

17-1461

Eliot I. Bernstein
2753 NW 34th Street
Boca Raton, FL 33434

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Everett McKinley Dirksen United States Courthouse
Room 2722 - 219 S. Dearborn Street
Chicago, Illinois 60604



Office of the Clerk
Phone: (312) 435-5850
www.ca7.uscourts.gov

NOTICE OF CASE OPENING

March 3, 2017

| | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| No. 17-1461 | ELIOT I. BERNSTEIN, Cross Plaintiff - Third Party Defendant - Appellant v. TED BERNSTEIN, individually and as alleged Trustee of the Simon Bernstein Irrevocable Insurance Trust dated 06/21/1995, Cross Defendant - Appellee and PAMELA SIMON, et al., Third Party Defendants - Appellees |
| Originating Case Information: | |
| District Court No. 1:13-cv-03643 Northern District of Illinois, Eastern Division Clerk/Agency Rep Thomas G. Bruton Court Reporter Lisa Breiter District Judge John Robert Blakey Case filed: 03/03/2017 Case type: cv/pri Fee status: Due Date of Judgment: 01/30/2017 Date NOA filed: 03/02/2017 | |

The above-captioned appeal has been docketed in the United States Court of Appeals for the Seventh Circuit.

Deadlines:

| <u>Appeal No.</u> | <u>Filer</u> | <u>Document</u> | <u>Due Date</u> |
|-------------------|--------------------|------------------------------|-----------------|
| 17-1461 | Eliot I. Bernstein | Docketing statement due | 03/09/2017 |
| 17-1461 | Eliot I. Bernstein | Fee Due | 03/17/2017 |
| 17-1461 | Eliot I. Bernstein | Transcript information sheet | 03/17/2017 |

NOTE: This notice is issued to counsel of record, in furtherance of the revised *Circuit Rule 3(d)*, to provide necessary information regarding this appeal. Please verify this notice for accuracy. Counsel are encouraged to provide a fax and/or e-mail address to the court. If any corrections are necessary, please indicate those corrections on this notice and return it to the Clerk's Office within ten (10) days.

THIS NOTICE SHALL NOT ACT AS A SUBSTITUTE FOR MOTIONS FOR NON-INVOLVEMENT / SUBSTITUTION OF COUNSEL. COUNSEL ARE STILL REQUIRED TO FILE THE APPROPRIATE MOTIONS.

Important Scheduling Notice!

Notices of hearing for particular appeals are mailed shortly before the date of oral argument. Criminal appeals are scheduled shortly after the filing of the appellant's main brief; civil appeals after the filing of the appellee's brief. If you foresee that you will be unavailable during a period in which your particular appeal might be scheduled, please write the clerk advising him of the time period and the reason for such unavailability. Session data is located at <http://www.ca7.uscourts.gov/cal/calendar.pdf>. Once an appeal is formally scheduled for a certain date, it is very difficult to have the setting changed. See Circuit Rule 34(e).

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CIRCUIT RULE 3(b) NOTICE

March 3, 2017

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| No. 17-1461 | ELIOT I. BERNSTEIN, Cross Plaintiff - Third Party Defendant - Appellant v. TED BERNSTEIN, individually and as alleged Trustee of the Simon Bernstein Irrevocable Insurance Trust dated 06/21/1995, Cross Defendant - Appellee and PAMELA SIMON, et al., Third Party Defendants - Appellees |
| Originating Case Information: | |
| District Court No: 1:13-cv-03643 Northern District of Illinois, Eastern Division Clerk/Agency Rep Thomas G. Bruton Court Reporter Lisa Breiter District Judge John Robert Blakey | |

Circuit Rule 3(b) empowers the clerk to dismiss an appeal if the docket fee is not paid within fourteen (14) days of the docketing of the appeal. This appeal was docketed on March 3, 2017. The District Court has indicated that as of March 3, 2017, the docket fee has not been paid. Depending on your situation, you should:

1. Pay the required \$500.00 docketing fee PLUS the \$5.00 notice of appeal filing fee to the District Court Clerk, if you **have not already done so**. The Court of Appeals cannot accept this fee. You should keep a copy of the receipt for your records.

