

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 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.

**OMNIBUS ORDER ADDRESSING ALL REMAINING PENDING MOTIONS AS TO
THE FORCLOSURE PORTION OF THE CASE**

This cause came before the Court on September 10, 2025 at a Case Management Conference scheduled by the Court to determine how much additional time is required to argue all remaining pending motions addressed to outstanding issues in the foreclosure portion of the case (as distinct from the pending assessment of attorney's fees portion of the case). Prior to the hearing, the Defendants, who were unrepresented, had filed several motions and then, on or about July 31, 2025 subsequently retained counsel. At a Case Management Conference held on July 31, 2025 the Court orally entered a scheduling order permitting Defendant's Counsel to file any amendments to any of the Defendant's *pro-se* motions, or any additional motions he deemed necessary and ultimately the Court followed its oral order with a written order on August 21, 2025 (DE #429). Counsel for the Defendant did not file any additional motions and did not amend any of the *pro-se* motions.

At the Case Management Conference held on September 10, 2025, Defendant's Counsel read into the record a prepared statement requesting additional time to conduct discovery and

requesting various additional delays of the proceedings. The Court denies all these requests. This Court has previously found that the conduct of the Defendants, and their former counsel, to be dilatory and that further requests for delay and discovery at the current procedural posture of the case would continue this dilatory pattern and prevent finality in this matter.

Ultimately, the parties agreed that Defense counsel filed no new or amended motions or responses for the Court's consideration and that the pending motions could be resolved based upon the written submissions, without the need for further hearings on the matter. Accordingly, the Court shall address all pending remaining motions in this Omnibus Order.

Declaration and Designation of Homestead after Levy Florida Statutes Sec. 222.02 (DE #370)

On or about April 13, 2025, Eliot and Candace Bernstein filed a document entitled Declaration and Designation of Homestead after Levy Florida Statutes Sec. 222.02 (DE #370) along with a document designated "Exhibit 1" (DE #371). DE #371 consists of approximately 29 pages of various documents, some of which are handwritten, some of which purport to be "transcripts" of handwritten documents, most bearing a watermark indicating that they are "NOT A CERTIFIED COPY" and none of which are relevant to the Court's consideration (DE #371). The Plaintiff filed a Memorandum of Law in Opposition to the Declaration and Designation of Homestead After Levy Florida Statutes Sec. 222.02 containing numerous Exhibits, all of which are public record documents (DE #427). After reviewing the competing moving papers, including the exhibits attached thereto, the Court adopts the findings of facts and conclusions of law as set forth in the Plaintiff's Memorandum of Law in Opposition. The property is not owned by a natural person, but rather by BFR, LLC. According to Exhibit "K" to the Plaintiff's response, Eliot and Candace Bernstein have not paid any taxes for the property since at least 2018. Elliot and Candace Bernstein are co-managers at various points in time with BFR, LLC along with non-family

members and sometimes they hold no positions in the company at all. For these reasons, and the other reasons as set forth in the Plaintiff's Memorandum of Law, as well as based upon this Court's findings throughout the course of the proceedings, the Court finds that the Plaintiff has made a strong showing that Eliot and Candace Bernstein are not entitled to the claimed exemption. Accordingly, the Court finds that Eliot and Candace Bernstein **are not** entitled to homestead protection under Florida Constitution, Art. X, s. 4(a)(1). *Dejesus v. A.M.J.R.K. Corp.*, 255 So. 3d 879 (Fla. 2d DCA 2018).

Additionally, this is the first time that Eliot and Candace Bernstein have raised a homestead exemption despite the property being placed for foreclosure sale on at least three previous occasions (*See* DEs #200, #158, #88). Eliot and Candace Bernstein have repeatedly engaged in dilatory conduct designed to prolong these proceedings and the Court therefore additionally finds on this record that this issue has been either waived or forfeited by the conduct of the Defendants.

