

COPY

1 IN THE CIRCUIT COURT OF THE 15TH
2 JUDICIAL CIRCUIT IN AND FOR
3 PALM BEACH COUNTY, FLORIDA
4 CASE NO.: 50-2018-CA-002317-XXXX-MB
5 DIVISION AO

6 WALTER E. SAHM AND
7 PATRICIA SAHM,
8 Plaintiffs,

9 V.

10 BERNSTEIN FAMILY REALTY, LLC,
11 BRIAN O'CONNELL, AS SUCCESSOR
12 PERSONAL REPRESENTATIVE OF
13 THE ESTATE OF SIMON L. BERNSTEIN;
14 ALEXANDRA BERNSTEIN, ERIC BERNSTEIN,
15 MICHAEL BERNSTEIN, MOLLY SIMON,
16 PAMELA B. SIMON, JILL IANTONI,
17 MAX FRIEDSTEIN, LISA FRIEDSTEIN,
18 INDIVIDUALLY AND TRUSTEES OF
19 THE SIMON L. BERNSTEIN REVOCABLE
20 TRUST AGREEMENT DATED MAY 20, 2008,
21 AS AMENDED AND RESTATED;
22 ELLIOT BERNSTEIN, AND CANDICE
23 BERNSTEIN, INDIVIDUALLY AND AS
24 NATURAL GUARDIANS OF MINOR
25 CHILDREN JO., JA. AND D. BERNSTEIN;
AND ALL UNKNOWN TENANTS
Defendants.

HEARING

DATE: JULY 31, 2025
REPORTER: MARK SILVER

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25

1 APPEARANCES
2

3 ON BEHALF OF THE PLAINTIFFS, WALTER AND PATRICIA SAHM,

4 AND CHARLES REWARD:

5 Cynthia Miller, Esquire

6 Sweetapple, Broeker & Varkas, PL

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13 ON BEHALF OF THE DEFENDANTS, ELLIOT BERNSTEIN, CANDICE

14 BERNSTEIN AND DANIEL BERNSTEIN:

15 Eric Cvelbar, Esquire

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18 Miami, Florida 33127

19 Telephone No.: (305) 490-1830

20 E-mail: ecvelbar@hotmail.com

21 (Appeared via videoconference)

22

23 Also Present: Honorable John J. Parnofielo, Judge;

24 Inger Garcia, Esquire, Acting Independently

25



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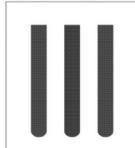
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1 STIPULATION
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The hearing was taken at 205 NORTH DIXIE HIGHWAY, WEST
4 PALM BEACH, FLORIDA 33401 on THURSDAY the 31st day of
5 JULY 2025 at 9:16 a.m. (ET); said hearing was taken
6 pursuant to the FLORIDA Rules of Civil Procedure.

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1 PROCEEDINGS

2 THE COURT: All right. Can you hear me, sir?

3 MR. CVELBAR: I can.

4 THE COURT: Okay. All right. Very good. We're
5 here on case 2018-CA-27 -- or 2317. May I have the
6 appearance of the parties, please?7 MS. MILLER: Cynthia Miller on behalf of
8 Plaintiffs, Charles Revard as guardian of the ward,
9 Walter and Patricia Sahm.

10 THE COURT: Yes, ma'am.

11 MS. GARCIA: Inger Garcia, individually.

12 THE COURT: Ms. Garcia.

13 MS. GARCIA: Good morning, Your Honor.

14 THE COURT: Good morning. And mister --

15 THE CLERK: Judge, just --

16 THE COURT: Go ahead, Mister --

17 MR. CVELBAR: Eric Cvelbar on behalf of Mr.
18 Bernstein.

19 THE CLERK: It's not working, but it's on.

20 THE COURT: Are you able to see us, Mr.
21 Cvelbar?

22 MR. CVELBAR: I am.

23 THE COURT: Okay. All right. So we're here on
24 a case management conference. I've received a
25 couple status quo. So I've reviewed the docket

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1 since then. Let me ask first from the plaintiff's
2 perspective, what matters need to be addressed?

3 MS. MILLER: One quick question I just want to
4 ask, are you here on behalf of any of the
5 defendants. Or -- just so I know. This --

6 MR. CVELBAR: I'm not.

7 MS. MILLER: Okay. So as of right now, as far
8 as Plaintiffs are concerned, there are a few matters
9 that need to be set, which are our Motion to
10 Reinstate the foreclosure sale.