2. File a motion to proceed on appeal in forma pauperis with the District Court, if you have not already done so. An original and three (3) copies of that motion, with proof of service on your opponent, is required. This motion must be supported by a sworn affidavit in the form prescribed by **Form 4** of the *Appendix of Forms to the Federal Rules of Appellate Procedure (as amended 12/01/2013)*, listing the assets and income of the appellant(s).
3. If the motion to proceed on appeal in forma pauperis is denied by the district court, you must either pay the required \$500.00 docketing fee PLUS the \$5.00 notice of appeal filing fee to the District Court Clerk, within fourteen (14) days after service of notice of the action to the district court, or within thirty (30) days of that date, renew your motion to proceed on appeal in forma pauperis with this court.

If the motion is renewed in this court, it must comply with the terms of *Fed.R.App.P. 24(a)*.

If one of the above stated actions is not taken, the appeal will be dismissed.

form name: c7_DC_Fee_Notice_Sent(form ID: 158)

NOTICE TO PRO SE PARTIES

- Be aware that it is **YOUR RESPONSIBILITY** to notify this court if your address changes or you are moved to another institution.
- If you do not notify the court, this office cannot be assure that you receive the proper notification of action taking place in this appeal.

PLEASE LET US KNOW AS SOON AS POSSIBLE OF ANY ADDRESS CHANGES.

- Also, the appellant is reminded that counsel for the appellee must be served with a copy of all documents filed by him/her in the U.S. Court of Appeals.
- All filings with this court must contain a **Proof of Service** as required by Federal Rule of Appellate Procedure 25.
- Documents lacking a proof of service will not be considered by the court.

United States Court of Appeals
For The Seventh Circuit

NOTICE FOR CIVIL CASES

The docketing of an appeal in this court requires litigants and their counsel to comply with several requirements and rules. This notice will call your attention to certain initial steps that you must take at the outset of the appeal process, but the *Practitioner's Handbook For Appeals to the United States Court of Appeals for the Seventh Circuit* should always be consulted to make sure you comply with all rules and court procedures. The full text of the most current versions of the Handbook, the Circuit Rules, the Federal Rules of Appellate Procedure, court forms and checklists are available at www.ca7.uscourts.gov or can be obtained from the clerk's office on request. Rules are periodically revised. Counsel and parties are reminded to always check the most current rules (most recently amended 12/1/14), in particular **Cir. Rule 3(c)**, **Cir. R. 25**, **Cir. Rule 26.1** and **Fed. R. App. P. 26.1, 28, and 32**.

Cir. Rule 26.1 requires that all attorneys for non-governmental parties file a **Disclosure Statement** providing the names of all law firms whose partners or associates have appeared for the party or amicus in the case (including proceedings in the district court) or are expected to appear in this court, as well as the corporate party information required by Fed. R. App. P. 26.1. This statement must be filed within 21 days of docketing the appeal or at the same time that any filing is made in this court, whichever is earlier. The court will not act on any motion or other filing by a party until a disclosure statement is filed. A form for the disclosure statement is available at www.ca7.uscourts.gov and its use is encouraged. *Pro se* parties are not obligated to file a disclosure statement.

The appellant must file a separate **Docketing Statement** (which must comply with the provisions of Circuit Rule 28(a)) with the clerk of this court immediately, unless it has already been filed with the notice of appeal in the district court. Cir. Rule 3(c).

Pursuant to Fed. R. App. P. 10(b), the appellant or counsel must order the necessary portions of the transcript (using the form prescribed by Circuit Rule 10(c)) within 10 days after the notice of appeal has been filed, and make satisfactory arrangements with the court reporter for payment of the cost involved.

