

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT COURT OF APPEAL

ELIOT BERNSTEIN, et al.,

Appellant(s)

Case #4D2025-0996

L.T. #502018CA002317

v.

WALTER E. SAHM and PATRICIA
SAHM,

Appellees.

_____/

**APPELLEE’S (i) RESPONSE AND OBJECTION TO MOTION BY
APPELLANTS FOR PERMISSION TO SEEK A REASONABLE
EXTENSION OF THE TIME TO FILE THE INITIAL APPELLANTS
BRIEF AND (ii) MOTION TO DISMISS**

COMES NOW Appellee, Charles Revard, as Guardian of Patricia Sahm, by and through his undersigned counsel, and pursuant to Florida Rule of Appellate Procedure 9.110(l) files this his *Appellee’s (i) Response and Objection to Motion by Appellants for Permission to Seek a Reasonable Extension of the Time to File the Initial Appellants Brief and (ii) Motion to Dismiss*, and in support thereof states as follows:

I. HISTORY AND PROCEDURAL POSTURE

1. Appellants filed their *Notice of Appeal* on April 9, 2025.
2. On April 16, 2025, this Court entered an *Order to Show*

Cause requiring that

[w]ithin ten (10) days from the date of this Order, Appellant shall file in this court a brief statement explaining the basis for this court's subject matter jurisdiction over the order appealed in this case, citing supporting legal authorities. Appellant shall specifically address how the March 7, 2025 "Order Resetting Foreclosure Sale" is a final or nonfinal appealable order, as it appears to merely schedule a foreclosure sale pursuant to a final foreclosure judgment.

3. Appellants failed to file any statement concerning jurisdiction or any other documents in response to the *Order to Show Cause*. Instead, Appellant Eliot Bernstein filed a *Suggestion of Bankruptcy* on April 16, 2025 (which this Court then struck) and filed a second *Suggestion of Bankruptcy* on April 22, 2025.

4. In connection with the April 22 *Suggestion of Bankruptcy*, this Court ordered that the parties request guidance from the United States Bankruptcy Court as to whether the appeal should be stayed.

5. On June 6, 2025, Appellee filed his *Notice of Filing June 5, 2025 Bankruptcy Order*, which attached an order from the United States Bankruptcy Court dismissing Appellant Eliot Bernstein's

bankruptcy proceedings.

6. Accordingly, on June 18, 2025, this Court ordered that the appeal would proceed and that “Appellants shall file the initial brief and appendix within twenty (20) days of the date of this order.”

7. Pursuant to Florida Rule of Appellate Procedure 9.420(e) and Florida Rule of Judicial Administration 2.514, Appellants’ initial brief was due on July 8, 2025.

8. Appellants failed to file their initial brief by July 8, 2025.

9. Instead, on July 10, 2025, at 6:59 pm, Appellants filed their *Motion for Permission to Seek a Reasonable Extension of the Time to File the Initial Appellants’ Brief* (hereinafter “the *First Motion for Extension*”).

10. On July 16, this Court entered an order directing Appellee to file a response to the *First Motion for Extension* within five (5). Days. Appellee filed his *Response and Objection to Appellants’ Motion for Permission to Seek a Reasonable Extension of the Time to File the Initial Appellants’ Brief* later that same day.

11. On July 22, this Court entered the following order (“the *July 22 Order*”):

[U]pon consideration of Appellee’s July 16, 2025 response, Appellants’ July 11, 2025 motion for extension of time is granted in part, and Appellants shall serve the initial brief and appendix within fifteen (15) days from the date of this order. in addition, if the initial brief is not served within the time provided for in this order, the above-styled case may be subject to dismissal or the court in its discretion may impose other sanctions.

16. On August 6, 2025, undersigned counsel received an email from Eric Cvelbar, Esquire, requesting an additional fifteen (15) days to file the Initial Brief “as a professional courtesy” because it was “not practical” for him to have timely completely the Initial Brief. Undersigned counsel responded to Mr. Cvelbar that she would not agree to an extension because he had been on the case since April, because there was an Order from this Court mandating the time for filing, and because the Appellants have a long history of obstruction and delay. The email exchange is attached as **Exhibit A**.

17. Pursuant to Florida Rule of Appellate Procedure 9.420(e)

and Florida Rule of Judicial Administration 2.514(a), the deadline to file the Initial Brief was Thursday, August 7, 2025.

18. To date, the Initial Brief has not been filed.

19. Instead, on August 13, 2025, Appellants filed their *Motion by Appellants for Permission to Seek a Reasonable Extension of the Time to File the Initial Appellants Brief* (the “*Second Motion for Extension*”). The *Second Motion for Extension* advances the following “good cause and good faith” for a second extension of time: (1) that new proceedings in the lower court “essentially allow rehearing or new proceedings which directly alter some of the relief that would be sought on appeal” and that (2) that undersigned counsel has had “ongoing difficulty getting access to the proper Records for the Appeal.”

20. As is set forth below, none of these purported grounds constitute good cause or good faith for an additional extension, and this Court should deny the *Second Motion for Extension*. Furthermore, in accordance with this Court’s *July 22 Order*, this

Court should dismiss Appellants' appeal as a sanction for failure to comply with an Order of this Court. If this Court declines to dismiss the entire appeal as a sanction, it should dismiss the appeal in part to the extent that Appellants are appealing any portion of the lower court's order granting entitlement to attorney's fees.

II. RESPONSE AND OBJECTION TO SECOND MOTION FOR EXTENSION

A. Appellants are in Violation of This Court's *July 22 Order*

21. First, Appellants are already in violation of this Court's *July 22 Order*, which explicitly required Appellants to file their Initial Brief within fifteen (15) days.

22. Appellants' violation is made even more egregious by the fact that they failed to even file their *Second Motion for Extension* within the fifteen (15) days allotted by the *July 22 Order*, despite the fact that all of the purported grounds for the extension were known to Appellants prior to the August 7, 2025 deadline to file the Initial Brief.

23. For example, and as set forth in more detail below, the “new proceedings” which Appellants claim “significantly alter the posture of this case” occurred on July 31, 2025—seven (7) days prior to the deadline for filing the Initial Brief. Moreover, Appellants’ attempts to acquire the Index to Record on Appeal constituted the grounds for their *First Motion for Extension*—and are immaterial here, as the *July 22 Order* mandates that Appellants file an appendix along with their Initial Brief. And finally, any difficulties that Appellants and their counsel had in scheduling time to meet and confer regarding this case would of course have been known to Appellant’s counsel well before August 7.

24. Appellants have now twice failed to comply with the deadline to file their Initial Brief, even though the second deadline was imposed by order of this Court. Appellants should not be rewarded for their continual flouting of deadlines with a second extension of time, which would allow them to once again prolong the posture of this seven-year-old foreclosure case. For those reasons,

this Court should deny the *Second Motion for Extension*.

**B. The Lower Court Has Not Actually Granted a Rehearing
or Allowed for “New Proceedings”**

25. Appellants claim that “new proceedings have occurred at the Trial Court which may significantly alter the posture of the case—possibly rendering the appeal moot or affect its scope.” *Second Motion for Extension*, ¶ 5. Specifically, Appellants argue that the case management conference that took place in the lower court on July 31, 2025 resulted in the drafting of a proposed order that:

“...appear[s] 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.”

Second Motion for Extension, ¶ 7.

26. Notably, counsel for Appellants did not include these purported grounds for an extension in his August 6 email to

undersigned counsel. See **Exhibit A**.