11 We have a Motion to Enforce your order and
12 compel inspection, and for sanctions, and the
13 outstanding fee issue that you decided previously in
14 your order.

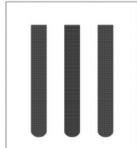
15 THE COURT: Right.

16 MS. MILLER: And that was why, you know, Ms.
17 Garcia is here. She filed the motion at -- last
18 evening.

19 THE COURT: Right. I saw, Ms. Garcia, you
20 filed a Motion to Compel, I guess, the underactive
21 versions of the billing records.

22 MS. GARCIA: Right. I received the invoice.
23 And I know that's not set for hearing. I don't know
24 if you want me to set it for a hearing.

25 THE COURT: I don't know. It might be



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1 something we're able to take up since we can take up
2 anything at a case management conference. If you're
3 in a position to do it. I'm not going to do it if
4 you're not able to do it.

5 Mr. Cvelbar, from your position, what
6 additional things need to be addressed?

7 MR. CVELBAR: Well, Your Honor, there are a
8 number of discovery issues, you know, items that
9 we're -- that we need to, you know, have produced to
10 us on it that, you know, so far haven't been given
11 to us.

12 THE COURT: Like what?

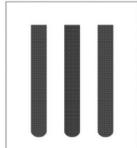
13 MR. CVELBAR: Your Honor, I was -- as I said,
14 I'm familiarizing myself with the case, you know,
15 and --

16 THE COURT: Do you know what the posture -- do
17 you -- I know you're the Appellate Attorney. Do you
18 know what the posture of the case is?

19 MR. CVELBAR: Yeah, I have a good idea, Your
20 Honor. Like I say, I'm -- you know, I'm still in
21 the process of familiarizing myself with them.

22 THE COURT: I'm just trying to figure out what
23 discovery could possibly be outstanding if the case
24 is post-judgment, post-foreclosure, so --

25 MR. CVELBAR: Okay. Well, you know, as I'm



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1 sure the Court is aware, this matter is under
2 appeal.

3 THE COURT: Oh, yeah.

4 MR. CVELBAR: And, you know, it's our position
5 that, you know, we would think it would be best. If
6 the matter was, you know, stayed until the appeal
7 was -- until the Appellate Court, you know, does a
8 review and makes a ruling on the case.

9 THE COURT: Okay. There hasn't been a formal
10 request to stay the matter, so -- I don't even know
11 if it -- is there a time frame on when you have to
12 ask the lower Court for a stay? It would seem as
13 though that time frame would've come about.

14 MR. CVELBAR: The Court could possibly be right
15 on that, Your Honor. I can't see --

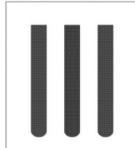
16 THE COURT: I don't know. I don't know the
17 answer to that at all.

18 MR. CVELBAR: I don't either, to be honest with
19 you.

20 THE COURT: So I'm not going to hear a Motion
21 to Stay the case today.

22 MR. CVELBAR: Okay.

23 THE COURT: But from my review of the docket,
24 it did -- it appeared that -- I think it was Docket
25 number 370, there was a claim of homestead exemption



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1 that was raised. And I don't know if it was raised
2 timely. I don't know if it was raised properly. I
3 would like to have a briefing on it.

4 So if it's something that needs to be set for
5 hearing, it can be separate for hearing. If it's
6 something that does not need to be set for hearing,
7 the Court can review it and enter an appropriate
8 order.

9 Your Motion to Reinstate the Sale is that
10 something that is an evidentiary hearing?

11 MS. MILLER: I don't believe so, Your Honor,
12 just based on review of the document that all of the
13 requirements were met, this was a situation where
14 the sale went through. There's a bid sheet on --

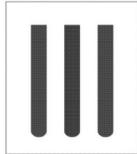
15 THE COURT: And the -- I'm sorry, I don't mean
16 to interrupt you. I -- correct me if I'm wrong and
17 I may be wrong. The sale went through and then the
18 clerk canceled the sale because there was a
19 bankruptcy filing by Mr. Bernstein?

