

**CASE NO. 0:25-CV-61397-SINGHAL**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF FLORIDA**

Eliot I. Bernstein,  
Appellant,

v.

Charles Revard,  
Appellee.

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On Appeal from the United States Bankruptcy Court  
for the Southern District of Florida  
(Case No. 25-14028-PDR)

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**BRIEF OF APPELLEE CHARLES REVARD**

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### **STATEMENT OF ISSUES**

1. Did all interested parties receive sufficient notice of the June 2, 2025 hearing on the Amended Motion for Stay Relief? The *de novo* standard of review applies to this issue. *See Jackson v. Le Centre on Fouth, LLC (In re Le Centre on Fourth, LLC)*, 17 F.4th 1326, 1333 (11th Cir. 2021).

2. Did the Bankruptcy Court clearly err when it determined that the Appellant’s 2025 bankruptcy case was filed as part of a continuing bad faith scheme—involving multiple bankruptcy filings—to delay and hinder the Appellee (and his predecessors in interest) with respect to enforcing a foreclosure judgment against real property? *See Jackson v. Le Centre on Fouth, LLC (In re Le Centre on Fourth, LLC)*, 17 F.4th 1326, 1333 (11th Cir. 2021) (“we review the bankruptcy court’s factual findings for clear error.”).

3. Did the Bankruptcy Court deny the Appellant due process when the Bankruptcy Court ruled on the Appellee’s Amended Motion for Stay Relief at a non-evidentiary hearing after cutting off the Appellant during his argument? Because this is a legal determination, the *de novo* standard of review applies to this issue. *Jackson v. Le Centre on Fouth, LLC (In re Le Centre on Fourth, LLC)*, 17 F.4th 1326, 1333 (11th Cir. 2021).

4. Did the Bankruptcy Court abuse its discretion when it denied the Appellant's motion for judicial disqualification? *See Kunsman v. Wall (In re Kunsman)*, 752 Fed. App'x 938, 939 n.1 (11th Cir. 2018).

**NOTE REGARDING RECORD CITATIONS**

The parties have effectively designated, in the appellate record, all of the docket entries from the underlying Bankruptcy Case on appeal. There is no appendix in this appeal. The transmitted record is difficult to cite due to overlapping CM/ECF stamps at the top of each page. The cited record documents are readily available electronically via CM/ECF. For these reasons, the Appellee's record citations to the Bankruptcy Court's docket in Case No. 25-14028-PDR are in the form of PDR 25 ECF No. \_\_\_\_.

The parties also designated, in the appellate record, certain documents from *earlier* bankruptcy case dockets.<sup>1</sup> The Appellee's record citations from the docket in Bankruptcy Case No. 23-12630-PDR are in the form of PDR 23 ECF No.\_\_\_\_. The Appellee's record citations from the docket in Bankruptcy Case No. 22-13009-EPK are in the form of EPK ECF No.\_\_\_\_.

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<sup>1</sup> See District Court ECF No. 13-2, at pp.9-11, District Court ECF No. 13-3, and District Court ECF No. 16-2.

## **STATEMENT OF THE CASE**

### **A. The Real Property and State Court Foreclosure**

Bernstein Family Realty, LLC owns the real property located at 2753 N.W. 34th Street, Boca Raton, Florida 33434 (the “Real Property”).<sup>2</sup> Bernstein Family Realty, LLC also maintains its address at the Real Property.<sup>3</sup> The Appellant resides at the Real Property.<sup>4</sup> The Appellant’s children, Joshua Bernstein, Jacob Bernstein, and Daniel Bernstein reside at the Real Property.<sup>5</sup> The Appellant’s wife, Candice Bernstein resides at the Real Property.<sup>6</sup>

The Appellee (and previously, the Appellee’s predecessors in interest) is the holder of a final judgment of foreclosure with respect to the Real Property that was entered by the Circuit Court for the Fifteenth Judicial Circuit in and for Palm Beach County, Florida (the “State Court”).<sup>7</sup>

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<sup>2</sup> See Order Dismissing Case with Prejudice, EPK ECF No. 79, at p.2 (“[Bernstein Family Realty, LLC] owns one real asset: the single-family home located at 2753 N.W. 34th Street, Boca Raton, Florida 33434 (the ‘Real Property’).” See also Order Granting In Rem Relief from Automatic Stay, PDR 23 ECF No. 22, at p.2.