27. Nevertheless, Appellants' reliance on the "proposed order" is wholly disingenuous. Appellants' *Second Motion for Extension* completely omits the fact that the "proposed order" attached to the *Motion* contains modifications made by fellow defendant Inger Garcia, Esquire, which Plaintiff/Appellee has *not* accepted. See **Composite Exhibit B**. In other words, Appellants have attached a self-serving *proposed* order from their co-defendant, which order Plaintiff/Appellee opposes, and Appellants now claims that this unsigned proposed order is evidence that the court will rule in the Defendants' favor.

28. Even if the lower court did enter the attached version of the proposed order, nothing in that order would "significantly alter the posture of the case." The proposed order merely extends the deadline for the Defendants (including Appellants) to specify their line-item objections to Plaintiff/Appellee's fees and costs in connection with the lower court's *Order Directing Pre-hearing*

Schedule for Attorney Fees and Cost Motions (D.E. #316) (“the *Scheduling Order*”) entered on March 7, 2025. The *Scheduling Order* is attached as **Exhibit C**.

29. As Appellants are aware, the lower court’s March 6, 2025 *Order Granting Plaintiff’s Motion to Strike Alleged Settlement Agreement and for Sanctions Due to Fraud on the Court* (D.E. #314) (the “*Strike Order*”) fixed Plaintiff/Appellee’s *entitlement* to attorney’s fees and costs from Defendants (including Appellants) but did not yet fix the *amount* of fees. The *Strike Order* is attached as **Exhibit D**.

30. The *Scheduling Order* directed the Plaintiff/Appellee to provide their invoices to Defendants, and provided the Defendants with an opportunity to object, as part of the process of determining the amount of fees to be imposed as a sanction on Appellants. It is, of course, completely within the lower court’s discretion to bifurcate the issues of entitlement to fees versus the amount of fees ultimately awarded. See *Roseman v. Town Square Ass’n, Inc.*, 810 So. 2d 516, 520 (Fla. 4th DCA 2001) (citing Fla. R. Civ. P. 1.270(b)) (holding that

“bifurcation is generally proper absent a specific threat of inconsistent verdicts or prejudice to a party”); *BDO Seidman, LLP v. Banco Espirito Santo Intl.*, 38 So. 3d 874, 875 (Fla. 3d DCA 2010) (citing Fla. R. Civ. P. 1.270(b)) (holding that “bifurcation of liability and damages is ordinarily within the sound discretion of the trial court”).

31. Appellants appear to argue that their opportunity to object to the *amount* of Plaintiff/Appellee’s requested fees is tantamount to a rehearing on the issue of Plaintiff/Appellee’s *entitlement* to fees. Appellants are incorrect. The issues have been bifurcated by virtue of the lower court’s *Strike Order* and *Scheduling Order*.

32. Indeed, none of the language in the proposed order (irrespective of the fact that it is Defendant Garcia’s proposed order, which Plaintiff/Appellee opposes) grants a rehearing, sets time for a rehearing, or vacates any prior orders, including the *Strike Order*, which fixed entitlement to fees.

33. Accordingly, there are no “new proceedings” that would

“directly alter some of the relief that would be sought on Appeal,” and Appellant’s *Second Motion for Extension* must be denied on these grounds.

C. Appellant’s Purported Difficulty Accessing Records Does Not Constitute Grounds for Further Delay

34. Next, Appellants argue that they require another extension of time because of “ongoing difficulty getting access to the proper Records for the Appeal.”

35. Appellants devote multiple paragraphs detailing their alleged efforts to obtain the Record on Appeal (though notably, Appellants do not disclose the dates any of these efforts were made), which Appellants assert is identical to the Record on Appeal in related case no. 4D25-0994 (which has since been dismissed by this Court).

36. First, Appellants’ efforts to obtain the Index to Record on Appeal are immaterial, as the *July 22 Order* directed Appellants to submit an appendix with their Initial Brief. “The purpose of an

appendix is to permit the parties to prepare and transmit copies of those portions of the record deemed necessary to an understanding of the issues presented.” Fla. R. App. P. 9.220(a). In other words, in its *July 22 Order*, this Court addressed the issues surrounding the Index to Record on Appeal by ordering Appellants to compile their own record.

37. Appellants’ *Second Motion for Extension* provides no good faith reason as to why Appellants have been unable to compile an appendix. Appellants’ counsel has been counsel of record in the lower court since July 30, 2025 (D.E. #s 423 and 424) and presumably has had access to all filed pleadings via the Florida Courts E-Portal Portal and/or ECaseView since that date or shortly thereafter. Moreover, Appellants e-filed, through the Florida Courts E-Filing Portal, numerous *pro se* pleadings between March 18, 2025 (when their former counsel, Inger Garcia, withdrew from the lower court case) and July 30, 2025 (when their new counsel filed his *Notice of Appearance*). Presumably, then, Appellants themselves have

access to all filed documents in the lower courts via the Florida Courts E-Filing Portal and/or ECaseView.

38. Indeed, nowhere in the *Second Motion for Extension* do Appellants claim that neither they nor their counsel have been able to access individual lower court filings through the Florida Courts E-Filing Portal or through ECaseView.

39. Instead, Appellants blame their former counsel, stating that they “have not been able to get their records from Ms. Garcia.” *Second Motion for Extension*, ¶ 34. Yet, Appellants do not identify what specific records they need from Ms. Garcia or what efforts they made to obtain said records from Ms. Garcia, nor do they explain why they are unable to access those records through the Florida Courts E-Filing Portal and/or ECaseView.

40. Appellants also attempt to blame opposing counsel, by stating that their own attorney “emailed . . . 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.”

Second Motion for Extension, ¶ 31. Appellants do not explain why they were dependent upon opposing counsel’s representation as to what may or may not be accessible via ECaseView; opposing counsel would have no way of knowing what documents Defendants/Appellants intended to rely on in pursuing this appeal.

41. Moreover, Appellants’ representation as to their communication to opposing counsel is misleading *at best*. While attorney Robert Sweetapple did not personally respond, Mr. Sweetapple’s associate, Cynthia Miller, Esquire, *did* write back to Appellants’ counsel on August 7, confirmed that she did not represent Plaintiff/Appellee in the appeal, and directed Appellants’ counsel to contact Plaintiff/Appellee’s appellate counsel (the undersigned)—which Appellants’ counsel never did.¹ Ms. Miller’s email is attached as **Exhibit E**.

¹ Appellant’s counsel’s prior email requesting an extension of time was sent the day prior, on August 6. See **Exhibit A**.

III. MOTION TO DISMISS AS SANCTION FOR FAILURE TO COMPLY WITH COURT DEADLINES AND ORDERS

42. Consistent with its *July 22 Order*, this Court should dismiss the instant appeal. Appellants have demonstrated a willful and contumacious disregard for this Court's *July 22 Order*. Not only have Appellants now twice failed to timely file their Initial Brief, but they could not even be bothered to timely file their requests for extension. Indeed, nowhere in the *Second Motion for Extension* do Appellants even attempt to explain why the *Second Motion for Extension* itself was filed five (5) days past the deadline to file the Initial Brief.

43. Appellants' conduct in continually ignoring deadlines, one instance of which constituted the violation of a Court order, is sufficient to subject Appellants to sanctions, including the dismissal of their appeal. *E.g. Gutierrez v. Gutierrez*, 399 So. 3d 1185, 1187 n. 1, 1188 (Fla. 3d DCA 2024) (finding that appellant's failure to comply with appellate rules governing briefs, plus appellant's inclusion of

fictitious case law in brief, warranted dismissal, and noting that appellant had had multiple appeals dismissed for failure to comply with the Florida Rules of Appellate Procedure).

