

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT, WEST PALM BEACH, FL 33401

Case Number: 4D2025-0996
LT No. 502018CA002317

Eliot Bernstein, et al

Appellant(s)

v.

WALTER E. SAHM and PATRICIA SAHM,
Appellee(s).

**MOTION BY APPELLANTS FOR PERMISSION TO SEEK A
REASONABLE EXTENSION OF THE TIME TO FILE THE INITIAL
APPELLANTS BRIEF**

PLEASE TAKE NOTICE that the Appellants Eliot Bernstein, Candice Bernstein, Joshua Bernstein, Jacob Bernstein and Daniel Bernstein, through the undersigned attorney, hereby respectfully moves this Court for permission to seek a reasonable extension of time to file the initial Appellants Brief and for other relief as is just and proper.

1. The Appellants Eliot, Candice, Joshua, Jacob and Daniel Bernstein individually, collectively referred to as the “Eliot Bernstein Family”

Appellants respectfully seek permission to request a reasonable extension of time for the filing of the Initial brief on several grounds and the strong merits of the Appeal.

2. This Appeal comes after an Order issued by the Trial Court that struck and decided without hearing pending motions to vacate a Final Judgment of Foreclosure under Florida Civ Pro Rule 1.540 and in fact struck all pending motions as a Sanction for alleged conduct of their former Counsel Inger Garcia.
3. Ms. Garcia is pursuing a related Appeal of the same Order of the Trial Court in 4th DCA case No. 4D2025-0994.
4. The Appellants inform me that in addition to the Foreclosure appeal there is a related case in the Probate Court involving the Shirley Bernstein Trust and Eliot Bernstein has been in the US Bankruptcy Court in case number 25-14028-EPK.
5. My respectful apologies to this Court as under this Courts Order of June 18, 2025 the Initial Appellants Brief was due yesterday, June 8, 2025 and the Appellants now seek permission to request an Extension as the motion should have been filed yesterday but because of ongoing litigation and activity in related cases the

Appellants were late in getting information to my office to timely request the Extension.

6. The Order itself that is on Appeal has created difficulties for the Appellants who believe they were essentially sanctioned for the actions of their counsel Inger Garcia who was sanctioned by the Trial Court but then granted a Charging Lien against the Appellants.
7. The Appellants claim that they do not have most of any files or records from their Counsel but have attempted to obtain these items which include Trial Exhibits and Trial Records for the Trial that ended up in the Court sanctioning Ms. Garcia and Eliot Bernstein and the company owned by Joshua, Jacob and Daniel Bernstein called Bernstein Family Realty, LLC (BFR).
8. The Appellants claim this Trial Order of sanctions has created a difficult level of communication with Ms. Garcia who on one hand has texted Eliot Bernstein seeking to come forward as a Federal Whistleblower on alleged fraud in the US Bankruptcy Court in the Southern District and in related State Court proceedings allegedly by lawyers and parties adverse to the Appellants in the underlying foreclosure case.

9. The Appellants report that to date instead of Ms. Garcia coming forward in either the Federal or State Court to report the fraud she has sought to have the Appellants pay her for the Cost of the Record on Appeal which has been Produced in Case No. 4D2025-0994 but has been unavailable to the Appellants and where one volume is marked Confidential in the Garcia case before this Court.
10. Ms. Garcia has allegedly sought an agreement for payment of \$50,000.00 in attorneys fees prior to taking any of the Whistleblowing action she texted several times she wanted to take which still has not occurred.
11. This has caused significant tension and hardship on Appellants although they believed things may have changed before the deadline in this Case and they report there have also been attempts to pursue Final Settlement of the underlying Private Note Mortgage with the proper Secured Creditor as Walter and Pat Sahm had been friends and business friends with Simon and Shirley Bernstein and specifically that some of the actions taken around the Private Note were specifically for "Asset Protection" for the Eliot I. Bernstein Family.

12. The Appellants report to me that at least 5-7 calls have been made since last week to the 15th Judicial Appeals Clerk to ascertain why access to the Record on Appeal has not been available but that missed calls have occurred and voicemails left with the Appeals Clerk at the 15th Judicial.
13. The Appellants report that Josh Bernstein has recently been approved and Ordered as Primary and Lead Trustee over certain Registry Funds held In Trust in the Shirley Bernstein Trust case and that Josh has had some level of success during Meet and Confer processes in that case to move things toward resolution and settlement but there is still significant distance amongst the parties.
14. Further, the Appellants report to me that Eliot Bernstein is in the process of seeking post Dismissal relief and relief on Appeal at the US District Court in relation to a reinstatement of the automatic bankruptcy Stay and that process was just happening and moving forward this week which also contributed to delay in getting the status information to my office for the timely filing of this motion.
15. From what has been reported by Appellants it is possible that Eliot Bernstein may know within 7-14 days if the Stay relief is granted

which would bring these Appeal proceedings to a halt during that Stay if granted.

16. Appellants state they hope and believe their brief and case would be complementary and generally in support of the Appeal by Ms. Garcia in Case 4D2025-0994 but it is possible alternative arguments will be necessary and they have not seen any Brief in that case and again not only do not have access to the Record on Appeal produced in that case which would be the same Record for this Appeal but again are without Trial Exhibits and other items from their file with Ms. Garcia that may be helpful on this Appeal.
17. According to a search of this Court's Docket in the Garcia Appeal the last entry is an Order for Mr. Garcia to file a response to the Kitroser motion to dismiss and that appears to have been due on June 19, 2025 and still not filed.
18. The Appellants believe that the Garcia Appeal could be joined with this Appeal and the Record on Appeal shared.
19. The Appellants believe there is strong merit to this Appeal which includes the Order of the Trial Court's Sanctions being overly broad, not supported by substantial competent evidence, the product of 2 licensed attorneys accusing each other of fraud and misconduct

being Ms. Garcia and Robert Sweetapple and also raise fundamental due process grounds on Appeal as the Appellants had no notice or opportunity to be heard that the conduct of the Trial by Ms. Garcia would lead to a Sanction Order that strikes all their pending motions including a motion to vacate under Rule 1.540 and motion to dismiss for lack of jurisdiction and improper service and other motions that were not heard but instead Struck as Sanctions where Ms. Garcia was solely in control of the strategy and conduct of the Trial.

20. The Appellants state there are numerous Witnesses that were never called at Trial including but not limited to a Notary Public, a UPS Store Worker, former CBS News I-Team member Daniele DaRos, William Stansbury who had relevant testimony on the Asset protection done around the Private Note and a dedicated income stream that was supposed to pay off the Note, other witnesses such as Ted Bernstein, potentially Alan Rose, Robert Sweetapple who was supposed to be Deposed but Appellants do not know why not, Michelle Weppener, Charlie Revard, Kevin Hall, and other witnesses not called such as Candice Bernstein.

21. Thus, due to the ongoing activity in other cases contributing to delay and lack of access to the Record on Appeal and the potential of

a new Bankruptcy Stay and the merits to the Appeal, the Appellants respectfully seek a reasonable extension of 30 days to file an Initial Brief on Appeal and respectfully suggest the Garcia Brief in the related case if not consolidated and joined on this Appeal should be filed first.

WHEREFORE, it is respectfully prayed for an Order excusing the brief delay in seeking this extension and granting a reasonable extension of at least 30 days to file the Initial Appellants Brief and for such other and further relief as may be just and proper.

Respectfully submitted,

Dated: June 9, 2025

/ s/ Eric Cvelbar

Bar Number: 166499

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that all parties requiring service were served electronically via the Florida ECourt filing portal on this 9th day of June, 2025 as follows:

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Dated: June 9, 2025

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