

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

Case No. 12-034123 (07)
Complex Litigation Unit

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

Plaintiffs,

vs.

STEVEN JACOB, et al.,

Defendants.
_____/

**MOTION TO COMPEL DIANNE BIENES
TO APPEAR FOR CONTINUED DEPOSITION AND ANSWER QUESTIONS**

Plaintiffs, by and through the undersigned counsel, hereby file this Motion to Compel Dianne Bienes to Appear for Continued Deposition and Answer Questions and in support thereof state:

1. On September 25, 2015, the wife of Defendant Michael Bienes, Dianne Bienes, appeared for deposition in response to a Subpoena *Duces Tecum* With Taking Deposition of Dianne Bienes on Oral Testimony (the "Subpoena"). A true and correct copy of the Subpoena is attached hereto as **Exhibit A**.

2. During the deposition, Ms. Bienes' counsel improperly instructed her not to answer questions seeking discoverable information. Specifically, Ms. Bienes' counsel terminated her deposition and instructed her not to answer any further questions about certain e-mails between her and a partner of the Partnerships because those e-mails contradicted her prior testimony regarding her involvement with the Partnerships and their investments. Those e-mails

were produced the day before Ms. Bienes' deposition, and Ms. Bienes' counsel allowed Plaintiffs to introduce certain of those e-mails as exhibits and allowed Plaintiffs to ask numerous questions about those e-mails during the deposition. It was only when Plaintiffs attempted to utilize certain e-mails that contradicted Ms. Bienes' earlier deposition testimony that her counsel objected to their use and improperly instructed Ms. Bienes not to answer Plaintiffs' questions related to them. Ms. Bienes should be ordered to answer Plaintiffs' questions.

3. Additionally, Ms. Bienes' counsel improperly instructed her not to answer questions about her financial affairs, even though such questions relate to the doctrine of equitable estoppel and the laches defense because Plaintiffs believe that Defendant Michael Bienes and Ms. Bienes tried to avoid being sued by claiming that they lost their fortune after it was revealed that Madoff operated a Ponzi scheme. Information regarding Defendant Bienes' and Ms. Bienes' past and current financial affairs is thus relevant and discoverable and it was improper to instruct Ms. Bienes not to answer Plaintiffs' questions. Ms. Bienes should be ordered to answer Plaintiffs' questions about Defendant Bienes' and Ms. Bienes' financial affairs.

4. Because Ms. Bienes improperly terminated her deposition and refused to answer permissible questions, she should be compelled to appear for her continued deposition and Plaintiffs should be awarded, pursuant to Fla. R. Civ. P. 1.380, attorney's fees and costs incurred in bringing this motion.

WHEREFORE the Plaintiffs request that this Court enter an order: (i) directing Dianne Bienes to appear for her continued deposition; (ii) directing Dianne Bienes to answer Plaintiffs' questions during her continued deposition, including but not limited to Plaintiffs' questions pertaining to Defendant Bienes' and Ms. Bienes' financial affairs and the documents that Plaintiffs produced on September 24, 2015; (iii) awarding Plaintiffs attorney's fees and costs incurred in connection with the bringing of this motion; and (iv) granting such other and further

relief as the Court may deem just and appropriate under the circumstances.

Certification of Good Faith and CLP 5.3

During the deposition of Dianne Bienes on September 25, 2015, counsel for Ms. Bienes and counsel for the Plaintiffs met and conferred in a good faith attempt to resolve the issues addressed in the instant Motion but Ms. Bienes' counsel did not agree to withdraw his objections and the parties agreed to have the Court resolve the issues. Accordingly, the filing of this Motion was necessary.

Dated: September 29, 2015

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CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on September 29, 2015, a copy of the foregoing was filed with the Clerk of the Court via the E-filing Portal, and served via Electronic Mail by the E-filing Portal upon:

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By: s/Leonard K. Samuels
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EXHIBIT A

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

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

Case No. 12-034123 (07)
Complex Litigation Unit

Plaintiffs,

vs.

MICHAEL D. SULLIVAN, et al.,

Defendants.

