

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

Case No. 12-34121 (07)
Complex Litigation Unit

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

Plaintiffs,

v.

JANET A. HOOKER CHARITABLE
TRUST, a charitable trust, et al.,

Defendants.

**DEFENDANT, CONGREGATION OF THE HOLY GHOST, WESTERN PROVINCE'S
MOTION TO COMPEL BETTER ANSWERS TO SECOND REQUEST FOR
ADMISSIONS TO PLAINTIFFS**

Defendant, Congregation of the Holy Ghost, Western Province (“the Congregation”), by and through its undersigned counsel, moves this court for an order under Fl. R. Civ. P. § 1.370(a) requiring the Plaintiffs to provide better answers to the Congregation’s Second Request for Admissions. As grounds for this motion, the Congregation states:

1. On May 16, 2014, the Congregation served its Second Request for Admissions upon Plaintiffs. (Exhibit “A”)
2. On June 23, 2014, the Plaintiffs served their Answers and Objections to the Second Request. (Exhibit “B”)

3. The gravamen of this discovery dispute is that the Plaintiffs objected to 12 of the 13 admissions, all of which were in the same form, but referred to a different time period. Each admission stated the following:

“The Congregation of the Holy Ghost was dissociated from the P&S Partnership in [insert year here]”

4. The Plaintiffs responded identically to admissions 1 through 12 as follows:

Plaintiffs object to Request for Admission Number [insert number here] because it calls for a legal conclusion.

5. Fla. R. Civ. P. § 1.370 states, in pertinent part:

A party may serve upon any other party a written request for the admission of the truth of any matters within the scope of rule 1.280(b) set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. [emphasis added]

6. In its request, the Congregation was asking the Plaintiffs to apply the law, Fla. Stat. § 620.8601 (2002), to the facts, the Congregation’s letter dated June 30, 2002, requesting a withdrawal of the Congregation’s remaining funds with the P&S Partnership.
7. The Plaintiffs, on the other hand, assert that requiring them to apply the law to the facts constitutes a request for a “legal conclusion.” This is not the case in this situation.
8. Prior to the 1972 Amendment to the Rules of Civil Procedure, parties were not permitted to propound admissions :

(1) where they seek admissions as to disputed facts lying at the heart of the case, and (2) where they seek admissions as to

conclusions of law. *Salazar v. Valle*, 360 So.2d 132, 134 (Fla. App. 3rd DCA, 1978)

9. However, post-Amendment, parties were then permitted to seek admissions as to disputed facts and conclusions of law. The *Salazar* court explained:

We interpret Rule 1.370, as amended, to permit the type of admission requested in the case now before us, as a “matter, not privileged, that is relevant to the subject matter of the pending action,” and as an “application of law to fact.” *Salazar* at p. 134.

The only objection that was raised by Plaintiffs was “legal conclusion.” No objection was raised as to privilege or relevancy.

10. The objected-to requests for admission clearly seek a permissible application of the law to the facts. (“We conclude that while the current rule now allows for requests directed to opinions, facts, and the application of law to facts, it continues to make no provision for requests seeking a purely legal conclusion.” (*Davis v. Dollar Rent a Car Systems Inc.*, 909 So.2d 297 (Fla. 5th DCA, 2004)) (*Also see, Pandol Bros., Inc. v. NCNB Nat'l Bank of Fla.*, 450 So.2d 592, 594 (Fla. 4th DCA 1984) holding that a request for admission requiring an application of law to fact was permissible.)
11. The Congregation has asked that the Plaintiffs apply the law to the facts as they know them, specifically the effect of the June 30, 2002 termination letter. The mere fact that the Plaintiffs are uncomfortable with the answer does not make the response a “legal conclusion.”

I certify that a good faith effort, via telephone call, was made to resolve the issue addressed in this Motion and a resolution was not reached.

I HEREBY CERTIFY that a true copy of the foregoing was served on July 1, 2014 via the e-filing portal to all counsel having entered an appearance recorded in the portal.

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P&S Associates, General Partnership, et al. v.
Janet A. Hooker Charitable Trust, et al.
Case No. 12-34121 (07)
Page 5

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JANET A. HOOKER CHARITABLE
TRUST, a charitable trust, et al.,

Defendants.

**DEFENDANT, CONGREGATION OF THE HOLY GHOST, WESTERN PROVINCE'S
SECOND REQUEST FOR ADMISSIONS TO PLAINTIFFS**

Defendant, Congregation of the Holy Ghost, Western Province (“Congregation of the Holy Ghost”), by and through its undersigned counsel, serves this Second Request for Admissions on Plaintiffs. The Congregation of the Holy Ghost requests that, pursuant to Florida Rule of Civil Procedure 1.370, Plaintiffs provide responses within thirty (30) days of service of these Requests on counsel for the Congregation of the Holy Ghost.

Definitions

1. “Plaintiffs” shall mean the P&S Associates, General Partnership and the S&P Associates, General Partnership.
2. “Conservator” shall mean Philip J. von Kahle, as Conservator for the Plaintiffs, P&S

Exhibit "A"

Associates, General Partnership and S&P Associates, General Partnership.