<sup>3</sup> See Petition, EPK ECF No. 1.

<sup>4</sup> See Petition, PDR 25 ECF No. 1, at p.2.

<sup>5</sup> See Petition, EPK ECF No. 1, at pp.3-4.

<sup>6</sup> See Petition attachments, EPK No. 1-9, at pp.32, 41, 44, 47, and 49.

<sup>7</sup> Order Granting In Rem Relief from Automatic Stay, PDR 23 ECF No. 22, at p.2.

## **B. The First Bankruptcy**

On April 19, 2022—the eve of the April 20, 2022 State Court foreclosure sale of the Real Property—Joshua Bernstein, Jacob Bernstein, and Daniel Bernstein, with the encouragement of the Debtor, initiated an involuntary bankruptcy case against Bernstein Family Realty, LLC.<sup>8</sup> After finding that the involuntary bankruptcy case was filed improperly, and in bad faith, for the sole purpose of cancelling the foreclosure sale due to the 11 U.S.C. § 362 automatic bankruptcy stay, the Bankruptcy Court dismissed that involuntary bankruptcy case with two years' prejudice on July 26, 2022.<sup>9</sup> The relevant orders from that bankruptcy case are undisturbed on appeal and are final.

## **C. The Second Bankruptcy**

The foreclosure sale of the Real Property in the State Court case was subsequently rescheduled for April 4, 2023. On April 3, 2023, the Appellant filed a voluntary bankruptcy petition which again caused the State Court to cancel the foreclosure sale due to the 11 U.S.C. § 362 automatic stay after the Appellant filed an intentionally misleading Suggestion of Bankruptcy with the State Court.<sup>10</sup> The

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<sup>8</sup> Order Dismissing Case with Prejudice, EPK ECF No. 79, at p.2.

<sup>9</sup> Order Dismissing Case with Prejudice, EPK ECF No. 79, at p.2; *see* Order Denying Petitioners Motion to Vacate Sanctions Order and All Other Orders, Decisions and Judgments of Judge Kimball and Other Relief, EPK ECF No. 100, at p.2.

<sup>10</sup> Order Granting In Rem Relief from Automatic Stay, PDR 23 ECF No. 22, at p.3.



Bankruptcy Court found that the Appellant's purpose in filing the bankruptcy petition was "to obtain cancellation of the April 4, 2023 foreclosure sale of the Real Property as part of a continuing bad faith scheme to delay and hinder the [Appellee's predecessors in interest] with respect to the foreclosure action against the Real Property."<sup>11</sup> Consequentially, and pursuant to 11 U.S.C. § 362(d)(4)(B), the Bankruptcy Court entered an order on April 14, 2023 prospectively modifying the automatic stay "for the next two years from the date of this Order [so that] no voluntary or involuntary petition filed under Title 11 of the United States Code shall operate as a stay of any act against the Real Property . . . ."<sup>12</sup> Such order is undisturbed on appeal and is final.

#### **D. The Third Bankruptcy**

Following nearly two years of additional litigation in the State Court, on March 7, 2025, the State Court reset the foreclosure sale of the Real Property for April 14, 2025.<sup>13</sup> On April 14, 2025, the Appellant filed a voluntary chapter 13 bankruptcy petition, thereby initiating the bankruptcy case from which this appeal

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<sup>11</sup> Order Granting In Rem Relief from Automatic Stay, PDR 23 ECF No. 22, at p.3.