44. Indeed, Appellant Eliot Bernstein has a long history of filing appeals with this Court, then seeking multiple extensions of time. This Court ultimately dismissed Mr. Bernstein's appeals for lack of prosecution. See Case Nos. 4D2016-1476, 4D2016-1449, 4D2016-2249, 4D2016-1478, 4D2017-1608, and 4D2017-1607. Although Mr. Bernstein is represented by counsel this time, his long-practiced pattern of delay and willful failure to comply with court-ordered deadlines persists.

45. Accordingly, this Court should treat Appellants' failure to comply with the *July 22 Order* and their untimely, baseless *Second Motion for Extension* as a failure to prosecute their appeal, and for that reason dismiss this instant appeal.

IV. MOTION TO DISMISS APPEAL IN PART AS PREMATURE

46. Additionally, the *Second Motion for Extension* made clear

that Appellants are challenging the portion of the *Strike Order* that grants entitlement to attorney's fees. However, that portion of the *Strike Order* is not yet ripe for appeal and therefore must be dismissed as premature.

47. This Court has consistently held that a trial court order that merely imposes entitlement to attorney's fees and costs, without determining the amount of fees and/or costs to be imposed, is a non-final, non-appealable order over which this Court lacks jurisdiction. *E.g. Law Offices of Jennifer S. Carroll, P.A. v. Brennan Brennan*, 287 So. 3d 627, 628–629 (Fla. 4th DCA 2020) (dismissing an appeal of an order awarding attorney's fees as a non-final, non-appealable order, when the order failed to fix the amount of fees awarded); *Alexopoulos v. Gordon Hargrove & James, P.A.*, 109 So. 3d 248, 250 (Fla. 4th DCA 2013) (holding that “[a]n order merely finding *entitlement* to attorneys' fees is a nonfinal, non-appealable order” and the appellate court is “without jurisdiction to address the issue of attorney's fees imposed as a sanction” at that stage); *Winkelman v. Toll*, 632 So.2d

130, 131 (Fla. 4th DCA 1994) (affirming that “orders granting attorney's fees without determining amount are not ripe for appellate review”); *State Farm Auto. Inc. Co. v. Bravender*, 700 So. 2d 796, 797 (Fla. 4th DCA 1997) (holding that a sanctions order is not appealable when it is not in the form of a money judgment for which the clerk would let execution issue).

48. Because the *Strike Order* does not impose an *amount* of attorney's fees and costs, but only sets *entitlement* to same, it is not a final, appealable order, and this Court is without jurisdiction to entertain the appeal. Nor does the *Strike Order* fall into any of the categories of appealable non-final orders set forth in Florida Rule of Appellate Procedure 9.130.

49. Appeals brought prematurely (e.g., on non-final, non-appealable orders) are subject to dismissal. Fla. R. App. P. 9.110(l). Accordingly, this Court should dismiss Appellants' appeal insofar as it seeks to overturn the trial court's imposition of attorney's fees as a sanction.

WHEREFORE, Appellee, by and through his undersigned counsel, respectfully requests that this Honorable court DENY Appellants' *Second Motion for Extension*, DISMISS the appeal for failure to prosecute, or in the alternative, DISMISS IN PART the appeal insofar as this Court lacks jurisdiction to entertain an appeal of an order awarding entitlement only to attorney's fees, and grant any such other and further relief as this Court deems just and proper.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished on the 19th day of August, 2025, via e-service through the e-portal to Eric Joseph Cvelbar, Esquire, 1181 NW 57th Street, Miami, Florida 33127-1307 (ecvelbar@hotmail.com) (Counsel for Appellant).

Bernstein et al. v. Sahm

Case #4D2025-0996

*Appellee's (i) Response and Objection to Motion by Appellants for
Permission to Seek a Reasonable Extension of the Time to File the
Initial Appellants Brief and (ii) Motion to Dismiss*

Page 21 of 21

KITROSER LEWIS & MIGHDOLL

631 U.S. Highway 1, Suite 406

North Palm Beach, FL 33408

Phone: 561-721-0600

Fax: 561-616-0079

/s/ Kathryn N. Lewis

Kathryn N. Lewis, Esquire

Fla. Bar #59182

Clara Crabtree Ciadella, Esquire

Fla. Bar #106323

Email: kathryn@kitroserlaw.com

Service: kathryn@kitroserlaw.com,

clara@kitroserlaw.com,

paula@kitroserlaw.com and

mikadmin@kitroserlaw.com

*Attorneys for Appellee, Charles
Revard, Guardian*

CERTIFICATE OF COMPLIANCE

I HEREBY CERTIFY that the foregoing document has been
composed in Bookman Old Style 14-point font and otherwise
complies with the form requirements of Florida Rule of Appellate
Procedure 9.045.

/s/ Kathryn N. Lewis

Kathryn N. Lewis, Esquire

Fla. Bar #59182

Kathryn Lewis

From: Kathryn Lewis
Sent: Tuesday, August 5, 2025 3:56 PM
To: Law Offices Eric Cvelbar
Cc: Paula Albright; Clara Ciadella; Mitchell Kitroser; Brigitte Jones
Subject: RE: Case # 4D 2025-0994

Good afternoon Mr. Cvelbar,

I am in receipt of the email below as well as your additional email clarifying that you are requesting the extension of time in case 4D25-0996. Unfortunately I cannot agree to an extension in this matter. First, you filed your Notice of Appeal on behalf of the defendants on April 7. That was four months ago and that is more than enough time to get up to speed on the legal issues in this case. Second, you were specifically ordered by the Fourth District to file the appeal and appendix within 15 days when you had originally asked for 30. Third, your clients have a long history of obstruction and delay.

On another note, I do not recognize the email pleadings@marcadislaw.com -there is no Notice of Appearance from anyone using that email address so I have deleted them from this email communication. I would also ask that you refrain from serving Amber Patwell on any future filings in this matter – Ms. Patwell resigned as Ms. Sahm’s counsel and has no further involvement in this matter. I can send you the court order confirming her resignation if you’d like.



Kathryn N. Lewis, Esq.

(she/her/hers)

Partner

Kitroser Lewis & Mighdoll

Main 561.721.0600 **Direct** 561.614.6746

Web www.kitroserlaw.com **Email** Kathryn@kitroserlaw.com

631 US Highway 1, Suite 406 | North Palm Beach, FL 33408

850 Northwest Federal Highway, Suite 403 | Stuart, FL 34994



Confidential and Privileged Communication. The information contained in this e-mail message is intended only for the personal and confidential use of the recipient(s) named above. This message may be an attorney-client communication and/or work product and as such is privileged and confidential. If the reader of this message is not the intended recipient or an agent responsible for delivering it to the intended recipient, you are hereby notified that

you have received this document in error and that any review, dissemination, distribution, or copying of this message is strictly prohibited. If you have received this communication in error, please notify us immediately by e-mail and delete the original message.

IRS Circular 230 Notice Requirement. This communication is not given in the form of a covered opinion, within the meaning of Circular 230 issued by the United States Treasury. Thus, we are required to inform you that you cannot rely upon any tax advice contained in this communication for the purpose of avoiding United States federal tax penalties. In addition, any tax advice contained in this communication may not be used to promote, market, or recommend a transaction to another party.

E-mail viruses. This e-mail transmission and any attachments are believed to have been sent free of any viruses or other defect that might affect any computer system into which it is received and opened. It is, however, the recipient's responsibility to ensure that the e-mail transmission and any attachments are virus free, and Mitchell I. Kitroser, P.A. and Kitroser Lewis & Mighdoll accepts no responsibility for any damage that may in any way arise from their use.

