

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

CASE NO. 12-034123 (07)

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

Plaintiffs,

vs.

MICHAEL D. SULLIVAN, et al.,

Defendants.

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**DEFENDANT FRANK AVELLINO'S MEMORANDUM IN  
OPPOSITION TO PLAINTIFF'S MOTION TO COMPEL**

Defendant, Frank Avellino ("Avellino"), by and through his undersigned attorneys, files this Memorandum in Opposition to Plaintiff's Motion to Compel Defendant Frank Avellino to Produce Documents and Provide Better Responses to Plaintiff's Interrogatories (the "Motion") and states as follows:

1. On May 28, 2014, Plaintiff filed his Motion directed to alleged inadequacies of Avellino's supplemental responses to Plaintiff's Request for Production and Interrogatories. Based upon a review of Avellino's supplemental discovery responses and the concessions made herein, Plaintiff's Motion should be denied.

2. With regard to Avellino's supplemental response to Plaintiff's Request for Production, Plaintiff objects to Avellino's burdensome objection set forth in his General Objection No. 5. While a request seeking documents going back more than twenty years is overly burdensome, Avellino's objection and Plaintiff's objection to such objection are moot.

Having conducted a thorough search, Avellino is unable to locate any responsive documents to which such request is directed.

3. While Plaintiff objects to Avellino's other General Objections, such objections are valid. In any event, such objections did not result in the withholding of any documents from production.

4. Plaintiff further complains of Avellino's specific objection in response to request No. 2 that seeking records from Avellino & Bienes, a business that ceased operations in 1992, is overly burdensome and irrelevant. As previously stated, having conducted a thorough search, Avellino represents that he has no records of Avellino & Bienes and, thus, is unable to produce any records from such business that may be responsive to this request.

5. Plaintiff also objects to Avellino's responses in which he states that he has produced all documents he was able to locate at the time of production. Avellino has completed his search for responsive documents and states that he has no additional documents responsive to Plaintiff's requests. Consequently, Plaintiff's objections are moot.

6. Plaintiff's only objection to Avellino's supplemental interrogatory answers is with regard to No. 3 in which Avellino objects to the term "undertaking" as vague and ambiguous. Such term is vague and ambiguous. In any event, such objection did not preclude Avellino from fully answering this interrogatory.

WHEREFORE, defendant, Avellino requests that this Court enter an order denying Plaintiff's motion to compel.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 17th day of June 2014, the foregoing document is being served on those on the attached service list by electronic service via the Florida Court E-Filing Portal in compliance with Fla. Admin Order No. 13-49.

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