

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

CASE NO.: 12-034121 (07)

P &S ASSOCIATES, GENERAL PARTNERSHIP,  
a Florida limited partnership; and S&P  
ASSOCIATES, GENERAL PARTNERSHIP, a  
Florida limited partnership, *et al.*,

Plaintiffs,

v.

JANET A. HOOKER CHARITABLE TRUST, a charitable  
trust, *et al.*,

Defendants.

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**DEFENDANT CATHARINE SMITH'S MOTION  
TO BE EXCUSED FROM IN-PERSON TRIAL ATTENDANCE  
AND TO ALLOW DEPOSITION TO PERPETUATE TESTIMONY**

Defendant Catharine Smith files this Motion to be Excused from In-person Trial Attendance and to Allow a Deposition to Perpetuate her Testimony, and states as follows:

1. Catharine Smith is one of the net winners sued in the above case. She received her "final" K-1 from the partnership in 2005.
2. The trial of this case is currently set for the trial docket commencing June 30, 2014 and continuing through September 26, 2014.
3. Plaintiff has not yet served a trial subpoena on Mrs. Smith, but Mrs. Smith anticipates Plaintiff will do so once the exact trial date is set within the docket.
4. Mrs. Smith will be out of the country, in Europe, from June 2, 2014 to September 25, 2014.

5. The undersigned is in the process of scheduling a deposition to perpetuate Mrs. Smith's testimony for trial. The undersigned anticipates that Mrs. Smith's testimony will be brief, limited mainly to the circumstance of her withdrawal from the partnership.

6. The discovery cut-off in this case was March 28, 2014. Although a deposition to preserve testimony is not technically "discovery," the undersigned nevertheless requests court permission for this deposition in an abundance of caution.

7. The upcoming deposition will allow Plaintiff ample opportunity to cross-examine and/or explore other areas of testimony.

8. Given the circumstances, it would impose an undue burden on Mrs. Smith to require her to return from Europe to attend this non-jury trial. Mrs. Smith's testimony can be accomplished entirely by way of deposition, without the need for in-person attendance.


9. The undersigned has contacted counsel for the Plaintiff, who advises that Plaintiff opposes all relief sought in this motion.

Wherefore, Mrs. Smith requests that this Honorable Court grant this motion and order that (1) allows a deposition to perpetuate her testimony, and (2) excuses her in-person attendance at trial upon completion of the deposition.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via the Court's e-filing portal to Gary J. Rotella ([rotellagar@aol.com](mailto:rotellagar@aol.com)), Rotella Law, PA, 150 N. Federal Highway, Ste. 250, Fort Lauderdale, FL 33304; Joseph P. Klapholz, Esq., Joseph P. Klapholz, P.A., 2500 Hollywood Blvd., Suite 212, Hollywood, FL 33020, ([jklap@klapholzpa.com](mailto:jklap@klapholzpa.com); [dml@klapholzpa.com](mailto:dml@klapholzpa.com)), Peter G. Herman, Esq., Michael C. Foster, Tripp Scott, 110 SE Sixth Street, Suite 1500, Fort Lauderdale, FL 33301, ([PGH@trippscott.com](mailto:PGH@trippscott.com)); [mcf@trippscott.com](mailto:mcf@trippscott.com); Michael R. Casey, Esq., 1831 NE 38th St., # 707, Oakland Park, FL 33308, ([mcasey666@gmail.com](mailto:mcasey666@gmail.com)); Michael C. Foster, Esq., Annette M. Urena, Esq., Daniels Kashtan, 4000 Ponce de Leon Blvd., Suite 800, Coral Gables, FL 33146, ([Mfoster@dkdr.com](mailto:Mfoster@dkdr.com); [aurena@dkdr.com](mailto:aurena@dkdr.com)); Marc S. Dobin, Esq., Dobin Law Group, PA, 500 University Boulevard, Suite 205, Jupiter, FL 33458, ([service@DobinLaw.com](mailto:service@DobinLaw.com)); Julian H. Kreeger, Esq., 2665 South Bayshore Drive, Suite 2220-14, Miami, FL 33133 ([Juliankreeger@gmail.com](mailto:Juliankreeger@gmail.com)); Thomas M. Messana, Esq., Brett Lieberman, Esq., Messana, P.A., 401 East Las Olas Boulevard, Suite 1400, Fort Lauderdale, FL 33301, ([tmessana@messana-law.com](mailto:tmessana@messana-law.com); [blieberman@messana-law.com](mailto:blieberman@messana-law.com)); Daniel W. Matlow, Esq., Daniel W. Matlow, P.A., Emerald Lake Corporate Park, 3109 Stirling Road, Suite 101, Fort Lauderdale, FL 33312, ([dmatlow@danmatlow.com](mailto:dmatlow@danmatlow.com); [assistant@danmatlow.com](mailto:assistant@danmatlow.com)); Richard T. Woulfe, Esq., Bunnell & Woulfe P.A., One Financial Plaza, Suite 1000, 100 SE Third Avenue, Fort Lauderdale, FL 33394, ([Pleadings.RTW@bunnellwoulfe.com](mailto:Pleadings.RTW@bunnellwoulfe.com)); Joanne Wilcomes, Esq., McCarter & English, LLP, 100 Mulberry Street, Four Gateway Center, Newark, NJ 07102, ([jwilcomes@mccarter.com](mailto:jwilcomes@mccarter.com)); ThomasL. Abrams, Esq., 1776 N. Pine Island Road, Suite 309, Plantation, FL 33322, ([tabrams@tabramslaw.com](mailto:tabrams@tabramslaw.com)); Zach Hyman ([zhyman@bergersingerman.com](mailto:zhyman@bergersingerman.com)) Berger Singerman, 350 E. Las Olas Blvd., Ste. 1000, Ft. Lauderdale, Florida, 33301-4215, Nadira Joseph ([njoseph@moecker.com](mailto:njoseph@moecker.com)) Michael Moecker & Associates, Inc., 3613 North 29<sup>th</sup> Avenue, Hollywood, FL 33020, Kathleen M. Molchan, 1573 N.E. 33th Street, Oakland Park, FL 33334 ([kmcocean@gmail.com](mailto:kmcocean@gmail.com)); D. Patricia Wallace, Walter J. Mathews, 750 SE Third Avenue, Ste. 100, Fort Lauderdale, FL 33316, ([pwallace@mathewslp.com](mailto:pwallace@mathewslp.com); [wjm@mathewslp.com](mailto:wjm@mathewslp.com); [assistant@wjmlawfirm.com](mailto:assistant@wjmlawfirm.com); this 12th day of May, 2014.

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