation, Judge Parnofiello proceeds to do the unthinkable and makes myself and family and family company responsible for all of our Counsel's actions when we had the right to rely and trust.
32. As she has stated herself, it was "my case, my way" but Judge Parnofiello never ascertained the conflicts nor the fraud and somehow disregards all the fraud alleged against Sweetapple and then takes away all of our rights to seek proper justice and determination of the fraud and threatens criminal prosecution.

33. This is highly prejudicial and grounds for disqualification.

UNDER ESTABLISHED CASE LAW JUDGE PARNOFIELLA'S ORDER AGAINST COUNSEL GARCIA AND OTHER COMMENTS AGAINST THE INTEGRITY OF COUNSEL GARCIA ARE SUFFICIENT ALONE TO CREATED A REASONABLE FEAR OF A FAIR TRIAL BEFORE THIS COURT

34. These principles apply to support Disqualification. Lowman v. Racetrac

Petroleum, Inc., 220 So. 3d 1282, 1284 (Fla. 1st DCA 2017) (**holding that**

"as an indication of a bias which may create a party's fear of not

receiving an impartial hearing, there is no appreciable difference"

between statements directed toward petitioner or his counsel); State v.

Alzate, 972 So. 2d 226, 229 (Fla. 3d DCA 2007) (*granting writ of*

prohibition where trial judge accused counsel of "play[ing] games");

DeMetro v. Barad, 576 So. 2d 1353, 1354 (Fla. 3d DCA 1991) ("**[A]**

judge's statement that he [or she] feels a party has lied in a case before

him [or her], generally indicates bias against the party.") (citation

omitted). See, Murphy v. Collins, 307 So. 3d 102, 105 (Fla. Dist. Ct. App.

2020).

35. I believe this also applies from AI: Michaud-Berger v. Hurley, 607 So. 2d

441, 447 (Fla. 4th DCA 1992) (Letts, J., concurring) ("**A litigant who is ...**

informed that the presiding judge believes her lawyer to be greedy,

deceitful, unethical ... would be a fool not to have 'fears' that she will

not receive a fair trial."). See Murphy v. Collins, 307 So. 3d 102, 105 n.4 (Fla. Dist. Ct. App. 2020).

36. Again, Judge Parnofiello wholly disregarded any allegation of fraud against Mr. Sweetapple not even asking a single question yet made prejudicial comments and adverse findings against my Counsel Garcia then made rulings and findings knowing witnesses and evidence were missing. This is bias and prejudice.
37. Judge Parnofiello knew there were no fact finding hearings in the GA or MH case that came from contested evidentiary hearings.
38. The Judge also knew there were legal grounds to contest any findings in the GA and MH cases but disregarded and struck all of Mr. Hall's filings without a hearing or notice.
39. Judge Parnofiello based his findings on part to an unsubstantiated claim to Alzheimers by Pat Sahm, Sr. without any substantial competent evidence.
40. This was unsupported in the record and many witnesses were missing.
41. As I am now I am compromised by the knowing failures of Judge Parnofiello to address all the claims of fraud and the conflicts of interest as I not only do not know why my Counsel did many things, filed or didn't file but also do not have the documents or information to properly pursue my rights all of which was created by biased conduct by Judge Parnofiello.

42. Judge Parnofiello was further biased by going against his own Order to give a charging lien to Counsel Garcia where there is no showing of any success or fruits of her work in this case by the Judge's own Order which is a further obstacle and burden on myself to get new counsel all by biased and prejudiced conduct.

MISSING WITNESSES

43. Judge Parnofiello actually knows, should know and is willfully disregarding with deliberate indifference the following Missing Witnesses including but not limited to Robert Sweetapple, Charles Revard, Pat Sahm, Sr., William Stansbury, Michelle Weppener, the Notary Public, Kevin Hall, Alan Rose, Ted Bernstein, the CBS News Team I-Team including Danielle DaRos and others before any proper adjudication could have occurred rendering Judge Parnofiello's acts in DE No. 314 false, biased, prejudiced and creating a reasonably objective fear a fair trial can not be had mandating his Disqualification.

