

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

CASE NO.: 12-034123 (07)

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

Plaintiffs,

v.

MICHAEL D. SULLIVAN, *et al.*,

Defendants.

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**PLAINTIFFS' RESPONSE TO DEFENDANT FRANK AVELLINO'S  
MOTION FOR PROTECTIVE ORDER REGARDING HIS DEPOSITION**

Plaintiffs P & S Associates, General Partnership ("P&S"), S & P Associates, General Partnership ("S&P") (collectively, the "Partnerships" or "Plaintiffs"), by and through their undersigned attorneys, file this Response to Defendant Frank Avellino's Motion for Protective Order Regarding His Deposition. In support thereof, Plaintiffs state as follows:

1. On or about April 3, 2015, Avellino and Bienes agreed that Avellino would appear for deposition on June 9, 2015, and that Bienes would appear for deposition on June 16, 2015. Their depositions were previously rescheduled at least three times, beginning more than a year ago in April 2014.

2. On May 27, 2015, Counsel for Avellino requested Plaintiffs reschedule Avellino's deposition because Avellino was allegedly having a medical procedure. Given the incredible difficulty in scheduling Avellino for deposition, and because the parties previously agreed to a deposition date of June 9, Plaintiffs are unwilling to reschedule the deposition yet again. Although requested, Avellino has not provided a doctor or medical note demonstrating that any medical procedure is actually occurring on June 9 and must occur on June 9.

3. Two business days before Avellino's deposition, Avellino filed Avellino's Motion for Protective Order Regarding His Deposition (the "Motion for Protective Order").

4. The Motion for Protective Order does not include any medical or doctor note. Yet it states that "Avellino is not available to have his deposition taken on June 9, 2015 because he has medical issues which necessitate treatment in New York on that date." The Motion for Protective Order also relies on the need for documents that Avellino did not file a Motion to Compel regarding until two business days before the deposition.

5. Plaintiffs request an order denying Avellino's last minute and desperate Motion for Protective Order because Plaintiffs have been seeking Avellino's deposition for more than a year and he has provided no basis to support his requested relief.

**WHEREFORE**, Plaintiffs request that this Court enter an order (i) denying the Motion for Protective Order; (ii) awarding attorney's fees and costs incurred in responding to the Motion for Protective Order; and (iii) granting such other and further relief as the Court may deem just and appropriate under the circumstances.

Dated: June 5, 2015

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 5th day of June, 2015, a true and correct copy of the foregoing document was served on the following parties:

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