

**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 DEFENDANT MICHAEL BIENES'  
AMENDED SIXTH AFFIRMATIVE DEFENSE**

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

**Reply to Amended Sixth Affirmative Defense**

Bienes' Amended Sixth Affirmative Defense is avoided because 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 joint tortfeasors. *See* Fla. Stat. § 768.31; *Licenberg v. Issen*, 318 So. 2d 386, 393-94 (Fla. 1975).

WHEREFORE, for all of the foregoing reasons, Plaintiffs avoid the Amended Sixth Affirmative Defense raised by Defendant Michael Bienes and further demand strict proof thereof.

Dated: December 7, 2015

BERGER SINGERMANN LLP

*Attorneys for Plaintiffs*

350 East Las Olas Blvd, Suite 1000  
Fort Lauderdale, FL 33301  
Telephone: (954) 525-9900  
Direct: (954) 712-5138  
Facsimile: (954) 523-2872

By:           s/ LEONARD K. SAMUELS          

Leonard K. Samuels  
Florida Bar No. 501610  
lsamuels@bergersingerman.com  
Steven D. Weber  
Florida Bar No. 47543  
sweber@bergersingerman.com  
Zachary P. Hyman  
Florida Bar No. 98581  
zhyman@bergersingerman.com

and

MESSANA, P.A.

Attorneys for Plaintiffs  
401 East Las Olas Boulevard, Suite 1400  
Ft. Lauderdale, FL 33301  
Telephone: (954) 712-7400  
Facsimile: (954) 712-7401

By:           /s/ Thomas M. Messana          

Thomas M. Messana, Esq.  
Florida Bar No. 991422  
tmessana@messana-law.com  
Brett D. Lieberman, Esq.  
Florida Bar No. 69583  
blieberman@messana-law.com  
Thomas G. Zeichman, Esq.  
Florida Bar No. 99239  
tzeichman@messana-law.com

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th day of December, 2015, a true and correct copy of the foregoing document was served on the following parties:

Peter G. Herman, Esq.  
Tripp Scott  
110 SE 6<sup>th</sup> Street  
15<sup>th</sup> Floor  
Fort Lauderdale, FL 33301  
Tel.: 954-525-7500  
Fax.: 954-761-8475  
[pgh@trippscott.com](mailto:pgh@trippscott.com)  
*Attorneys for Steven Jacob; Steven F. Jacob  
CPA & Associates, Inc.*

Gary A. Woodfield, Esq.  
Haile, Shaw & Pfaffenberger, P.A.  
660 U.S. Highway One, Third Floor  
North Palm Beach, FL 33408  
Tel.: 561-627-8100  
Fax.: 561-622-7603  
[gwoodfiled@haileshaw.com](mailto:gwoodfiled@haileshaw.com)  
[bpetroni@haileshaw.com](mailto:bpetroni@haileshaw.com)  
[eservices@haileshaw.com](mailto:eservices@haileshaw.com)  
*Attorneys for Frank Avellino*

Thomas M. Messana, Esq.  
Messana, P.A.  
401 East Las Olas Boulevard, Suite 1400  
Fort Lauderdale, FL 33301  
Tel.: 954-712-7400  
Fax: 954-712-7401  
[tmessana@messana-law.com](mailto:tmessana@messana-law.com)  
*Attorneys for Plaintiffs*

Mark F. Raymond, Esq.  
[mraymond@broadandcassel.com](mailto:mraymond@broadandcassel.com)  
Jonathan Etra, Esq.  
[jetra@broadandcassel.com](mailto:jetra@broadandcassel.com)  
Christopher Cavallo, Esq.  
[ccavallo@broadandcassel.com](mailto:ccavallo@broadandcassel.com)  
Broad and Cassel  
One Biscayne Boulevard, 21st Floor  
2 S. Biscayne Boulevard  
Miami, FL 33131  
Tel.: 305-373-9400  
Fax.: 305-373-9443  
*Attorneys for Michael Bienes*

By: s/Leonard K. Samuels  
Leonard K. Samuels