

**IN THE DISTRICT COURT OF APPEAL OF
THE STATE OF FLORIDA FOURTH
DISTRICT, 1525 PALM BEACH LAKES
BLVD., WEST PALM BEACH, FL 33401**

**Motion for 1 Day Late Filing
Prohibition and Appendix
Florida Rule App. Procedure 9.300
CASE NO.: 4D16-0064
L.T. No.: 2014CP003698XXXXNB**

ELIOT IVAN BERNSTEIN v. TED BERNSTEIN, AS TRUSTEE. ET AL.

Appellant / Petitioner(s)

Appellee / Respondent(s)

Now comes ELIOT IVAN BERNSTEIN (“PETITIONER”) who respectfully petitions and pleads and shows this court as follows:

1. I am the Petitioner in this case and was directed by an Order of this Court dated Jan. 8, 2016 to file a Petition for a Writ of Prohibition to appeal the denial of Judge Phillips of a motion for mandatory disqualification and also file an Appendix within 20 days of this Order.
2. I have been denied counsel and the funds for counsel in this case by actions of the Trustees and PRs of the Estates and have had counsel I consulted with end up working with Ted Bernstein and Alan Rose.
3. During the relevant 20 day time period I had filed a Notice of Unavailability at the Trial Court due to being on medication and medical procedures which all of the parties are

aware of but still had to respond to multiple filings by Ted Bernstein, Alan Rose and Steven Lessnee. see attached

4. On the 28th day of January, 2016 yesterday I had my entire Comcast system down, scanner down shown by Comcast Repair Ticket Number CR553566921 which further delayed and prevented me from uploading and filing the Petition and Appendix yesterday which I understand may have been the last date to file.
5. I filed the Petition and Appendix today, Friday Jan. 29, 2016 and spoke with the Clerk at the 4th DCA to file a Motion to extend the time or deem the one day later period timely.
6. I have emailed all the parties to get their consent or determine if an objection would be filed and sent this email today, Jan. 29, 2016 after speaking with the Clerk which I understand is required by Florida Rules of Appellate Procedure 9.300.
7. I now ask this Court to deem the filings timely and waive any 1 day defect based upon this excusable neglect.

Wherefore, it is respectfully prayed that this Court deem my Petition and Appendix filing herein timely and correct any defect based on the one day delay.

Dated: January 29, 2016

Respectfully submitted,

/s/Eliot Ivan Bernstein

Eliot Ivan Bernstein
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Boca Raton, FL 33434
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CERTIFICATE OF SERVICE

I CERTIFY that a copy of the foregoing has been furnished to parties listed on attached Service List by E-mail Electronic Transmission; Court ECF; this 29th day of January, 2016.

/s/ Eliot Ivan Bernstein
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Send to: Eliot Bernstein	From: Sylvia
Attention: Eliot	Date: 01/14/2016
561-245-8588	Re:

- Urgent
- Reply ASAP
- Please comment
- Please review
- For your information

Total pages, including cover: 2

Comments:

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RONIK S. SEECHARAN**RS****D.M.D., P.A.***Practice limited to Prosthodontics*

November 3, 2015

To whom it may concern;

This is a formal statement regarding patient Elliott Bernstein. Mr. Bernstein is currently an active patient of the practice and has ongoing dental treatment. He suffers from transient TMD (temporo mandibular dysfunction) for approximately 2-3 weeks after treatment; he experiences effects from his TMD, especially after cementation of lower arch temporaries.

Patient was dispensed 20 Vicodin 6s 7.5/300 on 12/29/15 and was scheduled an appointment January 4th, 2016; however, subsequently he has rescheduled this appointment.

Should you have any further questions, please do not hesitate to contact me.

Sincerely,


Dr. Ron Seecharan