20 MS. MILLER: Correct.

21 MR. CVELBAR: Yes.

22 THE COURT: However, the original bankruptcy
23 order prevented any bankruptcy stays from operating
24 for a period of two years.

25 MS. MILLER: Correct.



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1 THE COURT: And wasn't -- didn't a sale occur
2 during the time frame which the stay never should
3 have existed in the first place?

4 MS. MILLER: Correct. And the Court has since
5 entered a further order extending that stay.

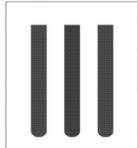
6 THE COURT: So the question that I -- really,
7 what I would like to know is, having never dealt
8 with a situation where someone declared property
9 that was not owned by them as their homestead
10 property, I'd like to know whether or not the
11 declaration is something that's timely or something
12 that the Court needs to give effect to, so that I
13 can rule on -- really on all of those motions and
14 all of those issues.

15 And I don't know, since, Mr. Cvelbar, you are
16 representing the defendants. Now, they have filed
17 pro se filings. But if you want to amend or change
18 or you know, make the filing more straightforward or
19 more thorough, I'd certainly be willing to give
20 leave to do that.

21 MR. CVELBAR: I would ask for that, Your Honor.

22 THE COURT: But I'm of the -- there's two
23 matters. There's the conclusion of the underlying
24 matter, and then there's the attorney's fees issue.

25 So with respect to the conclusion of the



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1 underlying matter, the Court is of the belief, and
2 again, correct me if I'm wrong, that once I address
3 the issue of the home -- the claim of homestead as
4 it relates to the prior lack of a comfort order, I
5 suppose, and the timeliness of that, that concludes
6 that matter pending appeal, pending a request to
7 stay, assuming one is timely and assuming one is
8 granted, and then we can focus on the attorney fee
9 matter. Does that sound right?

10 MS. GARCIA: There's two appeals on that level,
11 Your Honor, although I'm here just for the
12 attorney's fees matter.

13 THE COURT: Sure.

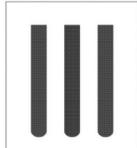
14 MS. GARCIA: On the bankruptcy, there's an
15 appeal to Eleventh Circuit. And I believe that
16 they're filing a Motion to Stay soon, from what I
17 understand. Based on that appeal, which would
18 dismiss the bankruptcy.

19 THE COURT: Okay.

20 MS. GARCIA: Then they have an appeal of the
21 final orders and the appellate fee orders. Then I
22 had filed an appeal on the attorney's fees --

23 THE COURT: Right.

24 MS. GARCIA: -- but it was dismissed because
25 they determined it was the final order --



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1 THE COURT: Because there wasn't a number that
2 was -- you have to wait until it's -- I saw that. I
3 get those updates.

4 MS. GARCIA: Yeah, so that's just kind of the
5 status that I know of.

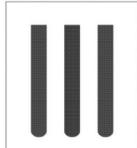
6 MS. MILLER: Obviously, it's Plaintiff's
7 position that none of those items would prevent the
8 Court from moving forward with this matter at this
9 time. And speaking with bankruptcy Counsel --

10 THE COURT: Well, until there's a stay.

11 MS. MILLER: Right.

12 THE COURT: Until a Court -- a higher Court
13 than me orders me to stay the proceedings. Based on
14 the procedural history of this matter, I'm not
15 staying these proceedings. So you may want to save
16 some paper if you -- you're planning on writing a
17 Motion for Stay. Because, as set forth in the order
18 that's under appeal, this case has a very long and
19 tortuous procedural history.

20 But I don't know how the Eleventh Circuit
21 works, and I don't know how bankruptcy Court works.
22 So they may well enter a stay. I know the
23 bankruptcy Court declined to enter a stay. They
24 previously declined to enter a stay, but that's all
25 I know. I would like to just handle all that



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1 remains for me to rule on, unless or until it's
2 remanded back to me for further proceedings, so that
3 it can be done with, and there can be some level of
4 finale to the issue pending the appeals Court. What
5 is a reasonable briefing schedule for those
6 outstanding issues from the plaintiff's perspective?

7 MS. MILLER: I don't believe that -- obviously
8 we disagree with their position.

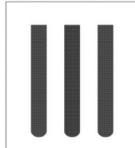
9 THE COURT: Sure.