Plaintiff's Motion to Reinstate Foreclosure Sale (DE #397)

On April 14, 2025, this matter proceeded to a foreclosure sale in which the Plaintiff was the high bidder. Immediately following the foreclosure sale, Defendant, Eliot Bernstein, filed a Suggestion of Bankruptcy (DE #365) which caused the Clerk to cancel the matter post-sale (DE #366). On June 11, 2025, the Plaintiff filed a Motion to Reinstate the Foreclosure Sale (DE #397). *Pro-se* Plaintiff Candace Bernstein filed a Response in Opposition, alleging an insufficient sale price, unspecified fraud, requesting a continuance, and other supplemental relief in a stream-of-consciousness fashion, none of which is legally sufficient to afford relief (DE #407). The Federal Bankruptcy Court had previously prohibited Eliot Bernstein from receiving an automatic stay for future bankruptcy filings for a period of two years due to Eliot Bernstein and Inger Garcia Esq.'s abuse of the bankruptcy stay process. (*DE #205; See also DE #226 Exh J – Order from United States Bankruptcy Court Southern District of Florida Case No. 23-12630-PDR Dated April 14,*

2023 at Pgs. 3 and 4). April 14, 2023 was a Friday. Accordingly, the two year prohibition from Eliot Bernstein receiving the automatic stay began running on Monday, April 17, 2023 and therefore was effective at the time Eliot Bernstein filed the April 14, 2025 Suggestion of Bankruptcy causing the Clerk to cancel the sale. *Fla R. Gen. Prac. & Jud. Admin. 2.514(a)(1)*. Thus, the Suggestion should not have operated to cancel the foreclosure sale. Additionally, even if, *arguendo*, Candace Bernstein did articulate a basis for relief, her motion was filed untimely, and moot due to the nonexistence of the bankruptcy stay.

Finally, on or about June 9, 2025 the United States Bankruptcy Court Denied Confirmation and Dismissed Eliot Bernstein's Voluntary Chapter 13 Petition. (*DE #400 Exh. A*). Accordingly, the Plaintiff's Motion to Reinstate the Foreclosure sale is **GRANTED**.

Plaintiff's Motion to Compel Compliance with the Court's March 27, 2025 Order Regarding Inspection of The Property (DE #396)

As the Foreclosure sale has already taken place, the Court's March 27, 2025 Order permitting a pre-sale inspection has been rendered **MOOT** and is therefore **DENIED**. Given the Court's other rulings, *supra*, the Court declines to institute separate indirect criminal contempt proceedings *at this time*.

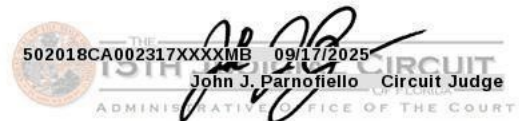
CONCLUSION

There have been many other filings purporting to be assertions, statements, declarations and motions by various Defendants. If they belong to Defendants represented by counsel they are **STRICKEN** as unauthorized filings. If the Defendants filed them in a *pro-se* capacity prior to the retention of counsel, the filings are not short, plain statements of relief sought and not cognizable to this Court as a motion seeking specific relief and thus, to the extent any other docket entries could constitute motions attacking the foreclosure proceedings they are **DENIED** as meritless.

Therefore, it is hereby **ORDERED AND ADJUDGED**

1. Eliot and Candice Bernstein **are not** entitled to homestead protection under Florida Constitution, Art. X. s. 4(a)(1).
2. The Foreclosure sale which occurred on April 14, 2025 is hereby **REINSTATED**
3. The Motion to Compel Compliance is **DENIED AS MOOT**
4. No motions for rehearing of this order shall be entertained.
5. The Court retains jurisdiction to enter any such further orders as may be necessary.

DONE AND ORDERED in West Palm Beach, Florida.



502018CA002317XXXXMB 09/17/2025
John J. Parnofiello
Circuit Judge

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