

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

MARGARET SMITH, et al.,

Case No. 12-34121(07)

Plaintiffs,

vs.

JANET A. HOOKER CHARITABLE TRUST, et al.,

Defendants.

**CONSERVATOR'S MOTION TO EXTEND TIME TO
SERVE THE SUMMONS AND COMPLAINT¹**

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. The instant action, 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. Civil suit styled *Margaret Smith as General Partner of P&S Associates, General Partnership and S&P Associates, General*

¹ 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 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).²

7. Based on, among other things, delay associated with the issuance of e-summons, on April 17, 2013 the Conservator filed a motion for extension of time to serve the parties with the Summons and Complaint.

8. On April 22, 2013, this Court extended the deadline to serve the Summons and Complaint to June 28, 2013.

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

9. On May 7, 2013, the Clerk's Office issued approximately 137 summonses to the Conservator.

10. Upon receiving the summonses, the Conservator committed substantial energy and resources to effectuating service on the parties, many of whom reside outside of the state.

11. Despite Conservator's best efforts, certain parties remain unserved. However, the Conservator has drastically reduced the number of unserved parties.

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

13. 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 August 27, 2013, pursuant to Fla. R. Civ. P. 1070(j), and granting such other relief as the Court deems just and proper.

Dated: June 25, 2013

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