

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

CASE NO.: 4D16-3162

L.T. No.:502012CA013933XXXXMB

**APPELLANT'S STATEMENT OF
SUBJECT MATTER JURISDICTION;
APPEALABLE ORDER AND MOTION
TO ACCEPT LATE FILING**

ELIOT IVAN BERNSTEIN

v. WILLIAM E. STANSBURY, et al.

Appellant / Petitioner(s)

Appellee / Respondent(s)

Comes now Eliot I. Bernstein, pro se, ("Appellant") who respectfully prays and shows this Court as follows:

1. I, Eliot Ivan Bernstein, am the Appellant herein pro se.
2. Appellant makes this statement to respond to this Court's Order of Sept. 16, 2016 asking for a statement of subject matter jurisdiction and appealability of the Order herein.
3. Appellant further makes a motion for this Court to accept my late filing due to significant medical issues as further shown herein having already filed a notice of medical unavailability with this Court in other pending cases at the 4th District Court of Appeals.

4. The statement of medical unavailability seeking extensions of time is attached as Exhibit 1 having been filed with this Court on or about Sept. 6, 2016 prior to issuance of the 10 day Order of this Court on Sept. 16, 2016. While that Motion for Extension was denied I will be timely asking for reconsideration based on the severe medical danger this puts me in.
5. This Court has Certiorari Jurisdiction under Florida Rules of Appellate Procedure 9.030(b)(2)(A) to review “non-final orders of lower tribunals other than as prescribed by rule 9.130;”.
6. This is an appeal which seeks review of the lower Court’s non-final Order permitting attorney Steven Lessne to withdraw as counsel and attorney of record for Bernstein Family Realty, “BFR”.
7. As this Court said in *Becker Poliakoff v King*, 642 So.2d 821 (Fla. Dist. Ct. App. 1994), “Approval by the court should be rarely withheld and then **only upon a determination that to grant said request would interfere with the efficient and proper functioning of the court.**”
8. At minimum, this appeal brings up for review whether it was an abuse of discretion and premature for the lower Court to simply permit Counsel Lessne to withdraw prematurely without determining the fraud upon the Court in the very appearance and representation by counsel Lessne in the case.

9. While on the “face of the Court records” it “appears” that Counsel Lessne had “appeared” in the case to represent “BFR”, this is not the case and at minimum is a factual issue not decided by the Court below where in fact counsel Lessne later claimed upon his withdrawal to be representing the “Manager” of BFR, one Janet Craig, and not BFR itself with counsel Lessne having also given the false and improper representation to myself and family that in fact counsel Lessne was representing BFR’s interests, a company owned by two of minor children and one adult child. Therefore, BFR appears to have never been represented by counsel in these matters.
10. These conflicts and this fraud on the court has never been determined or properly determined by the lower Court at this stage and thus, all of these matters go to whether a **“determination that to grant said request would interfere with the efficient and proper functioning of the court”**. See, **Becker, above.**
11. The issues raised are more than just whether counsel Lessne has civil liability to BFR and the Members/Owners/Beneficiaries of BFR who are my 3 sons, Joshua Ennio Zander, JNAB (Minor 1) and DEAOB (Minor 2) and more than whether attorney Lessne has breached duties and instead goes to fundamental fraud and Fraud Upon the Court and whether Bonding and other requirements and determinations should have been made prior to any Order to permit withdrawal

as counsel and in fact withdrawal was not appropriate versus removal by the court for Lessne's misrepresenting parties.

12. There are further related appealable issues as to the propriety in the lower court forcing myself in the case as a new "Manager" of BFR when this was never consented to in the proceedings.
13. With respect to the timeliness of the response herein, in addition to the prior filed request for extensions based on medical issues, I was referred by my primary physician to a cardiologist and neurologist which have been scheduled to determine a course of treatment for my vasolvega and sought in advance a several week break from opposing counsel Alan Rose and Steven Lessne who refused to grant me the time requested.
14. I sought a several week stay to deal with these very serious and life threatening issues of fainting due to vasolvega, which a primary factor to triggering such episodes is stress and whereby currently Appellant is in a number of highly stressful court cases, which have had numerous deadlines heaped on him in a short time, both in this Court and the Lower Court and the Illinois Federal Court that could be triggering the vasolvega attacks. While vasolvega is not particularly deadly, as the person typically recovers from unconscious after fainting the danger lies in falling while fainting and causing severe head injury. On or about 2013 when vasolvega first was diagnosed, Appellant had fallen

from a stool onto his head and was hospitalized for several days with bleeding on the brain.