This Court does not routinely issue scheduling orders in civil appeals. The appellant's brief and required short appendix are due 40 days from the docketing date in this Court regardless of the completeness of the record, unless the Court orders otherwise. Fed. R. App. P. 31(a), Cir. Rule 31(a). Motions for extension of time are not favored and must, if filed, strictly comply with the requirements of Cir. Rule 26. Before filing a brief or appendix, please check carefully to make sure that it is timely and complies with all requirements of the following rules:

- | | |
|--------------------------------------------|------------------------------------------------|
| 1. Fed. R. App. P. 28 & Circuit Rule 28 | (contents of briefs) |
| 2. Circuit Rule 28(a) or (b) | (jurisdictional statements) |
| 3. Fed. R. App. P. 32(a) & Circuit Rule 32 | (form, length & size of type in briefs) |
| 4. Circuit Rule 26.1; Fed. R. App. P. 26.1 | (disclosure statement) |
| 5. Circuit Rule 31(b) & Circuit Rule 25 | (number of briefs required)(electronic filing) |
| 6. Fed. R. App. P. 30 & Circuit Rule 30 | (appendices) |
| 7. Fed. R. App. P. 25(d) | (proof of service) |

Counsel/parties are encouraged to check with the clerk's office at (312)435-5850 if they have any questions. The staff is happy to provide guidance regarding the court's procedures and requirements.

Finally, a settlement conference pursuant to Fed. R. App. P. 33 may be requested. Most fully counseled civil appeals are eligible. Please direct your request, confidentially if you wish, to the Court's Settlement Conference Office at (312)435-6883.

UNITED STATES DISTRICT COURT
for the
DISTRICT OF

| | | |
|-----------|---|----------|
| |) | |
| |) | |
| Plaintiff |) | |
| |) | |
| v. |) | |
| |) | Case No. |
| |) | |
| Defendant |) | |
| |) | |

**AFFIDAVIT ACCOMPANYING MOTION
FOR PERMISSION TO APPEAL IN FORMA PAUPERIS**

| Affidavit in Support of Motion | Instructions |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>I swear or affirm under penalty of perjury that, because of my poverty, I cannot prepay the docket fees of my appeal or post a bond for them. I believe I am entitled to redress. I swear or affirm under penalty of perjury under United States laws that my answers on this form are true and correct. (28 U.S.C. § 1746; 18 U.S.C. § 1621.)</p> | <p>Complete all questions in this application and then sign it. Do not leave any blanks: if the answer to a question is "0," "none," or "not applicable (N/A)," write in that response. If you need more space to answer a question or to explain your answer, attach a separate sheet of paper identified with your name, your case's docket number, and the question number.</p> |
| <p>Signed: _____</p> | <p>Date: _____</p> |

My issues on appeal are:

1. *For both you and your spouse estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.*

| | | |
|---------------------------------------------------------------------------------------------|-----------|-----------|
| Utilities (electricity, heating fuel, water, sewer, and telephone) | \$ | \$ |
| Home maintenance (repairs and upkeep) | \$ | \$ |
| Food | \$ | \$ |
| Clothing | \$ | \$ |
| Laundry and dry-cleaning | \$ | \$ |
| Medical and dental expenses | \$ | \$ |
| Transportation (not including motor vehicle payments) | \$ | \$ |
| Recreation, entertainment, newspapers, magazines, etc. | \$ | \$ |
| Insurance (not deducted from wages or included in mortgage payments) | | |
| Homeowner's or renter's: | \$ | \$ |
| Life: | \$ | \$ |
| Health: | \$ | \$ |
| Motor vehicle: | \$ | \$ |
| Other: | \$ | \$ |
| Taxes (not deducted from wages or included in mortgage payments) (specify): | \$ | \$ |
| Installment payments | | |
| Motor Vehicle: | \$ | \$ |
| Credit card (name): | \$ | \$ |
| Department store (name): | \$ | \$ |
| Other: | \$ | \$ |
| Alimony, maintenance, and support paid to others | \$ | \$ |
| Regular expenses for operation of business, profession, or farm (attach detailed statement) | \$ | \$ |
| Other (specify): | \$ | \$ |
| Total monthly expenses: | \$ | \$ |