**SUBPOENA DUCES TECUM WITH TAKING
DEPOSITION OF DIANNE BIENES ON ORAL TESTIMONY**

STATE OF FLORIDA:

To All Singular Sheriffs of Said State:

**TO: Dianne Bienes
3200 Port Royale Dr. N. Apt. 100
Fort Lauderdale, FL 33308**

YOU ARE HEREBY COMMANDED to appear at the offices of **Berger Singerman, LLP, 350 E. Las Olas Blvd Suite 1000, Fort Lauderdale, FL 33301 (the “Berger Singerman Office”)**, on **August 18, 2015 at 11:00 a.m.** and to produce the documents listed on **Schedule “A”** attached hereto in compliance with the Court’s Order attached hereto as **Exhibit A**. All electronically stored information (“ESI”), as defined herein, shall be produced in accordance with the definitions and instructions.

These items will be inspected and may be copied at that time. You will not be required to surrender the original items. You may comply with this subpoena by providing legible copies of the items to be produced to the attorney whose name appears on this subpoena on or before the scheduled date of production. You may condition the preparation of the copies upon the payment in advance of the reasonable cost of preparation. You may mail or deliver the copies to the attorney whose name appears on this subpoena and thereby eliminate your appearance at the time and place specified above. You have the right to object to the production pursuant to this

subpoena at any time before production by giving written notice to the attorney whose name appears on this subpoena.

If you fail to appear or produce the documents listed on Schedule A, you may be in contempt of Court.

You are subpoenaed to appear by the following attorneys and unless excused from this subpoena by these attorneys or the Court, you shall respond to this Subpoena as directed.

Dated: June 8, 2015

STEVEN D. WEBER

For the Court

By: s/ Steven D. Weber
BERGER SINGERMAN LLP
Attorneys for Plaintiffs
1450 Brickell Avenue, Suite 1900
Miami, FL 33131
Telephone: (305) 982-4025
Facsimile: (305) 714-4340

IF YOU ARE A PERSON WITH A DISABILITY WHO NEEDS ANY ACCOMMODATION IN ORDER TO PARTICIPATE IN THIS PROCEEDING, YOU ARE ENTITLED, AT NO COST TO YOU, TO THE PROVISION OF CERTAIN ASSISTANCE. WITHIN TWO WORKING DAYS OF YOUR RECEIPT OF THIS NOTICE, CONTACT BETTY LETTS AT (954) 831-6364, 201 S.E. 6TH ST. ROOM 136, FT. LAUDERDALE, FL 33301. THE PHONE LINE WILL ACCOMMODATE VOICE OR TDD TRANSMISSIONS FOR THE HEARING IMPAIRED OR VOICE IMPAIRED.

DAPRE AKO KI FET AVEK AMERICANS WITH DISABILITIES ACT, TOUT MOUN KI GINYIN YUN BEZWEN ESPESIAL POU AKOMODASIYON POU YO PATISIPE NAN PWOGRAM SA-A DWE, NAN YUN TAN REZONAB AVAN NINPOT ARANJMAN KAPAB FET, YO OWE KONTAKTE ADMINISTRATIVE OFFICE OF THE COURT, 201 S.E. 6TH ST., ROOM 136, FORT LAUDERDALE, FLORIDA 33301 OR TELEPHONE VOICE/TDD (954) 831-6364

DE ACUERDO CON EL ACTO O DECRETO DE LOS AMERICANOS CON IMPEDIMENTOS, INHABILTADOS, PERSONAS EN NECESIDAD DEL SERVICIO ESPECIAL PARA PARTICIPAR EN ESTE PROCEDIMIENTO DEBERAN, DENTRO DE UN TIEMPO RAZONABLE, ANTES DE CUALQUIER PROCEDIMIENTO, PONERSE EN CONTACTO CON LA OFICINA ADMINISTRATIVA DE LA CORTE, 201 S.E. 6TH ST., ROOM 136, FORT LAUDERDALE, FLORIDA 33301 OR TELEPHONE VOICE/TDD (954) 831-6364

EN ACCORDANCE AVEC LA LOI DES "AMERICANS WITH DISABILITIES", LES PERSONNES EN BESOIN D'UNE ACCOMMODATION SPECIALE POUR PARTICIPER A CES PROCEDURES DOIVENT, DANS UN TEMPS RAISONABLE, AVANT D'ENTREPRENDRE AUCUNE AUTRE DEMARCHE, CONTACTER L'OFFICE ADMINISTRATIVE DE LA COURT, 201 S.E. 6TH ST., ROOM 136, FORT LAUDERDALE, FLORIDA 33301 OR TELEPHONE VOICE/TDD (954) 831-6364.