44. Bill Stansbury who is highly reputable had relevant evidence to show any efforts to Settle with Pat Sahm Sr were reasonable since he was my father's Trustee, introduced my father and Walt Sahm, knew of the friendly family relationship and knew there was an income stream so neither myself, my family nor BFR was supposed to pay off the Note and the Record shows

handwritten letters of Walt and Pat Sahm asking Ted Bernstein to do so going back to 2013 but Judge Parnofiello did not ask a single question of the lawyers Sweetapple or Garcia on this witness or this evidence all which shows bias and prejudice.

45. Judge Parnofiello specifically made knowingly false findings adverse to my interests by implicating Kevin Hall who not only never Testified even though he attempted to Intervene and be heard under law but even moved to mandatorily Disqualify Judge Parnofiello and was even Messaging Judge Parnofiello on the last day of Trial as Kevin Hall was present on Zoom all day, could have been Called as a Witness, could have been heard by the Court and specifically messaged the Judge about Robert Sweetapple and was not responded to by the Court according to Kevin Hall upon information and belief.

46. Judge Parnofiello's actions making findings against Kevin Hall knowing he attempted to intervene, attempted to be heard, and messaged the Judge yet never was given any opportunity to be heard by Judge Parnofiello is itself a sufficient reasonable and objective basis to have a reasonable and objective fear a fair trial could not be had before Judge Parnofiello because upon information and belief according to Kevin Hall most all of the findings made against him which are also adverse to me are false yet the Judge knowingly

made such findings without even asking either Florida Licensed attorneys Sweetapple and Garcia if he was being called as a Witness or even asking why he wasn't being called as a Witness since he was present on Zoom at the last day of Hearing in January 2025.

47. If Judge Parnofiello made his Findings against Kevin Hall not testifying by "making an assumption" that the lack of testimony was by Kevin Hall's choices in coordination with Inger Garcia such an "assumption" is so reckless by the history and records that even if an innocent mistake is so prejudicial to warrant Disqualification as Judge Parnofiello already "rang the bell" of "beyond a reasonable doubt" without ever making any inquiry on the Record about why Mr. Hall was not testifying and therefore Judge Parnofiello must be Disqualified by law.
48. The Notary and Weppener had relevant testimony to show Pat Sr was competent but Judge Parnofiello did not make any inquiry here either and took all of his "astonished" findings against our Counsel also against me and the rights of BFR and my family all which is biased and prejudiced.
49. This is even more urgent and exaggerated where Judge Parnofiello knows or has to reason to know assuming he in fact "reviewed" the record of the case and thus knows and should know that No Hearing was ever held on

Attorneys Fees for the Sweetapple firm in the original “Final Judgment” all contrary to law and statements on the Record,

50. If Judge Parnofiello read the Record as he claimed he would know Alan Rose and Ted Bernstein were “confirming” the attorneys fees when Ted should have been a Defendant party.

51. Judge Parnofiello knows and has reason to know if he reviewed the record there is no proof of Service of the Third Amended Complaint upon BFR, LLC in the Record and thus No Personal Jurisdiction and no proper Judgment while there is direct proof that the Sweetapple firm filed a False Clerk’s default against BFR, LLC then used to take an improper Summary Judgment and Final Judgment in the name of deceased Walter Sahm without any Suggestion of Death file nor any Notice to the Court or motion for Substitution.

52. In fact, not only does Judge Parnofiello know and have reason to know of these facts, instead of acting upon them according to Judicial obligations and duties, instead he has “sua sponte” moved to strike the Records of Fraud in the Record from the Record all in favor of Robert Sweetapple and the Sweetapple firm while prejudging and denying due process as to my rights all of which support mandatory disqualification upon reasonable grounds that a fair trial can not be had before Judge Parnofiello.