<sup>12</sup> Order Granting In Rem Relief from Automatic Stay, PDR 23 ECF No. 22, at pp. 2 and 4.

<sup>13</sup> Order Resetting Foreclosure Sale, PDR 25 ECF No. 19, at pp.21-22.

arises. Simultaneously, the Appellant filed a Suggestion of Bankruptcy with the State Court which stated that the 11 U.S.C. § 362 automatic bankruptcy stay was in effect, and thereby caused the State Clerk of Court to terminate the foreclosure sale process.<sup>14</sup>

On May 8, 2025, the Appellee—a creditor whose claim is secured by an interest in the Real Property—filed his Amended Motion for Relief from Stay (the “Subject Stay Relief Motion”) wherein the Appellee recounted the history of this matter, alleged that the Suggestion of Bankruptcy was intentionally misleading, and alleged that the Appellant’s 2025 bankruptcy case was, “like the [Appellant’s] 2023 bankruptcy case, initiated by the Appellant as part of a continuing, yearslong **bad faith scheme** to utilize multiple, strategically-timed bankruptcy filings, as well as misleading suggestions of bankruptcy, to delay and hinder the [Appellee’s] foreclosure action with respect to the Real Property.”<sup>15</sup>

In the Subject Stay Relief Motion, the Appellee alleged that the Appellant’s Suggestion of Bankruptcy was intentionally misleading because, pursuant to the Bankruptcy Court’s April 14, 2023 order, the automatic stay was *not* in effect with respect to the Real Property on April 14, 2025 because the two years of prospective

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<sup>14</sup> See Suggestion of Bankruptcy, PDR 25 ECF No. 19, at pp.24-25.

<sup>15</sup> Subject Stay Relief Motion, PDR 25 ECF No. 19, at ¶31.

stay relief had not yet lapsed.<sup>16</sup> Among other things, the Appellee requested that the Bankruptcy Court once again prospectively terminate the automatic bankruptcy stay with respect to actions against the Real Property so that future bankruptcy filings would not stay such actions for the next two years.<sup>17</sup>

On May 8, 2025, the Appellee served a copy of the Subject Stay Relief Motion by first class mail sent to the Real Property and addressed to the Appellant pursuant to Federal Rules of Bankruptcy Procedure 7004(b)(1), 9013, and 9014(b).<sup>18</sup> The Bankruptcy Court thereafter scheduled a June 2, 2025 non-evidentiary hearing on the Subject Stay Relief Motion.<sup>19</sup> On May 12, 2025, the Appellee served notice of that hearing by first class mail sent to the Real Property and addressed to the Appellant.<sup>20</sup>

Counsel for the Appellee appeared at the June 2, 2025 hearing, along with the Appellant and the chapter 13 bankruptcy trustee, Robin Weiner.<sup>21</sup> At the hearing,

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<sup>16</sup> Subject Stay Relief Motion, PDR 25 ECF No. 19, at ¶¶23, 24, 30 and 31.

<sup>17</sup> Subject Stay Relief Motion, PDR 25 ECF No. 19, at p.1, at ¶33, and at p.10.

<sup>18</sup> Subject Stay Relief Motion, PDR 25 ECF No. 19, at p.11.

<sup>19</sup> Notice of Hearing, PDR 25 ECF No. 21.

<sup>20</sup> Certificate of Service, PDF 25 ECF No. 22.