From: Law Offices Eric Cvelbar <ecvelbar@hotmail.com>

Sent: Tuesday, August 5, 2025 1:34 PM

To: Kathryn Lewis <Kathryn@kitroserlaw.com>

Cc: PLEADINGS@MARCADISLAW.COM

Subject: Case # 4D 2025-0994

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good afternoon this is Eric J. Cvelbar Esq. Attorney for Mr. Bernstein ,and as you all are aware I just got involved in this matter a short time ago. The due date for filing the brief is tomorrow August 6th 2025. Obviously it is not practical for me to have it completed by this date. Therefore I am asking for an additional 15 days as a professional courtesy to complete and file this brief. Please let me know as soon as possible if everyone would gree to this courtesy. Thanks, Eric J. Cvelbar, Esq.

Kathryn Lewis

From: Cynthia Miller <cmiller@sweetapplelaw.com>
Sent: Thursday, August 7, 2025 1:17 PM
To: Inger Garcia, Esq.; Inger Garcia; Inger Garcia; ecvelbar@hotmail.com
Cc: Cassandra Hahn
Subject: Revard v. Bernstein, et al.
Attachments: Proposed Order on CMC.docx

Good afternoon,

Attached please find a proposed Order on CMC. Please review and advise if you have any edits or if I may submit in the current form. Please let me know your comments by Friday at 12.

As Inger indicated that she is in a federal trial this week, the Order specifies that we will meet and confer no later than August 14, 2025. Please let me know your respective availability for a conference call. If you are able to email me your items of concern prior to the call, it will help us expedite the process. I am unavailable August 12 after 4 and August 13 after 12. I look forward to speaking with you on this matter. Thank you.

CYNTHIA J. MILLER

Attorney

Sweetapple, Broeker & Varkas, P.L.

4800 North Federal Highway, Suite D306

Boca Raton, FL 33431

[\(561\) 392-1230\(t\)](tel:5613921230)

[\(561\) 394-6102\(f\)](tel:5613946102)

cmiller@sweetapplelaw.com

www.sweetapplebroeker.com

STATEMENT OF CONFIDENTIALITY

The information in this e-mail is confidential and may be legally privileged. If you are not the named addressee, or if this message has been addressed to you in error, you are directed not to read, disclose, reproduce, distribute, disseminate, maintain, save, or otherwise use this email. Please contact the sender at the above number immediately. Delivery of this message to any person other than the intended recipient(s) is not intended in any way to waive privilege or confidentiality.

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 discuss Plaintiff's fees and costs submission by August 14, 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.
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 14, 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 21, 2025, to respond.
6. No further motions to stay the case will be entertained by the Court at this time.

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

Kathryn Lewis

From: Inger Garcia <attorney@floridapotlawfirm.com>
Sent: Friday, August 8, 2025 3:16 AM
To: Cynthia Miller; Inger Garcia; Inger Garcia, Esq.; Inger Garcia; ecvelbar@hotmail.com
Cc: Cassandra Hahn
Subject: Re: Revard v. Bernstein, et al.
Attachments: Proposed Order on CMC by IMG .docx

Here are my changes attached - where are Eric's comments as to his part?

From: Cynthia Miller <cmiller@sweetapplelaw.com>
Sent: Thursday, August 7, 2025 1:16 PM
To: Inger Garcia, Esq. <serviceimglaw@yahoo.com>; Inger Garcia <attorney@floridapotlawfirm.com>; Inger Garcia <inger13@aol.com>; ecvelbar@hotmail.com <ecvelbar@hotmail.com>
Cc: Cassandra Hahn <paralegal@sweetapplelaw.com>
Subject: Revard v. Bernstein, et al.

Good afternoon,

Attached please find a proposed Order on CMC. Please review and advise if you have any edits or if I may submit in the current form. Please let me know your comments by Friday at 12.

As Inger indicated that she is in a federal trial this week, the Order specifies that we will meet and confer no later than August 14, 2025. Please let me know your respective availability for a conference call. If you are able to email me your items of concern prior to the call, it will help us expedite the process. I am unavailable August 12 after 4 and August 13 after 12. I look forward to speaking with you on this matter. Thank you.

CYNTHIA J. MILLER

Attorney
Sweetapple, Broeker & Varkas, P.L.
4800 North Federal Highway, Suite D306
Boca Raton, FL 33431
[\(561\) 392-1230\(t\)](tel:5613921230)
[\(561\) 394-6102\(f\)](tel:5613946102)
cmiller@sweetapplelaw.com
www.sweetapplebroeker.com

STATEMENT OF CONFIDENTIALITY

The information in this e-mail is confidential and may be legally privileged. If you are not the named addressee, or if this message has been addressed to you in error, you are directed not to read, disclose, reproduce, distribute, disseminate, maintain, save, or otherwise use this email. Please contact the sender at the above number immediately. Delivery of this message to any person other than the intended recipient(s) is not intended in any way to waive privilege or confidentiality.

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 REVARD, 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

Kathryn Lewis

From: Cynthia Miller <cmiller@sweetapplelaw.com>
Sent: Friday, August 8, 2025 9:56 AM
To: Inger Garcia; Inger Garcia, Esq.; Inger Garcia; ecvelbar@hotmail.com
Cc: Cassandra Hahn
Subject: RE: Revard v. Bernstein, et al.
Attachments: Proposed Order on CMC by IMG_cjm edits.docx

Good morning, all,

I have attached my red-lined edits to Inger's highlighted changes. I can agree to extend the meet and confer through August 20 to accommodate Ms. Garcia's schedule, but will not agree to move the respective dates regarding the outstanding foreclosure issues that were specifically set by Judge Parnofiello and concern to our office and Mr. Cvelbar.

Please let me know if you agree to my edits. If not, I will send an email to the Judge containing both versions of the Order for his consideration.

CYNTHIA J. MILLER

Attorney
Sweetapple, Broeker & Varkas, P.L.
4800 North Federal Highway, Suite D306
Boca Raton, FL 33431
(561) 392-1230(t)
(561) 394-6102(f)
cmiller@sweetapplelaw.com
www.sweetapplebroeker.com

STATEMENT OF CONFIDENTIALITY

The information in this e-mail is confidential and may be legally privileged. If you are not the named addressee, or if this message has been addressed to you in error, you are directed not to read, disclose, reproduce, distribute, disseminate, maintain, save, or otherwise use this email. Please contact the sender at the above number immediately. Delivery of this message to any person other than the intended recipient(s) is not intended in any way to waive privilege or confidentiality.

From: Inger Garcia <attorney@floridapotlawfirm.com>
Sent: Friday, August 8, 2025 3:16 AM
To: Cynthia Miller <cmiller@sweetapplelaw.com>; Inger Garcia <attorney@floridapotlawfirm.com>; Inger Garcia, Esq. <serviceimglaw@yahoo.com>; Inger Garcia <inger13@aol.com>; ecvelbar@hotmail.com
Cc: Cassandra Hahn <paralegal@sweetapplelaw.com>
Subject: Re: Revard v. Bernstein, et al.

Here are my changes attached - where are Eric's comments as to his part?

From: Cynthia Miller <cmiller@sweetapplelaw.com>
Sent: Thursday, August 7, 2025 1:16 PM
To: Inger Garcia, Esq. <serviceimglaw@yahoo.com>; Inger Garcia <attorney@floridapotlawfirm.com>; Inger Garcia <inger13@aol.com>; ecvelbar@hotmail.com <ecvelbar@hotmail.com>

Cc: Cassandra Hahn <paralegal@sweetapplelaw.com>

Subject: Revard v. Bernstein, et al.

Good afternoon,

Attached please find a proposed Order on CMC. Please review and advise if you have any edits or if I may submit in the current form. Please let me know your comments by Friday at 12.