UNLAWFUL “PRE-JUDGING” MANDATES DISQUALIFICATION

53. Appellate courts have held that a judge must not prejudge a case before hearing all of the evidence. E.g., *Barnett v. Barnett*, 727 So. 2d 311, 312 (Fla. 2d DCA 1999)
54. "A trial judge's announced intention before a scheduled hearing to make a specific ruling, regardless of any evidence or argument to the contrary, is the paradigm of judicial bias and prejudice." *Gonzalez v. Goldstein*, 633 So.2d 1183, 1184 (Fla. 4th DCA 1994) (granting a writ of prohibition where the trial court told defense counsel before a scheduled resentencing hearing that he would not listen to any mitigation evidence and intended to resentence the defendant to the maximum period allowed under the guidelines).
Thompson v. State, 990 So. 2d 482, 490 (Fla. 2008)
55. ("[J]udicial comments revealing a determination to rule a particular way prior to hearing any evidence or argument have been found to be sufficient grounds for disqualification.") (emphasis added), with *Wargo v. Wargo*, 669 So. 2d 1123, 1125 (Fla. 4th DCA 1996) (granting prohibition where judge's remarks were made prior to hearing and "judge began to rule on the issues presented without even giving counsel a chance to present argument," thus "signal[ing] a predisposition, rather than an impression formed after

reviewing the evidence "). See, 1440 Plaza, LLC v. New Gala Bldg., LLC, 314 So. 3d 555 (Fla. Dist. Ct. App. 2020).

56. Judge Parnofiello has unlawfully prejudged any motion for rehearing with improper unlawful threat of criminal prosecution and must be disqualified.

ELIOT HAS REPORTED CRIME FOR YEARS - IVIEWIT, FBI, USPTO, NY AND FLORIDA AUTHORITIES LIKEWISE CRIMES FRAUD AGAINT PAT SAHM, SR, IRRATIONAL FINDINGS OF JUDGE PARNOFIELLA AND SLANDER DEFAMATION AS ELDER ABUSER ON KNOWING MISSING WITNESSES AND INCOMPLETE FACTS MANDATE DISQUALIFICATION

57. My history of reporting crimes goes back to 1999 or so with Fed and state authorities making the defamatory prejudiced findings of elder abuse on an improper record biased and wrongful and disqualification must issue.

58. I testified in NY Senate Judiciary Hearings on Historic first hearings on Judicial Corruption across NY arranged by a DC contact which is how I met Kevin Hall.

59. The same DC contact has published the following: "While no one can exactly figure out how inquiries under Mr. Cahill's charge went so awry, one thing is certain. **At the same time the Patentgate probes were being secreted by state officials in New York, the United States Patent and Trademark Office Patent bar increased their own investigation into the same matter implicating the same attorneys.** (Note: Mr. Cahill's replacement was

recently decided, and an announcement is expected as early as next week by the Appellate Division, First Department Presiding Justice, Jonathan Lippman.)

60. "This is quite serious," says an investigator close to the federal probe. "The charges allege that valuable 'back-bone enabling digital imaging technology'-- MPEG type intellectual property-- was stolen by the inventor's own attorneys, the once-untouchable Manhattan based law firm Proskauer Rose. This is going to get very ugly," he says.

61. "I know how," says a retired federal agent who asked not to be identified.
"Phone calls were made—many phone calls. Plain and simple." And while this retired federal agent isn't surprised by the apparent "cover-up," he is alarmed by his own findings after a month-long independent review of all submitted Iviewit papers. ***"I can't find one discrepancy in the allegations, not one unsubstantiated charge," he says. "For one, you have the highest state courts in New York white-washing this thing with 'unpublished' rulings.*** And then you have state ethics committees contradicting themselves-- in writing, no less. It's a complete meltdown," he concludes.
"The broken system appears to have finally fallen apart."

62. See relevant links to ongoing reporting to authorities of this foreclosure case as well:

<https://exposecorruptcourts.blogspot.com/2007/08/justice-dept-widens-patentgate-probe.html> ;

<https://exposecorruptcourts.blogspot.com/2007/11/press-release-november-23-2007-for.html>;

<https://exposecorruptcourts.blogspot.com/2008/04/ny-ethics-scandal-tied-to-international.html>.

Dr. Bloom and Missing Witnesses

63. The Court never even clarified nor the attorneys how long this unlicensed urologist even spoke to Pat Sr even though he had his notes:

Dr. Bloom - Can you tell the Court what you did on that
20 date?

21 A. I did -- I interviewed the alleged
22 incapacitated person.

23 Q. All right. And how long did you spend --

24 A. It was a year ago, I couldn't tell you.

25 Q. All right. And that -- I -- that was on Zoom,

NO DE No. 311 Trial Transcript Jan. 28, 2025 Page 90 after admitting he had
his Notes with him he does not know how long he spoke to Pat Sahm Sr -

64. Counsel Garcia Inger did not follow up on this during Cross Exam and Judge Parnofiello improperly allowed leading questions by Sweetapple.
65. Dr. Sugar was a Missing Witness to counter any report or finding but Judge Parnofiello did not inquire nor was it known on the Record why this witness was not present. This is biased and prejudicial and disqualification must issue.