<sup>21</sup> Unofficial transcript, District Court ECF No. 27, at pp.19-21.

the Appellee’s counsel presented the facts and arguments previously stated in the Subject Stay Relief Motion.<sup>22</sup> The Appellant then argued that consideration of the Subject Stay Relief Motion was improper for various reasons and should instead be heard at an evidentiary hearing, which should include the testimony of a “whistleblower who’s a former intern prosecutor for Janet Reno . . . .”<sup>23</sup> At that point, the Bankruptcy Court cut off the Appellant’s argument and stated that the Bankruptcy Court would grant the Subject Stay Relief Motion.<sup>24</sup>

### **E. The Orders on Appeal**

On June 5, 2025, the Bankruptcy Court entered its Order Granting Amended Motion for Stay Relief (the “Subject Stay Relief Order”).<sup>25</sup>

In the Subject Stay Relief Order, the Bankruptcy Court found that: (a) the Appellant resides at the Real Property; (b) non-debtor Bernstein Family Realty holds title to the Real Property; (c) the Appellee holds a foreclosure judgment with respect to the Real Property; (d) the Appellant encouraged the 2022 involuntary bankruptcy case, which was filed in bad faith solely to prevent a scheduled foreclosure sale of the Real Property; (e) the Appellant filed a 2023 bankruptcy case in a bad faith effort

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<sup>22</sup> Unofficial transcript, District Court ECF No. 27, at pp.22-30.

<sup>23</sup> Unofficial transcript, District Court ECF No. 27, at pp.30-31.

<sup>24</sup> Unofficial transcript, District Court ECF No. 27, at p.13.

<sup>25</sup> Subject Stay Relief Order, PDR 25 ECF No. 35.

to cancel a subsequent foreclosure sale of the Real Property; and (f) the Appellant filed the 2025 bankruptcy case as part of a continuing bad faith scheme to delay and hinder the Appellee with respect to enforcing the foreclosure judgment against the Real Property.<sup>26</sup> Accordingly, the Court again modified the automatic bankruptcy stay prospectively for two years so that any bankruptcy petition will not operate to stay any act against the Real Property pursuant to 11 U.S.C. § 362(d)(4)(B).<sup>27</sup>

On June 18 and June 23, 2025, the Appellant filed motions with the Bankruptcy Court seeking, among other things, disqualification of the Honorable Peter D. Russin pursuant to 28 U.S.C. § 455.<sup>28</sup> On June 26, 2025, the Bankruptcy Court entered its *Order Denying Debtor's Emergency Motion to Vacate Orders and Disqualify Judge Pursuant to 28 U.S.C. § 455 and Bankruptcy Rules 9023, 9024, and 8002* (the “Disqualification Denial Order”) denying the Appellant’s requested relief.<sup>29</sup> In the Disqualification Denial Order, the Bankruptcy Court determined that the Debtor’s request for disqualification was “based entirely on the Court’s rulings and conduct during the June 2, 2025 hearing” rather than extrajudicial bias or

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<sup>26</sup> Subject Stay Relief Order, PDR 25 ECF No. 35, at ¶¶1, 2, 3, 4, 5, 8, 9.

<sup>27</sup> Subject Stay Relief Order, PDR 25 ECF No. 35, at ¶12.

<sup>28</sup> PDR 25 ECF Nos. 41 and 42.

<sup>29</sup> Disqualification Denial Order, PDR 25 ECF No. 43.

“objective facts that would lead a reasonable observer to question the Court’s impartiality.”<sup>30</sup>

The Appellant subsequently appealed the Subject Stay Relief Order, the Disqualification Denial Order, and other orders to this District Court.<sup>31</sup>

### **SUMMARY OF ARGUMENT**

This Court should affirm the Bankruptcy Court’s Subject Stay Relief Order and Disqualification Denial Order. Because notice was sent by first class mail to the Real Property, all parties in interest were provided notice of the Subject Stay Relief Motion and the June 2, 2025 hearing thereon. At the very least, the Appellee’s failure to specifically address such notices to Real Estate title holder Bernstein Family Realty, LLC and to the Appellant’s wife and children is harmless error because those persons all maintain an address at the Real Property. Relatedly, because the Appellant received notice and an opportunity to be heard, he received due process. The Bankruptcy Court clearly had indisputable evidence before it—in the form of prior final orders—establishing a scheme, involving multiple bankruptcy filings affecting the Real Property, to hinder and delay the secured creditor

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<sup>30</sup> Disqualification Denial Order, PDR 25 ECF No. 43, at p.4.