15. Appellant began feeling faint often in bed and sought to have further tests conducted before something serious happened and asked opposing counsel Steven Lessne to stay matters until after Nov 1, 2016 to give time to get to doctors to determine a course of treatment.
16. Lessne refused to accommodate the request and shortly thereafter I had a vasovagal attack in my kitchen, whereby my son caught me and broke most of the fall where I would have severely injured my head on a tile floor falling backward. After laying me on the floor and seeing I was unconscious he tried to administer CPR and in the process cracked my ribs and bruised the cartilage.
17. The next day I then went to the Emergency room on 9/6/2016 and it was determined that I had cracked ribs and had injured and bruised cartilage and was told it would take 4-6 weeks to heal and I was prescribed pain medicine and anti-inflammatory drugs, which I have been on to this date. I was advised not to undergo stressful events that could trigger further attacks of vasovagal until seeing a cardiologist and neurologist to determine a course of treatment and I could not schedule them until I felt well enough to undergo tests that involve strenuous physical activities, such as stress tests due to the rib injury.

18. I am scheduled for the soonest appointment with a cardiologist recommended by my Primary Physician after my ribs have been given time to heal and to perform stress tests and more and it is scheduled for October 17, 2016.
19. I am scheduled for the soonest appointment with a neurologist recommended by my Primary Physician on October 24, 2016.
20. It would severely jeopardize my health to undertake these stressful filings on appeal and could cause fainting that leads to further harm. I have three children and a wife who depend on me and cannot be forced or pressured to achieve court deadlines that can easily be changed to accommodate this medical situation.

WHEREFORE, it is respectfully prayed for an Order accepting this late filing and statement of subject matter jurisdiction and seek an Extension and Stay of proceedings based upon serious medical issues until at least Nov. 1, 2016 and for such other and further relief as may be just and proper.

Dated: September 30th, 2016

/s/ Eliot Ivan Bernstein

Eliot Ivan Bernstein
2753 NW 34th St.
Boca Raton, FL 33434
561-245-8588
iviewit@iviewit.tv

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 30th day of September, 2016.

/s/ Eliot Ivan Bernstein

Eliot Ivan Bernstein

2753 NW 34th St.

Boca Raton, FL 33434

561-245-8588

iviewit@iviewit.tv

SERVICE LIST

Brian M. O'Connell
Brian M. O'Connell, Esq.
Joielle A. Foglietta, Esq.
Ciklin Lubitz Martens & O'Connell
515 N. Flagler Dr., 20th Floor
West Palm Beach, FL 33401
561-832-5900-Telephone
561-833-4209 - Facsimile
Email: boconnell@ciklinlubitz.com;
jfoglietta@ciklinlubitz.com;
service@ciklinlubitz.com;
slobdell@ciklinliibitz.com

Peter Marshall Feaman, Esq.
Peter M. Feaman, P.A.
3695 West Boynton Beach Blvd., Suite 9
Boynton Beach, FL 33436
(561) 734-5552 -Telephone
(561) 734-5554 -Facsimile
Email: service@feamanlaw.com;
mkoskey@feamanlaw.com

Steven A. Lessne, Esq.
Steven A. Lessne, Esq.
Gunster, Yoakley & Stewart, P.A.
777 South Flagler Drive, Suite 500 East
West Palm Beach, FL 33401

Telephone: (561) 650-0545

Facsimile: (561) 655-5677

E-Mail Designations:

slessne@gunster.com

jhoppel@gunster.com

eservice@gunster.com

and

Steven Lessne, Esq.

Gray Robinson, PA

225 NE Mizner Blvd #500

Boca Raton, FL 33432

steven.lessne@gray-robinson.com

Alan Benjamin Rose, Esq.

