UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE DIVISION

Eliot Ivan Bernstein,
Appellant,

V. Case No. 0:25-CV-61397-AHS

Charles Revard,
as Guardian of the Ward of Patricia Sahm,
Appellee.
_____/

APPELLANT -DEBTOR ELIOT BERNSTEIN REPLY BRIEF ON APPEAL

On Appeal from the
UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE DIVISION
Case No. 25-14028-PDR

In Re: Case No. **25-14028-PDR**
Ch. 13

Eliot Bernstein,

Debtor,

/s/ Eliot I. Bernstein
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MIDLAND FUNDING, LLC, Petitioner v.Aleida JOHNSON. 137 S.Ct. 1407, 197 L.Ed.2d 790 (2017).

SUMMARY OF THE ARGUMENT

Appellee has tried to convince this Court that because the potential evidence of a licensed attorney former Intern Prosecutor Inger Garcia was "irrelevant" it was proper for the Bankruptcy Court to summarily cut off the Appellant's opportunity to be heard under due process in less than 2 minutes under complex pleaded facts in writing. However, this violates black letter law and is thus a manifest error of law and fact as prejudging evidence before it is even heard is always a violation of law and misconduct by a Court. Appellee's entire arguments are improper and fundamentally misplaced. No rational view of the detailed pleaded facts to support the request for a Continuance and Evidentiary hearing which showed multiple material disputed facts could lead to a summary determination in less than 2 minutes. Appellant had shown material witnesses to be heard like William Stansbury, Patricia Sahm, Sr, , his wife Candice Bernstein, and Appellant's own testimony and this further included factual issues around Homestead rights, the propriety of the lift stay, adequate protection, the good faith of the filing and specifically the real party in interest for the Appellee. This could not possibly be determined in 2 minutes or less in fairness under due process standards. Specifically here Appellant shows the Bankruptcy Court used prejudicial words of bias both when Appellant was in the Court and Ex Parte making findings without

Appellant even being present to be heard after being dismissed from the Court. Appellant had shown a genuine equitable interest in the real property since 2008 supporting Homestead and a large money judgment to support a good faith filing in Bankruptcy and had filed all Schedules except one where Accountings were necessary and sought an extension for that Schedule and had attended the Sec. 341 Meeting and took all actions to show the filing was in good faith but was denied any hearing on this. The mere "timing" of the filing is not the sole factor in determining a bad faith filing and the Notarized Statement sworn by Pat Sahm, Sr. just days after the 2023 hearing in Appellant's first case showed Appellant was acting in good faith and some "snafu" between a counsel she had discharged and Inger Garcia caused Appellant to file in 2023 and Appellant showed he only withdrew that case voluntarily upon Ms. Garcia's legal advice and suggestion. Appellant had shown to the US Trustee and Court that Ms Garcia sought to whistleblow for all 3 cases used against Appellant where the first one was done in good faith by his sons to protect their LLC Bernstein Family Realty where documents and records and "control" of the LLC had been hijacked. In fact Judge Kimball only changed his course in the first case after Counsel for the LLC was not hired in the Chapter 11 but it was never put in the Record that an Investor had been available to pay for Counsel and even buy out the Judgment but Ms. Garica did not get on the phone or put this in the Record at that time. The first case shows

Judge Kimball proceeded without Ms. Garcia being present even though the Local Rule requires Court approval to have been dismissed from the Case. Thus, Dismissal within 2 minutes and not affording a fair opportunity to be heard. It is unquestioned the Bankruptcy Judge issued relief Ex parte even on interpretation of the prospective relief Order and Stay and Appellant showed multiple external influences like resorting to the FBI by the Whistleblower and pressure in the case to justify Disqualification under these facts. Appellant had shown other Federal Bankruptcy cases in Florida where Debtors have filed 9 cases and still been granted extensions and 3 or more opportunities to file a Confirmable Plan. Appellant showed under US Supreme Court standards his case was not handled with proper administration despite good faith attempts to communicate with the US trustee. The dismissal should be vacated and the Stay reinstated and the case to proceed in the ordinary course.

