

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, MOTION TO
DISMISS APPEAL UNLESS A LAWYER CERTIFIES APPELLANT'S
INITIAL BRIEF; OR TO SUBMIT CASE TO MERITS PANEL**

Appellee, Ted S. Bernstein, as Successor Trustee of the Shirley Bernstein Trust ("Appellee"), moves to dismiss this appeal based upon the sanctions order dated August 23, 2017, entered in Case No. 4D17-1932, unless an attorney files a certification of the Initial Brief.

Alternatively, in light of Appellant's the failure to submit a reply brief in response to the Answer Brief filed and served on June 12, 2017, Appellee requests the matter be submitted to a merits panel for a decision, to avoid further delay to the underlying estate and trust matters.

In support for this Motion, Appellee states:

RECEIVED, 10/9/2017 11:38 AM, Clerk, Fourth District Court of Appeal

1. By a now final and nonappealable Order dated August 23, 2017, this Court granted sanctions against Eliot Ivan Bernstein ("Eliot") – "The Clerk of this Court is directed to no longer accept any paper filed by Eliot Ivan Bernstein unless the document has been reviewed and signed by a member in good standing of the Florida Bar who certifies that a good faith basis exists for each claim presented."

2. In light of the frivolous nature of this appeal and the Court's prior sanctions order against Eliot (which was entered after the Initial Brief in this case was filed), Appellee requests the Court require an attorney certification for the Initial Brief filed on May 5, 2017. Appellee requests the Court require an attorney to certify that a good faith basis exists for each claim presented in the Initial Brief, to be filed within a reasonable period of time not exceeding 30 days, or otherwise strike the Initial Brief and dismiss this appeal.

3. Alternatively, if the appeal is not dismissed, Appellee requests the case be submitted to a merits panel for a decision. The Answer Brief was filed nearly four months ago and no reply brief has been filed. There is no reason for further delay.

WHEREFORE, Appellee, Ted S. Bernstein, as Successor Trustee of the Shirley Bernstein Trust, requests this Court dismiss this appeal unless an attorney certification is filed or submit the case for a decision on the merits.

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 9th day of October, 2017.

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