As Inger indicated that she is in a federal trial this week, the Order specifies that we will meet and confer no later than August 14, 2025. Please let me know your respective availability for a conference call. If you are able to email me your items of concern prior to the call, it will help us expedite the process. I am unavailable August 12 after 4 and August 13 after 12. I look forward to speaking with you on this matter. Thank you.

CYNTHIA J. MILLER

Attorney

Sweetapple, Broeker & Varkas, P.L.

4800 North Federal Highway, Suite D306

Boca Raton, FL 33431

[\(561\) 392-1230](tel:(561)392-1230)(t)

[\(561\) 394-6102](tel:(561)394-6102)(f)

cmiller@sweetapplelaw.com

www.sweetapplebroeker.com

STATEMENT OF CONFIDENTIALITY

The information in this e-mail is confidential and may be legally privileged. If you are not the named addressee, or if this message has been addressed to you in error, you are directed not to read, disclose, reproduce, distribute, disseminate, maintain, save, or otherwise use this email. Please contact the sender at the above number immediately. Delivery of this message to any person other than the intended recipient(s) is not intended in any way to waive privilege or confidentiality.

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~~the parties will set Ms. Garcia's Motion to Compel for hearing within two (2) weeks. ~~thereby continuing~~ All deadlines ~~will be continued until that ruling~~ pending the ~~results~~results of that hearing. All deadlines in relation to this issue ~~are~~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 2014, 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 281, 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

IN THE CIRCUIT COURT IN AND FOR
PALM BEACH COUNTY, FLORIDA

CIRCUIT CIVIL DIVISION: "AO"
CASE NO.: 50-2018-CA-002317-XXXX-MB

WALTER E SAHM,
CHARLES REVARO AS GUARDIAN OF THE WARD PAMELA A SAHM,
Plaintiff/Petitioners
vs.
BERNSTEIN FAMILY REALTY LLC,
ALL UNKNOWN TENANTS,
BRIAN O'CONNELL,
et al.,
Defendant/Respondents.

**ORDER DIRECTING PRE-HEARING SCHEDULE FOR
ATTORNEY FEES AND COST MOTIONS**

THIS MATTER came before the Court on Plaintiffs' Motion to Strike Alleged Settlement Agreement for Fraud and for Sanctions. By order dated March 6, 2025, this Court granted entitlement to the Plaintiffs against Defendant Eliot Bernstein, Defendant, Bernstein Family Realty, LLC, and counsel Inger Garcia Esq., and entered an order to that effect on March 6, 2025. Accordingly, it is hereby **ORDERED AND ADJUDGED** as follows:

1. The parties and the Court will benefit by pre-hearing disclosures and party conferences to clarify the extent and basis of any objections to the motion on an item by item basis and resolve as much of the dispute as possible through good faith negotiations. To that end, the parties may, by agreement, extend each deadline imposed in this Order by up to 30 days without further Order of the Court.
2. Within 60 days, the movant(s) shall submit to the parties from whom fees or costs are sought the name and address of the fee/cost expert that will be used in support of the motion along with copies of all billing, timesheets, invoices for costs, and any other documentary evidence relating to attorneys' fees and/or court costs claimed (collectively the "Claim"). Failure to specifically identify and itemize any fee or cost may result in a waiver of the right to have it awarded or taxed.
3. Within 30 days after service of the itemized Claim required by paragraph 2 of this Order, any party opposing any part of the Claim shall respond to the movant(s) by providing specific objection to each disputed line item and the legal or factual basis for each objection. They shall also identify the name and address of any expert it intends to use in rebuttal. Failure of a party to specifically object to an item may result a waiver of any right to object. All objections must be in good faith and frivolous or baseless requests or objections may be deemed waived.
4. Within 15 days after service of any objections required by paragraph 3 of this Order, the parties and their respective experts shall meet for the purposes of conferring over each disputed item of the Claim. If the parties cannot resolve the Claim, they shall file a joint report within 15 days of meeting that:

- (a) Lists each specific line items of the Claim that remains in dispute;
- (b) Identifies by line item the legal or factual basis for each objection and the specific response of the movant(s) to each objection;
- (c) Provides legal authorities in support of each parties position, and
- (d) Proposes the exact amount of time necessary for an evidentiary hearing.

Copies of the joint report should be sent to Chambers by email at CAD-DivisionAO@pbcgov.org. If an evidentiary hearing is anticipated to take a half-hour or less the parties may use the on the on-line scheduling system, and the hearing shall be set within 20 days from filing of the report. Evidentiary hearings requiring more than a half-hour will be set before a Senior Judge or will be set at calendar call. Failure to comply with this Order in the time frames set forth above may result in the motion being deemed abandoned and the case closed without further notice.

DONE AND ORDERED in Chambers, at West Palm Beach, Palm Beach County, Florida.

50-2018-CA-002317-XXXX-MB 03/07/2025
John J. Parnofiello Circuit Judge
ADMINISTRATIVE OFFICE OF THE COURT
50-2018-CA-002317-XXXX-MB 03/07/2025
John J. Parnofiello
Circuit Judge

COPIES TO:

AMBER H. PATWELL ESQ	136 4TH ST N STE 201 - OFFICE 356 SAINT PETERSBURG, FL 33701	amber@aplpinellas.com apatwell@wblaws.com
BRIAN M O'CONNELL ESQ	420 ROYAL PALM WAY STE 300 PALM BEACH, FL 33480	brian@boconnelllaw.com bmoclaw@gmail.com
INGER M. GARCIA ESQ	4839 VOLUNTEER RD #514 DAVIE, FL 33330	Attorney@ingergarcia.com Attorney@floridapotlawfirm.co m attorney@floridapotlawfirm.co m serviceimglaw@yahoo.com serviceimglaw@gmail.com attorney@ingergarcia.com madcrazycawmaker@yahoo.co m inger13@aol.com
JILL IANTONI	2101 MAGNOLIA LANE HIGHLAND PARK, IL 60035	

LISA FRIEDSTEIN

2142 CHURCHILL LANE
HIGHLAND PARK, IL 60035

ROBERT A. SWEETAPPLE
ESQ

4800 N FEDERAL HWY STE
B105
BOCA RATON, FL 33431

PLEADINGS@SWEETAPPLE
LAW.COM
paralegal@sweetapplelaw.com
rsweetapple@sweetapplelaw.co
m

NOT A CERTIFIED COPY

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

CIRCUIT CIVIL DIVISION: AO
CASE NO.: 50-2018-CA-002317-XXXX-MB

WALTER E SAHM,
CHARLES REVARD AS GUARDIAN OF THE WARD PAMELA A SAHM,
Plaintiff/Petitioners

vs.
BERNSTEIN FAMILY REALTY LLC,
ALL UNKNOWN TENANTS,
BRIAN O'CONNELL,
et al.,
Defendant/Respondents.

**ORDER GRANTING PLAINTIFF'S MOTION TO STRIKE ALLEGED SETTLEMENT
AGREEMENT AND FOR SANCTIONS DUE TO FRAUD ON THE COURT (DE #226)**

This Cause came before the Court on the Plaintiff's Motion to Strike Alleged Settlement Agreement and for Sanctions for Fraud on the Court (DE #226) first on a special set hearing held on August 12, 2024. At the conclusion of the time set aside by the parties, the parties requested additional discovery and hearing time. After several intervening hearings, the matter was ultimately concluded on January 28, 2025. The Court requested and received written closing arguments. After reviewing all docket entries between, DE #226 and #313, a complete review of the Court file, and the Court being otherwise apprised in the premises the Court makes the following findings of fact and conclusions of law.

