

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

CASE NO.: CACE 24-015112

DANIEL J. STERMER AS RECEIVER OF THE
HERON POND CONDOMINIUM ASSOCIATION,
INC.,

Plaintiff,

v.

HERON POND CONDOMINIUM ASSOCIATION,
INC., AND ALL UNIT OWNERS LISTED ON EXHIBIT
“D” AND OTHER INTERESTED PARTIES LISTED
ON EXHIBIT “E” TO THE COMPLAINT,

Defendants.

**PLAINTIFF’S MOTION FOR ORDER PERMITTING SERVICE OF PROCESS BY
PUBLICATION UPON REMAINING NON-SERVED DEFENDANTS**

Plaintiff, Daniel J. Stermer, not individually, but solely as Receiver of the Heron Pond Condominium Association, Inc. (“Plaintiff”), by and through undersigned counsel, pursuant to Rule 1.070 of the Florida Rules of Civil Procedure and Florida Statutes Section 49.011, et seq., moves this Court for an Order permitting service of process to be made upon the Defendants listed on **Exhibit A** (collectively, the “Non-Served Defendants”) and the Nelson Heirs (as defined below) by publication. In support of this Motion, Plaintiff states:

Background

1. On April 26, 2024, the Court entered an Order Granting Verified Petition for Appointment of Receiver (the “Order Appointing Receiver”), appointing Daniel J. Stermer as Receiver of the Plaintiff.
2. Upon his appointment, the Receiver and his team endeavored to review the

Plaintiff's current finances and the condition of the real property located in Pembroke Pines subject to the condominium structure (the "Property"). The Receiver cooperated with officials from the City of Pembroke Pines (the "City") and various professionals in his investigation to determine whether there was any potential to rehabilitate the Property. Ultimately, the City rendered the 19 buildings located on the Property uninhabitable due to various structural and other deficiencies and issued Unsafe Structure Notices requiring all residents to vacate the buildings and Property by no later than August 29, 2024.

3. On October 18, 2024, the Receiver filed this action ("Termination Complaint") seeking equitable relief to terminate a Condominium pursuant to Florida Statutes § 718.118 due to the substantial damage and destruction of the Property, which has been vacant, closed, and deteriorating since August 29, 2024. The Receiver has continued to keep all Unit Owners apprised of the Receiver's actions and status of the Property by filing monthly reports on the Receiver's website: Heronpondreceiver.com (the "Monthly Reports").

4. Since the relief sought in the Termination Complaint impacts the property rights of the defendants and the rules and statutes require service upon all impacted unit owners and lienholders, proper service of the Termination Complaint and Summons ("Service of Process") is necessary. Approximately 227 summonses were issued, for service upon owners of over 300 units and over 50 Other Interested Parties (including mortgage holders and lienors), the logistics and process for Service of Process has been time-consuming and difficult in many instances due to lack of valid addresses and easily accessible service information. The addresses on file for many of the Unit Owners is located at the Condo Property which has been vacant since August 29, 2024.

5. The Receiver and counsel have undertaken diligent efforts to obtain Service of

Process promptly and circulated Return of Service or Acceptance of Service and Waiver of Process forms to make acceptance as easy and straight forward as possible. These efforts have been largely successful and as of January 24, 2025, the Receiver has obtained service via Return of Service or Acceptance of Service and Waiver of Process forms from Unit Owners representing 294 Units. Further physical Service of Process has been obtained on many Unit Owners that have not returned the forms via process server. Copies of the Return of Service or Acceptance of Service and Waiver of Process forms were filed with the Clerk's office and are reflected on the Court's docket.

6. Accordingly, the Receiver/Plaintiff has served over 90% of Unit Owners and Other Interested Parties. However, the Termination Complaint cannot move forward until all Unit Owners and Other Interested Parties have been served. Thus, delay in obtaining service on the Non-Served Defendants will delay the process and be prejudicial to all Unit Owners and the Condo Termination Process as delay does not serve any interest in this matter. The Plaintiff, as Receiver of the Heron Pond Condominium Association is looking to expedite the termination of the Condominium, while preserving the Non-Served Due Process rights, to save costs and expenses that ultimately impact the net proceeds available to Unit Owners upon the sale of the Property.