ARGUMENT

MANIFEST ERRORS OF FACT AND LAW HAD BEEN SHOWN IN APPELLANT'S *POST* DISMISSAL MOTIONS WHICH CAME AFTER ONLY 2 MINUTES OR LESS DENYING A FAIR OPPORTUNITY TO BE HEARD AFTER APPELLANT HAD ANNOUNCED A FORMER INTERN PROSECUTOR LICENSED LAWYER INGER GARCIA SEEKING WHISTLEBLOWER PROTECTION FROM THE US TRUSTEE AND BANKRUTPCY COURT TO REPORT FRAUD IN THE PRIOR BANKRUTPCIES AND GUARIDAN AND FORECLOSURE CASE AND THUS IT WAS AN ABUSE OF DISCRETION TO DENY VACATING THE DISMISSAL AND DENY DISQUALIFICATION

"The only grounds for granting a Rule 59 motion [for reconsideration] are newly-discovered evidence or manifest errors of law or fact. A Rule 59(e) motion cannot be used to relitigate old matters, raise argument or present evidence that could have been raised prior to the entry of judgment." Arthur v. King, 500 F.3d 1335, 1343 (11th Cir. 2007). SEE In re Hallucination Media, LLC, No. 24-10194 (11th Cir. 2024).

A finding of fact is clearly erroneous only if, upon review of the entire evidence, we are left with the "definite and firm conviction that a mistake has been committed," United States v. Gypsum Co., 333 U.S. 364, 395, 68 S.Ct. 525, 542, 92 L.Ed. 746, 766 (1948), or if the district court's version of the facts is implausible, Anderson v. City of Bessemer City, N.C., 470 U.S. 564, 573-74, 105 S.Ct. 1504, 1512, 84 L.Ed.2d 518, 528 (1985). If the judge chooses between two permissible interpretations of the evidence, his finding is not clearly erroneous. United States v. Yellow Cab Co., 338 U.S. 338, 342, 70 S.Ct. 177, 179, 94 L.Ed. 150, 153 (1949). SEE In re Hallucination Media, LLC, No. 24-10194 (11th Cir. 2024).

Because the Bankruptcy Court summarily prejudged all potential evidence by the licensed attorney Whistleblower without even hearing what the evidence was the Bankruptcy Court committed manifest errors of fact in its findings and manifest errors of law in violating Due process, in violating statutory duties to hear and

determine fraud as shown in post dismissal motions and in summarily ruling Ex Parte on the issue of the Stay and meaning of the Order on prospective relief and summarily ruling when witnesses like William Stansbury was never heard, nor the Homestead issues, nor Appellant himself where multiple disputed issues of fact had been shown in writing as further set out below.

As the 11th Circuit has said, "**As for the law, due process is ultimately about fairness.** Lassiter v. Dep't of Soc. Servs. of Durham, Cty., N.C., 452 U.S. 18, 24 (1981) (observing that although "due process" cannot be precisely defined, **"the phrase expresses the requirement of 'fundamental fairness' . . . in a particular situation"**). In the context of sanctions, this Court said as follows in In re Mroz, 65 F.3d 1567 (11th Cir. 1995):

Due process requires that the attorney (or party) be given fair notice that his conduct may warrant sanctions and the reasons why. Notice can come from the party seeking sanctions, from the court, or from both. **In addition, the accused must be given an opportunity to respond, orally or in writing, to the invocation of such sanctions and to justify his actions.** Id. at 1575-76 (internal citations omitted).

Such an abuse can occur only 'when the bankruptcy judge fails to apply the proper legal standard or to follow proper procedures in making the determination, or bases

an award upon findings of fact that are clearly erroneous.'" In re Beverly Mfg. Corp., 841 F.2d 365, 369 (11th Cir. 1988).

Here the Bankruptcy Court prejudged all evidence of the Whistleblower before even hearing the evidence and without allowing Appellant an opportunity to have that evidence heard and without allowing Appellant a fair opportunity to be heard granting less than 2 minutes on complex facts pleaded in writing and by Ex Parte hearing arguments from the Appellee and Trustee denying Appellant all right to be heard. Appellant had witnesses like William Stansbury and Patricia Sahm, Sr, and Candice Bernstein and others and all were denied without a hearing. The Bankrutpcy Court's prejudicial comments and remarks showed bias and reason to mandatorily disqualify and showed extra judicial pressures like the need to even ben a Whistleblower as a lawyer and seek FBI protection. See BK Case No. 25-14028-PDR DE No, 1, 4, 14, 15, 20, 23, 24, 25, 29, 41, 42, 45.

