

IN THE CIRCUIT COURT OF THE 17<sup>TH</sup> JUDICIAL CIRCUIT OF FLORIDA,  
IN AND FOR BROWARD COUNTY

CASE NO.: 12-034123 (07)  
COMPLEX LITIGATION UNIT

P&S ASSOCIATES, GENERAL  
PARTNERSHIP, etc., et al.,

Plaintiffs,

v.

MICHAEL D. SULLIVAN, et al.,

Defendants.

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**ORDER ON DEFENDANTS' MOTIONS TO DISMISS**  
**THE SECOND AMENDED COMPLAINT**

This cause came before the Court on April 28, 2014, on motions to dismiss the second amended complaint file by defendants, Kelco Foundation, Inc., Vincent T. Kelly, Frank Avellino and Michael Bienes, and the Court having heard the argument of counsel and having reviewed the motions and memoranda of law filed by the parties and being otherwise advised in the matter, it is hereby

ORDERED AND ADJUDGED as follows:

1. Defendants' motions to dismiss the second amended complaint are granted, in part and denied, in part;
2. Counts IV, VI, VII, VIII and IX are dismissed with leave to amend;
3. Counts VII and VIII are dismissed as to defendant Kelly, only;
4. Count V is retitled as an unjust enrichment claim;
5. With regard to Count X, "negligence" is stricken from paragraph 144; and

P & S Associates, General Partnership etc. et al  
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Case No. 12-034123 (07)  
Order On Defendants' Motions to Dismiss  
The Second Amended Complaint

6. Defendants' motions to dismiss as to the remaining counts are denied.

**DONE AND ORDERED** in Chambers at Ft. Lauderdale, Broward County, Florida this

\_\_\_\_\_ day of June, 2014.

JEFFREY E. STREITFELD

JUN 03 2014

A TRUE COPY

\_\_\_\_\_  
The Honorable Jeffrey E. Streitfeld  
CIRCUIT COURT JUDGE

Conformed copies to:

Attorneys of Record