

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

CIRCUIT CIVIL DIVISION: AO  
CASE NO.: 50-2018-CA-002317-XXXX-MB

WALTER E SAHM,  
CHARLES REVARO AS GUARDIAN OF THE WARD PAMELA A SAHM,  
Plaintiff/Petitioners

vs.  
BERNSTEIN FAMILY REALTY LLC,  
ALL UNKNOWN TENANTS,  
BRIAN O'CONNELL,  
et al.,  
Defendant/Respondents.

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**OMNIBUS ORDER DENYING DEFENDANTS' EMERGENCY MOTION FOR STAY  
ON APPEAL AND STAY UNDER FLORIDA RULE OF APPELLATE PROCEDURE  
9.130(f) and OVERRULING DEFENDANT'S OBJECTIONS TO FORECLOSURE SALE**

This Cause came before the Court upon receipt of the Defendant's Emergency Motion for Stay on Appeal and Stay under Florida Rule of Appellate Procedure 9.130(f) ("Motion for Stay") (DE #456) filed on or about December 15, 2025. After review of the Defendant's Motion for Stay, the Plaintiff's Response in Opposition to the Defendant's Motion for Stay (DE #459), the Defendant's Objections to Foreclosure Sale (DE #455), the transcript of the proceedings held on December 15, 2025 (DE #457), and the Court being otherwise apprised in the premises, the Court finds as follows:

**Motion to Stay**

On the day scheduled for the hearing on Plaintiff's Motion to Overrule the Defendants' Objections to Foreclosure Sale, the Defendants' filed the instant Emergency Motion to Stay pursuant to *Fla. R. App. Pro.* 9.130(f). That motion is **DENIED** for all of the reasons as stated in the Plaintiff's Response in Opposition. Additionally, the pending appeal seeks review of this Court's order striking both a post-judgment settlement agreement obtained through undue

influence and a motion to set aside judgment based on fraud as a sanction for the Defendants' conduct. Even assuming, *arguendo*, the request to stay the matter was properly brought before the Court pursuant to *Fla. R. App. P.* 9.310, given the dilatory nature of the Defendants' course of conduct throughout these proceedings, this Court would not, in its discretion, stay this matter. The Court attempted to set this "emergency" matter for a hearing and Defendants' Counsel, Eric Cvelbar, indicated that he was in "a very lengthy trial" that he suspected will not be over until "after Jan 6th or 7th 2026" and unable to have any hearings set on his "emergency" motion to stay until after those dates. (See DE #458 Exhibit "C").

#### Defendants' Objections to Foreclosure Sale

At the hearing on the Defendants' Objections to the Foreclosure Sale, the Court inquired of Mr. Cvelbar whether the Defendants' had sought or received a stay of the proceedings from the Fourth District Court of Appeal. (DE #458 Pg. 8 – 9). Mr. Cvelbar stated that he had sought a stay of the proceedings (DE #458 Pg. 8 Ln. 24 – 25). When Plaintiff's Counsel indicated that no motion for stay had been filed with the Fourth District, Mr. Cvelbar, who is counsel of record in the Appellate Proceedings, indicated that he thought one had been filed, but guessed it would be filed that day (DE #458 Pg. 9 Ln 20-24). Later in the hearing, after being told by his clients that "the stay was filed" Mr. Cvelbar affirmatively represented that an Emergency Motion for Stay on Appeal and Stay Under Florida Rule of Appellate Procedure 9.130(f) was filed that morning at 10:55am (DE #458 Pgs. 27 – 28). In fact, no motion for stay has ever been filed with the Fourth District Court of Appeals in either 4D2025-1033 or 4D2025-0996. The only Motion for Stay is the one filed before this Court, five minutes before the hearing was set to take place, on a matter pending before the Fourth District Court of Appeals since April (DE #456).

Mr. Cvelbar indicated that the Court would need a whole day to hear evidence on the objections he raised to the foreclosure sale. The Court found that the majority of “objections” to the foreclosure sale were not legally cognizable basis for relief, were simply attempts at re-litigating issues decided adversely to the Defendants, and were misapprehensions about the Court’s role in the adversary process. Others were assertions that the proceedings were “fraudulent” and that witnesses would come forward to testify to the Court about the “fraud” which was the basis of the motion previously stricken by the Court. When the Court inquired as to the number of witnesses and the substance of their testimony, Mr. Cvelbar could not proffer to the Court what “fraud” would be demonstrated nor what any of the witnesses would actually testify to that would require a day long evidentiary hearing. All of these “fraud” assertions were subject of the motion previously stricken by the Court and thus this is merely an attempt to re-litigate an issue already decided adversely to the Defendants. Several of the witnesses proffered by Mr. Cvelbar, such as the notaries for Ms. Sahm, the Plaintiff, and Ms. Sahm Jr.’s, proffered testimony does not address the foreclosure sale, but rather the Motion to Strike Settlement Agreement which was previously decided adversely to the Defendants. Additionally, the Defendants’ prior counsel during the Motion to Strike Settlement Agreement either failed or declined to call these same witnesses in that proceeding.