APPELLEE FAILS TO ADDRESS THE "OPPORTUNITY TO BE HEARD" ELEMENT OF DUE PROCESS AND OVERLOOK THE MULTIPLE DISPUTED MATERIAL ISSUES OF FACT THAT COULD NOT BE DETERMINED IN 2 MINUTES WITHOUT A PROPER EVIDENTIARY HEARING INCLUDING THE WHISTLEBLOWER WHO WAS NEVER HEARD AND CLAIMS TO HAVE MATERIAL INFORMATION OF FRAUD AS A FORMER INTERN PROSECUTOR THAT SHOWS FRAUD IN ALL OF THE PRIOR ADVERESE RULINGS RELIED UPON BY APPELLEE TO HAVE NO EVIDENTIARY HEARING AND THE SUMMARY DETERMINATION SHOWS PREJUDGING OF EVIDENCE BEFORE IT WAS EVER HEARD

The Appellee tries to convince this Court that due process was upheld even when ***Appellant was cut off literally in less than 2 minutes immediately after announcing that a Whistleblower needed to be heard before the Court.*** This argument is misplaced and fundamentally overlooks the "opportunity to be heard" element of the Due Process clause which was denied to Appellant.

The Transcript of June 2, 2025 is crystal clear that could be no fair opportunity to be heard in less than 2 minutes and the Court could not have heard the evidence or decided the factual issues in less than 2 minutes. See, June 2, 2025 Transcript DE No. 45.

THIS COURT SHOULD PROPERLY DRAW ADVERSE INFERENCE AGAINST APPELLEE COUNSEL SHRAIBERG AND THE BANKRUPTCY COURT AND APPELLEE FOR INTENTIONALLY WITHHOLDING THE FORMER INTERN PROSECUTOR NAME INGER GARCIA WHO WAS SEEKING WHISTLEBLOWER PROTECTION ESPECIALLY WHEN COUNSEL SHRAIBERG KNOWS COUNSEL GARDICA FOR YEARS AND PRIOR BANKRUPTCY CASE BEFORE THE SAME JUDGE WHO EXPRESSLY PLACED BLAME AND SANCTION ON COUNSEL GARCIA

In both the filings in the Bankruptcy Court and the Answer Brief in Opposition Counsel Shraiberg for Appellee intentionally withholds the name of Inger Garcia as was done with the Court on June 2. 2025 yet Garcia knows Shraiberg in person for many years and Garcia's name was all over the 2023 case as she had filed an unnecessary Suggestion of Bankruptcy in the State Court after Appellant already filed a proper one and the Bankruptcy Court sanctioned Garcia and Appellant for

Garcia's conduct. Appellant had shown the US Trustee in this Case that Garcia sought specifically to Whistleblow on Counsel Shraiberg and that Garcai knew the US Trustee for nearly 30 years but Appellant was never contacted by the Trustee and the Whistleblower Garcia who sought FBI assistance never heard. See US Trustee Letter and filing to get Continuance and Evidentiary Hearing. BK DE No. 29.

THE LIFT STAY FILED BY APPELLEE EXPRESSLY REFERENCED UNSUPPORTED DISPUTED FACTUAL ISSUES OF THE PALM BEACH CLERK IN CANCELLING THE SALE WHICH WERE CONTESTED FACTUAL ISSUES NEVER HEARD AND THUS IT WAS AN ABUSE OF DISCRETION TO DENY A HEARING AND SUMMARILY SANCTION APPELLANT IN LESS THAN 2 MINUTES AFTER ANNOUNCING A WHISTLEBLOWER

The lift stay motion filed by Appellee itself referenced disputed and unsupported claims by Appellee regarding the Palm Beach Clerk without ever having any document by anyone from the Palm Beach Clerk. This factual issue alone merited an evidentiary hearing as it was disputed and false and falsely used against Appellant. This is similar to the type of cross-case fraud the Whistleblower Garcia licensed attorney would testify to. See Lift Stay BK DE No. 18, 19.

