

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

Case No. 12-034123 (07)

COMPLEX LITIGATION UNIT

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

Plaintiffs,

v.

STEVEN JACOB, et al.,

Defendants.

**PLAINTIFFS' REPLY IN RESPONSE TO DEFENDANTS FRANK
AVELLINO'S AMENDED SIXTH AFFIRMATIVE DEFENSE**

Plaintiffs, by and through the undersigned counsel, hereby file this Reply to Defendant Frank Avellino's ("Avellino") Amended Sixth Affirmative Defense and in support thereof state:

Reply to Amended Sixth Affirmative Defense (Fla. Stat. § 768.31)

Avellino's Amended Sixth Affirmative Defense is avoided because parties who are involved in a conspiracy are jointly and severally liable for the entire amount of damages caused by the conspiracy. *Hoch v. Rissman, Weisberg, Barrett*, 742 So. 2d 451, 460 (Fla. 5th DCA 1999) ("Conspiracy . . . is a vehicle for imputing the tortuous actions of one co-conspirator to another to establish joint and several liability"). The amount of damages attributable to Avellino may not, as a matter of law, be reduced as a result of the conduct of Avellino's co-conspirators. Moreover, Fla. Stat. § 768.31 provides a right of contribution among two or more persons who are jointly and severally liable, but does not decrease the recovery available to Plaintiffs from

those persons.

WHEREFORE, for all of the foregoing reasons, Plaintiffs avoid Defendant Frank Avellino's Amended Sixth Affirmative Defense and further demand strict proof thereof.

Dated: November 9, 2015

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 9th day of November, 2015, a true and correct copy of the foregoing document was served on the following parties:

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