

IN THE CIRCUIT COURT OF THE 15TH JUDICIAL CIRCUIT, IN AND FOR
PALM BEACH COUNTY, FLORIDA

CASE NO.: 50-2018-CA-002317

WALTER E. SAHM and
PATRICIA SAHM,

Plaintiffs,

v.

BERNSTEIN FAMILY REALTY, LLC and
ALL UNKNOWN TENANTS.

Defendants

**NOTICE OF SUPPLEMENTAL AND ADDITIONAL EXHIBITS IN
SUPPORT OF 1.530 MOTION TO VACATE FINAL JUDGMENT AND
DISMISS ACTION WITH PREJUDICE BY JOSHUA, JACOB AND
DANIEL BERNSTEIN**

COMES NOW Joshua, Jacob and Daniel Bernstein by and through their undersigned counsel Leslie Ann Ferderigos, Esquire who respectfully moves this Court and Notices as follows:

1. **EXHIBIT - E-CASEVIEW Document No. 80** filed by Plaintiff Counsel

Robert Sweetapple June 4, 2020 falsely taking a “Clerk’s Default” against indispensable party mortgagor BFR, LLC **falsely taken on the 2ND**

Amended Complaint AFTER the 3rd Amended Complaint was filed

and AFTER Counsel Sweetapple represented to the Trial Court 3
months before in a hearing on March 5, 2020 that Service on Resigned
Agent was improper and would re-serve. See Hearing Transcript Page 14

March 5, 2020:

COUNSEL SWEETAPPLE, PAGE 14, MARCH 5, 2020 Hearing Transcript:

“And he did make the

16· ·one point that we are also addressing, Your Honor,
17· ·that's valid and that is that I did go back and look
18· ·at the situation with Mr. Tesher. The Bernstein
19· ·Family Realty was dissolved and it shows a corporate
20· ·registered agent so to the extent that Mr. Tesher may
21· ·not have had authority to accept, we are going to go
22· ·ahead and re-serve the registered agent of record and
23· ·then obviously move for default based on the fact
24· ·that they're not paying their fees and they're not
25· ·even in existence.”

NOTE: Counsel Sweetapple never file required documents for Summary Judgment showing all Services of Process in proper form either 40 days in advance of the Nov. 22, 2021 Summary Judgment Hearing or at the time of the Hearing. These documents were also not filed as part of the “Final Judgment” which Counsel Sweetapple again never Served on Counsel Ferderigos and was also not filed in compliance with this Trial Court’s published Instructions and Rules. “Somehow”, the Trial Court bypassed this issue of improper Service at the Summary Judgment Hearing Nov. 22, 2021 and suggested to Counsel Ferderigos that a Default had been granted even though the only “Default” in the Record is Doc. No. 81 Clerk’s

Default on the 2nd Amended Complaint not the 3rd Amended Complaint that had already been filed but not reserved.

2. **EXHIBIT - Copies of Certified Birth Certificates** showing Joshua Bernstein turned 18 in October of 2015 years before the Foreclosure Commenced and even prior to any “Validity” Hearing in the related Bernstein Estate Trust cases and prior to a GAL filed and pursued by Attorney Alan Rose for Ted Bernstein in 2016 as Ted Bernstein shares the same birthday, not year, as his nephew Joshua Bernstein who he claims to be a great protector of yet has proceeded for years in cases knowing his nephew Joshua Bernstein was improperly named as a minor with an illegal GAL. The Walt and Pat Sahm email already filed in this Record as an Exhibit shows in 2018 the Plaintiffs admited knowing Joshua Bernstein was over the age of 18 nearly a year before the Third Amended Complaint was filed improperly naming Joshua Bernstein as a “minor”; Further showing Jacob Bernstein also well over the age of 18 over a year before the Foreclosure action commenced; and also showing Daniel Bernstein turned 18 over a year before the Hearing on Summary Judgment.

NOTE: In addition to filed Objections, Answers and other pro se documents by Eliot and Candice Bernstein as the natural parents of Joshua, Jacob and Daniel Bernstein proclaiming the age of majority for Joshua and Jacob Bernstein, the Trial Court was specifically notified again on the Record at the March 5, 2020 Hearing by Eliot Bernstein sufficient to trigger the Court's Duty to Investigate its Jurisdiction: (See, Florida Supreme Court on Duty to Investigate a Court's own Jurisdiction).