THE APRIL 14, 2025 BANKRUPTCY PETITION FILED BY APPELLANT WAS PROPER TO ISSUE A SUGGESTION OF BANKRUTPCY AND STAY AS THE PRIOR ORDER MODIFYING THE STAY WAS FOR 2 YEARS ONLY NOT "2 YEARS AND A DAY" AND APPELLEE KNOWS THIS ARGUMENT WAS GRANTED EX PARTE WITHOUT DUE PROCESS TO APPELLANT AND IS IN BAD FAITH BY APPELLEE

The 2023 Order relied on by Appellee provided: "The automatic bankruptcy stay set forth in 11 U.S.C. § 362(a) is modified so that, *for the next two years from the date of this Order,* 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 located at 2753 N.W. 34th Street, Boca Raton, Florida 33434," (emphasis added).

Nowhere does the Order state "2 Years and one Day" from the date of this Order.

By it's express terms the Order expired on 2 years from April 14, 2023 which was April 14, 2025 the date of the Petition in this case 25-14028-PDR now on Appeal to this District Court. The filing of a bankruptcy petition ordinarily triggers the automatic stay under § 362(a). The 2023 order's stay modification was time-limited ("for the next two years"), suggesting it was not intended to permanently waive the stay. Once the time elapsed, the modification — and thus the exception — ended, bringing the Code's default back into force.

There's no lasting statutory limitation that forbids stay coverage when a petition is filed after a temporary modification period ends. The Appellee's reliance on FRBP 9006 is misplaced as the Order in question is in "years" not "days" or "weeks" and this procedural rule does not override the clear language of the Order.

Local Rule 4001-1 that contemplates and requires a hearing when there are disputed facts.

Appellant raised multiple disputed facts and expressly asked for an Evidentiary hearing under the Local Rule and it was an abuse of discretion to deny that hearing and summarily rule against Appellant in 2 minutes. It was error to deny an evidentiary hearing on all of the disputed facts.

THE SOUTHERN DISTRICT OF FLORIDA BANKRUPTCY COURT HAS PRECEDENT FOR GRANTING AN EVIDENTIARY HEARING ON HOMESTEAD ISSUES THAT WERE PROPER TO HEAR BY THE BANKRUTPCY COURT IN THIS CASE AND IT WAS AN ABUSE OF DISCRETION TO SUMMARILY DENY A HEARING WITHOUT ALLOWING ARGUMENT AND PROPER EVIDENTIARY HEARING

The Southern District Bankruptcy Courts have precedent for evidentiary hearings on Homestead and related issues. See In re: Case No.: 10-31218-BKC-JKO Maria Victoria Osejo, This case cited law to make it clear Federal Bankruptcy Court should have heard the homestead issue and Appellant meets all the exceptions to the Exemption. "Garcia cogently and succinctly discusses the interplay between Article X, § 4(a) of the Florida Constitution and § 522(o)(4) of the Bankruptcy Code. In short: . . . the virtually limitless Florida homestead law prompted the enactment of section 522(o). . . . the provisions of the Florida Constitution conflict with section 522(o). . . . [and] by virtue of the Supremacy

Clause, 11 U.S.C. § 522(o) preempts Florida's constitutional homestead exemption." See In re: Case No.: 10-31218-BKC-JKO

It was a manifest error of law and abuse of discretion not to conduct a hearing on the Homestead claims that go back to 2008 and are supported by witness statements and other evidence.

THE 11TH CIRCUIT RULED IN 2024 THAT THE BANKRUPTCY COURT IS THE PROPER FORUM WITH JURISDICTION TO HEAR AND DETERMINE DEBTOR'S CLAIMS OF EXEMPTIONS LIKE "HOMESTEAD" AND THE BANKRUPTCY COURT ABUSED IT'S DISCRETION IN SUMMARILY RULING WITHOUT A HEARING UNDER The Alabama Creditors v. Dorand (In re Dorand), 95 F.4th 1355 (11th Cir. 2024).

Unified administration and efficiency. Bankruptcy proceedings are designed to aggregate all the debtor's assets and liabilities. Having a single court — the bankruptcy court — determine what property is part of the estate (and what is exempt) avoids splintering the case across state and federal forums.

