

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 an additional 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 second reasonable extension of time for the filing of the Initial brief on several grounds and the strong merits of the Appeal.

2. This request is made in good faith and not for the purpose of delay.
3. Granting this motion will avoid unnecessary expenditure of judicial resources and preserve judicial efficiency.
4. This is a second motion for an extension and is made beyond the due date for the initial brief but Appellants assert good cause and good faith for this motion to be granted and permission to file late accepted.
5. Since the issuance of the trial court's decision, new proceedings have occurred at the Trial Court which may significantly alter the posture of the case—possibly rendering the appeal moot or affecting its scope.
6. This proceeding occurred on July 31, 2025 after I entered a Notice of Appearance at the Trial level for a Case Management Conference that occurred on July 31st.
7. The proposed Order after the Case Management Conference does appear to essentially allow rehearing or new proceedings which directly alter some of the relief that would be sought on Appeal as one of the primary issues on Appeal is that the Bernstein family

individual defendants nor Bernstein Family Realty, LLC (BFR) had a due process opportunity to be heard before the Order was issued granting sanctions and drastic relief which is the Order now on appeal but appears to be now allowed to be heard at the Trial Court.

8. I have attached a copy of the Proposed Order in the Trial Court which has not yet been submitted or entered to my knowledge at this time.
9. As required by Fla. R. App. P. 9.300(a), I as counsel for Appellants had conferred with opposing counsel Kathryn Lewis of the Kitroser firm by email , who opposed this request for a further extension which I do not believe was opposed in good faith.
10. My Certification as required by the Rule is attached.
11. Appellants Appellant requires additional time to: Evaluate the impact of the new proposed orders and decide whether to proceed with this appeal, modify issues, or seek alternative relief.
12. Additional good faith and good cause grounds for the extension are presented by ongoing difficulty getting access to the proper Records for the Appeal.
13. The prior motion for extension filed on or about July 11, 2025 in this case made it clear that there are issues with obtaining the proper records to pursue this Appeal but also that this appeal could have

been joined with the related Appeal in Case No. 4D2025-0994 with Inger Garcia as the same Order was being appealed and Ms. Garcia was Trial Counsel for the Appellants at that time.

14. The Order of extension granted in this Appeal did not address the issue of joinder although the 4D25-0994 case was still active at that time and showed Ms. Garcia had not responded to a motion to dismiss for nearly a month by then.

15. In that case the Record on Appeal was produced by the Clerk of the 15th Judicial and filed in this Court for that case but was not viewable in the ACIS system.

16. Additional calls since the last extension request to the 4th DCA Clerk's office and 15th Judicial had been made to ascertain obtaining the Record on Appeal which should be the same for this case and the related BFR appeal in 4D2025-1033 case.

17. I was personally on some of the calls while others were made by Eliot Bernstein and BFR Manager Mr.Hall.

18. Over a week before this Appeal has the filing date due for the Initial Brief Mr. Bernstein and Hall report that Holly Davis of this Court spoke to them about the Records on Appeal in the 0994 case and

eventually had someone named Treasure of this Clerk's office speak to them.

19. Treasure initially told them it may be a Data size limit issue as to why the Record on Appeal could not be accessed in the 0994 case although it is noted on of the filed Records in that case is marked "Confidential".
20. Treasure then appears to have offered to try and email the Records in smaller file size limits but then spoke with Hon. Lonn Weissblum who had Treasure correct an entry in the Online Docket of this Case accessed via ACIS to show the extension was only for 15 days and not 30 days which had caused confusion and then also informed them that if I filed a Notice of Appearance into the 0994 case I should be able to access the Record on Appeal that way to use in this case and the 1033 case.
21. I did file a Notice of Appearance in the 0994 Case that was not docketed until August 4, 2025.
22. On the same day Treasure of this Court had suggested that Mr. Bernstein and Hall spoke with Kathleen of the Palm Beach Clerk's Office who claimed to be the Head Clerk for these Records on Appeal who told her she was not even able to produce a Record on Appeal

for this Case or the 1033 case because these are Non Final Orders but said she did issue the Records on Appeal for the 0994 case as that is being treated as a Final Order even though the Orders being appealed are exactly the same.

23. Kathleen explained she was not in control of how these Orders are treated by this Court and could not explain the disparity.

24. So the Appellants would seek clarification of why the 0994 case is being treated differently and why part of the Record on Appeal is being deemed Confidential and why access is being denied since the Orders appealed are the same and the Appellants can not get access through their prior counsel.

25. Before the due date of the Initial Brief in this case further conversations were had with Holly Davis of this Court that I was on where I was informed if I went through the "My Cases" tab at ACIS I should be able to get access to the Record on Appeal.

