

Fourth District Court of Appeal  
1525 Palm Beach Lakes Blvd.  
West Palm Beach, Florida 33401  
(561) 242-2000

**ACKNOWLEDGMENT OF NEW CASE**

DATE: October 16, 2015

STYLE: ELIOT BERNSTEIN v. ESTATE OF SIMON BERNSTEIN

**4DCA#: 15-3849**

The Fourth District Court of Appeal has received the Petition for Writ of Prohibition reflecting a filing date of October 15, 2015.

The county of origin is Palm Beach. The lower tribunal case numbers provided is 502011CP00653XXXXSB, 502014CA014637XXXXMB 502014CP002815XXXXSB, 502014CP003698XXXXSB, 502015CP001162XXXXNB and 502015CP002717XXXXNB.

The filing fee is waived.

The Fourth District Court of Appeal's case number must be utilized on all pleadings and correspondence filed in this cause. Moreover, ALL PLEADINGS MUST INCLUDE THE ATTORNEY'S FLORIDA BAR NUMBER and a physical address.

**ELECTRONIC FILING IS MANDATORY FOR ALL ATTORNEYS. Please visit [edca.4dca.org](http://edca.4dca.org) to register for eDCA, the court's electronic filing system.**

**ATTORNEYS WHO HAVE NOT REGISTERED FOR eDCA WILL NOT RECEIVE FURTHER PAPER DOCUMENTS FROM THE COURT**

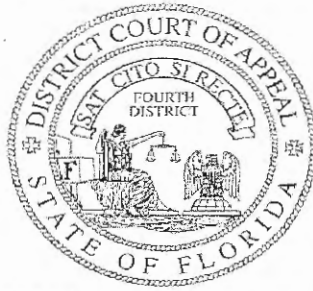
cc: Brian M. O'Connell  
Eliot Bernstein

Gary R. Shendell  
Hon. Howard K. Coates, Jr.

Alan Benjamin Rose  
Clerk Palm Beach

dl

# FOURTH DISTRICT COURT OF APPEAL



## NOTICE TO ATTORNEYS AND TO PARTIES REPRESENTING THEMSELVES REVISED JULY 17, 2015

Please read the following court policies and requirements concerning the appeal or petition you have filed.

### IMPORTANT REMINDERS

- PURSUANT TO ADMINISTRATIVE ORDER 2014-1, ALL EMERGENCY FILINGS MUST BE ACCOMPANIED BY A SEPARATELY FILED REQUEST FOR EMERGENCY TREATMENT. Please review Administrative Order 2014-1 on the court's website at [www.4dca.org](http://www.4dca.org) for further details.
- **ELECTRONIC FILING IS MANDATORY FOR ALL ATTORNEYS.** Attorneys must request a hardship waiver from the court to continue to file paper documents. Please visit [edca.4dca.org](http://edca.4dca.org) to register for eDCA, the court's electronic filing system. **After this notice, the court will send no further paper documents to non-registered attorneys.**
- *Pro se* parties (parties representing themselves without a lawyer) may file electronically. Please visit [edca.4dca.org](http://edca.4dca.org) to register. Please visit the court's website at [www.4dca.org](http://www.4dca.org) for details and administrative orders.

### ELECTRONIC FILING TIPS

- All electronic filings are required to be "filed in a format capable of being electronically searched." Fla. R. Jud. Admin. 2.520(b). Searchable PDFs may be created by:
  - For documents composed using a word processing application, using the "Save As" function to save the document directly to PDF format. There is no need to run Optical Character Recognition ("OCR") to make the document searchable – it is done automatically.
  - For scanned documents, use the Adobe Acrobat "Text Recognition" function. Adobe Acrobat can also be used to check and fix suspected OCR errors.
- All appendices must be:
  - Filed as one document, but separately from the petition, brief, motion, response, or reply; and
  - properly indexed and either bookmarked or hyperlinked and fully searchable (see instructions for scanned documents above). That is, all documents in the appendix should be in a single PDF file, not filed as multiple PDF files.

### NOTICES

1. MOTIONS (Fla. R. App. P. 9.300)
  - Excessive motion practice is strongly discouraged.
  - Any record material supporting a motion shall be contained in an appendix with the motion.
  - Motions concerning preparation of the record or brief, extensions of time (see paragraph 2 below), or to reschedule oral argument, shall contain a certificate that opposing counsel has

been consulted and shall state whether opposing counsel has an objection to the motion. Attempts to contact opposing counsel are not sufficient.

- Any response to a motion shall be promptly filed, and in any case not later than 10 days after service.
- Motions for extension of time or to supplement the record may be ruled on without waiting for a response.
- **No reply to the response will be considered unless specifically authorized by this Court.** Any unauthorized reply will be stricken without consideration.

## 2. EXTENSIONS OF TIME

- Limited extensions for initial and answer briefs will be granted by the clerk, unless the motion certifies that the opposing party opposes the motion.
- Extensions of time for preparation of the transcript or the record on appeal automatically extend the time for service of the initial brief.
- The court may limit extensions in any appeal. See paragraph 1 above for motion requirements.
- In lieu of an agreed motion for extension of time to file an initial, answer or reply brief, pursuant to Fla. R. App. P. 9.300(a), the court will accept a notice from a party that the parties have agreed to a specific extension of time. An agreed notice will be accepted for up to a total of 120 days for an initial or answer brief, and 60 days for a reply brief. The notice need not be signed by both parties. No order will issue from the court: please check the docket entry. This procedure shall apply to criminal and civil appeals, including dissolutions of marriage. It shall not apply to appeals from adoptions, dependency, termination of parental rights, non-final orders, or any expedited or emergency appeal. See Administrative Order No. 2011-2 on the court's website for details as to the form of the notice.