Exemptions are part of the bankruptcy estate structure. The very notion of a homestead exemption (federal or state-based) is embedded in the bankruptcy code (e.g., § 522). That suggests Congress intended bankruptcy courts to have the authority to adjudicate exemptions — including homestead — even if state law defines what "homestead" means.

Under §541(a) of the Bankruptcy Code, "the commencement of a case under…this title creates an estate." The estate consists of "all legal or equitable interests of the debtor in property as of the commencement of the case," among other things.

Even after years of state court litigation and collection efforts, a bankruptcy court, rather than the state trial court, may be the ultimate arbiter of a judgment debtor's claims of exemption. At least that is the law in the 11th Circuit after the decision in The Alabama Creditors v. Dorand (In re Dorand), 95 F.4th 1355 (11th Cir. 2024).

The State Court had not heard or determined the Homestead issue raised by Appellant and filed in State Court which asserted Homestead rights going back to 2008 which are supported by the Asset Protection done to benefit Appellant's family and further supported by the Sworn Statement of William Stansbury not heard as a Witness and the handwritten letters of Walt and Pat Sahm, Sr. going back to 2013 that admitted the home was for Eliot and Candice Bernstein. See, Stansbury Affidavit _____, Homestead Declaration _____.

APPELLANT HAD SHOWN "EXTRA-JUDICIAL" SOURCES ON INTIMIDATION AND INFLUENCE OVER THE BANKRUPTCY CASE AND THE 11TH CIRCUIT DOES NOT REQUIRE THIS IN EVERY CASE AND THE BANKRUPTCY COURT AND APPELLEE OVERLOOK THE ARGUMENTS FOR DISQUALIFICATION PROPERLY MADE BEFORE THE BANKRUTPCY COURT THAT SHOULD NOW BE GRANTED

Appellee's own filings show the withholding of the actual name of the Whistleblower by their office and the Bankruptcy Court itself never once raised the

name or Whistleblower in writing despite statutory duties to investigate fraud in the Bankruptcy Court. This was all shown in the post dismissal filings and the prejudice and biased words.

"I have been emailing with the Office of US Trustee Robin Weiner for over a week now seeking cooperation and support for my filed Chapter 13 Plan which can be Amended and modified as needed and more specifically because Florida Licensed Attorney Inger Garcia who was a prior Intern Prosecutor in the Miami Office of the US Attorney has specifically requested me to ask for Whistleblower Protection from Trustee Weiner's Office so she can report fraud in both the Bankruptcy Court and State Court specifically including Bradley Shraiberg who filed the Amended Motion for Stay Relief being heard this Monday June 2, 2025." See, Par. 8 DE No. 29 May 30 2025 Case 25-14028-PDR.

After the improper dismissal with no evidentiary hearings, the Bankruptcy Court was moved to correct the errors and vacate prior Orders and was shown the pattern of not fairly adjudicating issues against myself and immediate family. This below is specifically in relation to an improper "Second Mortgage" used by attorney Alan Rose in conjunction with attorney Brad Shraiberg and Robert Sweetapple and perhaps others to prevent my family from securing funds to satisfy the proper Secured Creditor on a Private Note just over $100,000.00 which was supposed to be paid off by dedicated income from Estate and Trusts of my parents which was

specifically known to both Walter and Pat Sahm, Sr and evidenced in handwritten letters in 2013. This was also known to William Stansbury who issued an affidavit in 2022. Appellant - Debtor has been fundamentally denied due process and due process hearings despite providing specific witnesses and relevant areas of evidence to be heard. In the prior Bankruptcy of 2022, the Trustee once again did not even question this Second Mortgage despite the fact it was past the Statute of Limitations by nearly 4 years as of 2022 and had no "Consideration" as it was done for Asset Protection yet has been allowed to survive without being heard and used against my family and the property.

I further showed, "The bankruptcy system, as we have already noted, treats untimeliness as an affirmative defense. **The trustee normally bears the burden of investigating claims and pointing out that a claim is stale. See supra, at 1412 – 1413.** Moreover, protections available in a Chapter 13 bankruptcy proceeding minimize the risk to the debtor. See supra, at 1413. And, at least on occasion, the assertion of even a stale claim can benefit a debtor." See, MIDLAND FUNDING, LLC, Petitioner v.Aleida JOHNSON. 137 S.Ct. 1407, 197 L.Ed.2d 790 (2017)."