SCHEDULE "A"
DEFINITIONS AND INSTRUCTIONS

The following definitions shall apply to this Request:

A. "You", "Your" or "Dianne Bienes" as used herein means Dianne Bienes and includes any and all agents, employees, servants, officers, directors, attorneys and any other person or entity acting or purporting to act on his behalf, or any other entity or person under the direct control of Dianne Bienes.

B. "P&S" as used herein means Plaintiff P&S Associates, General Partnership, and includes any and all agents, employees, servants, officers, directors, attorneys and any other person or entity acting or purporting to act on its behalf.

C. "S&P" as used herein means Plaintiff S&P Associates, General Partnership, and includes any and all agents, employees, servants, officers, directors, attorneys and any other person or entity acting or purporting to act on its behalf.

D. "Avellino" as used herein means Frank Avellino, a named Defendant in this action.

E. "Bienes" as used herein means Michael Bienes, a named Defendant in this action.

F. "Person" as used herein means any natural person or any entity, including without limitation any individual, present and former director, officer, employee, contractor, firm, corporation, company, joint venture, trust, tenancy, association, partnership, business, agency, department, bureau, board, commission, or any other form of public, private or legal entity. Any reference herein to any public or private company, partnership, association, or other entity include such entity's subsidiaries and affiliates, as well as the present and former directors, officers, employees, attorneys, agents and anyone acting on behalf of, at the direction of, or under the control of the entity, its subsidiaries or its affiliates.

G. "Documents" shall mean the original or copies of any tangible written, typed, printed or other form of recorded or graphic matter of every kind or description, however produced or reproduced, whether mechanically or electronically recorded, draft, final original, reproduction, signed or unsigned, regardless of whether approved, signed, sent, received, redrafted, or executed, and whether handwritten, typed, printed, photostated, duplicated, carbon or otherwise copied or produced in any other manner whatsoever. Without limiting the generality of the foregoing, "Documents" shall include correspondence, letters, telegrams, telexes, mailgrams, memoranda, including inter-office and intra-office memoranda, memoranda for files, memoranda of telephone or other conversations, including meetings, invoices, reports, receipts and statements of account, ledgers, notes or notations, notes or memorandum attached to or to be read with any Document, booklets, books, drawings, graphs, charts, photographs, phone records, electronic tapes, discs or other recordings, computer programs, printouts, data cards, studies, analysis and other data compilations from which information can be obtained. Copies of Documents, which are not identical duplications of the originals or which contain additions to or deletions from the originals or copies of the originals if the originals are not available, shall be considered to be separate documents.

H. Documents, as defined herein, includes electronically stored information, which shall be produced in its native format including its metadata, in the manner set forth on **Schedule “B”**.

I. “Communications” shall mean any oral or written statement, dialogue, colloquy, discussion or conversation and, also, means any transfer of thoughts or ideas between persons by means of documents and includes any transfer of data from one location to another by electronic or similar means.

J. “Concerning” shall mean, directly or indirectly, relate to, refer to, reflect, mention, describe, pertain to, arise out of or in connection with or in any way legally, logically, or factually be connected with the matter discussed.

K. “Identify” as used herein shall mean:

when used in reference to an individual, to state his full name, his present or last known address, his telephone number, the full name and present or last known address of his employer or business, and his position with such employer or business.

1. when used in reference to a corporation, partnership, unincorporated association, or other entity, to state its full name and its present or last known address, and fully describe the business or activity in which the entity is engaged.
2. when used in reference to a document, to state the date, author, type of document, the person or persons to whom it or copies of it were sent, and its present or last known location and custodian. If any document was, but is no longer, in your possession or custody or subject to your control, state what disposition was made of it, the date of such disposition, and the reason for such disposition.
3. in the case of an agreement, its date, the place where it occurred, the identity of all persons who were parties to the agreement, the identity of each person who has knowledge of the agreement and all other persons present when it was made, and the subject matter of the agreement.
4. when used in reference to a statement, a representation, a directive or other information, state the time and date it was made, the location where it was made, the location where it was received (if other than the location where it was made), and the nature and specific content of it, and identify each person to whom it was made, each person present when it was made or received, and each person having care custody or control or it in any form.

L. As used herein, the conjunctions “and” and “or” shall be interpreted in each instance as meaning “and/or” so as to encompass the broader of the two possible constructions,

and shall not be interpreted disjunctively so as to exclude any information or documents otherwise within the scope of any Request.

