

IN THE CIRCUIT COURT OF THE 15<sup>TH</sup>  
JUDICIAL CIRCUIT IN AND FOR  
PALM BEACH COUNTY, FLORIDA

CASE NO.: 50-2018-CA-002317-XXXX-MB

WALTER E. SAHM and  
PATRICIA SAHM

Plaintiffs,

v.

BERNSTEIN FAMILY REALTY, LLC,  
BRIAN O'CONNELL, AS SUCCESSOR PERSONAL REPRESENTATIVE OF THE ESTATE  
OF SIMON L. BERNSTEIN;  
ALEXANDRA BERNSTEIN,  
ERIC BERNSTEIN,  
MICHAEL BERNSTEIN,  
MOLLY SIMON,  
PAMELA B. SIMON,  
JILL IANTONI,  
MAX FRIEDSTEIN,  
LISA FRIEDSTEIN, INDIVIDUALLY AND TRUSTEES OF THE SIMON L. BERNSTEIN  
REVOCABLE TRUST AGREEMENT DATED MAY 20, 2008, AS AMENDED AND  
RESTATED;  
ELIOT BERNSTEIN, AND CANDICE BERNSTEIN, INDIVIDUALLY AND AS NATURAL  
GUARDIANS OF MINOR CHILDREN JO., JA. AND D. BERNSTEIN; AND  
ALL UNKNOWN TENANTS.

Defendant

**AMENDED NOTICE OF VIDEOTAPED DEPOSITION DUCES TECUM**  
**(Date/Time change only – Subpoena served on 3/16/2020 is still in effect)**

**TO: ALL COUNSEL OF RECORD**

The undersigned will take the videotaped deposition upon oral examination for purposes of discovery and for use as evidence in this action, or for such other purposes as authorized under applicable statutes and/or rules of court, before an Official Court Reporter or any officer authorized to administer oaths by the laws of the State of Florida and pursuant to the Florida Rules of Civil Procedure. The oral examination will continue from hour to hour and from day to day until completed.

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| <b>NAME OF DEPONENT:</b>   |
| <i>Candace M. Bernstein</i>  |
| <b>DATE AND TIME OF DEPOSITION:</b>  |
| <i>Tuesday, June 2, 2020 at 10:00 a.m.</i>   |
| <b>LOCATION OF DEPOSITION:</b>   |
| <i>Sweetapple, Broeker &amp; Varkas PL<br/>4800 N. Federal Highway, Suite D306<br/>Boca Raton, FL 33064<br/>561-392-1230</i>   |
| In accordance with the Americans with Disabilities Act, persons needing a special accommodation to participate in this proceeding shall contact the undersigned attorney at (305) 374-5623 no later than seven days prior to the proceedings; for hearing impaired, telephone 1-800-955-8771 (TDD), via Florida Relay Service. |

**NOTE:** The relevant time period for this request is June 1, 2008 through present.

#### **DEFINITIONS**

For the purposes of responding to this Subpoena Duces Tecum, the following definitions and guidelines shall apply:

1. "Document(s)" or "Writing(s)" shall be deemed to include every record of every type, and is used in the broadest sense and includes any medium upon which intelligence or information can be recorded and further includes, but is not limited to, all originals, non-identical copies and drafts of the following items, whether printed, handwritten, typed, recorded, or stored on any electro-magnetic storage device, or reproduced by hand, including without limitation correspondence, memoranda, invoices, receipts, records, ledger cards or other accounting records, voucher, check, shop order, diary, calendar, instruction, summaries of personal conversations or interviews, minutes or records of meetings or conferences, transcripts, opinions or reports of consultants, projections, drafts, contracts, agreements, confirmations, statistical statements, studies, telegrams, telexes, books, notes, reports, logs, diaries, tape recordings, video cassettes and data compilations from which information obtained, charts, photographs, notebooks, drawings, plans, printed materials of any kind, charts and interoffice communication, and any other writing of whatever description, including but not

