

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

Case No. 4D2025-0996 / 1033
L.T. Case No. 502018CA002317

ELIOT BERNSTEIN, CANDICE BERNSTEIN, BFR LLC ET AL

APPELLANTS,

v.

WALTER E. SAHM and PATRICIA SAHM,

APPELLEES.

**APPELLANTS' MOTION TO ACCEPT LESS THAN 2 DAY LATE INITIAL
BRIEF IN THE DISCRETION OF THE COURT AND INTERESTS OF
JUSTICE**

PLEASE TAKE NOTICE that the Appellants, Eliot, Candice, Joshua, Jacob and Daniel Bernstein and Bernstein Family Realty, LLC (BFR) in this consolidated appeal by and through the undersigned attorney, hereby respectfully moves this Court to accept the less than 2 day late Initial Brief on Appeal and relief relating to the Record on Appeal and for such other and further relief as may be just and proper.

1. I am the attorney for the Appellants in this consolidated case.
2. I make this motion to Accept the Initial Brief less than 2 full days late in the interests of justice and sound discretion of this Court and also move after consultation with Tathika a Clerk at this Court to accept the Citation format in the initial Brief which relies on the Full record produced to this Court in a related appeal of Inger Garcia in Case No. 4D2025-0994 or Order the Clerk of the 15th Judicial to file the full Record into this Case.
3. The sound basis for the interests of justice motion is the strong merits to the appeal that should be predominantly controlled by cases of this 4th District and specifically this Court's decision and Order last year in 2024 in National Loan Acquisitions Company v Tabernacle Christian Center Ministries, Inc. No. 4D2023-1692 (2024) which found a Judgment void for ordering relief not requested by any pleading and not noticed to be heard and violating entirely any due process notice to the Appellants of unduly harsh sanctions and any opportunity to be heard on such sanctions.
4. In fact in this case, not only was there no Hearing on sanctions or notice of sanctions but the Trial Court even threatened criminal sanctions of indirect criminal contempt if action were taken that

violated the Non Final Order which struck a timely filed motion under Florida Rule Civ P 1.540 and all pending motions of the Appellants without notice primary for conduct of their former counsel Inger Garcia which Appellants had no control over.

5. Counsel reminds this Court that the full Record on Appeal was produced in Case No. 4D2025-0994 an Appeal by Ms. Garcia and the primary volume is over 4000 pages long involving litigation over 6 years long and related proceedings in other Courts such as the US Bankruptcy Court in the Southern District of Florida and a Guardian case and Trust and Estate Case in the 15th Judicial.
6. Delay was caused as it was only 7 days ago including the weekend that this Court reinstated the individual family appeal in this case and consolidated with the BFR, LLC case in 4D25-1033.
7. The appellants and counsel were aware of the deadline and had fully intended to meet the deadline for filing the initial brief even up to after 11:30 pm before the midnight filing deadline.
8. Additional time was necessary as initially separate defenses were filed for BFR, LLC and the individual defendants.
9. Difficulties arose around providing a proper Appendix and record for this Court to sort out the tortured history and attempts were made to

use data software to simply add an Appendix Cover page to the full Record and adopt the Record as the Appendix however this data merger proved not viable.

10. The full Record was submitted timely on October 29, 2025 but by the next day this Clerk's office noticed it was not able to Docket this ROA under the rules.

11. A call was made by my office to this Court's Clerk speaking with Tathika who suggested filing a motion to accept the Citation format in the brief to use the full Record from the 0994 case and a motion to have that full record filed in this case from that related appeal now dismissed.

12. Even on the due date there were software technical difficulties trying to search and find documents for proper citation and "slow downs" in searching documents in the Bookmarked full ROA and shortly before midnight it became clear the brief would not be ready in proper format.

13. The process of searching the ROA took longer than expected so the filing ran into an additional day.

14. However, because it is believed the Non Final Order is void based on the National Loan case, Appellants ask the discretion of the Court to accept this late brief with no substantial prejudice to the appellee.

15. In fact renewed efforts to seek voluntary agreements even on a Stay have proven ineffective and time has been expended as the Appellee has moved with the Trial Court even ex parte in recent weeks to advance a taking of the real property by actions which are believed to violate Florida Rule of Appellate Procedure 9.130(f).

16. Counsel specifically advised the Appellee - Plaintiff this very week that time was focused on this Appeal and again sought country agreement to no avail.

17. Thus because the Non Final Order is believed to be void under the National Loan case standard and the technical difficulties due to the size of the Record, the Appellants pray for a determination on the merits and acceptance of this initial brief in the sound discretion of the Court and in the interests of justice.

18. Appellants would seek leave to correct any errors if any so this matter may be fully heard on the merits

WHEREFORE, it is respectfully prayed for an Order allowing acceptance of the Initial Brief in this consolidated case and use of the full Record on

Appeal from Inger Garcia Case 4D2025-0994 or Ordering the Clerk of the 15th Judicial to file such Record on Appeal into this case and for such other and further relief as is just and proper.

Respectfully submitted,

Dated: October 31, 2025

/ s/ Eric Cvelbar

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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 31st day of October, 2025 as follows:

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Dated: October 31, 2025

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