PAGE, MRACHEK, FITZGERALD, ROSE,

KONOPKA, THOMAS & WEISS, P.A.

505 South Flagler Drive, Suite 600

West Palm Beach, Florida 33401

561-355-6991

arose@pm-law.com

arose@mrachek-law.com

EXHIBIT 1

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

CASE NO: 4D16-0222

CASE NO: 4D16-1449

CASE NO: 4D16-1476

CASE NO: 4D16-1478

L.T. No.: 2011CP000653XXXXSB

2014CP003698XXXXNB

2014CP002815XXXXNB

ELIOT IVAN BERNSTEIN

v.

TED BERNSTEIN, AS
TRUSTEE, ET AL.

Appellant / Petitioner(s)

Appellee / Respondent(s)

**Motion for Extension of Time and
Stay Proceedings - Notice of Medical Unavailability**

1. Appellant Eliot Bernstein respectfully makes this motion and prays for an Extension of time to file and serve the Initial Brief in the above-referenced cases for at least 9 weeks.

2. Appellant was already going to be moving before this Court for an Extension of time today due to significant related litigation action in the Circuit court below and the Northern District of Illinois where Appellant's time has been significantly involved with nearly 15 or so "Orders" and Service of Court papers occurring in the last 2 weeks in the Circuit Court below and other substantial filings in Illinois.

3. However, as a result of unexpected injuries occurring just yesterday, Appellant Eliot Bernstein now must move for a substantially longer Extension of time and gives this Court notice that due this injury occurring just yesterday on September 05, 2016 by a vasovagal attack that caused him to faint and fall which led to a cracked rib and bruised ribs and also involved his son catching him during the fall and providing CPR, Appellant will be heavily medicated for the next 6-9 weeks and extremely limited in mobility during this time.

4. Appellant will not be able to attend any hearings during this time and seeks an Extension of time and stay on this case from responses and any other required Hearings and action until such time has elapsed for him to fully recover and cease pain medications.

5. Appellant has been medically advised by his Doctor to avoid stress during this time as stress is a major contributor to vasovagal attacks and rib injuries cause additional stress and therefore seeks this stay to last until November 01, 2016.

Dated: September 6th, 2016

/s/ Eliot Ivan Bernstein
Eliot Ivan Bernstein
2753 NW 34th St.
Boca Raton, FL 33434
561-245-8588
iviewit@iviewit.tv

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 6th day of September, 2016.

/s/ Eliot Ivan Bernstein

Eliot Ivan Bernstein
2753 NW 34th St.
Boca Raton, FL 33434
561-245-8588
iviewit@iviewit.tv

**SERVICE LIST LOWER CASES DEFENDANTS, RESPONDENTS,
COUNTER DEFENDANTS**

John P. Morrissey, Esq. 330 Clematis Street, Suite 213 West Palm Beach, FL 33401 (561) 833-0766-Telephone (561) 833-0867 -Facsimile Email: John P. Morrissey (iohn@jrnoiTisseylaw.com)	Lisa Friedstein 2142 Churchill Lane Highland Park, IL 60035 lisa@friedsteins.com
Peter M. Feaman, Esq. Peter M. Feaman, P.A. 3695 West Boynton Beach Blvd., Suite 9 Boynton Beach, FL 33436 (561) 734-5552 -Telephone (561) 734-5554 -Facsimile Email: service@feamanlaw.com: mkoskey@feamanlaw.com	Jill Iantoni 2101 Magnolia Lane Highland Park, IL 60035 jilliantoni@gmail.com
Gary R. Shendell, Esq. Kenneth S. Pollock, Esq. Shendell & Pollock, P.L.	Counter Defendant Robert Spallina, Esq. Donald Tescher, Esq.