M. When appropriate, the singular form of a word should be interpreted in the plural as may be necessary to bring within the scope hereof any documents which might otherwise be construed to be outside the scope hereof.

N. Any pronouns used herein shall include and be read and applied as to encompass the alternative forms of the pronoun, whether masculine, feminine, neuter, singular or plural, and shall not be interpreted so as to exclude any information or documents otherwise within the scope of the Request.

O. If you assert that any document called for by a Request is protected against disclosure on the grounds of the attorney work product doctrine or by the attorney-client privilege, or any other assertion of privilege, you must provide the following information with respect to such document:

1. the name and capacity of the person or persons who prepared the documents;
2. the name and capacity of all addresses or recipients of the original or copies thereof;
3. the date, if any, borne by the document;
4. a brief description of its subject matter and physical size;
5. the source of the factual information from which such document was prepared;
and
6. the nature of the privilege claimed.

P. You must produce all Documents within Your possession, care, custody or control that are responsive to any of these Requests. A Document is deemed within Your care, custody or control if You have the right or ability to secure the document or a copy thereof from any other person having physical possession thereof.

Q. All Documents produced pursuant hereto are to be produced as they are kept in the usual course of business and shall be organized and labeled (without permanently marking the item produced) so as to correspond with the categories of each numbered request hereof.

R. Production of Electronically Stored Information (“ESI”) or any electronically stored data shall be in native format unless otherwise agreed. In producing Documents consisting of electronically stored data in machine-readable form in response to any Request, provide such data in a form that does not require specialized or proprietary hardware or software.

S. It is requested that all ESI be produced as native files and single-page TIFF images with corresponding load files. Each image and native file shall be produced along with its corresponding metadata and extracted text.

T. Each hard copy Document is to be produced, with all non-identical copies and drafts thereof, in its entirety, without alteration, abbreviation or reduction and shall be produced either in the manner they are kept in the usual course of business or organized to correspond with the Request to which they are responsive. If any Document is produced in redacted form, state with particularity the reason(s) it was not produced in full and describe generally those portions of the Document that are not being produced

U. All Documents that respond, in whole or in part, to any part or clause of any paragraph of these Requests shall be produced in their entirety, including all attachments and enclosures. Only one copy need be produced of Documents that are responsive to more than one paragraph or are identical except for the person to whom it is addressed if You indicate the Persons or group of Persons to whom such Documents were distributed. Documents that in their original condition were stapled, clipped, or otherwise fastened together shall be produced in such form. Please place the Documents called for by each paragraph in a separate file folder or other enclosure marked with Respondents' name and the paragraph to which such Documents respond, and if any Document is responsive to more than one Request, indicate each Request to which it responds.

V. If you at any time had possession, custody or control of a Document called for under these Requests and if such Document has been lost, destroyed, purged, or is not presently in your possession, custody or control, you shall describe the Document, the date of its loss, destruction, purge, or separation from possession, custody or control and the circumstances surrounding its loss, destruction, purge, or separation from possession, custody or control.

W. Unless otherwise specified herein, the time frame for each Request is from and including January 1, 1993 to the present.

DOCUMENTS REQUESTED

1. All documents concerning any transfers and/or payments of funds from Sullivan & Powell / Solutions In Tax to You.
2. All documents concerning any transfers and/or payments of funds from Michael D. Sullivan & Assoc. to You.
3. All documents concerning any transfers and/or payments of funds from Michael D. Sullivan to You.
4. All documents concerning any transfers and/or payments of funds from Michael D. Sullivan & Assoc. to 56 Arlington House, LLC.
5. All documents concerning any transfers and/or payments of funds from Sullivan & Powell / Solutions In Tax to 56 Arlington House, LLC.
6. All documents concerning any transfers and/or payments of funds from Michael D. Sullivan to 56 Arlington House, LLC.
7. All documents concerning any transfers and/or payments of funds from 56 Arlington House, LLC to Bienes.
8. All documents sent from Sullivan & Powell / Solutions In Tax, Michael D. Sullivan, and/or Michael D. Sullivan & Assoc to You.
9. All documents sent from Sullivan & Powell / Solutions In Tax, Michael D. Sullivan, and/or Michael D. Sullivan & Assoc to 56 Arlington House, LLC.
10. To the extent not already produced in response to a request, all documents concerning 56 Arlington House, LLC.