PAGE 9 OF MARCH 5, 2020 HEARING TRANSCRIPT:

MR. BERNSTEIN: · And so, I've never been served.
18· ·My wife has never been served otherwise I would have
19· ·filed an answer and a counterpoint. My children who
20· ·are sued, are sued as minor children Mr. Sahm's very
21· ·aware that my children are not minor only one is. So,
22· ·they haven't been served. They own the house. They
23· ·bought the house with their money from their trusts.

3. EXHIBIT - PRINT OUT OF PARTIAL ECASEVIEW DOCKET AS
OF 3-8-22 SHOWING NO ORDER BY THE TRIAL COURT OR
HEARING NOTICE ON A FILED MOTION TO VACATE A DEFAULT
AGAINST JOSHUA AND JACOB BERNSTEIN ON GROUNDS OF
IMPROPER SERVICE AND NO JURISDICTION AS BOTH WERE
OVER THE AGE OF 18 AT TIME THE ACTION COMMENCED AND

THUS NOT “MINORS” AND MOTION FILED BY
ARTHUR.MORBURGER. UNDER DOCUMENT NO. 83 BEING FILED
ON 10-12-2020 OVER A YEAR BEFORE THE SUMMARY JUDGMENT
HEARING AND THUS WAS NOT DECIDED AT THE TIME OF THE
“SUMMARY JUDGMENT” OR “FINAL JUDGMENT” -
**NOTE; TRIAL COURT CLAIMED TO COUNSEL FERDERIGOS
WHO WAS MAKING ORAL MOTION DEFENSE OF FAILURE TO
JOIN INDISPENSABLE PARTIES ON NOV. 22, 2021 SUMMARY
JUDGMENT HEARING THAT THE MOTION WAS ALREADY
HEARD AND DECIDED BUT THIS WAS NOT TRUE. The law is
well-established that “where an undisposed motion is pending in a
cause, a default judgment may not be entered, unless the determination
of the motion either way would not affect the plaintiff's right to proceed
with the action.” Vacation Escape, Inc. v. Mich. Nat'l Bank, 735 So.2d 528,
529 (Fla. 4th DCA 1999) (quoting Punta Gorda Ready Mixed Concrete, Inc.
v. Green Manor Constr. Co., 166 So.2d 889, 890 (Fla.1964)); see also
Goodman v. Joffe, 57 So.3d 1001, 1001 (Fla. 4th DCA 2011) (reversing a
default final judgment because “the trial court should have ruled on
[the appellant's] pending motion to vacate the default entered against
her before entering a default final judgment”); Lakeview Auto Sales v.**

Lott, 753 So.2d 723, 724 (Fla. 2d DCA 2000) (reversing a default final judgment because the trial court failed to rule on pending motions to set aside the default).

4. EXHIBIT -PARTIAL COPY OF FILED-STAMPED OCT. 2013
PARTIAL RELEVANT PAGES IN SIMON BERNSTEIN ESTATE
CASE WITH JUDGE COLIN FILED BY ELIOT BERNSTEIN
ATTACHING AS EXHIBIT 6 THE WALTER AND PAT SAHM
HANDWRITTEN LETTERS TO ELIOT-CANDICE BERNSTEIN IN
SEPT. 2013 ACKNOWLEDGING RIGHTS IN THEIR HOME AND
PROBLEMS WITH TED BERNSTEIN AND TESCHER SPALLINA
GETTING PAYMENTS FOR THE MORTGAGE ETC - Thus, Ted Bernstein, Alan Rose and others were well aware nearly 5 years before the Foreclosure action was filed that Walt and Pat Sahm knew the identities of who lived in the home, knew about the interests, knew about issues with Ted Bernstein, Tescher and Spallina managing BFR, LLC after death of Simon Bernstein and were not even responding to Walt and Pat Sahm. This filing further shows how Ted Bernstein, Tescher-Spallina were using the Sahm "Note" and threat of Foreclosure against Eliot Bernstein as an extortionate tool to extract concessions on other parts of the Estates and Trusts of Simon and Shirley Bernstein that Eliot Bernstein believed were being done in fraud