FINDINGS OF FACT

This matter has its genesis in a foreclosure action filed on or about February 27, 2018, which became final on December 31, 2021. Describing the procedural history of this matter as "tortured" would be an understatement. For brevity's sake, based upon this Court's review of the Court file, the documentary evidence introduced during the hearing, and the Court's evaluation of

the sworn witness testimony, this Court accepts the Plaintiff's Statement of Facts as set forth in Pages 2 – 20 of its written closing arguments (DE #312) as a generally accurate recitation of the litigation taking place prior to the substitution of Charles Revard as the Party Plaintiff for the Ward, Patricia A Sahm which frames the issues this Court must attempt to untangle.

The Owner of the foreclosure action is Patricia A. Sahm ("Ms. Sahm") an 83-year-old woman who has been diagnosed with Alzheimer's disease since September 2022. Ms. Sahm has two daughters, Joanna Sahm and [REDACTED]. [REDACTED] testified that, as of August 12, 2024, her mother been incapacitated for approximately two years. Joanna Sahm testified that she has possessed Ms. Sahm's power of attorney since around December of 2021. Joana Sahm testified that, after her father passed away in January 2021, she assumed handling of the foreclosure matter pursuant to a Power of Attorney. Joana Sahm testified that her mother was aware of the foreclosure litigation, but requested that Joanna Sahm handle it. Joanna Sahm testified that she sees her mother two to three times per week. Before the guardianship process began, Ms. Sahm had been victimized by several financial scams and was unable to discuss the merits of the foreclosure proceedings with Joanna Sahm. Joanna Sahm had been the primary point of contact handling the foreclosure matter and had retained Robert Sweetapple, Esq., pursuant to her valid limited power of attorney, to represent Ms. Sahm in the foreclosure matter at some point prior to February 27, 2018, when the initial complaint was filed. Joanna Sahm testified that her sister, Patricia Sahm Jr., pulled a gun and threatened to kill her in January of 2023, and, as a result of that, she obtained a restraining order against Patricia Sahm, Jr.

On or about March 15, 2023, Ms. Sahm completed a form entitled Florida Power of Attorney Revocation which was provided to Joanna Sahm prior to a court hearing in the related Bankruptcy Action on or around April 13, 2023 (Def Comp. Exh. #1). On or about April 11, 2023,

Morgan L. Weinstein, from the firm of Twig, Trade, & Tribunal sent an engagement letter to Ms. Sahm but ultimately was not retained (Def. Exh. #10).

Joanna Sahm testified that when she questioned Ms. Sahm about signing the revocation form, Ms. Sahm had no recollection of signing it. On or about April 17, 2023, Joanna Sahm testified that she sought a Petition for Appointment of a Plenary Guardian over Ms. Sahm (Pltf. Exh. #1). Ms. Sahm was represented by Amber Patwell, Esq., in the guardianship proceeding. On or around April 19, 2023, Joanna Sahm received a 65 paragraph notarized statement from Ms. Sahm (Def. Exh. 2), which asserted numerous contradictory statements and was, according to the statement, co-authored by Patricia Sahm, Jr. Joanna Sahm testified that, at some point in May 2023, Patricia Sahm Jr. took Ms. Sahm's phone away and further blocked her phone number in her mother's phone.

Dr. Stanley Bloom testified as to his evaluation of Ms. Sahm taken pursuant to the guardianship proceeding. Dr. Bloom testified that at least on or after May 5, 2023, Ms. Sahm lacked the capacity to contract, sue, or defend lawsuits. Dr. Brennan Cheshire found that Ms. Sahm was incapacitated and should be consulted with respect to her living residence and the sale of her property and have counsel in contracts and legal matters (Def. Exh. 14). Ultimately, an order Determining that Ms. Sahm had Limited Incapacity was entered on or about June 27, 2023 in Palm Beach County Case No. 2023MH001072 (Pltf. Exh. 3).

The Settlement agreement that the Plaintiffs seek to set aside was signed by Ms. Sahm purportedly on May 22, 2023 (Def. Exh. #6). This is after the guardianship proceeding began, but before the final adjudication of limited incapacity. The Settlement Agreement asserts that Walter Sahm is deceased and that Ms. Sahm is the "only true party in interest." Defense Exhibit 3 is a

stipulation for substitution of counsel also signed by Ms. Sahm on May 22, 2023, which purports to substitute Ms. Patwell for Mr. Sweetapple but is not signed by either attorney.

Inger Garcia, Esq., testified twice, both in the Plaintiff's case in chief and then in the Defendant's case as the Defense's sole witness in support of the settlement agreement. Ms. Garcia's testimony was, in a word, astonishing. Ms. Garcia has been practicing law since 1991 and a member of the Florida Bar since 1997. Ms. Garcia claimed to have included Mr. Sweetapple in her attempts to settle the case, yet did not use Mr. Sweetapple's correct email and never actually spoke to him before the settlement agreement was executed. Ms. Garcia claimed to know that Amber Patwell, Esq.¹, Ms. Sahm's attorney in the guardianship case, had also become counsel of record in the foreclosure case, despite never having seen an executed stipulation of counsel. Ms. Garcia was in possession of Ms. Patwell's retainer and engagement letters with Ms. Sahm and entered them into evidence. Ultimately, Ms. Garcia admitted to expeditiously negotiating the settlement of the foreclosure case with the attorney representing Ms. Sahm in proceeding where Ms. Sahm's mental capacity was at issue, without ever seeing any document indicating that attorney had the ability to settle the foreclosure matter or that Mr. Sweetapple had ceased representing Ms. Sahm. It was her second attempt to settle the matter with the second new lawyer on the foreclosure case, which had been prosecuted by Mr. Sweetapple for the past five years, in the span of two weeks. (*Cf. Def. Exh. "T" Texts between Garcia and Weinstein beginning 4/6/2023*)

¹ Although listed as a witness by the Defendant, Ms. Patwell did not testify at the hearing. Nor did she appear for a deposition despite a court order requiring her to do so. During a hearing on a Motion for Protective Order held on September 20, 2024, it was represented to the Court by counsel for Mr. Revard in the guardianship matter that the reason Ms. Patwell was unable to attend her deposition was because Ms. Patwell was incarcerated for perjury. In fact, on or about September 13, 2024, Ms. Patwell's bond was revoked on two counts of Felony Child Neglect in Pasco County Case No. 2022CF001041 based upon a finding of probable cause in Pasco County Case No. 2024CF002407 for one count of Perjury in an Official Proceeding for allegedly providing false statements under oath in a hearing before Hon. Lauralee Westine held on June 19, 2023. Ms. Patwell remains incarcerated as of the date of this order. Both Pasco County matters remain open and pending, and Ms. Patwell is presumed innocent of all three of those charges. The Court does not consider any of the facts or circumstances of the Pasco County cases for its ruling on the instant motion as none of them were presented in full during the hearing.

and Def. Exh. “MM” *Texts between Garcia and Patwell beginning appx 5/5/2023*). Ms. Garcia testified that after “settling” the matter with Ms. Patwell, the Defendants met at her house to sign the settlement paperwork and then, with Ms. Patwell’s permission, the Defendants took the settlement agreement over to Ms. Sahm to obtain her signature.

Eliot Bernstein’s deposition provided further clarification as to the events leading up to the signing of the “settlement agreement” (Def. Exh. #27). Eliot Bernstein traveled to Ms. Sahm’s home when she was alone, either by himself or with one or more of his children, to discuss settlement of this case. According to Eliot Bernstein, Kevin Hall, manager of Defendant Bernstein Family Realty, LLC (“BFR”), contacted Patty Sahm, Jr. by finding her contact information from “the police reports” and began talking with Patty Sahm, Jr. and Ms. Sahm (Def. Exh. #27 Pg. 59 Ln. 5-22)². According to Eliot Bernstein, Mr. Hall discussed the pending foreclosure matter at length with Ms. Sahm which upset her and ultimately lead her to want to revoke her power of attorney (*Id.*). According to Eliot Bernstein, following these conversations with Mr. Hall³, Ms. Sahm wanted to revoke her power of attorney from Joanna Sahm (*Id.* at Pg. 60 Lns. 1 -22). The Court notes that the statements Eliot Bernstein claims Ms. Sahm made were of a substantially different level of comprehension than the statements made by Ms. Sahm during a hearing before Judge Feuer (Def. Comp. Exh. #28 *Transcript of May 13, 2024 hearing* at Pgs. 13 - 24).