- limited to any information contained in any computer, or represented by a computer program, signed or unsigned, regardless of whether approved, signed, sent, received, redrafted, or executed, study, work paper, handwritten note, draft, demand, chart, paper, print, laboratory record, drawing, sketch, diagram, form, graph, index, list, tape, photograph, microfilm, data sheet, data processing card, or any other written, recorded, transcribed, punched, taped, filmed, or graphic matter, however produced and reproduced.
2. "Agreement" shall mean all agreements, contracts, undertakings or other arrangements, whether oral, written, non-final, enforceable, superseded or modified by subsequent agreements.
  3. "Communication" shall mean any oral or written statement, dialogue, colloquy, discussion or conversation, including emails, text messages, social media messages, any writing published on any website or internet forum, and also means any transfer of thought or ideas between persons by means of documents and includes any transfer of data from one location to another by electronic or similar means.
  4. "You" or "your" means the records custodian or anything possessed by, or in the custody and control of the person with the most knowledge of documents requested on Exhibit "A" attached to this subpoena.
  5. "Related to" shall mean directly or indirectly, refer to, reflect, describe, pertain to, arise out of or in connection with, or in any way legally, logically, or factually be connected with the matter discussed.
  6. The words "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope hereof any responses to interrogatories, documents, or communications, which might otherwise be construed to be outside the scope hereof.
  7. "Including" shall mean including but not limited to.
  8. With respect to electronically stored information ("ESI"):
    - a. All electronic mail, instant messages, text messages and spreadsheets responsive to these requests that are maintained in the usual course of business in electronic format shall be produced in their native format.
    - b. All other documents responsive to these requests that are maintained in the usual course of business in electronic format shall be produced as individual searchable .pdfs without security and with a CSV load file which includes metadata fields (i.e. Custodian, Bates Start, Bates End, To, From, CC, Date Sent, Time Sent, Subject, etc.), with an image file name field that correlates to the .pdfs.

- c. All documents responsive to these requests shall be produced with the metadata normally contained within such documents. If such metadata is not available, each document shall be accompanied by a listing of all file properties concerning such document, including, but not limited to, all information concerning the date(s) the document was last accessed, created, modified or distributed, and the author(s) and recipient(s) of the document.
- d. Family groups should be preserved so that attachments are paired with the parent document.
- e. To the extent that specific documents require redaction, in lieu of the extracted text metadata field, you may produce redacted OCR as text for such documents.
- f. If any electronically stored information is produced in a form that is not reasonably useable, we reserve the right to request that specific and individual documents be delivered in a different form, including native form. The native files should be preserved.
- g. Under no circumstances should ESI be converted from the form in which it is ordinarily maintained to a different form that makes it more difficult or burdensome to use the ESI. ESI should not be produced in a form that removes or significantly degrades the ability to search the ESI by electronic means where the ESI is ordinarily maintained in a way that makes it searchable by electronic means. Databases or underlying data should not be produced without first discussing production format issues with the undersigned counsel. If You decline to search or produce ESI on the ground that such ESI is not reasonably accessible because of undue burden or cost, identify such information by category or source and provide detailed information regarding the burden or cost You claim is associated with the search or production of such ESI.

#### **ADDENDUM "A"**

1. Any and all documents regarding any defense to this action.
2. Copies of any and all payments made on the Promissory Note dated June 20, 2008, including the Amendment to Mortgage and Promissory Note dated February 15, 2012.
3. Copies of any and all records regarding the attempt to satisfy the Promissory Note dated June 20, 2008, including the Amendment to Mortgage and Promissory Note dated February 15, 2012.
4. Any and all communications with the Plaintiffs.

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that a true and correct copy of the foregoing has been furnished via the E-Filing Portal this 12th day of May, 2020 to: Eliot Ivan Bernstein and Candace Bernstein, Pro Se, 2753 NW 34<sup>th</sup> St., Boca Raton, FL 33434, (iviewit@iviewit.tv; tourcandy@gmail.com); Brian O'Connell, Esq., and Ashley Crispin Ackal, Esq., O'Connell & Crispin, PLLC, 420 Royal Palm Way, Palm Beach, FL 33480 (boconnell@ocalawyers.com; acrispinackal@ocalawyers.com); Cary P. Sabol, Esq., Law Offices of Cary P. Sabol, P.O. Box 15981, West Palm Beach, Florida 33416 (CSabol@sabollaw.com); Alan B. Rose, Esq., Mrachek, Fitzgerald & Rose, 505 South Flagler Drive Flagler Center, Suite 600, West Palm Beach, FL 33401 (Arose@Mrachek-law.com).

By: /S/ Robert A. Sweetapple  
ROBERT A. SWEETAPPLE  
Florida Bar No. 0296988