

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

COMPLEX LITIGATION UNIT

PHILIP J. VON KAHLE, as Conservator of
P&S Associates, General Partnership and
S&P Associates, General Partnership

CASE NO.: 12-034123 (07)

Plaintiffs,

v.

MICHAEL D. SULLIVAN, et al.,

Defendants.

**PLAINTIFFS' MOTION FOR LEAVE TO
DEPOSE INCARCERATED, NON-PARTY, BERNARD L. MADOFF**

P&S Associates, General Partnership ("P&S"), S&P Associates, General Partnership ("S&P") (S&P and P&S are collectively the "Partnerships"), and Philip J. Von Kahle, as Conservator for P&S and S&P (the "Conservator", and together with the "Partnerships", the "Plaintiffs"), pursuant to Fla. R. Civ. P. 1.310, hereby file this motion for leave to depose incarcerated, non-party Bernard L. Madoff, and in support state:

1. By this motion, Plaintiffs seek leave to take the deposition of Bernard L. Madoff ("Madoff"), who is confined in federal prison at FCI Butner Medium I located at OLD NC HWY 75 BUTNER, NC 27509.

2. Pursuant to Fla. R. Civ. P. 1.310(a), "[t]he deposition of a person confined in prison may be taken only by leave of court on such terms as the court prescribes."

3. The Court should grant leave to take Madoff's deposition because all parties have consented to the relief sought herein.

4. Additionally, Plaintiffs believe the deposition of Madoff will lead to the

production of admissible evidence that is not otherwise available.

5. Plaintiffs' claims against Defendants Avellino and Bienes (collectively, "Defendants") stem from Defendants' relationship with Madoff and Plaintiffs' investment in Bernard L. Madoff Investment Securities, LLC ("BLMIS").

6. Madoff has knowledge that is directly relevant to Plaintiffs' claims that Defendants' had a fiduciary relationship with the Partnerships, that Defendants' took control of the Partnerships, and that Defendants' caused the transfer of improper kickbacks to themselves and others.

7. The deposition of Madoff is also necessary to establish that the former Managing General Partner of the Partnerships took direction from Avellino and Bienes in connection with the Partnerships' investment activities with BLMIS.

8. Accordingly, Plaintiffs respectfully request this Court grant them leave take the deposition of Madoff.

WHEREFORE Plaintiffs respectfully request the entry of an Order: (i) granting Plaintiffs leave to take the deposition of Bernard L. Madoff; and (ii) for such other and further relief as this Court deems just and proper.

Dated: June 26, 2015

By: /s/ Leonard K. Samuels

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 26th day of June, 2015, the foregoing was filed using the Florida Courts E-Filing Portal, which sent notification to the following parties:

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