## 3. SERVICE OF FILINGS (Fla. R. App. P. 9.420)

- All filings, e.g., motions, petitions, notices, briefs, appendices, etc., must contain a certificate of service. All certificates of service, including those on notices of appeal, must contain the name and physical address of the attorney or party served, not just the email address.

## 4. STATUS INQUIRIES

- Any request for the current status of a pending case must be made to the clerk's office and may not be made to a judge of the court or the personal staff of any judge. Attorneys and parties representing themselves may access case documents and dockets for their own cases via eDCA. Public case dockets for all cases are available online at [www.4dca.org](http://www.4dca.org).

## 5. RELATED CASES – NOTICE OF RELATED CASE

- All parties shall promptly bring to the court's attention the pendency in this court of any related case, or any case involving related issues.
- In criminal cases where multiple defendants participated in a joint trial, the parties shall notify the court of any other appeals, whether pending or concluded, from the same trial.

## 6. TRANSCRIPTS

- All transcripts submitted as part of the record must appear as one page of transcript per page. Four pane transcripts (four pages of transcript on a page) will be rejected.

## 7. PHYSICAL EXHIBITS

- No physical evidence (excluding documents) or outsized exhibits shall be included in the record on appeal without the party first requesting permission of the court. It is the responsibility of the party to ensure that the circuit court clerk has included any relevant documentary evidence introduced at trial in the record on appeal.

## 8. SUPPLEMENTAL AUTHORITY (Fla. R. App. P. 9.225)

- A copy of the newly discovered authority should be attached to the notice. The notice should also designate clearly the issue to which the supplemental authority is pertinent. Absolutely no argument or comment on the authority will be accepted.

## 9. ORAL ARGUMENT (Fla. R. App. P. 9.320)

- A request for oral argument shall be a separate filing, clearly designated as such, and shall contain no other subject. It shall not be made as part of a brief or appendix. The request must contain a specific but brief reason as to why oral argument is necessary.
- It may contain a designation of 10, 15 or 20 minutes as the amount of time requested for oral argument. Oral argument for each side shall not exceed 20 minutes.
- At any time before oral argument the court in its discretion may dispense with, limit or expand the time for oral argument as it deems appropriate to the issues raised.
- Cases without oral argument are subject to the same review, analysis and consideration by a three judge panel as are cases that are orally argued.

## 10. SCHEDULING CONFLICTS

- Calendar conflicts shall be resolved in accordance with Florida Rule of Judicial Administration 2.550. **"Notices of Unavailability"** are unauthorized and will be automatically stricken. **Requests for continuances of oral argument** must be based on either a substantial commitment preexisting the receipt of the oral argument calendar or an emergency situation.

## 11. REHEARING

- Although motions for rehearing are permitted by Fla. R. App. P. 9.330, they should be rare. *See Lawyers Title Insurance Corporation v. Reitzes*, 631 So. 2d 1100 (Fla. 4th DCA 1993) and 631 So. 2d 1101 (Fla. 4th DCA 1994).
- The court strongly discourages the practice of routinely filing such motions or the filing of those which merely re-argue the merits or question the court's decision. Where there has been an award of attorney's fees on appeal in connection with our decision on the merits, additional fees will be awarded upon a denial of a motion for rehearing.

## 12. RIGHTS OF CHILDREN (Fla. R. App. P. 9.146)

- Cases involving adoption, termination of parental rights, and those involving families and children in need of services are expedited. Consult the rule for the time and procedure requirements. Cases relating to child custody, visitation privileges, or other substantial interests of children will be expedited upon proper motion.

## 13. ATTORNEYS NOT LICENSED IN FLORIDA

- Attorneys who are members in good standing in other jurisdictions may be granted permission by court order to appear in proceedings in this court. See Fla. R. App. P. 9.440(a) and the

requirements contained in Florida Rule of Judicial Administration 2.510 (formerly Florida Rule of Judicial Administration 2.061).

- Pursuant to Section 35.22(3)(a), Florida Statutes, the clerk is required to collect a \$100 filing fee from each attorney appearing pro hac vice, an order for the payment of which will be issued when and if the motion to appear is granted. An additional fee of \$250 is required by the Florida Bar.

#### 14. CONFIDENTIAL APPELLATE JUDGE FEEDBACK FORM FOR ATTORNEYS

- Please go to our website, [www.4dca.org](http://www.4dca.org), click on "Clerk's Office", then click on "Appellate Judge Feedback Form for Attorneys" for the link to the information on The Florida Bar website.

#### 15. CHANGES OF ADDRESS

- All attorneys representing parties in this court and parties representing themselves must **promptly notify** this court of any change of address.

#### 16. DROP BOX

- The Court does not maintain a physical drop box. If you are representing yourself or an attorney exempt from electronic filing and would like your paper filing to be clocked-in and filed for the previous business day, you must file the document at the Clerk's Office BEFORE 9:00 A.M. If it is after 9:00 A.M., no filings will be clocked-in for the previous business day.
- **IMPORTANT:** The drop box does not extend jurisdictional time limits. *See Capone v. Fla. Board of Regents*, 774 So. 2d 825 (Fla. 4th DCA 2000). Petitions for original writs, notices of appeal, and notices to invoke discretionary jurisdiction will be clocked-in for the date they are electronically filed or received as a paper filing in the Clerk's Office.

#### 17. AMERICANS WITH DISABILITIES ACT

- If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, the provision of certain assistance.
- At least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days, please contact:

Marshal Daniel DiGiacomo  
Fourth District Court of Appeal  
1525 Palm Beach Lakes Blvd.  
West Palm Beach, FL 33401

Telephone (561) 242-2000; (800) 955-8771 (TDD); or (800) 955-8770 (V) via Florida Relay Service

If you are hearing or voice impaired, call 711.