DUE PROCESS

66. ("We simply say that the pleadings must be such as to afford both parties due process."). **It must also be remembered that rule 1.190(b), like all the rules of civil procedure, aims "to prevent the use of surprise, trickery, bluff and legal gymnastics."** Surf Drugs, Inc. v. Vermette, 236 So. 2d 108, 111 (Fla. 1970); see also Massey- Ferguson, Inc. v. Santa Rosa Tractor Co., 366 So. 2d 90, 93 (Fla. 1st DCA 1979) trial judge aptly stated: **'The purpose of pleadings is to make issues. The purpose of issues is for people to know what they've got to meet and get ready to meet it.'** ").2
67. **"Iviewit was been radio-active from day one," says one prosecutor who asked not to be named. "Considering who was involved, you know the phones were ringing off the hook, and with a simple directive: 'don't go near it' (an inquiry)."** He believes, however that a serious shake-up is

imminent. "The powers that be can't contain this story anymore—it's out, U.S. Senators and Congressman are talking about it. **This involves national Commerce issues: attorneys stealing U.S. Patents from their own client, and the illegal failings of a state's ethics agency by its own cover-up, and selective, self-dealing, politically-based inaction.** Patentgate appears to have exposed the true, and troubling, underbelly of ethics investigations in New York State. And its not pretty."

68. Judge Parnofiello knows the Pleadings have never been proper, Walt Sahn is still on all and even his Orders yet by tenants of the entirety when Walt passed Pat can not represent his interests which are extinguished including Sweetapple appearing before Judge Kastranakes as if he was alive which is all fraud that impacted who we could even settle with.

FAILED JUDICIAL CANONS

69. Canon 3(D)(2) directs that a judge who receives information or has actual knowledge that a substantial likelihood exists that a lawyer has committed a violation of the Rules Regulating The Florida Bar shall take appropriate action. This Canon is mandatory, not hortatory. The Florida Supreme Court stated: All Florida judges are, first and foremost, attorneys and members of The Florida Bar. As such, Florida judges, just like every other Florida attorney, have an obligation to maintain the integrity of the legal profession

and report to The Florida Bar any professional misconduct of a fellow attorney. 5-H Corporation v. Padovano, 708 So.2d 244 (Fla. 1997).

70. Here, Judge Parnofiello has had knowledge that one Robert Sweetapple attorney concealed the Death of one of the original Plaintiffs Walter Sahm from the Court for well over a year, concealing from BFR, LLC and the defendants the true party in interest and proper party to settle the case with and Judge Parnofiello knows and has reason to know that attorney Sweetapple has filed multiple official documents in the Court record as if Walter Sahm is alive when knowing he is deceased.
71. The sua sponte striking of documents specifying the fraud without Notice of Opportunity to be Heard consistent with due process combined with the failure to perform Judicial Obligations further supports a reasonable and objective belief that a fair Trial can not be had before Judge Parnofiello.
72. Neither Florida Licensed attorneys Sweetapple and Inger sought Missing Witness charges while claiming fraud against the other while Florida Licensed attorney Judge former State attorney Parnofelia knowingly disregarded any Missing Witness while knowingly disregarding the Inger Conflicts of multiple representation raised by Sweetapple in the written motion for Sanctions tried by Parnofelia knowing Inger never filed written motion to enforce the settlement yet Judge Parnofelia proceeded to irrational

findings without necessary witnesses and instead proceeds to take all of Eliot family BFR rights away in advance with threats of criminal prosecutor leaving Eliot family and BFR without Trial Counsel and without any time to get Trial Counsel