7. Despite the diligent efforts to date, as of the filing of this Motion, the Non-Served Defendants have not yet been served with process in this case and have not responded to the Receiver's request to complete the Acceptance of Service and Waiver of Process forms.

8. The process server(s) hired by Plaintiff to serve process upon the Non-Served Defendants have attempted service multiple times with respect to each of the Non-Served Defendants, and Plaintiff's counsel has taken considerable measures to determine the proper and

updated information necessary to serve the Non-Served Defendants.

9. Despite diligent efforts and searches through online and public records, Plaintiff's counsel has been unable to locate better addresses for the Non-Served Defendants.

10. On February 14, 2025, the Receiver filed Motion for Leave to Amend Complaint by Interlineation ("Motion to Amend") to add additional Unit Owners to Exhibit "D" of the Complaint based upon the Receiver's investigation and review of the public records. Thomas Nelson, the owner of the Unit located at 321 SW 84 Avenue, Unit 108, Pembroke Pines, FL 33025 (the "Nelson Property"), passed away on or about December 31, 2022. Based upon a Report of Guardian Ad Litem, attached as an Exhibit to Motion to Amend, Mr. Nelson heirs are as follows:

- a. **Lorita Hicks:** She is identified as Thomas Nelson's stepdaughter. She is Catherine Nelson's daughter from a previous marriage and is currently residing at the Westlake Nursing and Rehab Center in Dania Beach, Florida.
 - b. **Owen Hicks:** He is identified as Thomas Nelson's stepson. He is Catherine Nelson's son from a previous marriage and is Lorita Hicks' brother. His location could not be determined.
 - c. **Daniel J. McKeever:** He was the son of Lorita Hicks and is deceased. His parents were listed as Lorita Hicks and Daniel McKeever, Sr. on his Certificate of Death.
 - d. **Jessica Strauss McKeever:** She is the surviving spouse of Daniel J. McKeever and appears as the informant on his Certificate of Death.
 - e. **Faolan McKeever, Devin McKeever, and Laurel Browne:** They are children of Daniel J. McKeever with Anouk Pederson.
- Collectively, the "Nelson Heirs")

11. The Receiver is using its best efforts to diligently search for the Nelson Heirs to obtain service of the Amended Complaint, however, based upon the Report of Guardian Ad Litem, believes such efforts may be futile. Up and through the date of the hearing on this Motion, the Receiver and his counsel will continue to search for the Nelson Heirs to effectuate proper service, however, in the event the Receiver is unsuccessful, the Receiver requests upon the filing

of an affidavit of diligent search for these individuals, the Receiver be authorized to serve the Nelson Heirs via publication.

12. Accordingly, in the interests of time and resources, Plaintiff requests that this Court allow for service by publication and enter an Order allowing notice by publication through the *Sun-Sentinel*, a newspaper of general circulation in Broward County, Florida where the Property and Court is located.

13. Time is of the essence in obtaining service of process over the Non-Served Defendants and the Nelson Heirs as the Condo Termination Case cannot proceed until all defendants have been served. The Receiver has been working diligently and efficiently to move the Condo Termination Case forward as quickly as possible to limit the continued expense of owning the Property and trying to provide sale proceeds and closure to the affected Unit Owners.

14. Section 49.011, Florida Statutes provides in pertinent part that:

Service of process by publication may be made in any court on any party identified in x. 49.021 in any action or proceeding:

(1) To enforce any legal or equitable lien or claim to any title or interest in real or personal proeprty within the jurisdiction of the court or any fund held or debt owing by any party on whom process can be served within this state.

15. The Non-Served Defendants may be served by publication pursuant to Section 49.021(1), Florida Statutes, which provides in pertinent part that “service of process by publication may be had upon any party, natural or corporate, known or unknown, including: Any known or unknown natural person, and, when described as such, the unknown spouse, heirs, devisees, grantees, creditors, or other parties claiming by, through, under, or against any known or unknown peson who is known to be dead or is not known to be either dead or alive.”

