

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

CASE NO. 4D16-3314

ELIOT IVAN BERNSTEIN

L.T. CASE NOS. 2014CP003698 XXXX NB

Appellant,

v.

TED S. BERNSTEIN, AS TRUSTEE, et al.

Appellee.

**APPELLEE'S, TED S. BERNSTEIN, AS TRUSTEE,
RESPONSE TO *THIRD* LAST-MINUTE MOTION FOR EXTENSION,
AND RENEWED REQUEST FOR DISMISSAL AND IMPOSITION OF
NON-MONETARY SANCTIONS AGAINST *PRO SE* APPELLANT**

Appellee, Ted S. Bernstein, as successor Trustee of the Shirley Bernstein Trust ("Shirley Bernstein Trust"), responds to the *Third* Motion for Extension filed at 10:37 p.m. on the last day granted by this Court's most recent extension order dated March 28, 2017, and states:

1. The Initial Brief was due sometime before December 28, 2016, the date this Court issued its show cause order. The Court granted a 45-day extension on January 20, 2017, through March 6, 2017. That equated to a **68** day extension with tolling.

2. At 11:52 p.m. on the last day, another motion for extension was filed. The Court granted a 15-day extension, equating to **37** additional days with tolling.

3. At 10:37 p.m. on the "next" last day, yet another Motion for Extension was filed, this one seeking either 7-days or a 60-day stay.

4. This is the same pattern of stall and delay evidenced in Case No. 4D16-1449 and numerous others in this Court.¹

5. The Shirley Bernstein Trust renews its prior Motion for Dismissal and for Imposition of Non-Monetary Sanctions, filed in this Court on March 7, 2017 (the "Dismissal Motion"). For brevity, the entirety of the prior Dismissal Motion, seeking the same relief, is incorporated by reference.

6. Dismissal or *non-monetary* sanctions are sought to prevent further abusive conduct and to attempt to stop the financial bleeding of this Trust. Appellant already has been found to be acting in an "adverse and destructive" manner to his children, who are among the beneficiaries of the Trust, and whose interests now are represented by a Guardian ad Litem. (The three related and consolidated appeals of the GAL orders, which have been dismissed by this Court, are detailed in footnote 1.)

¹ See, e.g., Case No. 4D16-222 (six motions for extension to serve Initial Brief; two motions for extension and a motion for stay to file Reply Brief, which was never served); Consolidated Case Nos. 4D16-1449;-1476 and-1478 (order to show cause by Court; five motions for extension, despite multiple orders advising "no further extensions;" motion to stay; ultimately dismissed; followed by rehearing motions and Notice to Invoke the Supreme Court's discretionary jurisdiction); Case 4D16-2249 (order to show cause by Court; two motions for extensions; motion to stay; ultimately dismissed; followed by rehearing motions).

WHEREFORE, Appellee, Shirley Bernstein Trust, requests this Court dismiss this appeal, and impose some reasonable non-monetary sanctions, either entering an order prohibiting any further *pro se* filings by Eliot Bernstein which are not signed by an attorney licensed to practice in Florida; and/or requiring Eliot Bernstein to pay filing fees to dissuade him from filing meritless and frivolous appeals which are draining the trusts and estates of substantial sums of money.

CERTIFICATE OF SERVICE

I CERTIFY that a copy of the foregoing has been served by email on all parties listed on the attached service list, this 13th day of April, 2017.

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