73. The 4th DCA recently granted a Writ of Prohibition earlier this year disqualifying a Trial Judge for the same type of fundamental due process violations that have occurred on the Record by Judge Schosberg Feuer in *Domnin v. Domnina*, No. 4D23-412 (Fla. Dist. Ct. App. May 24, 2023). In that case, the 4th DCA stated, **"Due process requires that a party be given the opportunity to be heard and to testify and call witnesses on the party's behalf ... and the denial of this right is fundamental error."** *Minakan v. Husted*, 27 So.3d 695, 698 (Fla. 4th DCA 2010) (quoting *Pettry v. Pettry*, 706 So.2d 107, 108 (Fla. 5th DCA 1998)). **The opportunity to be heard must be "full and fair, not merely colorable or illusive."** *Pelle v. Diners Club*, 287 So.2d 737, 738 (Fla. 3d DCA 1974) ("[W]e find that **the trial court erred in failing to grant the appellant an opportunity to present his case-in-chief and, therefore, he was denied the protection afforded by the constitutional guarantee of due process of law.**"); see also *Walker v. Edel*, 727 So.2d 359, 360 (Fla. 5th DCA 1999) (finding a trial court's refusal to hear a party's defense was "clearly error which affected the

issues before the court").” See, *Domnin v. Domnina*, No. 4D23-412 (Fla. Dist. Ct. App. May 24, 2023).

"The question of disqualification focuses on those matters from which a litigant may reasonably question a judge's impartiality rather than the judge's perception of his ability to act fairly and impartially." *Livingston v. State*, 441 So.2d 1083, 1086 (Fla. 1983). In order to decide whether the motion is legally sufficient, "[a] determination must be made as to whether the facts alleged would place a reasonably prudent person in fear of not receiving a fair and impartial trial." *MacKenzie v. Super Kids Bargain Store* 565 So. 2d 1332 (Fla. 1990).

74. ("[J]udicial comments revealing a determination to rule a particular way prior to hearing any evidence or argument have been found to be sufficient grounds for disqualification.") (emphasis added), with *Wargo v. Wargo*, 669 So. 2d 1123, 1125 (Fla. 4th DCA 1996) (granting prohibition where judge's remarks were made prior to hearing and "judge began to rule on the issues presented without even giving counsel a chance to present argument," thus "signal[ing] a predisposition, rather than an impression formed after reviewing the evidence "). See, *1440 Plaza, LLC v. New Gala Bldg., LLC*, 314 So. 3d 555 (Fla. Dist. Ct. App. 2020).

75. **"A trial judge's announced intention before a scheduled hearing to make a specific ruling, regardless of any evidence or argument to the contrary, is the paradigm of judicial bias and prejudice."** Gonzalez v. Goldstein, 633 So.2d 1183, 1184 (Fla. 4th DCA 1994) (granting a writ of prohibition where the trial court told defense counsel before a scheduled resentencing hearing that he would not listen to any mitigation evidence and intended to resentence the defendant to the maximum period allowed under the guidelines). Thompson v. State, 990 So. 2d 482, 490 (Fla. 2008)
76. My status and claim as an intervenor is even more direct in this action where Counsel Sweetapple and his law firm added "attorneys fees" into a "Final Judgment" knowing the Court had at least stated a Hearing would occur on the "attorneys fees" yet Counsel Sweetapple and his law firm not only falsely claimed "Consent" to such Final Judgment according to the Motion for Contempt filed by Leslie Ferderigos but further chose Not to Serve Counsel Ferderigos or Defendant Candice Bernsteini in the proposed "Final Judgment" but did not even file such documents through the Florida E Portal system or any Clerk's filing system so such documents are available in the public Record.
77. Thus, there was No Hearing on any claim to Attorneys Fees added into the "Final Judgment" but in addition to the Fraud upon the Court in standing in

Open Court at Summary Judgment as if Walter Sahm was alive and not notifying the parties otherwise, Counsel Sweetapple and his law firm are further involved in Fraud upon the Court by submitting a “Default Judgment” through the Clerk’s Office (Clerk’s Default) against BFR knowing he had agreed On the Record (Stenographic Transcripts) before Judge Kastranakes that the Service against BFR was improper and would be redone yet instead of doing so proceeds to take a “Default” on the 2nd Amended Complaint while further knowing that complaint was superseded and replaced by his 3rd Amended Complaint which also was never Served on BFR.” See DE No. 220.