and while Ted Bernstein and Tescher and Spallina were not disclosing documents, accounting records, BFR, LLC records and where fraud was shown in the record ultimately leading to the Resignation of Tescher and Spallina. Yet, “somehow” Plaintiff Counsel Sweetapple later Serves process for BFR, LLC on Resigned Agent Donald Tescher. NOTE: “Somehow” the Trial Court in this action “hears” Counsel Sabol in this case on March 5, 2022 Hearing (See Transcript) who files a Notice of Appearance claiming to represent Ted Bernstein as a “Defendant” yet Ted Bernstein who should be a primary Defendant was never sued by Counsel Sweetapple as a Defendant. Further still, the Trial Court allows Counsel Sabol to make motions and be heard yet never files the Trusts he is coming in under and in fact never makes a motion to “Intervene” as Ted Bernstein was never sued . Still further, “somehow” neither Counsel Sweetapple SERVEs Counsel Ferderigos on the Summary Judgment or proposed Final Judgment nor does the Trial Court Serve Counsel Ferderigos on the signed Final Judgment but Counsel Ferderigos had filed a Notice of Appearance in June of 2021 as shown in ECASEVIEW for Joshua, Jacob and Daniel Bernstein. In these same instances, however, Counsel Sweetapple and the Trial Court Serve Alan Rose and Sabol who are in the case for “unknown reasons” as shown by The Record of proceedings. “Somehow”, neither the Trial Court nor

Counsel Sweetapple have ever explained the “off record” collusion with Attorney Alan Rose about Attorneys Fees and the Foreclosures for Summary Judgment yet it is Counsel Alan Rose who was served in 2017 with the Joshua Bernstein “Cease and Desist” signed and fingerprinted by Joshua Bernstein showing he was age of majority nearly 3 years before the Foreclosure was commenced. This Exhibit was already filed in the Record on 1.530. Ultimately, in this case Joshua Bernstein is falsely sued as a “minor” in what appears to be a very similar manner as the scheme used by Alan Rose to take an illegal GAL against Joshua Bernstein and cut Joshua Bernstein and the Eliot Bernstein family out of Settlements and disclosures and accountancy and other relevant matters. See Joshua Bernstein “Cease and Desist” filed as Exhibit on prior 1.530 and attorney Paul Turner filing in the Record as part of this 1.530 process. As already plead the Court had indicated at the very least it would hold a separate Hearing on Attorneys Fees yet proceeded to enter a Final Judgment without any hearing while Counsel Sweetapple is off the record colluding and conferring with Counsel Rose who is the one primary licensed attorney to know of the improper use of Johsua Bernstein as a “minor” in related proceedings for years and who represents Ted Bernstein who is shown by the Walt and Pat Sahm handwritten letters to be implicated in the mismanagement of BFR. LLC yet

is never sued as a “defendant” but gets “heard” by the Court as an interested party raising a question of who IS the Real Party in Interest for the Plaintiffs further rendering the Summary and Final Judgment improper which must now be vacated.

5. EXHIBIT - SWORN STATEMENT OF WILLIAM J. STANSBURY, LONG TERM FRIEND OF PLAINTIFFS WALT AND PAT SAHM AND IN BUSINESS WITH SIMON BERNSTEIN AND PREVIOUSLY NAMED AS “TRUSTEE” IN SIMON BERNSTEIN TRUSTS -

This sworn statement further shows Joshua, Jacob and Daniel Bernstein known as the only “Members” of BFR, LLC; that the transaction to purchase the Sahm property was done as part of asset protection planning by Simon Bernstein to protect the Eliot Bernstein family; shows Stansbury knew from business with Simon Bernstein the Sahm home could have been paid off from the outset but was specifically not paid off; shows the “2nd Mortgage” as a paper tiger with no consideration; further shows Stansbury having been in business with Simon had full belief the Simon Bernstein estate and Trusts and assets had sufficient value to have paid off the Sahm Note right away which he had been instructed to do as Trustee.

6. Exhibit - The Trusts of Joshua, Jacob and Daniel Bernstein showing each as sole beneficiaries of the Trusts that owned BFR, LLC for the benefit of Joshua, Jacob and Daniel Bernstein.
7. Exhibit - Email copies from Eliot Bernstein to President of Stanford Trust to release income from his sons Joshua, Jacob, Daniel Bernstein for the purchase of the Sahm property.

WHEREFORE, it is respectfully prayed for an immediate Order Vacating both the Final and Summary Judgment in their entirety and Dismissing this action with prejudice and for such other and further relief as may be just and proper.

Dated: 3-30-2022

/s/Leslie Ferderigos
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CERTIFICATE OF SERVICE

WE DO CERTIFY, that a copy of the foregoing has been furnished electronically with the Clerk of Courts by using the E-PORTAL system to all parties of record in the pending case to include: ROBERT SWEETAPPLE, ESQ. bsweetapple@sweetapplelaw.com et al.

Dated: 3-30-2022

/s/Leslie Ferderigos

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