10 MS. MILLER: I don't think that we need an
11 exorbitant amount of time. I would say no longer
12 than two weeks at the most. Obviously, like you
13 said, this has been a long-standing issue. We'd
14 like to move forward with this and bring it to some
15 sort of finality.

16 THE COURT: Okay. How about -- Mr. Cvelbar,
17 how long -- is two weeks, a reasonable time for you
18 to do whatever you want to do with the filings that
19 you have inherited from your clients up until now?

20 MR. CVELBAR: That's reasonable.

21 THE COURT: So I'm going to order the matter --
22 I'm going to order the plaintiff to provide
23 supplemental briefing with respect to the issues
24 that I raised. I'm going to order Mr. Cvelbar to
25 file any amended modified -- anything that he would



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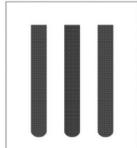
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1 like to do to frame the issues that he believes the
2 Court needs to address that have occurred since the
3 Court entered the order striking the foreclosure --
4 resetting the foreclosure sale, which I think is the
5 second order that's on appeal. So any of the
6 matters that have been raised since that time. I'll
7 allow you to decide which are meritorious, which
8 ones may not be meritorious, and I'll let you, sort
9 of, frame what you believe we need to focus on.

10 And then you both have two weeks to file those,
11 and then I'll give you an additional week to respond
12 to whatever Mr. Cvelbar filed. I'd ask for you all
13 to file them in the Court file, but to provide a
14 courtesy copy to Chambers at cad-
15 divisionao@pdgov.org, so that I can get it as
16 opposed to waiting for it to get documented. With
17 respect to the attorney's fees issued, are you in a
18 position to address that today?

19 MS. MILLER: I will be honest and I did not see
20 that until this morning. I spoke to Ms. Garcia in
21 the hall to try to see if we could set up a time to
22 discuss -- pursuant to your order. That was the
23 intent is that we should try to discuss things
24 before bringing them before the Court. I'd like to
25 have a chance to look at, you know, what other



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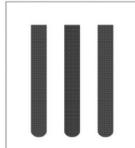
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1 documents that, you know, she thinks are inadequate
2 or what else she's asking for. If, Your Honor, is so
3 inclined to clarify that before we even get there,
4 you know, obviously we defer to you, but I think
5 that it was the general status of the order that we
6 are -- were to try to comply ourselves with any
7 orders by speaking and, you know, having that open
8 line of communication prior to. If we're unable to
9 come to, you know, some sort of agreement, I'm happy
10 to come before you, do whatever we need to do. If
11 you'd rather we, you know, give you something in
12 writing showing what our objections are prior to.
13 However you'd like to handle it, we're happy to do
14 so.

15 THE COURT: Well, I'd like for you to follow
16 the discovery order. I -- I'm -- I don't mean to
17 speak for Ms. Garcia, but I'm guessing she figured
18 that since she was coming down to the Courthouse, we
19 might as well raise that one issue. So I don't take
20 it that she was trying to not follow the order, I
21 just figured that she figured that while we were
22 here, we might as well see if we can address it.

23 MS. MILLER: But that's fine. I have, you know
24 -- I'm not trying to make any other, you know,
25 indications towards Ms. Garcia. I just didn't see



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1 it until 8:30 last night, so unfortunately I would

2 -- I did not --

3 THE COURT: I did -- I -- it came in late and
4 -- but it does raise the point that some of the
5 pages that you're seeking compensation for appear to
6 have been work done in the furtherance of the CIA
7 because the entire page is redacted. So --

8 MS. MILLER: So just to clarify on that point,
9 Your Honor, you gave us dates in which to provide
10 billing. So the pages where there are large
11 redactions are dates where it fell outside of --

12 THE COURT: I --

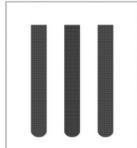
13 MS. MILLER: -- those parameters.

14 THE COURT: I understand.

15 MS. MILLER: So it was my understanding that
16 they would not be entitled to that work as well,
17 simply because it was on the same invoice.

18 THE COURT: I got you. I didn't do -- like I
19 said, it came in late. I didn't review it page by
20 page like I would for actual hearing. Would you
21 have a time that you and Ms. Miller could meet and
22 confer with respect to those objections, and see if
23 you're able to work them out without Court
24 intervention?