See Par 64 DE No. 42, June 23, 2025 Case No. 25-14028-PDR.

It is crystal clear that statutory duties and professional duties of the US Trustee (s) have been disregarded against my family in these cases. The Bankruptcy Court Judge Russin has abused his discretion in wholly failing to address the issues and

wholly failing to issue proper hearings on the issues despite statutory obligations of the US Trustees.

The Transcript of June 2, 2025 makes it crystal clear that the Bankruptcy Court was predetermined to not hear about the Whistleblower on fraud and not allow me to be heard according to due process.

> **Page 15 lines 2-11 "MR. BERNSTEIN: Well, there's a whistleblower who's a former intern prosecutor for Janet Reno and a licensed Florida attorney - THE COURT: All right. So denied. I'm granting your motion, Mr. Shraiberg. Please get me the order. Mr. Bernstein - MR. BERNSTEIN: Yeah? THE COURT: -- this is a - MR. BERNSTEIN: We'll sit down. THE COURT: -- an abusive process, so -" See Transcript**

It was clear from the first Bankruptcy in 2023 with Judge Russin that he let Joanna Sahm leave the Hearing converted to "Evidentiary" during the Non Evidentiary when she had been implicated in the fraud I alleged on April 13, 2023.

MR. SHRAIBERG: Yeah. Good morning, Your Honor.
5 Brad Shraiberg, S-H-R-A-I-B-E-R-G, on behalf of Joanna Sahm,
6 as personal representative of the Estate of Walter Sahm and
7 Patricia Sahm. **I am joined today with Ms. Joanna Sahm**, who
8 is the personal representative and holds the power of
9 attorney for Ms. Patricia Sahm.

Thus, it was clear Joanna Sahm was present at the Hearing but then able to leave when it turned evidentiary despite fraud allegations being made against her and where Judge Russin had the issue of her standing to file the Lift Stay yet never determined her standing and let her leave without being questioned in 2023. Four days later after that hearing Joanna Sahm initiated a Guardianship in the State Court to silence her mother Pat Sahm, Sr from being heard.

Whistleblower Garcia is known to have direct information on the fraud on that Guardianship yet has never been called by any Court on this. This is directly relevant to whether any Bankruptcy Court has heard from a proper Secured Creditor and relevant to equity and fairness and justice and the proper party to settle with.

It was further clear I had caught them in 2023 in their "shifting" positions across both the first Bankruptcy in Chapter 11 in 2022 and across the State case.

MR. BERNSTERIN: And according to Mr. Shraiberg's
25 in testimony, he has said that it is by tenants entirety
34
1 passed to Patricia Shraiberg (sic), but he's caught in the
2 fact that the state court issued a final judgment on behalf
3 of a dead person because they failed to inform the court for
4 two years that Walter had died and that it had transferred
5 in. But as he claims –

See Transcript Page 33, 34 April 13, 2023 Case No. 23-12630-PDR.

I withdrew that 2023 Bankruptcy only at the suggestion of Ms. Garcia who has wanted to come forward as a Whistleblower who should have been heard before Judge Russin who must now be disqualified.

The Bankruptcy Court abused its discretion in denying the Motions to Vacate and reconsideration under FRCP 59-60 and should have been mandatorily disqualified.

18 U.S. Code § 3057 - Bankruptcy investigations provides in part "(a)**Any judge, receiver, or trustee** having reasonable grounds for believing that any violation under chapter 9 of this title or other laws of the United States relating to insolvent debtors, receiverships or reorganization plans has been committed, or that an investigation should be had in connection therewith, shall report to the appropriate United States attorney all the facts and circumstances of the case, the names of the witnesses and the offense or offenses believed to have been committed. Where one of such officers has made such report, the others need not do so." (emphasis added)

This Court of Hon. Judge Russin and likely his Law Clerk as stated on the Record on June 2, 2025 as being the one to "write" Orders in this case after Trustee Weiner announced on the Record that day that the Court should issue the Order denying my motion for a reasonable continuance and Evidentiary Hearing and other relief under DE No. 29 has now issued an Order under DE No. 43 that continues to

violate 18 USC Sec. 3507 as has been violated since at least June 2, 2025 and has gone even further by issuing an Order that is predominantly false, like a false official document by knowingly denying items in the Record and even denying the conduct of the June 2, 2025 as if it did not occur and is now directly adverse, hostile and prejudicial to Debtor and also being a Witness to what occurred June 2, 2025 together with Trustee Weiner, her Assistant attorney present, Mr. Shraiberg and the Courtroom Deputy at minimum.

