

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

CASE NO.: 4D16-2249

L.T. NO. 2014CP002815XXXXNB

ELIOT IVAN BERNSTEIN,

Appellant,

vs.

OPPENHEIMER TRUST CO. OF
DELAWARE, et al.,

Appellees.

**APPELLEE, OPPENHEIMER'S, RESPONSE TO
APPELLANT'S MOTION FOR REHEARING AND CLARIFICATION**

Appellee, Oppenheimer Trust Company of Delaware, et al. ("Oppenheimer"), respondents to Appellant's "Motion for Rehearing and Clarification Under rule 9.330 and Reinstating the Appeal" and states as follows:

1. This Court granted Oppenheimer's Motion to Dismiss this appeal on January 11, 2017. Dismissal was proper because, among other things, Appellant has no legally cognizable interest in this proceeding, was removed as guardian and replaced with a court-appointed guardian *ad litem* for the real parties in interest, and based upon the earlier dismissal of Appellant's three appeals of the orders appointing the guardian *ad litem*, there was no possibility of a change with respect to Appellant's role or interest in this appeal. (See Motion to Dismiss filed in this Court on December 13, 2016, referencing the previous dismissal of Case Nos. 4D16-1449, 4D16-1476, and 4D16-1478).

2. Appellant's present Motion for Rehearing and Clarification regurgitates many of the same arguments Appellant made in all of the appeals, addressing the conduct of other

parties and Appellant's medical issues. However, it does not address the basis for the dismissal of the present appeal. Therefore, Appellant does not present an appropriate purpose for a motion for rehearing or clarification by setting forth material issues of fact or law that this Court misapprehended or overlooked in entering its order dismissing this appeal.

3. In addition, Appellant does not make a proper request for a written opinion and makes no argument as to why a written opinion would likely result in the Supreme Court granting further review. Similarly, to the extent Appellant seeks a written opinion, the motion does not include the required statement expressing that belief.

WHEREFORE, based upon the foregoing, Appellant's Motion for Rehearing and Clarification should be denied, and the appeal should not be reinstated.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished via e-mail to all parties on the attached Service List this 3rd day of February, 2017.

/s/ Steven A. Lessne
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SERVICE LIST

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