<sup>31</sup> The Appellee was neither the movant nor a party opposing the relief granted in other orders subject to appeal such as the Bankruptcy Court’s June 9, 2025 order dismissing the Appellant’s 2025 bankruptcy case. As such, the Appellee’s Brief only addresses the propriety of the Subject Stay Relief Order and the Disqualification Denial Order.

Appellee's foreclosure. As such, the Bankruptcy Court correctly granted the Appellee's request for two years of prospective stay relief with respect to acts against the Real Property. And because the Appellant is simply dissatisfied with adverse rulings, the Bankruptcy Court correctly exercised its discretion in denying the Appellant's disqualification request.

### **ARGUMENT**

#### **I. Notice of the Subject Stay Relief Motion and the June 2, 2025 Hearing Thereon Was Proper.**

The Appellant argues on the bottom of Page 12 of this Appellant's Brief that notice of the Subject Stay Relief Motion and the June 2, 2025 hearing thereon was insufficient because such notice was not served on Real Property title holder Bernstein Family Realty, LLC, the Appellant's wife, Candice Bernstein, and the Appellant's children, Joshua Bernstein, Jacob Bernstein, and Daniel Bernstein.

Regarding notice of bankruptcy motions and hearings on motions, the applicable rules generally permit notice by first class mail. *See* Fed. R. Bankr. P. 7004(b)(1), 9013, and 9014(b). In the Subject Stay Relief Motion, the Appellee requested prospective modification/termination of the automatic bankruptcy stay. Federal Rule of Bankruptcy Procedure 4001 governs service of such motions but does not mandate any particular persons who are required to receive such service in the context of chapter 13 cases. Local Bankruptcy Rule 4001-1(A) similarly mandates that certain persons be served with such stay modification/termination

motions in the chapter 11 context, but does not contain a mandate in the chapter 13 context. Rather, the Local Bankruptcy Rule simply sets forth a safe harbor in the non-chapter 11 context that provides that “notice of any motion seeking relief from the automatic stay, pursuant to 11 U.S.C. §362(d), *shall be sufficient* if served on . . . any person known to the moving party to claim a legal or equitable interest in any property which may be the subject of the motion. Local Bankruptcy Rule 4001-1(A).

Therefore, having served the Appellant bankruptcy debtor with notice of the Subject Stay Relief Motion and the hearing thereon by first class mail, the Appellee satisfied its notice obligations.

Furthermore, the concept of harmless error applies in bankruptcy proceedings. *See* Fed. R. Bankr. P. 9005 and Fed. R. Civ. P. 61. The Appellant fails to explain how the substantive rights of Bernstein Family Realty, LLC, Candice Bernstein, Joshua Bernstein, Jacob Bernstein, and Daniel Bernstein were adversely affected by failing to specially notice such persons of the Subject Stay Relief Motion and the hearing thereon. The Appellant does not contend that such persons were not actually on notice. As set forth above, Bernstein Family Realty, LLC, Candice Bernstein, Joshua Bernstein, Jacob Bernstein, and Daniel Bernstein all share the same Real Property address with the Appellant.<sup>32</sup> Accordingly, any failure to send

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<sup>32</sup> Which is presumably why the Appellant believes that such persons hold an interest in the Real Property requiring special notice.



individualized notices of the Subject Stay Relief Motion and the hearing thereon to Bernstein Family Realty, LLC, Candice Bernstein, Joshua Bernstein, Jacob Bernstein, and Daniel Bernstein was, at most, a harmless error that the Court should disregard.

## **II. The Appellant Received Due Process.**

On Pages 7, 12, 14, and 21 of his Appellant’s Brief, the Appellant argues that he was denied due process because the June 2, 2025 hearing was non-evidentiary and because the Appellant was cut off by the Bankruptcy Court during that hearing. Not so.