78. In a 2024 5th DCA case citing the 4th DCA and discussing how improper actions are taken at these types of conferences it has been found, Kirkpatrick Trust, a Florida Land Trust dated July 1, 2021 ("the Trust"), appeals the trial court’s order denying the Trust’s motion to intervene in this foreclosure proceeding, which it heard and ruled upon at a case management conference. The Trust asserts that it was denied due process because it was not given notice that its motion would be considered at the conference. We agree and reverse. *Kirkpatrick Tr. v. Lakeview Loan Servs.*, 377 So. 3d 650 (Fla. Dist. Ct. App. 2024)

79. The same case found, Courts have all but foreclosed fundamental error in civil cases. *Grau v. Branham*, 761 So. 2d 375, 378 (Fla. 4th DCA 2000). Nonetheless, basic principles of due process must be observed.
- "Fundamental error occurs when the error goes 'to the heart of a trial and vitiate[s] its fairness.' " *Weiser v. Weiser*, 132 So. 3d 309, 310-11 (Fla. 4th DCA 2014) (citation omitted). As such, the denial of "the opportunity to be heard, to testify, and to present evidence," generally results in fundamental error. "A trial court, 'provides due process if the complaining party was given notice and an opportunity to be heard.'" *Thomas v. Cromer*, 276 So. 3d 69, 72 (Fla. 3d DCA 2019) (quoting *Nationstar Mortg., LLC v. Weiler*, 227 So. 3d 181, 183 (Fla. 2d DCA 2017)). See, *Kirkpatrick Tr. v. Lakeview Loan Servs.*, 377 So. 3d 650 (Fla. Dist. Ct. App. 2024)
80. Still, "As such, "[a] court violates a party's due process rights by expanding the scope of a hearing without proper notice." *Carson-Grayson v. Grayson*, 247 So. 3d 675, 676 (Fla. 5th DCA 2018) (citing *Haeberli v. Haeberli*, 157 So. 3d 489, 490 (Fla. 5th DCA 2015) (reversing rulings on motions not included in notice of hearing); *Shah v. Shah*, 178 So. 3d 70, 71 (Fla. 3d DCA 2015) (reversing ruling made at conference not noticed for such purpose); *Rodriguez v. Santana*, 76 So. 3d 1035, 1037 (Fla. 4th DCA 2011) (reversing paternity decision made at conference not noticed for that purpose)).

81. Case management conferences can be helpful tools for both judges and litigants. Due to the expansive nature of such conferences, it requires focus on the notice itself to determine what may be properly addressed at the conference and what must be left for another day. Florida Rule of Civil Procedure 1.200(a), which governs case management conferences, requires that "[t]he matter to be considered must be specified in the order or notice setting the conference." (emphasis added).
82. Here, Judge Parnofiello allowed Sweetapple to expand his actions in some "crime fraud exception" without notice while never addressing the primary issues that the very authority of Sweetapple and Charles Revard to act are in litigation in the related Guardian and MH cases thus directly allowing bad faith litigation that impacts the equity in the property and fees in the case and my direct rights to payment being impacted by the outcome all while denying intervention without a hearing and failing to address the fraud.
83. When protected interests are implicated, the right to some kind of prior hearing is paramount." Bd. of Regents of State Colls. v. Roth, 408 U.S. 564, 569-70 (1972)., See A.R. v. Dep't of Children & Families & Guardian AD Litem Program (In re M.S.), No. 2D20-2477 (Fla. Dist. Ct. App. Apr. 8, 2022)

84. 11th Circuit Fed Court of Appeals - 1990 case citing (“The death of a spouse destroys the entirety and the surviving spouse becomes the owner in fee simple. *Wilson v. Florida Nat. Bank Trust Co.*, 64 So.2d 309, 312 (Fla. 1953); *Knapp v. Fredericksen*, 148 Fla. 311, 4 So.2d 251, 252 (1941).”) See *U.S. v. One Single Family Residence*, 894 F.2d 1511, 1515 n.2 (11th Cir. 1990)
85. *In re Willoughby*, 212 B.R. 1011, 1015 (Bankr. M.D. Fla. 1997) (“it is important to note that both the debtor/husband and the debtor/wife own their exempt homestead in an estate by the entireties. In Florida, an estate by the entireties is a type of tenancy that can be held only by a husband and wife. In this form of ownership, each spouse owns the "entirety" or the whole of the estate. *Quick v. Leatherman*, 96 So.2d 136, 138 (Fla. 1957). The theoretical basis for this estate is that husband and wife are one person in the law. *Strauss v. Strauss*, 148 Fla. 23, 25, 3 So.2d 727, 728 (1941). Upon the death of one spouse, the deceased spouse's interest is extinguished and the surviving spouse's whole ownership survives by virtue of the original title. *Gerson v. Broward County Title Co.*, 116 So.2d 455, 456 (Fla. 2d DCA 1959).
86. See *Rochlin v. Cunningham*, 739 So.2d 1215 (Fla. 4th DCA 1999) (discharged attorney not entitled to a charging lien where her services did