11. All documents concerning any transfers and/or payments of funds from Michael D. Sullivan & Assoc. to F.P.O.M., Inc.
12. All documents concerning any transfers and/or payments of funds from Sullivan & Powell / Solutions In Tax to F.P.O.M., Inc.
13. All documents concerning any transfers and/or payments of funds from Michael D. Sullivan to F.P.O.M., Inc.
14. All documents concerning any transfers and/or payments of funds from Michael F.P.O.M., Inc. to Bienes.
15. All documents sent from Sullivan & Powell / Solutions In Tax, Michael D. Sullivan, and/or Michael D. Sullivan & Assoc to F.P.O.M., Inc.
16. All documents concerning any transfers and/or payments of funds from Michael D. Sullivan & Assoc. to American Friends of the Covent Garden, Inc.
17. All documents concerning any transfers and/or payments of funds from Sullivan & Powell / Solutions In Tax to American Friends of the Covent Garden, Inc.
18. All documents concerning any transfers and/or payments of funds from Michael D. Sullivan to American Friends of the Covent Garden, Inc.
19. All documents concerning any transfers and/or payments of funds from Covent Garden, Inc. to Bienes.
20. All documents sent from Sullivan & Powell / Solutions In Tax, Michael D. Sullivan, and/or Michael D. Sullivan & Assoc to American Friends of the Covent Garden, Inc.
21. All documents concerning any transfers and/or payments of funds from Michael D. Sullivan & Assoc., Michael D. Sullivan, and/or Sullivan & Powell / Solutions In Tax to Bienes.

SCHEDULE “B”

Production of Electronically Stored Information (ESI) FORM OF PRODUCTION

Plaintiffs, P & S Associates, General Partnership (“P&S”), S & P Associates, General Partnership (“S&P”), (collectively referred to as, the “Partnerships”), and Philip Von Kahle as Conservator on behalf of the Partnerships (the “Conservator”, and collectively with the Partnerships, the “Plaintiffs/Judgment Creditors”), requests that all ESI (electronically stored information) be produced as follows:

ESI will be produced (printed and loaded) in 300DPI resolution or greater, Group IV Monochrome Tagged Image File Format (.TIF) files in single-page format, with **ALL** native files provided and word searchable OCR/extracted text (Optical Character Recognized – i.e. searchable text) in UTF-8 format. Color photographs should be produced as color JPEG images. Email natives will be delivered in MSG or EML format. Load files will be provided in Opticon (.OPT) format and an IPRO LFP (.lfp) format. Metadata will be provided in a DAT file with standard Concordance delimiters. The text files containing the OCR/Extracted Text shall be produced in multi-page format with the name corresponding to its associated document. **All small and oversized images should be resized to fit on 8.5x11 canvas.**

The files should be delivered with the following folder structure:

IMAGES – contains the TIF and JPG files, up to 10,000 items.
DATA – contains the OPT and LFP files and the metadata text file (DAT)
NATIVES – contains all the original native files named as the BEGDOC
TEXT – contains the document-level OCR/Extracted text files named as the BEGDOC

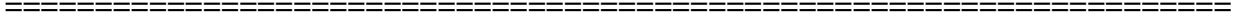
<u>Eclipse Metadata Field</u>	<u>Field Description</u>
BegDoc	BegDoc
EndDoc	EndDoc
BegAttach	BegAttach
EndAttach	EndAttach

Application	Application/Application Name
AttachmentIDs	Bates numbers of attachment(s)
Attachments	Names of attachment files
AttachRange	Attachment Range
Authors	Document author
BCC	BCC (Name + email)
CC	CC (Name + email)
Companies	Company name
Custodian	Custodian (Last, First)
DateCreated	Date created (MM/DD/YYYY)
DateReceived	Date email received (MM/DD/YYYY)
DateSaved	Date last saved (MM/DD/YYYY)
DateSent	Date email sent (MM/DD/YYYY)
Doctitle	Title
FileType	Document Type Description
FileExtension	File extension
Doclink	Link to native files produced
ExtractedText	Link to text files produced
Filename	Original filename
FileSize	File size in bytes
Folder	Relative Path (Inbox, Sent, etc.)
From	Sender (Name + email)
Hash_Code	MD5 hash
Header	Email header
InternetMSGID	IntMsgID
MessageID	MsgID
NumAttachments	Attachment count
NumPages	Page count
ParentID	Parent bates number
Password_Protect	Y/N field
Read	Y/N
SHA1	SHA1 hash
Sources	CD, DVD, hard drive; brief desc. of data
StoreID	Name of PST/NSF file (if relevant)
Subject	Email/Document subject
TimeReceived	Time email received (12-hour HH:MM)
TimeSent	Time email sent (12-hour HH:MM)
To	To (Name + email)