26. Holly also mentioned a phone number for support being available at ACIS in the Youtube video if problems.

27. I attempted to access the Records on Appeal via ACIS multiple times with no success.

28. The phone number provided for ACIS by Holly Davis and at the Youtube of 850-739-3925 and from the ACIS website has been called at least 3 times by different callers and comes up as Not in Service.
29. I also emailed ACIS Support last week and still have no response from ACIS.
30. On a subsequent call to this Court speaking to Holly Davis again I was told a Supervisor of this Court would call me back at my office number 305-490-1830 but I have yet to receive a callback from this Court Clerk Supervisor about Records access.
31. I also emailed both attorneys Inger Garcia in the 0994 case and Robert Sweetapple who was Trial Counsel for the Plaintiffs to ascertain if all the necessary records to pursue this Appeal had been filed and uploaded to ECaseview but neither attorney has responded in multiple days.
32. I have seen records where Ms. Garcia has claimed fraud across multiple cases but then was charged in fraud herself and for some reason chose not to pursue her Appeal of this finding.
33. It is critical for proper review and preparation of this Appeal that I have access to all necessary Records.

34. The Appellants have not been able to get their records from Ms. Garcia.

35. Further, most of the communications with Ms. Garcia flowed through Eliot Bernstein who is under Emergency Heart Treatment program waiting a quadruple bypass and is also in Bankruptcy Appeal at the US District Court and it has taken additional time for him to be available and myself according to mutual schedules but we were able to expend significant time on the facts and issues last week but again I am awaiting Support from ACIS or the call from the Supervisor at this Court.

36. Thus, for all of these reasons and the pending Order after a Case Management Conference in the Trial Court that may render this appeal or part of it moot, we respectfully seek at least an additional 30 day extension for the filing of the initial brief.

37. And for all these reasons the Appellants seek permission to grant this extension past the most recent due date.

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: August 12, 2025

/ s/ Eric Cvelbar

Bar Number: 166499

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Fla. R. App. P. 9.300(a Certification

I, Eric Cvelbar, attorney for the Appellants, that I duly conferred with opposing counsel Kathryn Lewis by email before the due date herein and in accordance with the Rule and such counsel objects and does not consent to this extension which is made in good faith by Appellants.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that all parties requiring service were served electronically via the Florida ECourt filing portal on this 12th day of August, 2025 as follows:

Kathryn Lewis

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Dated: August 12, 2025

/ s/ Eric Cvelbar

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**EXHIBIT FOR 4TH DCA APPEAL NO. 4D2025-0996
PROPOSED ORDER FROM CYNTHIA MILLER AT TRIAL COURT**

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

CASE NO.: 2018-CA-002317 (AO)

WALTER E. SAHM and
CHARLES REVARO, as Guardian of the Ward,
PATRICIA A. SAHM

Plaintiffs,

v.

BERNSTEIN FAMILY REALTY, LLC,
et al.

Defendants.

ORDER ON CASE MANAGEMENT CONFERENCE

THIS CAUSE, having come before this Court on July 31, 2025, for a Case Management Conference, and the Court having heard argument of the parties, reviewed the case file and being otherwise fully advised in the premises, it is hereby:

ORDERED AND ADJUDGED that:

1. The parties shall meet and confer to initially discuss Plaintiff's fees and costs submission on the attorneys' fees and costs issue by August 20, 2025. If the parties are unable to come to an agreement, they will schedule a hearing before the Court.
2. The parties agree to a 30-day extension of time for Defendants to specify their objections to Plaintiff's fees and costs submission and to identify their respective fee experts as outlined in paragraph 3 of the Court's Order Directing Pre-hearing Schedule for Attorney Fees and Cost Motions entered March 7, 2025. This time

starts after the court's ruling on producing unredacted copies of their invoices and the underlying documents. If the parties cannot agree on the production that hearing is to be set first thereby continuing all deadlines until that ruling pending the results of that hearing. All deadlines in relation to this issue is continued pending this initial meet and confer and any ruling on the redaction and production issues.

3. Plaintiff's counsel shall provide the Court with supplemental briefing as to the Declaration and Designation of Homestead Property after Levy by August 14, 2025.
4. Counsel for Defendants shall have through August 20, 2025, to amend any of Defendants' filings as he deems appropriate.
5. Upon filing of any such amendments by Defendants, Plaintiff's counsel shall have through August 28, 2025, to respond.

DONE and ORDERED in chambers in West Palm Beach, Palm Beach County, Florida,
this ____ day of August, 2025.

HONORABLE JOHN J. PARNOFIELLO
CIRCUIT COURT JUDGE

Copies to:
All Counsel of Record