

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.

Defendants.

**PLAINTIFFS MOTION FOR ENTRY OF COURT'S DEFAULT AGAINST  
DEFENDANT, CANDACE BERNSTEIN, FOR FAILURE TO FILE RESPONSES TO  
PLAINTIFF'S THIRD AMENDED COMPLAINT**

Plaintiffs, WALTER E. SAHM and PATRICIA SAHM, by and through their undersigned  
counsel, and pursuant to Florida Rule of Civil Procedure 1.500, hereby move for the entry of  
Default against Defendant, **CANDICE BERNSTEIN, INDIVIDUALLY AND AS NATURAL**

LAW OFFICES OF SWEETAPPLE, BROEKER & VARKAS, P.L.  
4800 N. FEDERAL HIGHWAY, SUITE D306, BOCA RATON, FLORIDA 33431

**GUARDIAN OF MINOR CHILDREN JO., JA. AND D. BERNSTEIN, AND ALL UNKNOWN TENANTS**, and as grounds in support thereof, state:

1. On July 29, 2019, the Court entered an Order Granting Plaintiff's Amended Motion for Leave to File Amend Complaint ("Amended Complaint"), and deemed the Third Amended Complaint filed as of June 18, 2019. **Exhibit "1"**.

2. Defendant has been served with a copy of both Plaintiff's Third Amended Complaint and the Court's July 29, 2019 Order, but has failed to file any response to Plaintiff's Third Amended Complaint.

3. In fact, at a hearing on March 6, 2020, this Court signed an Order giving Mrs. Bernstein twenty (20) additional days to respond by March 26, 2020. Defendant failed to meet this deadline as well.

4. On March 20, 2020, Defendant filed a Motion for Extension of Time, and then on March 24, 2020, Defendant filed an Emergency Motion for Extension of Time. This Court granted the second motion extension in a Court Order signed on March 24, 2020, again extending the deadline for a response to April 27, 2020.

5. On April 25, 2020 Defendant filed another Motion for Extension of Time. Counsel for Plaintiffs agreed to a twenty-day extension, again moving the deadline to May 18, 2020.

6. On May 11, 2020 Defendant filed a fourth Motion for Extension of Time.

7. It is clear the Defendant has no intention of complying with the Court and will not file a Response to the Third Amended Complaint.

8. Florida Rule of Civil Procedure 1.500 governs the entry of defaults. Subsection (b) of this Rule states that:

**(b) By the Court.** When a party against whom affirmative relief is sought has failed to plead or otherwise defend as provided by these

rules or any applicable statute or any order of court, the court may enter a default against such party; provided that if such party has filed or served any paper in the action, that party shall be served with notice of the application for default.

9. Defendant has been on notice of the above referenced documents because Defendant has been served with copies of them via email through the e-filing portal and regular email. Accordingly, Plaintiff's request for the Court's entry of a default against Defendant, **CANDICE BERNSTEIN, INDIVIDUALLY AND AS NATURAL GUARDIANS OF MINOR CHILDREN JO., JA. AND D. BERNSTEIN, AND ALL UNKNOWN TENANTS** is proper, as a matter of law. *See generally, Ziegler v. Huston*, 626 So.2d 1046, 1047 (Fla. 4th DCA 1993).

**WHEREFORE**, Plaintiffs, WALTER E. SAHM and PATRICIA SAHM, respectfully request that this Court enter a Default against Defendant, **CANDICE BERNSTEIN, INDIVIDUALLY AND AS NATURAL GUARDIANS OF MINOR CHILDREN JO., JA. AND D. BERNSTEIN, AND ALL UNKNOWN TENANTS**.

Respectfully submitted,

SWEETAPPLE, BROEKER & VARKAS, PL  
4800 N Federal Hwy, Suite D306  
Boca Raton, Florida 33431  
Telephone: (561) 392-1230  
E-Mail: pleadings@sweetapplelaw.com

By: /S/ Robert A. Sweetapple  
ROBERT A. SWEETAPPLE  
Florida Bar No. 0296988  
BERKLEY SWEETAPPLE  
Florida Bar No. 112756

**CERTIFICATE OF SERVICE**

I **HEREBY CERTIFY** that a true and correct copy of the foregoing has been furnished via the E-Filing Portal this 19th day of May, 2020 to: Eliot Ivan Bernstein, 2753 NW 34<sup>th</sup> St., Boca Raton, FL 33434, (iviewit@iviewit.tv); 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-law, Fitzgerald & Rose, P; and Arose@Mrachek-law.com.

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

NOT A CERTIFIED COPY