The Appellant received notice, and the Bankruptcy Court afforded the Appellant an opportunity to be heard. *See Richardson v. Peterson*, 422 Fed. App’x 823, 824 (11th Cir. 2011) (“rights of due process are satisfied when the litigant receives notice and an opportunity to be heard”). The statute in question governing prospective *in rem* relief from the automatic stay provides that such relief may only be granted “after notice and a hearing.” 11 U.S.C. § 362(d)(4)(B). “The Bankruptcy Code flexibly defines ‘notice and a hearing’ as ‘such notice as is appropriate in the particular circumstances, and such opportunity for a hearing as is appropriate in the particular circumstances . . . .’” *Qadan v. Florida Property Group Associates, Inc.*, 591 B.R. 796, 810 (M.D. Fla. 2018) (quoting 11 U.S.C. § 102(1)(A)). With regard to motions for relief from the automatic bankruptcy stay, bankruptcy courts “are not

required to hold an evidentiary hearing unless there are material factual disputes that necessitate such a proceeding.” *In re Maritas*, 664 B.R. 670, 674 n.2 (Bankr. W.D. Penn. 2024). Here, the Appellee’s Subject Stay Relief Motion was based on factual materials comprised of detailed adverse final orders entered by the Bankruptcy Courts in prior bankruptcy proceedings and the Appellant’s own, facially misleading 2025 Suggestion of Bankruptcy which had falsely informed the State Court Clerk of Court that the automatic bankruptcy stay was in effect during the two-year prospective stay modification period. As such, there was no material factual dispute that necessitated an evidentiary hearing. When the Appellant began to make irrelevant arguments about whistleblowers and the late Janet Reno, the Bankruptcy Court properly interjected and determined that the Subject Stay Relief Motion should be granted.

Having received notice and opportunity to be heard, and having failed to raise a point necessitating an evidentiary hearing, the Appellant received due process.

### **III. The Bankruptcy Court Did Not Clearly Err When It Found Cause to Grant the Subject Stay Relief Motion.**

The Appellant asserts on Page 6 of his Appellant’s Brief that the Bankruptcy Court improperly granted prospective *in rem* stay relief with regard to acts against the Real Property because the Appellee failed to demonstrate a lack of equity in the Real Property or to show a lack of adequate protection.

This argument misses the mark. A lack of equity or adequate protection in subject property can indeed be elements of stay relief cause under 11 U.S.C. §§ 362(d)(1) and (2), and the Appellee's Subject Stay Relief Motion did indeed request *alternative* relief with respect to acts against the Real Property under 11 U.S.C. § 362(d)(2) due to a lack of equity in the Real Property.<sup>33</sup> However, at the June 2, 2025 hearing, the Appellee did not press his alternative request for section 11 U.S.C. § 362(d)(2) *in rem* stay relief. Rather, he pressed his primary request for prospective *in rem* modification/termination of the automatic stay with respect to acts against the Real Property pursuant to 11 U.S.C. § 362(d)(4)(B). And with respect to the Real Property, this is the only relief that the Bankruptcy Court granted in its Subject Stay Relief Order.<sup>34</sup>

With respect to prospective section 362(d)(4)(B) *in rem* stay relief concerning acts against the Real Property, the Appellant fails to argue in his Appellant's Brief how or why the Bankruptcy Court erred by granting such relief. Section

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<sup>33</sup> See Subject Stay Relief Motion, PDR 25 ECF No. 19, at ¶34.