3. “Congregation of the Holy Ghost” shall mean Defendant, Congregation of the Holy Ghost, Western Province.
4. “Partnerships” shall mean collectively the Plaintiffs, P&S Associates, General Partnership and S&P Associates, General Partnership.
5. “P&S partnership” shall mean the P&S Associates, General Partnership, and includes any and all agents, partners, former or current managing general partners, officers, directors, representatives, attorneys, and all others acting for or on its behalf.
6. “Relevant time period” shall mean January 1, 1992 through the present.

Requests for Admissions

Admit or Deny that:

1. The Congregation of the Holy Ghost is dissociated from the P&S partnership.
2. The Congregation of the Holy Ghost was dissociated from the P&S partnership in 2003.
3. The Congregation of the Holy Ghost was dissociated from the P&S partnership in 2004.
4. The Congregation of the Holy Ghost was dissociated from the P&S partnership in 2005.
5. The Congregation of the Holy Ghost was dissociated from the P&S partnership in 2006.
6. The Congregation of the Holy Ghost was dissociated from the P&S partnership in 2007.
7. The Congregation of the Holy Ghost was dissociated from the P&S partnership in 2008.
8. The Congregation of the Holy Ghost was dissociated from the P&S partnership in 2009.
9. The Congregation of the Holy Ghost was dissociated from the P&S partnership in 2010.
10. The Congregation of the Holy Ghost was dissociated from the P&S partnership in 2011.

11. The Congregation of the Holy Ghost was dissociated from the P&S partnership in 2012.
12. The Congregation of the Holy Ghost was dissociated from the P&S partnership in 2013.
13. The Congregation of the Holy Ghost did not participate in the affairs of the P&S partnership after December 31, 2004.
14. The Congregation of the Holy Ghost was never a partner in the co-plaintiff, S&P ASSOCIATES, GENERAL PARTNERSHIP, a Florida limited partnership.

I HEREBY CERTIFY that a true copy of the foregoing was served on May 16, 2014 via the e-filing portal to all counsel having entered an appearance recorded in the portal.

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_____/

**PLAINTIFFS RESPONSE TO DEFENDANT, CONGREGATION OF THE HOLY
GHOST, WESTERN PROVINCE'S SECOND REQUEST FOR ADMISSIONS TO
PLAINTIFFS**

Plaintiffs, pursuant to Florida Rule of Civil Procedure 1.370, hereby file their responses and objections to Defendant Holy Ghost, Western Province's Second Request for Admissions and in Support thereof state:

RESPONSES AND OBJECTIONS TO REQUESTS FOR ADMISSIONS

1. The Congregation of the Holy Ghost is dissociated from the P&S partnership.

Response: Plaintiffs object to Request for Admission Number 1 because it calls for a legal conclusion.

2. The Congregation of the Holy Ghost was dissociated from the P&S partnership in 2003.

Response: Plaintiffs object to Request for Admission Number 2 because it calls for a legal conclusion.

3. The Congregation of the Holy Ghost was dissociated from the P&S partnership in 2004.

Response: Plaintiffs object to Request for Admission Number 3 because it calls for a legal conclusion.

4. The Congregation of the Holy Ghost was dissociated from the P&S partnership in 2005.

Response: Plaintiffs object to Request for Admission Number 4 because it calls for a legal conclusion.

5. The Congregation of the Holy Ghost was dissociated from the P&S partnership in 2006.

Response: Plaintiffs object to Request for Admission Number 5 because it calls for a legal conclusion.

6. The Congregation of the Holy Ghost was dissociated from the P&S partnership in 2007.

Response: Plaintiffs object to Request for Admission Number 6 because it calls for a legal conclusion.

7. The Congregation of the Holy Ghost was dissociated from the P&S partnership in 2008.

Response: Plaintiffs object to Request for Admission Number 7 because it calls for a legal conclusion.

8. The Congregation of the Holy Ghost was dissociated from the P&S partnership in 2009.

Response: Plaintiffs object to Request for Admission Number 8 because it calls for a legal conclusion.

9. The Congregation of the Holy Ghost was dissociated from the P&S partnership in 2010.

Response: Plaintiffs object to Request for Admission Number 9 because it calls for a legal conclusion.

10. The Congregation of the Holy Ghost was dissociated from the P&S partnership in 2011.

Response: Plaintiffs object to Request for Admission Number 10 because it calls for a legal conclusion.

11. The Congregation of the Holy Ghost was dissociated from the P&S partnership in 2012.

Response: Plaintiffs object to Request for Admission Number 11 because it calls for a legal conclusion.

12. The Congregation of the Holy Ghost was dissociated from the P&S partnership in 2013.

Response: Plaintiffs object to Request for Admission Number 12 because it calls for a legal conclusion.

13. The Congregation of the Holy Ghost did not participate in the affairs of the P&S partnership after December 31, 2004.

Response: Denied.

14. The Congregation of the Holy Ghost was never a partner in the co-plaintiff, S&P ASSOCIATES, GENERAL PARTNERSHIP, a Florida limited partnership.

Response: Admit

Respectfully submitted,

By: s/ Leonard K. Samuels _____

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served via Electronic Mail upon counsel identified below registered to receive electronic notifications this 23rd day of June, 2014 upon the following:

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