

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

COMPLEX LITIGATION UNIT

PHILIP J. VON KAHLE, as Conservator of  
P&S Associates, General Partnership and  
S&P Associates, General Partnership

CASE NO.: 12-034123 (07)

Plaintiffs,

v.

MICHAEL D. SULLIVAN, et al.,

Defendants.

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**PLAINTIFFS' MOTION TO DETERMINE CONFIDENTIALITY OF  
COURT RECORDS, SPECIFICALLY CONFIDENTIAL  
DEPOSITION EXHIBITS AND TO PERMIT FILING OF SAME UNDER SEAL**

Plaintiffs P & S Associates, General Partnership (“P&S”), S & P Associates, General Partnership (“S&P”) (collectively, the “Partnerships” or “Plaintiffs”), and pursuant to Fla. R. Jud. Admin. 2.420(c)(9)(A)(ii), and (vi), 2.420(d)(3), and 2.420(e) and the Agreed Confidentiality Order dated March 14, 2014 entered in this case, hereby submit Plaintiffs’ Motion to Determine Confidentiality of Court Records, Specifically Confidential Deposition Exhibits and to Permit Filing of Same Under Seal (the “Motion”). In support of this Motion, Plaintiffs state as follows:

1. On December 7, 2016, Defendants filed and served (i) Defendants Frank Avellino and Michael Bienes’ Joint Motion for Judgment on the Pleadings and for Summary Judgment as to Fraudulent Transfer (Count IV); and (ii) Defendants Frank Avellino and Michael Bienes’ Material Factual Statement in Support of Their Motion for Summary Judgment as to Count IV – Fraudulent Transfer (“Defendants’ Summary Judgment Papers”).

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2. On February 15, 2017, Plaintiffs filed and served (i) Plaintiffs' Response to Defendants Frank Avellino and Michael Bienes' Joint Motion for Judgment on the Pleadings and for Summary Judgment as to Fraudulent Transfers (Count IV); and (ii) Plaintiffs' Statement of Material Facts in Opposition to Defendants' Second Motion for Summary Judgment ("Plaintiffs' Responsive Papers").

3. A specially-set hearing on Defendants Summary Judgment Papers is currently scheduled to be heard on March 7, 2017.

4. In support of Plaintiffs' Responsive Papers, the Plaintiffs filed a Notice of Filing Deposition Transcripts in Opposition to Defendants' Second Motion for Summary Judgment on February 20, 2017, which includes the miniscript versions of following deposition transcripts.

- a. Deposition transcript of Michael Bienes dated September 10, 2015;
- b. Deposition transcript of Frank Avellino dated September 9, 2015;
- c. Deposition transcript of Michael Sullivan dated December 1, 2015;
- d. Deposition transcript of Michael Sullivan dated December 17, 2015; and
- e. Deposition transcript of Michael Sullivan dated March 8, 2016.

5. In further support, Plaintiffs' have relied upon certain documents designated and identified as Confidential which have been marked as deposition exhibits in one or more of the depositions identified in paragraph four.

6. To the extent practical, Plaintiffs' have generically incorporated non-confidential deposition exhibits.

7. The deposition exhibits will be filed with the Court upon the entry of an Order Granting Plaintiffs Motion to Determine Confidentiality of Court Records, Specifically Confidential Deposition Exhibits and to Permit Filing of Same Under Seal.



8. It is certified pursuant to Fla. R. Jud. Admin. 2.420(e)(1) that this motion is made in good faith and is supported by applicable law.

WHEREFORE, for the foregoing reasons, Plaintiffs respectfully request that the Court enter an Order determining the confidential deposition exhibits to be confidential and permitting them to be filed under seal and granting such other relief as is just and proper under the circumstances.

Dated: February 22, 2017

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I **HEREBY CERTIFY** that on February 22, 2017, a copy of the foregoing was filed with the Clerk of the Court via the E-filing Portal, and served via Electronic Mail by the E-filing Portal upon:

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