

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT

CASE NO. 4D16-64

ELIOT BERNSTEIN

L.T. CASE NOS.:502014CP003698XXXXNBIJ

v.

TED S. BERNSTEIN, AS TRUSTEE,
et al.

Respondent.

**RESPONDENT'S RESPONSE TO MOTION FOR EXTENSION
TO FILE PETITION FOR WRIT OF PROHIBITION**

Respondent, Ted S. Bernstein, as Successor Trustee of the Shirley Bernstein Trust ("Trustee"), responds to the *pro se* Petitioner's Motion for Extension to File Petition for Writ of Prohibition, and states:

1. Eliot Bernstein, although *pro se*, is an experienced, serial and vexatious filer of legal papers. Indeed, he filed in October 2015 a nearly identical Petition for All Writs seeking disqualification of the prior assigned judge, accusing the former judge of the same nonsense for which he now accuses the presiding judge, Hon. John L. Phillips. *See* Case No. 4D15-3849. This Court dismissed that Petition on November 30, 2015, and denied his Motion for Rehearing En Banc on January 7, 2016. (His Notice of Appeal to the Supreme Court from the denial of his prior Petition for All Writs was dismissed on the same day, January 7, 2016.)

2. The instant proceeding arises from multiple motions to disqualify Judge Phillips. Eliot Bernstein filed his Petition one-day late and seeks an extension of time to permit a late-filing. Petitioner does not concede the truthfulness of the alleged reasons for the delayed filing. Indeed, this filing appears to be mostly a cut-and-paste of the Petition filed seeking removal of the last judge, and therefore easily could have been timely filed by Eliot Bernstein. Petitioner also does not concede that an extension was necessary or warranted. This *pro se* petitioner still needs to follow the rules.

3. Regardless, Petitioner does not oppose this Court granting the requested extension and deeming the late-filed Petition to be timely. Petitioner requests that the Petition be summarily denied *on the merits*, rather than due to the delay in filing.

WHEREFORE, Petitioner advises the Court that it does not oppose a one-day extension, and otherwise requests that the Petition be summarily denied on the merits.

CERTIFICATE OF SERVICE

I CERTIFY that a copy of the foregoing has been furnished to parties listed on attached Service List by: Facsimile **and** U.S. Mail; U.S. Mail; E-mail Electronic Transmission; FedEx; Hand Delivery this 4th day of February, 2016.

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SERVICE LIST - CASE NO. 4D15-3849

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