not produce a positive judgment in a child support proceeding where mother did not receive more in child support than father's original offer and mother pursued further litigation based upon the erroneous advice of discharged attorney

87. See *Rochlin v. Cunningham*, 739 So.2d 1215 (Fla. 4th DCA 1999)

(discharged attorney not entitled to a charging lien where her services did not produce a positive judgment in a child support proceeding where mother did not receive more in child support than father's original offer and mother pursued further litigation based upon the erroneous advice of discharged attorney *Richman Greer v. Chernak*, 991 So. 2d 875, 882 (Fla. Dist. Ct. App. 2008)

88. “There is no case which extends an attorney's charging lien to recover for fees expended in proceedings which do not result in the recovery of a judgment or res in that action. That is because there is nothing against which to “charge” the attorney's fees. “The charging lien is an equitable right to have costs and fees due an attorney for services in the suit secured to him in the judgment or recovery in that particular suit.” *Sinclair, Louis, Siegel, Heath, Nussbaum Zavertrnik, P.A. v. Baucom*, 428 So.2d 1383, 1384 (Fla. 1983) (emphasis added).”) See, *Richman Greer v. Chernak*, 991 So. 2d 875, 882 (Fla. Dist. Ct. App. 2008)

89. For a lien to be enforceable, an attorney must prove his or her services resulted in “tangible fruits.” Whether the attorney’s services produced “tangible fruits” is an issue of proof, but it is not an issue of subject matter jurisdiction.

90. “It is not enough to support the imposition of a charging lien that an attorney has provided his services; the services must, in addition, produce a positive judgment or settlement for the client, since the lien will only attach to the tangible fruits of the services.” Rudd, 960 So. 2d at 887 (quoting Mitchell v. Coleman, 868 So. 2d 639, 641 (Fla. 2d DCA 2004))." see Greer v Chernak No. 4D07-647 [March 12, 2008]

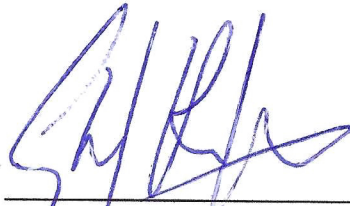
91. Judge Parnofiello must be disqualified and DE No. 314 vacated.

WHEREFORE, an immediate Order vacating DE No. 314 entirety and such other and further relief as just and proper. .

VERIFICATION

Under penalties of perjury, I declare that I have read the foregoing Motion for Rehearing and that the facts stated therein are true to the best of my own knowledge except those matters stated upon information and belief and as to those facts I believe them to be true and verify this document under Florida Statutes 92.525(2).

Dated: March 21, 2025

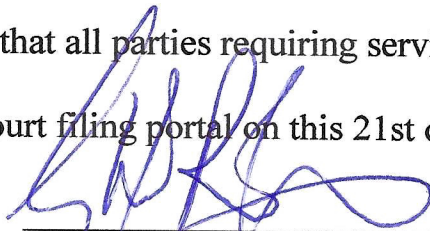


Eliot I. Bernstein, Defendant Party Pro Se
2753 NW 34th St,
Boca Raton, FL 33434
561-886-7628
iviewit@gmail.com
iviewit@iviewit.tv

CERTIFICATE OF SERVICE

The undersigned hereby certifies that all parties requiring service were served electronically via the Florida ECourt filing portal on this 21st day of March, 2025.

Dated: March 21, 2025



Eliot I. Bernstein, Defendant Party Pro Se
2753 NW 34th St,
Boca Raton, FL 33434
561-886-7628
iviewit@gmail.com
iviewit@iviewit.tv