

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,

EMERGENCY MOTION:
**LIMITED APPEARANCE TO CONTEST
JURISDICTION AND UNAVAILABILITY
EXCEPT BY ZOOM**

-against-

BERNSTEIN FAMILY REALTY, LLC,
And defendants.

Defendants.

COMES NOW, Petitioner Eliot I. Bernstein, a named party defendant proceeding pro se who respectfully shows this Court as follows:

1. I am Eliot Bernstein a named party defendant appearing pro se in this Limited Appearance to contest and object to the Jurisdiction of Judge Parnofielo who shall be mandatorily disqualified and proceed no further and to further object to any personal jurisdiction over myself for improper

Service of Process as previously moved before this Court and to provide Notice of Unavailability except by Zoom appearance due to medical and health reasons and to object to an improper UMC filed by Robert Sweetapple who shall be disqualified and is aware this is a contested matter not proper for UMC.

2. Licensed Florida attorney Robert Sweetapple is attempting to move tomorrow March 27, 2025 at an improper UMC Hearing at 8:30 am EST knowing this is a contested matter.
3. Judge Parnofielo was moved for a first Mandatory Disqualification under Florida Statutes and Rules on March 21, 2025 under DE No. 330.
4. The motion for mandatory Disqualification was legally sufficient in all respects being in writing, sworn under oath, properly served, certified in good faith, timely under law and setting specific facts and acts to show a reasonable and objective fear that a fair trial can not be held before Judge Parnofielo who had among other gross errors of due process and law prejudged a Motion for Rehearing before even being filed and threatened Criminal Contempt by the mere filing of rights guaranteed every Florida Citizen and litigant. See DE No. 314 entered on March 6, 2025.
5. On March 24, 2025 under DE No. 329 Judge Pornofielo illegally denied Disqualification and violated mandatory Court Rule and law of the Florida

Supreme Court as follows: Fl. R. Gen. Prac. Jud. Admin. 2.330

DISQUALIFICATION OF TRIAL JUDGES (h) Determination - Initial Motion. Rule 2.330 - "The judge against whom an initial motion to disqualify under subdivision (e) is directed may determine only the legal sufficiency of the motion and shall not pass on the truth of the facts alleged. If any motion is legally insufficient, an order denying the motion shall immediately be entered. No other reason for denial shall be stated, and an order of denial shall not take issue with the motion.".

6. In DE No. 329 Judge Pornofielo clearly violated this Court Rule by passing on the truth of the facts alleged, going beyond deeming "legally insufficient" and stating other reasons and taking issue of the motion in violation of Rule 2.330 and law of the Florida Supreme Court.
7. In further conduct supporting reasonable and objective fear that a fair trial can not be had before Judge Pornofielo, the Judge even mis-cited the very case which could not be used anyway as the very case cited showed Prohibition was granted against the Judge for the very same type of facts and reasons set out in the motion for mandatory Disqualification.
8. Prohibition against Judge Pornofielo should issue who shall proceed no further under law and I appear solely for the limited appearance of contesting the Judge's jurisdiction to proceed and maintaining my prior

objections to jurisdiction and improper Service of Process under former Judge Kastranakes.

9. I am further unavailable before this Judge and Court due to medical reasons well known and only can appear by Zoom as I am currently waiting to have a quadruple bypass with 90% occlusion in four arteries. I am under treatment for this as well as my blood pressure which is as of today 197/135, I also am in the middle of dental surgeries and have been on very heavy pain meds and muscle relaxers. Per my doctors any additional stress may kill me, getting to the courthouse is very stressful and a long drive when I could attend by zoom.

10. Robert Sweetapple knows this is a contested matter not proper for zoom and no UMC should be held and without proper notice.

11. Judge Pornofielo who continues in actions showing bias, prejudice and either incompetence under law and US and Florida Constitution or in deliberate violation knows or should know sanctions previously issued were improper and without due process notice and further the Court has no jurisdiction over BFR, LLC and Judge Pornofielo continues to move and issue Orders in the name of Deceased Walter Sahm and proper parties are not before the Court.