25 MS. GARCIA: One day next week is fine with me.



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1 I -- what I did is I started going line by line,
2 Your Honor, you know, for the objections, and as I
3 did, I realized -- and I looked at your order,
4 Paragraph 3 that said they're supposed to give me,
5 you know, in support of the motion, billing
6 timesheets, invoices, and other documentary
7 evidence, and many of the entries, not just out of
8 the frame but, you know, are redacted, and there's
9 no evidence. And there's an attorney -- there's two
10 attorneys double billing, double invoices, you know.

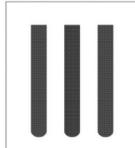
11 THE COURT: So why don't you all Meet and
12 Confer within the next, say, week? See if you can
13 -- it doesn't have to be in person, do it over the
14 phone, whatever's the most convenient for you.

15 MS. GARCIA: Right.

16 THE COURT: But Meet and Confer and see if
17 there's any -- because the motion is so newly filed.
18 I mean, they may want to file a response in
19 opposition. We're just talking about the motion
20 that's in the Court file.

21 MS. GARCIA: I understand.

22 THE COURT: Why don't you all Meet and Confer,
23 and see if you can work through some of the issues?
24 And if not, so whatever issues remain for ruling on
25 the Court -- by the Court.



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1 MS. GARCIA: Right.

2 THE COURT: And I think that I probably
3 contributed to the confusion just as much as anybody
4 else, because I think I entered stay orders on the
5 timing of that -- of -- timing of the compliance
6 with that order once the matter began going through
7 the appeals process.

8 MS. GARCIA: Right.

9 THE COURT: So I'm sure the dates are all
10 hinky. So --

11 MS. GARCIA: Well, we also agreed that she
12 would give me an extension because my deadline to
13 respond will be August 25th. But if you rule that I
14 have a right to these documents so I can examine
15 their expert and my expert, so I need to have an
16 extension of time to hire my expert because I can't
17 give them these documents. There's nothing he can
18 do with them.

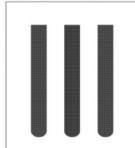
19 THE COURT: That's --

20 MS. GARCIA: Yeah, so if she agreed to the
21 extension --

22 MS. MILLER: I have no objection.

23 MS. GARCIA: -- so --

24 THE COURT: And why does you -- I'm perfectly
25 fine to sign an agreed order extending time.



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1 MS. GARCIA: Okay.

2 THE COURT: Why don't you Meet and Confer first
3 to see how much of an extension that you need, and
4 then you're --

5 MS. GARCIA: Okay.

6 THE COURT: -- you're willing to agree to?

7 Because you may end up needing more, you may end up
8 needing less, but, you know --

9 MS. GARCIA: I just don't want to miss a
10 deadline appointing an expert meanwhile.

11 THE COURT: No, I -- and I'm not going to --

12 MS. GARCIA: I --

13 THE COURT: -- I'm not going to --

14 MS. MILLER: I have no objection.

15 THE COURT: -- I'm not looking to do that.

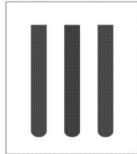
16 MS. GARCIA: I'm --

17 THE COURT: I'm not looking to rule that way.

18 MS. GARCIA: Okay.

19 THE COURT: So I -- but now that you -- you've
20 identified the issues that you have, I'd like for
21 you to talk them out and then, if you can't, I'm
22 here.

23 What is the status of the attorney's fees
24 discovery with respects to the individual
25 Defendants? Mr. Cvelbar, do you represent them with



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1 respect to the attorney's fees discovery issues?

2 MR. CVELBAR: Yes.

3 THE COURT: Okay. Have you been in contact
4 with Ms. Miller with respect to those portions or
5 have you provided him that or is he just brand new
6 on the case with respect to that?

7 MS. MILLER: He is brand new.

8 MR. CVELBAR: I'm really too -- brand new with
9 respect to that, Your Honor.

10 THE COURT: I got you, okay.

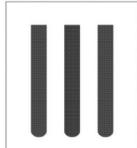
11 MS. MILLER: Just so you know, everything that
12 was provided to Ms. Garcia was provided to the
13 individual Defendants and everyone who would've been
14 under the BFR --

15 THE COURT: Okay.

16 MS. MILLER: -- umbrella.

17 THE COURT: What I'll ask for you to do, Mr.
18 Cvelbar is just, also within the next week, have a
19 Meet and Confer with Ms. Miller just to make sure.
20 Sometimes you -- sometimes the client gets the
21 document and then it goes missing, and perhaps -- I
22 would like to make sure that you have all of the
23 things that you need to do the things that you need
24 to do.

