

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

MARGARET SMITH, et al.,

Case No. 12-034123 (07)

Complex Litigation Unit

Plaintiffs,

vs.

MICHAEL D. SULLIVAN, et al.,

Defendants.

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**CONSERVATOR'S MOTION TO EXTEND TIME TO  
SERVE THE SUMMONS AND COMPLAINT<sup>1</sup>**

Philip J. Von Kahle (the "Conservator"), as Conservator for P&S Associates, General Partnership ("P&S") and S&P Associates, General Partnership ("S&P") (together, the "Partnerships"), files this Motion to Extend Time to Serve the Summons and Complaint (the "Motion"), and in support thereof states as follows:

1. In addition to that certain case styled *Matthew Carone, et. al. v. Michael D. Sullivan, individually*, Case No. 12-24051 (07) (the "Conservator Lawsuit"), the Partnerships are presently involved in three separate actions pending before this Court styled as follows (the "Lawsuits"):

- a. Civil suit styled *P&S Associates, General Partnership and S&P Associates, General Partnership, Plaintiffs v. Roberta P. Alves, et. al.*, Case No. 12-028324 (07) (the "Distribution Action");
- b. Civil suit styled *Margaret Smith as General Partner of P&S Associates, General Partnership and S&P Associates, General Partnership, Plaintiffs v. Janet A. Hooker Charitable Trust, et. al.*, Case No. 12-034121 (07) (the "Net Winners Lawsuit"); and
- c. The instant matter, civil suit styled *Margaret Smith as General Partner of P&S Associates, General Partnership and S&P Associates, General*

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<sup>1</sup> For purposes of efficiency, and in the interest of completeness and consistency, the Conservator is separately filing substantially the same Motion in the each of the Lawsuits.

Partnership, Plaintiffs v. Michael D. Sullivan, et. al., Case No. 12-034123 (07) (the “Insiders Lawsuit”).

2. After review of certain of the available records, the Conservator has discovered that certain parties in the Lawsuits have not been served with the Summons and Complaint.

3. On March 20, 2013, this Court entered certain orders in each of the Lawsuits extending, pursuant to Fla. R. Civ. P. 1070(j), the time to timely serve the various defendants.

4. Since then, the Conservator has expended considerable efforts to, among other things, to determine the proper and updated information necessary to obtain approximately 92 alias process and negotiate the terms of representation of the Partnerships in certain of the Lawsuits.

5. Recently, this Court adopted an electronic method for receiving summons. E-filing requires, among other things, that the moving party wait until the Clerk’s Office processes the e-summons and returns electronically stamped copies.

6. The Conservator has attempted, in compliance with such e-filing procedures, to obtain alias process by e-filing the necessary documents with the Clerk’s Office and requesting the issuance of alias process (an e-summons).<sup>2</sup>

7. As of the date of the instant Motion, the Clerk’s Office has not returned the e-summons to the Conservator. The Clerk’s Office has informed the Conservator that the e-summons will be delayed while the Clerk’s Office adjusts to the higher volume of e-filing.

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<sup>2</sup> The Clerk provided the Conservator’s Counsel with the following Filing Reference No. 1204561 and 1221822, for the e-summons.

8. As such, good cause exists to extend the time within which to timely serve process.

9. Accordingly, the Conservator respectfully requests that the Court extend the deadline for timely service of the Summons and Complaint upon the parties pursuant to Fla. R. Civ. P. 1070(j).

**WHEREFORE**, the Conservator requests that the Court enter an Order extending the deadline to serve process upon the parties in the Lawsuits for approximately 60 days through and including June 28, 2013, pursuant to Fla. R. Civ. P. 1070(j), and granting such other relief as the Court deems just and proper.

Dated: April 17, 2013

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