

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

MARGARET SMITH, et al.,

Case No. 12-034123 (07)

Plaintiffs,

vs.

MICHAEL D. SULLIVAN, et al.,

Defendants.

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**CONSERVATOR'S MOTION TO EXTEND TIME TO  
SERVE THE SUMMONS AND COMPLAINT  
ON DEFENDANT, FRANK AVELLINO**

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 on Defendant, Frank Avellino (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 (the "Lawsuits").

2. In lieu of a background statement, the Conservator relies upon the Court's familiarity with the Lawsuits' extensive background.

3. Despite the Conservator's thorough efforts, one defendant in the above-caption case, Frank Avellino, has not been served with the Summons and Complaint.

4. Avellino is a resident of Florida. However, through the Conservator's investigation, it is known that Avellino is temporarily living outside of the state.

5. The Conservator has repeatedly attempted to effectuate service on Avellino outside of the state, but, to date, without success.

6. Recently, this Court extended the deadline to serve another defendant, Michael Bienes, to October 26, 2013.<sup>1</sup>

7. Similarly, this Court ought to extend time to serve Avellino.

8. Since the Conservator has been actively pursuing service, good cause exists to extend the time within which to timely serve process.

9. 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 Frank Avellino in the above-captioned case for approximately 60 days through and including October 26, 2013, pursuant to Fla. R. Civ. P. 1070(j), and granting such other relief as the Court deems just and proper.

Dated: August 26, 2013

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<sup>1</sup> All other defendants in the above-captioned case have been served.