

IN THE CIRCUIT COURT OF THE 17th  
JUDICIAL CIRCUIT, IN AND FOR  
BROWARD COUNTY, FLORIDA

CASE NO: 12-34121(07)

Complex Litigation Unit

PHILIP J. VON KAHLE, as Conservator of  
P&S ASSOCIATES, GENERAL PARTNERSHIP,  
and S&P ASSOCIATES, GENERAL PARTNERSHIP,

Plaintiffs,

vs.

JANET A. HOOKER CHARITABLE TRUST, *et al*,

Defendants.

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**MOTION FOR PROTECTIVE ORDER, OBJECTION TO INTERROGATORIES,  
REQUEST FOR PRODUCTION, NOTICE OF DEPOSITIONS AND TO STAY  
PROCEEDINGS AS TO DEFENDANTS JUDD**

Defendants James Judd and Valerie Judd move for a Protective Order, object to Plaintiff's Interrogatories, Request for Production, Notice of Depositions and to stay proceedings as to Defendants Judd. As grounds therefor, movant would respectfully show:

1. Defendants Judds' Motion to Dismiss, filed and served on September 24, 2013, is presently still pending before this Court. (Ex. 1 hereto).
2. Paragraphs 2 and 3 of the Motion specifically noted that there was no allegation that either James Judd or Valerie Judd had signed one of the Partnership Agreements attached to the Complaint (which specifically stated the partners' signatures appeared at the end of the Agreements), and neither of the two Partnership Agreements attached to the

Complaint, left on Defendants' doorstep, contained an "Ex A" to the Partnership Agreements with the names and signatures of the partners.

3. On October 14, 2013, Plaintiff's Counsel, Zachary Hyman, sent an e-mail (Ex 2 hereto) to counsel for Defendants Judd indicating that Plaintiff was in the process of filing an Amended Complaint which would "moot" the pending motion.
4. On October 30, 2013, Plaintiff's counsel Hyman sent another e-mail (Ex. 3 hereto) indicating that Plaintiff had served a Motion to Amend the Complaint that Plaintiff believed rendered the Motion to Dismiss as "moot."
5. The Amended Complaint received by counsel for Defendants Judd again contained no Exhibit A to either Partnership Agreement and no attachment with the signatures of either Defendant James Judd or Defendant Valerie Judd.
6. Counsel for Defendants Judd has on several occasions asked Plaintiff's counsel, including Leonard Samuels, Esq., to provide a copy of a Partnership Agreement that contained signatures of Defendant James Judd and Valerie Judd, but to date none has been provided.
7. On December 20, 2013 Plaintiff's counsel Weber sent an e-mail to counsel for Defendant Judd (Ex. 4 hereto) inquiring as to availability of Defendants Judd for depositions on certain dates.
8. At all times, Plaintiff's counsel has been well aware that Defendant, James Judd, is an internationally known conductor who travels extensively to conduct in various parts of the world, including Korea and Australia. Nevertheless, without furnishing a copy of a signed Partnership Agreement showing that Defendant, James Judd, and Defendant, Valerie Judd, were even partners under either Partnership Agreement and without waiting

for a reply, Plaintiffs proceeded on January 2, 2014 to notice James Judd's Deposition (Ex 5 hereto).

9. Defendants, James Judd and Valerie Judd, strenuously object to any discovery until the Plaintiff has furnished a signed copy of a Partnership Agreement showing that they were partners under either Partnership Agreement attached to Plaintiff's Complaint.

Wherefore, Defendants Judd pray that:

1. The Court enter a Protective Order providing that Plaintiff be prohibited from seeking any discovery from Defendants Judd until at least 45 days after the Court has ruled on the Motion to Dismiss of Defendants Judd and Plaintiff has provided a copy of the signed Exhibit(s) to the Partnership Agreements attached to Plaintiff's Complaint so that Defendants Judd can determine what, if anything, might be relevant to Plaintiff's purported claim.

