

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

CASE NO.: 12-034121 (07)

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.

\_\_\_\_\_ /

**PLAINTIFFS' MOTION TO COMPEL DEFENDANT JAMES JUDD  
TO APPEAR FOR DEPOSITION AND FOR AWARD OF  
REASONABLE EXPENSES INCURRED BY PLAINTIFFS**

Plaintiffs, by and through their undersigned attorneys, hereby request that this Court enter an order (i) compelling Defendant James Judd to appear for deposition, and (ii) awarding Plaintiffs all reasonable expenses incurred by Plaintiffs due to Defendant James Judd's failure to appear for his properly noticed deposition on October 1, 2014. In support, Plaintiffs state as follows:

1. On September 16, 2014, Plaintiffs served Plaintiffs' Notice of Taking Deposition of Defendant, James Judd, a copy of which is attached hereto as **Exhibit A** (the "Notice").
2. Pursuant to the Notice, Defendant Judd was to appear for deposition at Plaintiffs' counsels' office on October 1, 2014 at 9:30 a.m. *See Exhibit A.* Plaintiffs further informed Defendant Judd of his October 1 deposition by e-mail and telephone, and Plaintiffs asked

Defendant Judd to propose alternative dates for his deposition should he be unavailable on October 1. Defendant Judd failed to propose alternative dates for his deposition.

3. Defendant Judd failed to appear for his deposition on October 1, 2014. *See* Certificate of Non-Appearance of Witness attached hereto as **Exhibit B**. As a result, Plaintiffs incurred expenses, including but not limited to costs and fees.

4. Under Fla. R. Civ. P. 1.380(d), the Court may take action when a party fails “to appear before the officer who is to take the deposition after being served with a proper notice” and the Court may “require the party failing to [appear for his deposition] to pay the reasonable expenses caused by the failure.”

5. In this case, Defendant Judd failed to appear for his properly noticed deposition and failed to provide any alternative dates for it. Accordingly, Defendant Judd should be compelled to appear for his deposition and pay the reasonable expenses incurred by Plaintiffs as a result of his failure to appear for deposition on October 1, 2014.

**WHEREFORE**, the Plaintiffs hereby respectfully request that this Court enter an order (i) compelling Defendant James Judd to appear for deposition; (ii) awarding Plaintiffs all reasonable expenses incurred by Plaintiffs due to Defendant James Judd’s failure to appear for his deposition on October 1, 2014; and (iii) granting such other relief as this Court deems just and proper under the circumstances.

Respectfully Submitted,

BERGER SINGERMANN, LLP

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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 1st day of October, 2014, upon the following:

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By: s/ Steven D. Weber  
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# EXHIBIT A

IN THE CIRCUIT COURT OF THE 17th  
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; S&P ASSOCIATES,  
GENERAL PARTNERSHIP, a Florida limited  
partnership; Philip von Kahle as Conservator of  
P&S ASSOCIATES, GENERAL PARTNERSHIP,  
a Florida limited partnership; and S&P  
ASSOCIATES, GENERAL PARTNERSHIP, a  
Florida limited partnership,

Plaintiffs,

vs.

JANET A. HOOKER CHARITABLE TRUST, *et al*,

Defendants. \_\_\_\_\_/

**PLAINTIFFS' NOTICE OF TAKING DEPOSITION OF DEFENDANT, JAMES JUDD**

**TO: ALL COUNSEL LISTED ON CERTIFICATE OF SERVICE**

**PLEASE TAKE NOTICE** that the undersigned attorneys will take the deposition of:

Deponent	Date	Time	Location
James Judd	October 1, 2014	9:30 a.m.	Berger Singerman LLP 350 East Las Olas Boulevard Suite 1000 Fort Lauderdale, FL 33301

Said deposition will be taken before a Notary Public or any officer authorized to administer oaths, and a person who is neither a relative nor employee of such attorney or



counsel, and who is not financially interested in this action. The deposition is being taken for the purpose of discovery, for use at trial, or for such other purposes as are permitted under the Rules of Court.

The deposition will continue from day to day until completed and will be recorded via stenographic means.

Respectfully submitted,

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cc: Friedman, Lombardi & Olson, Court Reporters



## **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 16th day of September, 2014, upon the following:

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# EXHIBIT B

IN THE CIRCUIT COURT OF THE  
17TH 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; S&P ASSOCIATES,  
GENERAL PARTNERSHIP, a Florida limited  
partnership; Philip Von Kahle as Conservator of  
P&S ASSOCIATES, GENERAL PARTNERSHIP,  
a Florida limited partnership; and S&P  
ASSOCIATES, GENERAL PARTNERSHIP, a  
Florida limited partnership,  
Plaintiffs,

vs.

JANET A. HOOKER CHARITABLE TRUST, ET AL.,  
a Florida corporation,

Defendants.

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CERTIFICATE OF NON-APPEARANCE OF WITNESS

STATE OF FLORIDA            )  
COUNTY OF BROWARD        )

I, Pearlyck Martin, a Court Reporter for  
the State of Florida at Large, do hereby certify  
that, pursuant to a Notice of Taking Deposition in  
the above named cause, the witness, JAMES JUDD, was  
going to appear at 350 East Las Olas Boulevard, Suite  
1000, Ft. Lauderdale, Florida on the 1st day of  
October, 2014 at 9:30 a.m.

I FURTHER CERTIFY that I was prepared to  
report in shorthand the deposition of said witness,  
and that at 9:50 a.m. was excused by the attorney for  
the Plaintiffs.

WITNESS my hand and official seal in the  
City of Ft. Lauderdale, County of Broward, State of  
Florida, this 1st day of October, 2014.

Pearlyck Martin

Pearlyck Martin



NOTARY PUBLIC-STATE OF FLORIDA

PEARLYCK MARTIN

COMMISSION# FF 079392

EXPIRES: JAN 30, 2018

Bonded Thru Notary Public Underwriters