<p>2700 N. Military Trail, Suite 150 Boca Raton, FL 33431 (561)241-2323 - Telephone (561)241-2330-Facsimile Email: gary@shendellpollock.com ken@shendellpollock.com estella@shendellpollock.com britt@shendellpollock.com grs@shendellpollock.com</p>	<p>Tescher & Spallina 925 South Federal Hwy., Suite 500 Boca Raton, Florida 33432</p>
<p>Brian M. O'Connell, Esq. Joielle A. Foglietta, Esq. Ciklin Lubitz Martens & O'Connell 515 N. Flagler Dr., 20th Floor West Palm Beach, FL 33401 561-832-5900-Telephone 561-833-4209 - Facsimile Email: boconnell@ciklinlubitz.com; ifoglietta@ciklinlubitz.com; service@ciklinlubitz.com; slobdell@ciklinliibitz.com</p>	<p>Counter Defendant John J. Pankauski, Esq. Pankauski Law Firm PLLC 120 South Olive Avenue 7th Floor West Palm Beach, FL 33401 courtfilings@pankauskilawfirm.com john@pankauskilawfirm.com</p>
<p>Counter Defendant Mark R. Manceri, Esq., and Mark R. Manceri, P.A., 2929 East Commercial Boulevard Suite 702 Fort Lauderdale, FL 33308 mrmlaw@comcast.net</p>	<p>Counter Defendant Donald Tescher, Esq., Tescher & Spallina, P.A. Wells Fargo Plaza 925 South Federal Hwy Suite 500 Boca Raton, Florida 33432 dtescher@tescherspallina.com</p>
<p>Theodore Stuart Bernstein 880 Berkeley Boca Raton, FL 33487 tbernstein@lifeinsuranceconcepts.com</p>	<p>Counter Defendant TESCHER & SPALLINA, P.A.. Wells Fargo Plaza 925 South Federal Hwy Suite 500 Boca Raton, Florida 33432 dtescher@tescherspallina.com</p>
<p>Theodore Stuart Bernstein Life Insurance Concepts, Inc.</p>	<p>Counter Defendant Alan B. Rose, Esq.</p>

<p>950 Peninsula Corporate Circle Suite 3010 Boca Raton, FL 33487 tbernstein@lifeinsuranceconcepts.com</p>	<p>PAGE, MRACHEK, FITZGERALD, ROSE, KONOPKA, THOMAS & WEISS, P.A. 505 South Flagler Drive, Suite 600 West Palm Beach, Florida 33401 561-355-6991 arose@pm-law.com arose@mrachek-law.com</p>
<p>Pamela Beth Simon 950 N. Michigan Avenue Apartment 2603 Chicago, IL 60611 psimon@stpcorp.com</p>	<p>Counter Defendant L. Louis Mrachek, Esq. PAGE, MRACHEK, FITZGERALD, ROSE, KONOPKA, THOMAS & WEISS, P.A. 505 South Flagler Drive, Suite 600 West Palm Beach, Florida 33401 561-355-6991 lmrachek@mrachek-law.com</p>
<p>Jill Iantoni 2101 Magnolia Lane Highland Park, IL 60035 jilliantoni@gmail.com</p>	<p>Counter Defendant Pankauski Law Firm PLLC 120 South Olive Avenue 7th Floor West Palm Beach, FL 33401</p>
<p>Lisa Sue Friedstein 2142 Churchill Lane Highland Park, IL 60035 lisa.friedstein@gmail.com lisa@friedsteins.com</p>	<p>Dennis McNamara Executive Vice President and General Counsel Oppenheimer & Co. Inc. Corporate Headquarters 125 Broad Street New York, NY 10004 800-221-5588 Dennis.mcnamara@opco.com info@opco.com</p>
<p>Dennis G. Bedley Chairman of the Board, Director and Chief Executive Officer Legacy Bank of Florida</p>	<p>Hunt Worth, Esq. President Oppenheimer Trust Company of Delaware</p>