The prior submissions gave many examples of outside influence surrounding the case and neither the Docket of this case nor the 2023 Bankruptcy Docket have any indication of how Judge Russin was even assigned the Case as in this Case it was last assigned to Judge Mindy Mora but nowhere is it assigned to Judge Russin by any Order or Transfer of Record." See DE No. 45.

More egregiously and supporting the mandatory Disqualification of Judge Russin and Transfer of my case as ***nowhere in DE No. 43 does Judge Russin even mention the Whistleblower or that Fraud was Reported or being attempted to be Reported.***

The pleadings showed efforts with the FBI by Inger Garcia, my Car bombing with Ted Bernstein refusing to speak to the FBI, my ongoing contacts with a DC person with access to Signal Intelligence "SigInt" who has been seeing passing by Security in Federal Courthouses and going into Federal Judge's Chambers, my

efforts with the USPTO where a federal investigation of the Patent Bar has stopped and stalled then restarted then stalled and goes on where my Patents remain Suspended by the USPTO.

The Court disregarded all statutory obligations of the Trustee in DE No. 43, disregarded my Plan, disregarded my addendums of specific Trusts and areas where accountancy are needed.

The Bankruptcy Court specifically disregarded the Affidavit of Pat Sahm Sr of April 19, 2023 in this Record as an Exhibit under DE No. 29 that specifically counters any claim of Bad faith, shows she did not ask Brad Shraiberg to take actions in the prior 2023 case and other relevant information but was wholly disregarded and denied even though admissible under the Federal Rules of Evidence.

Same for William Stansbury who is still available as a Live Witness.

Even in the 11th Circuit case cited in DE No. 43 it shows "Section 455 of Title 28 of the U.S. Code creates two conditions for recusal. United States v. Patti, 337 F.3d 1317, 1321 (11th Cir.2003). First, **§ 455(a) provides that a judge shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned. 28 U.S.C. § 455(a)**. Under § 455(a), recusal is appropriate only if "an objective, disinterested, lay observer fully informed of the facts underlying the grounds on which recusal was sought would entertain a significant doubt about the

judge's impartiality." Patti, 337 F.3d at 1321 (citation omitted). And "judicial rulings alone almost never constitute a valid basis for a bias or partiality motion." Liteky v. United States, 510 U.S. 540, 555, 114 S.Ct. 1147, 1157, 127 L.Ed.2d 474 (1994) (citation omitted)."

The language of the case say "almost never" provide a basis but does not say "never".

For these reasons and the pervasive bias shown and direct factual and legal issues knowingly disregarded all Orders must be vacated, the case transferred and Stay reinstated.

CONCLUSION

Because of clear lack of due process and improper adjudication consistent with the Bankruptcy Code and bias and prejudice shown and that the Lift stay was not served on all interested parties nor according to Rule 4001 and Local Rule and no proper hearing held and evidentiary hearings being necessary and with the State Court foreclosure Judge improperly trying to rule on Federal law of Bankruptcy without hearings to reinstate a Sale the Automatic Stay should be reinstated or appropriate Bankruptcy Stay issued pending reinstatement of the case and proper hearings including the Whistleblower before an independent and new Judge.

Dated: December 2, 2025

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CERTIFICATE OF COMPLIANCE

I hereby Certify that the Initial Brief is in compliance with Local Rules and Rules of Bankruptcy being less than 6500 words with Word Count at 5155 and double spaced in Roman type character.

CERTIFICATE OF SERVICE

I certify that I served by electronic mail the US Trustee and Mr. Shraiberg and other parties required for Service as known on this day.

Dated: December 2, 2025

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