Dated this 8<sup>th</sup> day of January, 2014

/s/Julian H. Kreeger  
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### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served via Electronic Mail upon Leonard Samuels, Esq. of BergerSingerman and counsel identified below registered to receive electronic notifications and

regular U.S. mail upon Pro Se parties this 8th day of January, 2014 upon the following:

**Notice has been electronically mailed to:**

**Counsel E-mail Address:**

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By: /s/Julian H. Kreeger  
JULIAN H. KREEGER  
F.B.N.: 098595



IN THE CIRCUIT COURT FOR  
THE SEVENTEENTH JUDICIAL CIRCUIT IN  
AND FOR BROWARD COUNTY, FLORIDA

MARGARET SMITH, et al.

Plaintiffs,

vs.

JANET A. HOOKER CHARITABLE  
TRUST, et al.,

Defendants,

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Case No 12-34121(07)

Complex Litigation Unit

**DEFENDANTS JAMES AND VALERIE JUDD'S MOTION**  
**TO DISMISS PLAINTIFF'S COMPLAINT**

Defendants James Judd and Valerie Judd move to dismiss Plaintiff's Complaint on the following grounds:

1. The copy of Plaintiff's Complaint "served" on Defendants Judd was simply left on their doorstep and/or possibly given to a maid who does not reside at their address when neither James Judd nor Valerie Judd were home. (James Judd was not in the United States at that time and it is believed that Valerie Judd was not in Florida at that time.)
2. Neither "Amended and Restated Partnership Agreement" attached to the copy of the Plaintiff's Complaint which Defendants Judd ultimately received contained an "Exhibit A" with the names and signatures of the parties to the Agreement or their addresses.
3. The Complaint contains no allegation that either James Judd or Valerie Judd signed either partnership agreement.
4. The Complaint fails to allege in which Partnership, if either or both Defendants James Judd and/or Valerie Judd are alleged to be partners.

5. Moreover, there is no allegation as to which Partnership (S&P or P&S or both) each of the other Defendants are alleged to be partners, when they are alleged to have become partners or when they made their alleged investments, or when they are alleged to have received income payments.

6. §14.03 of each Agreement specifically provides that:

"Limitations on Liability"

"14.03 The partners shall have no liability to the partnership or to any other partner for any mistakes or errors in judgment, nor for any act or omissions believed in good faith to be within the scope of authority conferred by this agreement. The partners shall be liable only for acts and/or omissions involving intentional wrongdoing, fraud, and breaches of fiduciary duties of care and loyalty . . ."

The Fourth District has held that 'Parties can contract to limit their liability.' See Voiceteam Wireless v. U.S. Communications, 912 So.2d 34,38 (Fla 4th DCA 2005). The Fourth District has also held that a party claiming a fraudulent transfer under Fla.Stat. §726.105(1)(a) must demonstrate that the debtor intended fraud. See Nationsbank, N.A. v. Coastal Utilities, 814 So.2d 1227 (Fla. 4th DCA 2002).

7. The Complaint contains no allegation, or even a hint, that either of Defendants Judd intended or had acted in bad faith or knowingly participated in any wrongdoing or fraud.

8. Even assuming arguendo that either Defendant James Judd or Defendant Valerie Judd, or both, had signed one of the Agreements, Section 5.02 of each Agreement provides that if a Distribution is not made "at least once per year" and such distributions remain in the Partnership, they are deemed to increase the Partner's capital contribution. Plaintiff's Complaint contains no indication (a) when the original <sup>contribution(s)</sup> ~~contributor~~(s) were made by Defendants Judd, (b) what distributions they were subsequently entitled to receive, (c) when subsequent distributions were due for each year, (d) when unpaid distributions were

HLK

deemed to increase their capital contributions. Accordingly, it cannot be determined from the face of the Complaint whether any applicable Statute of Limitations has expired.