<p>Glades Twin Plaza 2300 Glades Road Suite 120 West – Executive Office Boca Raton, FL 33431 info@legacybankfl.com DBedley@LegacyBankFL.com</p>	<p>405 Silverside Road Wilmington, DE 19809 302-792-3500 hunt.worth@opco.com</p>
<p>James Dimon Chairman of the Board and Chief Executive Officer JP Morgan Chase & CO. 270 Park Ave. New York, NY 10017- 2070 Jamie.dimon@jpmchase.com</p>	<p>Neil Wolfson President & Chief Executive Officer Wilmington Trust Company 1100 North Market Street Wilmington, DE 19890-0001 nwolfson@wilmingtontrust.com</p>
<p>William McCabe Oppenheimer & Co., Inc. 85 Broad St Fl 25 New York, NY 10004 William.McCabe@opco.com</p>	<p>STP Enterprises, Inc. 303 East Wacker Drive Suite 210 Chicago IL 60601-5210 psimon@stpcorp.com</p>
<p>Charles D. Rubin Managing Partner Gutter Chaves Josepher Rubin Forman Fleisher Miller PA Boca Corporate Center 2101 NW Corporate Blvd., Suite 107 Boca Raton, FL 33431-7343 crubin@floridatax.com</p>	<p>Ralph S. Janvey Krage & Janvey, L.L.P. Federal Court Appointed Receiver Stanford Financial Group 2100 Ross Ave, Dallas, TX 75201 rjanvey@kjllp.com</p>
<p>Kimberly Moran Tescher & Spallina, P.A. Wells Fargo Plaza 925 South Federal Hwy Suite 500 Boca Raton, Florida 33432 kmoran@tescherspallina.com</p>	<p>Lindsay Baxley aka Lindsay Giles Life Insurance Concepts 950 Peninsula Corporate Circle Suite 3010 Boca Raton, FL 33487 lindsay@lifeinsuranceconcepts.com</p>
<p>Gerald R. Lewin CBIZ MHM, LLC 1675 N Military Trail Fifth Floor</p>	<p>CBIZ MHM, LLC General Counsel 6480 Rockside Woods Blvd. South Suite 330</p>

<p>Boca Raton, FL 33486</p>	<p>Cleveland, OH 44131 ATTN: General Counsel generalcounsel@cbiz.com (216)447-9000</p>
<p>Albert Gortz, Esq. Proskauer Rose LLP One Boca Place 2255 Glades Road Suite 421 Atrium Boca Raton, FL 33431-7360 agortz@proskauer.com</p>	<p>Heritage Union Life Insurance Company A member of WiltonRe Group of Companies 187 Danbury Road Wilton, CT 06897 cstroup@wiltonre.com</p>
<p>Estate of Simon Bernstein Brian M O'Connell Pa 515 N Flagler Drive West Palm Beach, FL 33401 boconnell@ciklinlubitz.com</p>	<p>Counter Defendant Steven Lessne, Esq. Gray Robinson, PA 225 NE Mizner Blvd #500 Boca Raton, FL 33432 steven.lessne@gray-robinson.com</p>
<p>Byrd F. "Biff" Marshall, Jr. President & Managing Director Gray Robinson, PA 225 NE Mizner Blvd #500 Boca Raton, FL 33432 biff.marshall@gray-robinson.com</p>	<p>Steven A. Lessne, Esq. Gunster, Yoakley & Stewart, P.A. 777 South Flagler Drive, Suite 500 East West Palm Beach, FL 33401 Telephone: (561) 650-0545 Facsimile: (561) 655-5677 E-Mail Designations: slessne@gunster.com jhoppel@gunster.com eservice@gunster.com</p>
<p>T&S Registered Agents, LLC Wells Fargo Plaza 925 South Federal Hwy Suite 500 Boca Raton, Florida 33432 dtescher@tescherspallina.com</p>	<p>David Lanciotti Executive VP and General Counsel LaSalle National Trust NA CHICAGO TITLE LAND TRUST COMPANY, as Successor 10 South LaSalle Street Suite 2750 Chicago, IL 60603</p>

	David.Lanciotti@ctt.com
Joseph M. Leccese Chairman Proskauer Rose LLP Eleven Times Square New York, NY 10036 jleccese@proskauer.com	Brian Moynihan Chairman of the Board and Chief Executive Officer 100 N Tryon St #170, Charlotte, NC 28202 Phone:(980) 335-3561
ADR & MEDIATIONS SERVICES, LLC Diana Lewis 2765 Tecumseh Drive West Palm Beach, FL 33409 (561) 758-3017 Telephone Email: dzlewis@aol.com (Fla. Bar No. 351350)	