For .xls (Excel), .ppt (PowerPoint), and .doc (Word) files the following additional metadata fields should be included:

Excel_Comments	Comments
Excel_HiddenColumns	Hidden Columns
Excel_HiddenRows	Hidden Rows
Excel_HiddenWorksheets	Hidden Worksheets
Num_Lines	Number of lines
Num_Paragraphs	Number of paragraphs
Num_slides	Number of slides
Num_Notes	Number of notes
Num_HiddenSlides	Number of hidden slides
Num_Multimedia	Number of multimedia clips
Security	Security

EXHIBIT "A"



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

CASE NO. 12-034123 (7)

S&P ASSOCIATES, GENERAL PARTNERSHIP,
ET AL.

Plaintiffs,

v.

MICHAEL D. SULLIVAN, an individual, ET AL.,

Defendants.

**ORDER GRANTING IN PART AND DENYING IN PART
PLAINTIFFS' MOTION TO COMPEL: (1) DEFENDANT MICHAEL BIENES
TO PRODUCE DOCUMENTS AND (2) ISSUANCE OF
SUBPOENA DUCES TECUM WITH DEPOSITION OF DIANNE BIENES**

THIS MATTER came before the Court on Plaintiffs' Motion to Compel (i) Defendant Michael Bienes to Produce Documents and (ii) Issuance of Subpoena *Duces Tecum* with Deposition upon Dianne Bienes (the "Motion"). The Court, having reviewed the Motion, having heard argument from counsel for the parties, and being otherwise duly advised in the premises, it is, hereby:

ORDERED and **ADJUDGED** as follows:

1. The Motion is GRANTED in part and DENIED in part, as follows.
2. Defendant Michael Bienes' (the "Defendant") specific objections to Plaintiffs' Fourth Request for Production of Documents to Defendant Michael Bienes (the "Requests") are overruled (except with respect to request No. 27 of the Requests, which was withdrawn by Plaintiffs) and Defendant shall produce all documents and electronically stored information

responsive to the Requests no later than May 20, 2015, however, Defendant shall only be required to produce electronically stored information responsive to the Requests in a format that is accessible to and viewable by Plaintiffs.

3. To the extent that Defendant asserts that a privilege prevents production of any documents responsive to the Requests, Defendant shall produce a privilege log to Plaintiffs no later than May 20, 2015.

4. Defendant shall immediately amend his response to the Requests to state that he is not withholding any documents on the basis of any general objections to the Requests.

5. Defendant Micheal Bienes' Objection to Plaintiff's Notice of Intent to Serve Subpoena *Duces Tecum* with Deposition to Dianne Bienes is overruled and the Subpoena *Duces Tecum* with Taking Deposition of Dianne Bienes on Oral Testimony (the "Subpoena") may be issued.

6. Dianne Bienes has the right to object to the Subpoena, and this Court will hold a hearing on any objections that she asserts.

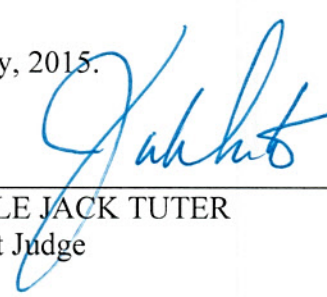
7. 45 days before her deposition pursuant to the Subpoena, Dianne Bienes shall:

- a. produce a privilege log that identifies all documents that are responsive to the Subpoena that she asserts are privileged (or are subject to her right of privacy) to Plaintiffs and Defendant.
- b. produce documents responsive to the Subpoena that Dianne Bienes does not assert are privileged (the "Responsive Documents") to Defendant.

8. Within 5 days of Defendant receiving the Responsive Documents, Defendant shall (i) produce a privilege log identifying all the Responsive Documents that Defendant claims

are privileged to Plaintiffs; and (ii) produce all the Responsive Documents that Defendant does not claim are privileged to Plaintiffs.

DONE AND ORDERED in Chambers this 8 day of May, 2015.



HONORABLE JACK TUTER
Circuit Court Judge

Copies furnished to:

Thomas M. Messana, Esq. who is directed to serve same upon all interested parties.
Jonathan Etra, attorney for Dianne Bienes