25 MS. GARCIA: Right. That's one of the reasons



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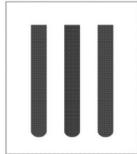
1 why I filed a motion and attached the -- all the
2 documents, so it would be in the record for everyone
3 to have access.

4 THE COURT: Okay.

5 MS. MILLER: And we are happy to provide
6 anything as required to Counsel.

7 THE COURT: Upon the conclusion of the briefing
8 schedule for what I view as all outstanding issues
9 on the underlying case, I'd like for you all to set
10 a case management conference, an in-person case
11 management conference, that you can advise the
12 Court, based on the briefings, how long you all
13 think you need to be set aside to have all
14 outstanding issues resolved with respect to the
15 underlying issues, not with respect to the
16 attorney's fees issue. And then we can -- I will
17 find a time to have that hearing and then we'll at
18 least have one portion of this being dealt with by
19 smarter, wiser Judges than I am. And we can work on
20 the attorney's fee thing as we need to.

21 MS. GARCIA: So I'm trying to keep that
22 separate since I'm responsible for the fees for what
23 I do and not for what anyone else does. I just want
24 to make sure that's still -- if the order's still in
25 place --



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1 THE COURT: The order would say that you were
2 responsible, I think. It's been a while, but --

3 MS. GARCIA: Yeah.

4 THE COURT: -- you're responsible from when you
5 -- with respect to the motion that we litigated, but
6 you -- when I entered the order, I think the next
7 day you filed a Motion to Withdraw so then you would
8 obviously not be responsible for any fees that were
9 incurred after that.

10 MS. GARCIA: Thank you.

11 THE COURT: Okay.

12 MS. MILLER: Quick question, Your Honor.

13 THE COURT: Yes, ma'am.

14 MS. MILLER: The motions with regard to the
15 inspection to compel compliance with your order, so
16 that was to happen prior to the sale, it didn't
17 happen. In the event you were likely to enter the
18 Motion to Reinstate the foreclosure sale, obviously
19 we would like to have that done prior to the CMC, if
20 possible.

21 THE COURT: Have you had a chance to -- I don't
22 know how recently Mr. Cvelbar is, but since they're
23 now represented by Counsel, before I rule on that,
24 I'd like for you to speak with him and see if you
25 could work something out.



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1 MS. MILLER: Absolutely.

2 THE COURT: Sometimes you can facilitate
3 things.

4 MS. MILLER: Not a problem.

5 THE COURT: Okay. All right. Anything else I
6 can do for you all today?

7 MS. MILLER: That's it.

8 MR. CVELBAR: No. Not from my standpoint, Your
9 Honor.

10 THE COURT: Okay. Thank you all. I will see
11 you --

12 MS. GARCIA: Thank you, Your Honor.

13 THE COURT: -- see you in a couple weeks.

14 MS. GARCIA: Have a good day.

15 THE COURT: You, too.

16 MR. CVELBAR: Thank you.

17 MS. MILLER: Thank you for your time.

18 THE COURT: Thank you.

19 (Hearing concluded at 9:35 a.m. ET)

20

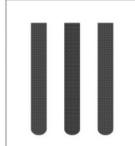
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1 C E R T I F I C A T E
2

3 STATE OF FLORIDA)

4 COUNTY OF ORANGE)

5

6 I, MARK SILVER, Court Reporter and Notary Public
7 for the State of Florida at Large, do hereby certify
8 that I was authorized to and did report the foregoing
9 proceeding, and that said transcript is a true record of
10 the said proceeding.

11

12 I FURTHER CERTIFY that I am not of counsel for,
13 related to, or employed by any of the parties or
14 attorneys involved herein, nor am I financially
15 interested in said action.

16

17 Submitted on: August 21, 2025.

18

19

20 
21

22

23 MARK SILVER

24

Court Reporter, Notary Public

25

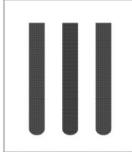
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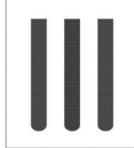
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