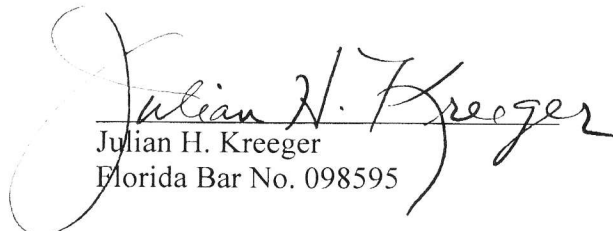
9. So as not to unduly burden the Court, Defendants Judd adopt and incorporate herein by reference the arguments and authorities pending before this Court in the pending Motions to Dismiss filed by the other Defendants in this case, including the Reply served by Defendant Ettoh Ltd. to Plaintiff's Response and the Reply of Defendant Irwig to Plaintiff's Response.

WHEREFORE, Defendants Judd move to dismiss Plaintiff's Complaint.

  
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#### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was sent by e-mail on this <sup>26<sup>th</sup></sup>~~24~~th day of September, 2013 to all parties on the attached service list.

  
Julian H. Kreeger  
Florida Bar No. 098595





Julian Kreeger &lt;juliankreeger@gmail.com&gt;

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**P&S and S&P Judd Motion to Dismiss**

1 message

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**Zachary P. Hyman** <ZHyman@bergersingerman.com>  
To: "juliankreeger@gmail.com" <juliankreeger@gmail.com>  
Cc: "Steven D. Weber" <SWeber@bergersingerman.com>

Mon, Oct 14, 2013 at 6:01 PM

Dear Mr. Kreeger,

I am writing you in regards to the pending Motion to Dismiss you filed in relation to the "Net Winners" Action. As you are likely aware, we are in the process of filing an Amended Complaint which would moot your pending Motion. To conserve resources, I was wondering if you would provide us with the opportunity to file such a Complaint before requiring a response to your pending motion. If you have any questions or concerns, please feel free to contact me.

Thank you,

Zachary Hyman

BIO

**Zachary P Hyman**

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EX. 2



Julian K. Kreeger, Jr. - bergersingerman.com

## SP et al v. Hooker et al.

6 messages

**Steven D. Weber** <SWeber@bergersingerman.com>

Fri, Dec 20, 2013 at 9:31 AM

To: "juliankreeger@gmail.com" <juliankreeger@gmail.com>

Cc: "Zachary P. Hyman" <>ZHyman@bergersingerman.com>

Mr. Kreeger,

Please tell me if James Judd is available for deposition on January 16, 23, or 24. Please tell me if Valeria Bruce Judd is available for deposition on January 31, February 3, 4, or 5.

Thank you



**Steven D. Weber**

350 East Las Olas Boulevard | Suite 1000 | Fort Lauderdale FL 33301

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IN THE CIRCUIT COURT OF THE 17th  
JUDICIAL CIRCUIT, IN AND FOR  
BROWARD COUNTY, FLORIDA

CASE NO: 12-34121(07)

Complex Litigation Unit

PHILIP J. VON KAHLE, as Conservator of  
P&S ASSOCIATES, GENERAL PARTNERSHIP,  
and S&P ASSOCIATES, GENERAL PARTNERSHIP,

Plaintiffs,

vs.

JANET A. HOOKER CHARITABLE TRUST, *et al*,

Defendants. \_\_\_\_\_/

**PLAINTIFFS' NOTICE OF TAKING  
DEPOSITION OF DEFENDANT JAMES JUDD**

**TO: ALL COUNSEL LISTED ON CERTIFICATE OF SERVICE**

**PLEASE TAKE NOTICE** that the undersigned attorneys will take the deposition of:

Deponent	Date	Time
Defendant James Judd	January 23, 2014	9:30 a.m.

at the office of **Berger Singerman LLP**, located at **350 East Las Olas Boulevard, Suite 1000, Fort Lauderdale, Florida 33301**, upon oral examination before a Court Reporter, or other officer authorized by law to take depositions in the State of Florida. The deposition is being taken for the purpose of discovery, for use at trial, or for such other purposes as are permitted under the Rules of Court.

The deposition will continue from day to day until completed and will be recorded via stenographic means.

Respectfully submitted,

BERGER SINGERMANN LLP  
*Attorneys for Plaintiffs*  
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cc: Friedman Lombardi & Olsen, Court Reporters