12. "But '[a] decision whether or not to vacate a void judgment is not within the ambit of a trial court's discretion; if a judgment previously entered is void, the trial court must vacate the judgment.'" Id. (quoting *Wiggins v. Tigrent, Inc.*, 147 So. 3d 76, 81 (Fla. 2d DCA 2014)). See *Fantauzzi v. Fleck*, 385 So. 3d 1098, 1102 (Fla. Dist. Ct. App. 2024).

13. Judge Pornofielo knows and should know he unlawfully took away my rights and the rights of my family and family company BFR, LLC on the rule 1.540 motion as an improper sanction against our then counsel Inger Garcia and prejudged both the 1.540 and expressly prejudged a motion under Rule 1.530 before ever filed or heard all in violation of due process and showing bias and prejudice supporting a fair and reasonable and objective fear that a fair trial can not be had before Judge Pornofielo.

14. "A violation of the due process guarantee of notice and an opportunity to be heard renders a judgment void." *Viets v. Am. Recruiters Enters., Inc.*, 922 So. 2d 1090, 1095 (Fla. 4th DCA 2006). Under rule 1.540(b)(4), "On motion and upon such terms as are just, the court may relieve a party or a party's legal representative from a final judgment, decree, order, or proceeding for the following reasons: ... that the judgment, decree, or order is void." A party is denied due process when a court determines matters not noticed for hearing or awards relief not sought by the pleadings. See *Wanda I. Rufin*,

P.A. v. Barga, 294 So. 3d 916, 918 (Fla. 4th DCA 2020) (concluding that the trial court denied an attorney due process when the court awarded attorney's fees against the attorney where "[n]othing in the notice of hearing put [the attorney] on notice that the court would consider attorney's fees as a sanction against her personally at the hearing"). See, Fantauzzi v. Fleck, 385 So. 3d 1098, 1102 (Fla. Dist. Ct. App. 2024).

15. As a party Defendant not only did Robert Sweetapple's pleading under DE No. 226 not provide notice of any Sanctions against me as a Defendant but also never filed any 21 Day Safe Harbor Notice. Judge Pornofielo knew and should know this.

16. "A trial court commits reversible error when it grants a motion for sanctions that fails to comply with the safe harbor provision in section 57.105(4). Rivera Chiropractic, Inc. v. Rosello, 336 So. 3d 409, 413 (Fla. 2d DCA 2022) (citing Lago v. Kame By Design, LLC, 120 So. 3d 73, 74-75 (Fla. 4th DCA 2013)). See Fantauzzi v. Fleck, 385 So. 3d 1098, 1103 (Fla. Dist. Ct. App. 2024).

17. Judge Pornofielo shall proceed no further, Jurisdiction is contested and I reserve all rights to further specify the litany of disregarded fraud, disregarded judicial canons and disregarded conflicts and other acts of Judge

Pornofielo showing a reasonable and objective fear that a fair trial can not be had before him and Prohibition should issue.

WHEREFORE, it is respectfully prayed that Judge Pornofielo should proceed no further, be mandatorily disqualified, Prohibition shall issue, his Jurisdiction to act is contested and objected, personal jurisdiction over myself as a party Defendant is contested, Robert Sweetapple shall be disqualified, and any appearances shall be by Zoom and the UMC shall be cancelled and denied set on March 27, 2025 and reservation of all rights to amend and move as law, justice and due process allows.

Dated: March 26, 2025

/s/ Eliot I. Bernstein
Eliot I. Bernstein, Defendant Party Pro Se
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that Judge Parnofielo was Served under law at CAD-DivisionAO@pbcgov.org. The undersigned hereby certifies that all parties requiring service were served electronically via the Florida ECourt filing portal on this 26th day of March, 2025.

Dated: March 26, 2025

/s/ Eliot I. Bernstein

Eliot I. Bernstein, Defendant Party Pro Se

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