² Presumably from Patty Sahm, Jr.’s Arrest on or about January 25, 2023 for two Counts of Aggravated Assault in Palm Beach Case Number 23CF000747 (DE #5) where one of the victims was Joanna Sahm, though not explicitly stated in the deposition. Patty Sahm, Jr. ultimately pled guilty and was placed on 3 years concurrent probation with the first year to be served as in house arrest on or about 1/3/2024 (DE #156) which was given as the reason by Ms. Garcia that she was unable to appear and testify in Court.

³ Kevin Hall has repeatedly attempted to insert himself in these proceedings, as well as the Guardianship and Mental Health Cases filing numerous unauthorized motions and notices (DEs #209 - #210, #216, #223, #229 0 #234 and #258). Shortly after this Court taking over the case from its Predecessor Judge, this Court entered an Order Striking Mr. Hall’s unauthorized filings and finding he both could not intervene *pro se* and that, to the extent that BFR, LLC is a party it must be represented by counsel (DE #261). Thereafter, Mr. Hall moved twice to disqualify the Court. (DEs #280 and #297). Both motions were denied. (DEs #283 and #298). Mr. Hall was warned that further filings in this case would cause the Court to issue a Rule to Show Cause why the Court should not direct the Clerk of Court to refuse any further *pro se* filings by him (DE #261). Mr. Hall continues to file documents in both in 2023GA000245 and 2023MH001072.

Defendants, Eliot Bernstein and Mr. Hall on behalf of BFR, LLC, along with their counsel Inger Garcia, Esq. as well as with members of the Florida Court Task Force on Guardianship Abuse and Elder Abuse, apparently taken aback at how “unfair” the guardianship process had been going for their adversary in this proceeding, Ms. Sahm, sought to find a guardianship attorney to represent Ms. Sahm (Def. Exh. #27 at Pgs 70 – 72, 87 - 88). That guardianship attorney would also conveniently settle the instant foreclosure matter for a drastically reduced amount. *Id.* This scheme is cynically referred to throughout this litigation, as well as the guardianship and incapacity cases, as “giving Ms. Sahm a voice” or “preventing her voice from being taken from her.”

Eliot Bernstein went to Ms. Sahm’s home after the initiation of the guardianship proceedings to have her sign a settlement agreement. This was done with the knowledge and consent of Inger Garcia, Esq. and Amber Patwell, Esq., but not Robert Sweetapple, Esq. (*Id.* at Pgs. 71 – 74). Mr. Hall continued to not only speak with Ms. Sahm but also sent several draft settlement agreements for the parties and assisted with revisions (*Id.* at Pgs. 75 - 79). According to Eliot Bernstein, although denying that he was engaging in settlement negotiations, he and his sons went to see Ms. Sahm to discuss terms and conditions to settle the case while doing chores for her around the house and discussing about how Joanna Sahm was failing to care for Ms. Sahm, endangering her well-being. (*Id.* at Pgs. 79 - 86).

Throughout these proceedings, Inger Garcia, Esq. has represented the Defendants. Ms. Garcia also represents Patty Sahm Jr., in Ms. Sahm’s guardianship proceedings, including through the August 14, 2024 Injunction for Protection against Exploitation of a Vulnerable Adult proceedings (*See* Pltf. Exh. #11). Ms. Garcia has pending in this case a Motion for Relief from Judgment pursuant to *Fla. R. Civ. P.* 1.540 (DE #207) which was filed on or about May 24, 2023 (two days after the “settlement agreement”). Despite being pending for two years, this motion has

never been set for a hearing. In fact, Ms. Garcia consistently refused this Court's requests to hear both the Motion to Set Aside the May 22, 2023 settlement at the same time as her Motion to Set Aside a Judgment, she asserts has been settled by way of a valid settlement agreement, based upon "fraud." In the related bankruptcy action, Hon. Peter Russin found that Ms. Garcia, on behalf of certain defendants including Eliot Bernstein, filed a factually false and legally incorrect Suggestion of Bankruptcy *in these proceedings* for the purpose of obtaining the cancellation of the April 4, 2023 foreclosure sale as part of a continuing bad faith scheme to delay and hinder the foreclosure action. (Pltf. Exh. #6 at Paragraphs d – e; *See also* DE #203). Ms. Garcia has also made reference to her "pending 1.540" motion in her various appearances in 2023MH001072 and 2023GA000245.

A draft settlement agreement Ms. Garcia emailed on March 10, 2023 to another attorney handling one of these cases, states:

WHEREAS, on February 23, 2018, Plaintiffs, Walter E. Sahn and his then wife Patricia A. Sahn, filed a lawsuit for foreclosure on a first mortgage and promissory note [...] Walter E. Sahn, [sic] Jr., is now deceased and his estate is pending in Marion County, and **his now incapacitated wife, Patricia Sahn**, has a POA/Trustee/Pre-need Guardian with her daughter Johanna Sahn, and are the true current parties in interest[.] (Pltf. Exh. 12) (*emphasis added*).

This Court assumed responsibility for this Case from its Predecessor Judge on or about July 1, 2024. Since that time, Ms. Garcia has frequently filed documents the day prior to hearing, failed to comply with orders to meet and confer and provide scheduling with opposing counsel, and consistently requested extensions of time. (DEs #248, #251, #259) This Court has previously found that Ms. Garcia's conduct did appear to be dilatory and indicated that this Court was close to ordering her to show cause why It should not impose sanctions. (*See Transcript of September*

20, 2024 Hearing DE #285 at Pgs. 12, 38-29). At the January 28, 2025 hearing, Ms. Garcia produced Defense Exhibit MM, which were text exchanges between her and Ms. Patwell. *Inter alia*, Ms. Garcia texts to Ms. Patwell:

Thank you for your time today. Without sharing I requested client and kevin to back off and not communicate with you or your client or her daughter so you can let me know on Monday or whenever what you need from us. If you get any calls or texts from Kevin ignore him. I can tell Patty jr that we are stepping back and not communicating with them for now so you guys can decide what to do and we are here to help but not to respond to anyone but you[.]

Sorry to bother you on a Sunday. I am working on the 1.540 motion on the foreclosure case. I am going to change it to support your client[...]
Ok well I hate wasting time drafting but it will all support your client as having no knowledge. I need this money to pay my mortgage lol[...]

Statement of the Law

A person is presumed to be competent when she enters into a contract and the burden of overcoming this presumption rests on the party who challenges the validity of the contract. *John Knox Village of Tampa Bay, Inc v. Perry*, 94 So. 3d 715, 717 (Fla. 2nd DCA 2012) citing *Travis v. Travis*, 87 So. 762, 765 (1921). Incompetence is not shown by evidence of simple feebleness or mental weakness. The challenging party must prove that the mental or physical weakness amounted to an inability to comprehend the effect and nature of the transaction. *Dukes v. Dukes*, 346 So.2d 544, 546 (Fla. 1st DCA 1976).