<sup>34</sup> The Appellant has not challenged, in his Appellant's Brief, the Bankruptcy Court's separate grant of stay relief to permit the continuation of litigation and appeals personally involving the Appellant. However, to the extent there is such a challenge, the Bankruptcy Court's finding that the Appellant filed the 2025 bankruptcy petition in bad faith is supported by the timing of the bankruptcy petition and the record of prior bad faith bankruptcy cases involving the Appellant and constitutes cause for such *in personam* stay relief. See *In re Southside Church of Christ of Jacksonville, Inc.*, 572 B.R. 384, 389 (Bankr. M.D. Fla. 2017) ("The filing of a bankruptcy petition in bad faith constitutes 'cause' to lift the stay pursuant to § 362(d)(1)")

362(d)(4)(B) provides, in pertinent part, that:

On request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or conditioning such stay . . . with respect to a stay of an act against real property under subsection (a), by a creditor whose claim is secured by an interest in such real property, if the court finds that the filing of the petition was part of a scheme to delay, hinder, or defraud creditors that involved either . . . multiple bankruptcy filings affecting such real property. If recorded in compliance with applicable State laws governing notices of interests or liens in real property, an order entered under paragraph (4) shall be binding in any other case under this title purporting to affect such real property filed not later than 2 years after the date of the entry of such order by the court . . . .

11 U.S.C. § 362(d)(4)(B). “Prospective stay relief, also known as *in rem* relief, is a particularly effective method to combat tag-team serial filers who seek to prevent foreclosures. This stay relief attaches to the property, not necessarily the parties. The reason these orders are so effective is because it will not be affected by subsequent bankruptcy filings by the debtor or third party transferees.” *In re Selinsky*, 365 B.R. 260, 264 (Bankr. S.D. Fla. 2007) (internal citations and quotation marks omitted).

In the Appellant’s 2025 bankruptcy case, the Bankruptcy Court found, based on final orders entered in prior bankruptcy cases, the timing of the 2025 bankruptcy petition, and the misleading Suggestion of Bankruptcy filed by the Appellant in the State Court, that the Appellant’s 2025 bankruptcy case was part of a continuing bad faith scheme—involving multiple bankruptcy filings—to hinder and delay the Appellee’s foreclosure action with respect to the Real Property. Such findings are

not clearly erroneous and satisfy the elements for prospective *in rem* stay relief under section 362(d)(4)(B). Accordingly, the Bankruptcy Court's Subject Stay Relief Order should be affirmed.

#### **IV. The Bankruptcy Court Properly Exercised Its Discretion and Denied Disqualification.**

Finally, on Pages 27 through 28 of his Appellant's Brief, the Appellant argues that Judge Russin improperly failed to disqualify himself pursuant to 28 U.S.C. 455. The Appellant bases this argument on the fact that Judge Russin failed to credit the myriad irrelevant accusations and wild conspiracy theories leveled by the Appellant. That is, the Appellant is simply dissatisfied with the focused judicial rulings of Judge Russin. As such, the Bankruptcy Court properly exercised its discretion when it denied the Appellant's disqualification request and entered the Disqualification Denial Order.<sup>35</sup>

#### **CONCLUSION**

For all the foregoing reasons the Appellee respectfully requests that the Court affirm the Bankruptcy Court's Subject Stay Relief Order and the Bankruptcy Court's Disqualification Denial Order.

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<sup>35</sup> See *Liteky v. U.S.*, 510 U.S. 540, 555 (1994).

Respectfully submitted,

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**CERTIFICATE OF COMPLIANCE**

I certify that this double-spaced, 14-point font, Times New Roman typeface brief complies with the typeface and type-style requirements of Fed. R. Bankr. P. 8015(a)(5) and (6). I also certify that this brief contains 4,523 words and thus is in compliance with Fed. R. Bankr. P. 8015(a)(7).

/s/ Bradley S. Shraiberg

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that a true and correct copy of the foregoing was served on November 6, 2025, via CM/ECF to all parties registered to receive such notice via electronic filing. Additionally, I certify that a true and correct copy of the foregoing will be furnished, no later than November 7, 2025, to Appellant Eliot I. Bernstein, via First Class U.S. Mail to 2753 N.W. 34th Street, Boca Raton, Florida 33434 and via email to [iviesit@gmail.com](mailto:iviesit@gmail.com).

/s/ Bradley S. Shraiberg