Another objection raised by Mr. Cvelbar was that the Defendants have stated the Court is a witness in the case and therefore the Court must disqualify itself from any further proceedings. The Court has not been listed on a formal witness list, nor been served with a subpoena for testimony through the Court’s General Counsel Office. When the Court inquired how it would be a material witness such that the Court would have to disqualify itself, Mr. Cvelbar did not proffer any specific information; instead, he indicated he would rely on the written motions. All of the

various motions and affidavits asserting that the Court is a material witness fail to demonstrate conclusively that this Court possesses relevant information going to some fact affecting the merits of the cause about which no other witness might testify. *Rodriguez v. State*, 919 So. 2d 1252, 1276 – 77 (Fla. 2005); *Van Fripp v. State*, 412 So. 2d 915 (Fla. 4th DCA 1982). This is merely another dilatory attempt to delay these proceedings further and obtain the disqualification of this Court.

In fact, the Defendants, or employees of the Defendants' corporation, have filed at least seven (7) legally insufficient motions for this Court to disqualify itself (DE #280, #297, #330, #331, #340, #359, and #450. DE #449 may also constitute a disqualification motion, though it is docketed as an affidavit). The Defendants did not seek appellate review of the Court's Orders denying those motions, and these arguments were raised and denied as legally insufficient in their most recent Motions to Disqualify (DE #450) with supporting affidavits (DE #446, #447, #449).

The Court has previously sanctioned these Defendants for their conduct by striking motions and finding that conduct of the Defendants, and their former counsel, Inger Garcia, Esq., merited dismissal of their Motion to Vacate Final Judgment due to Fraud after weighing the factors set forth in *Kozel v. Ostendorf*, 629 So. 2d 817 (Fla. 1994) (DE #314).

Following the hearing held on December 15, 2025, comparing the *pro se* filings to Mr. Cvelbar's filings, and observing Mr. Cvelbar's inability to answer basic questions regarding what witnesses he would like to testify and what the substance of their testimony would be without being directly told the answers from his clients, it appears to the Court that Mr. Cvelbar is simply operating as a conduit for the *pro se* Defendants to further their dilatory conduct..

Turning to the merits of the Defendant's Objection to the Foreclosure sale, none but Paragraphs 2 – 4 advance objections to the actual foreclosure sale itself and none provides any evidence to suggest that the objections are anything more than merely conclusory allegations. Even

assuming *arguendo*, paragraphs 2 - 4 were legally sufficient to grant a hearing based upon the conduct as set forth above, and as more fully set forth in the record, the Court finds that by their conduct in these proceedings, the Defendants' have forfeited their right to an evidentiary hearing on these grounds. Even if they had not forfeited their right to an evidentiary hearing, this Court, under its inherent authority and the authority granted it by 57.105 *Fla. Stat.* would deny and/or strike the motion as a sanction for the Defendants' conduct.

The Defendants, and their counsels, have undergone a pattern of frivolous, dilatory, obfuscatory, successive, and repetitive filings in this Court, before the Fourth District Court of Appeals, and before the United States Bankruptcy Courts for the Southern District of Florida. They have been sanctioned in the Fourth District Court of Appeals (*See DE #244 Exhibit H*). They have been sanctioned in the Bankruptcy Court as demonstrated in the orders previously admitted into the record (*See DE #244, Exhibits G, I, and J*). This Court has previously sanctioned them (DE #314). The threat of monetary sanctions has not deterred their conduct (*See DE #244, Exhibit I*). The Defendants have all been personally involved in these acts, either through the filing of motions *pro se* or participating in hearings despite being represented by counsel. These actions have delayed this matter now coming into its eighth year causing the Plaintiffs to expend significant attorney's fees. There is no reasonable justification for these actions. This behavior has caused this Court to expend significant amounts of judicial labor on wholly frivolous issues. Accordingly, all of the *Kozel* factors are present in this matter. This Court will not countenance further abuse of the judicial process by these Defendants any longer.

Accordingly, with respect to the Defendants' Objections to the Foreclosure Sale it is  
**ORDERED AND ADJUDGED:**

1. The Defendants' Objections to the Foreclosure Sale are not legally sufficient and are therefore **OVERRULED**.
2. Alternatively, the Defendants' have forfeited the ability to present evidence at a hearing to support their Objections to the Foreclosure Sale.
3. Alternatively, the Court, as a sanction pursuant to *Kozel*, 57.105 *Fla. Stat.*, and its inherent authority, **STRIKES** and/or **OVERRULES** the Defendants Objections to the Foreclosure Sale.
4. The Clerk of Court is directed to issue the Certificate of Title forthwith to the winning bidder from the sale which occurred on April 14, 2025 and for which the Clerk has issued an Amended Certificate of Sale.
5. Further, the Court Orders that Eric Cvelbar, within 5 days of the date of this order, shall file into the record a Statement of Good Cause listing the Case Number, Case Style, the name and location of the Circuit or County Court Judge he is currently in trial with, contact information for that Judge's chambers, and a copy of the Notice of Hearing for the "very long trial" prohibiting Mr. Cvelbar from scheduling a hearing on his "emergency" motion.

**DONE AND ORDERED** in West Palm Beach, Florida.

 502018CA002317XXXXMB 12/19/2025  
John J. Parnofiello Circuit Judge  
ADMINISTRATIVE OFFICE OF THE COURT  
502018CA002317XXXXMB 12/19/2025  
John J. Parnofiello  
Circuit Judge