“[U]ndue influence justifying the setting aside of will, deed, or other contract must be such as to dethrone the free agency of the person making it and rendering his act the product of the will of another instead of his own.” *Peacock v. Du Bois*, 105 So. 321, 322 (Fla. 1925). “The character

of the transaction, the mental condition of the person whose act is in question, and the relationship of the parties concerned to each other, are all elements that may be taken into consideration in applying the rule.” *Id.*

ANALYSIS

Having had the opportunity to observe the demeanor and frankness of the witnesses and their ability to testify relevantly, the Court credits the testimony of Joanna Sahm and Dr. Bloom. Dr. Bloom’s opinion is corroborated by Dr. Cheshire’s opinion. Further, this Court finds only those portions of Ms. Garcia and Eliot Bernstein’s testimony cited in the above finding of facts to be credible. The Court finds that the credible evidence conclusively rebuts the presumption of competency and that the Plaintiffs have established Ms. Sahm was not competent to execute either her initial revocation of the Power of Attorney. As of that time, she had already been diagnosed with Alzheimer’s disease and had fallen victim to at least three prior financial scams. Ultimately, she would be examined by a guardianship committee and adjudicated to require a guardianship. While the ultimate adjudication of incapacity in the guardianship proceeding occurred significantly after the events giving rise to the instant “settlement” agreement, the evidence demonstrates that Ms. Sahm had been suffering from cognitive impairment for some time *prior* to the institution of the guardianship proceedings. Indeed, Joanna Sahm testified Ms. Sahm did not recognize or remember some of the letters she wrote discussing the case days after signing them. The Plaintiffs having overcome the presumption of Ms. Sahm’s capacity, there was no credible evidence to demonstrate that Ms. Sahm was in fact competent at the time she revoked her power of attorney. With the Court finding the revocation of Ms. Sahm’s Power of Attorney to not have been done in a competent capacity, all acts following that, including the May 22, 2023 settlement agreement, would necessarily be *void ab initio*.

Assuming, *arguendo*, Ms. Sahm was competent and validly executed a revocation of her power of attorney, the Court is convinced *beyond a reasonable doubt* that this settlement agreement was the product of undue influence. Kevin Hall reached out to Patty Sahm Jr., following Patty Sahm Jr.'s arrest for Aggravated Assault against her sister Joanna Sahm and utilized Patty Sahm Jr., to communicate with Ms. Sahm directly despite having knowledge she was represented by counsel. The Defendants met with Ms. Sahm alone and used those opportunities to build her trust by performing housework while sowing the seeds of discord between Ms. Sahm and Joanna Sahm. After building a position of confidence, they then convinced their adversary in a long-standing foreclosure action to retain counsel they helped select to settle the matter for a drastically reduced sum. The April 19, 2023 letter, written with the assistance of Patricia Sahm Jr., who is represented by Inger Garcia, Esq. and who has an order precluding further exploitation of Ms. Sahm, a vulnerable adult, conclusively demonstrates the pervasive undue influence placed before Ms. Sahm at least one month before the "settlement agreement" was signed. The decision to settle this case was the will of the Bernstein Defendants, and not the independent decision of Ms. Sahm.

Furthermore, this Court does find that this scheme was enacted with the full knowledge and personal involvement of clients Eliot Bernstein, Kevin Hall on behalf of BFR, LLC., and Inger Garcia Esq. with the assistance of Patricia Sahm Jr., in furtherance of the same type of dilatory conduct that has surrounded this case since the entry of the final judgment of foreclosure. Ms. Garcia's acts are willful and not the result of neglect or inexperience. These acts have prolonged the conclusion of these cases to the detriment of Ms. Sahm by causing her to expend attorney's fees and costs, and untold amounts of emotional strain. Ms. Garcia failed to provide a reasonable justification for noncompliance other than continually, and incorrectly, indicating that all the proceedings are "fraudulent." This conduct has caused the Court to expend large quantities of

needless hearing time on baseless and frivolous motions, precluding the Court from hearing other, meritorious matters.

CONCLUSION

For all of the foregoing reasons, it is **HEREBY ORDERED AND ADJUDGED:**

1. The Plaintiff's Motion to Set Aside Settlement Agreement (DE #226) is **GRANTED**.
2. As a sanction for their conduct in this case, all of the Defendants' Pending Motions attacking the final judgment are hereby **STRICKEN WITH PREJUDICE**.
3. As a further sanction for their conduct in this case, the Court **GRANTS** the Plaintiff's Motion to Assess Attorneys' Fees against Inger Garcia, Esq., Defendant Eliot Bernstein, and Defendant Bernstein Family Realty, LLC, jointly and severally, for all reasonable and necessary costs and Attorney's fees expended litigating this matter from March 27, 2024 until the date of this order.
4. No Motions for Rehearing of this Order will be entertained.
5. The Plaintiff is directed to forthwith provide this Court with a proposed order resetting the foreclosure sale date. The Court will edit and enter the appropriate order and thus the proposed order does not have to be approved by Counsel for the Defendants before submission.
6. The Court retains jurisdiction to enter all further orders as necessary and appropriate to enforce this order.

7. The Defendants are further placed on notice that failure to abide by this Order shall result in this Court issuing a Rule to Show Cause pursuant to *Fla. R. Crim. P.* 3.840.

DONE AND ORDERED in West Palm Beach, Florida.

502018CA002317XXXXMB 03/06/2025
John J. Parnofiello Circuit Judge
ADMINISTRATIVE OFFICE OF THE COURT

502018CA002317XXXXMB 03/06/2025
John J. Parnofiello
Circuit Judge

Copies to:

All Counsel of Record

NOT A CERTIFIED COPY

Kathryn Lewis

From: Cynthia Miller <cmiller@sweetapplelaw.com>
Sent: Thursday, August 7, 2025 1:22 PM
To: ecvelbar@hotmail.com; Inger Garcia, Esq.; Inger Garcia; Inger Garcia
Cc: Cassandra Hahn
Subject: RE: Appeal

Mr. Cvelbar,

Please include me on all emails concerning this matter. We do not represent Mr. Revard in the appellate matter, so you would need to speak with appellate counsel directly. Thank you.

CYNTHIA J. MILLER

Attorney
Sweetapple, Broeker & Varkas, P.L.
4800 North Federal Highway, Suite D306
Boca Raton, FL 33431
(561) 392-1230(t)
(561) 394-6102(f)
cmiller@sweetapplelaw.com
www.sweetapplebroeker.com

STATEMENT OF CONFIDENTIALITY

The information in this e-mail is confidential and may be legally privileged. If you are not the named addressee, or if this message has been addressed to you in error, you are directed not to read, disclose, reproduce, distribute, disseminate, maintain, save, or otherwise use this email. Please contact the sender at the above number immediately. Delivery of this message to any person other than the intended recipient(s) is not intended in any way to waive privilege or confidentiality.

From: Law Offices Eric Cvelbar <ecvelbar@hotmail.com>
Sent: Tuesday, August 5, 2025 5:08 PM
To: INGER MICHELLE GARCIA <attorney@floridapotlawfirm.com>; Robert Sweetapple <rsweetapple@sweetapplelaw.com>; ingergarcia@gmail.com; Pleadings <pleadings@sweetapplelaw.com>
Subject: Appeal

Ms. Garcia, Mr. Sweetapple;

I am trying to get up to speed on all of the issues in the Trial Court and on the Appeal and make sure I have all the pertinent files. Can you each certify if all necessary records, exhibits, transcripts, memos, correspondence, pleadings etc have been uploaded to E caseview ? Can you also certify the Record on Appeal in Case # 4D 2025-0994 contains all necessary records for the Bernstein family individual Appeal 0996 and BFP 1033?

Thank you for your assistance

Eric,

Sent from my T-Mobile 5G Device

Get [Outlook for Android](#)