16. Undersigned counsel has filed a sworn statement in connection with this motion pursuant to Sections 49.031 and 49.041, Florida Statutes, a true and correct copy of which is attached as **Exhibit B**. Undersigned counsel will provide a supplemental sworn statement prior to any hearing on the Motion to advise the court of its diligent efforts to obtain service on the Nelson Heirs.

17. Moreover, pursuant to Section 49.10, Florida Statutes, all notices of action “must be published once during each week for 4 consecutive weeks...in some newspaper in the county where the court is located.” However, Section 49.10(c), Florida Statutes, reduces the publishing time of the Notice of Action to two (2) consecutive weeks (two publications being sufficient) in some newspaper published in the county where the court is located for foreclosure proceedings.

18. Here, the Termination Complaint is similar to a foreclosure proceeding because it is seeking *in rem* relief only, as such the Receiver requests that the Notice of Action be published for 2 consecutive weeks pursuant to Section 49.10(c).

19. The Receiver further requests that the Notice of Action require the Non-Served Defendants and the Nelson Heirs to file written defenses (if any) with the clerk of the Court and to serve a copy within 30 days after the first publication of the notice on the Receiver or his attorney, whose name and address shall appear in said Notice. The Receiver shall be entitled to move for a default if the Non-Served Defendants fail to file written defenses within the permitted time frame.

20. Based on the foregoing, this Court should enter an order permitting the service process on the Non-Served Defendants by publication pursuant to 49.19(c), and issue a notice of action to be published so that service on the Non-Served Defendants may be obtained.

WHEREFORE, Plaintiff, Daniel J. Stermer, Receiver, respectfully requests entry of an Order in the form attached as **Exhibit C**, (i) granting this Motion; (ii) permitting Plaintiff to serve the Non-Served Defendants and the Nelson Heirs by publication; and (iii) granting such other and further relief as the Court deems just and proper.

DATED: February 14, 2025

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on February 14, 2025, a true and correct copy of the foregoing was filed using the Florida E-filing Portal, which will in turn, send notice of electronic filing to all electronic service parties an on the Receiver's Website.

By: /s/ Brian G Rich

Brian G Rich

EXHIBIT A
List of Non-Served Defendants

- Rajkumar Babani
- Purnima Ramnani
- Suresh Ramnani
- Cecilia Picon
- Gabriel R. Coifman
- Elena R. Lirenberg
- Cheryl Jackson
- Brenton Burke
- Dava Elaine Lee
- Thomas Nelson Estate
- EOE Associated, Inc.
- Amir Cohen
- Space Coast Credit Union, as Successor in Interest by Merger to Eastern Financial Florida Credit Union
- Grove Capital Finance, LLC
- Green Corridor Property Assessment Clean Energy (PACE) District

EXHIBIT B

(Sworn Statement of Michael J. Niles)

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“D” AND OTHER INTERESTED PARTIES LISTED
ON EXHIBIT “E” TO THE COMPLAINT,

Defendants.

**SWORN STATEMENT IN SUPPORT OF PLAINTIFF’S MOTION FOR SERVICE OF
PROCESS BY PUBLICATION UPON NON-SERVED DEFENDANTS**

STATE OF FLORIDA)
) SS
COUNTY OF LEON)

BEFORE ME, the undersigned authority, personally appeared Michael J. Niles who after being duly sworn, deposes and says,

1. I, Michael J. Niles, am above the age of majority and otherwise competent to give this affidavit, and represent Plaintiff, Daniel J. Stermer, Receiver in this proceeding.
2. Plaintiff has made diligent efforts in searching and attempting to acquire the current residence addresses of the Non-Served Defendants.
3. Plaintiff’s counsel has attempted to communicate with each of the Non-Served Defendants via telephone and email, along with requesting other Unit Owner’s to make contact with the Non-Served Defendants requesting that they disclose their current location to the

Plaintiff and his counsel. Additionally, Plaintiff has made a diligent search through computerized legal research and people trackers to locate the Non-Served Defendants.

4. The addresses on file for many of the Non-Served Defendants are located at the Condominium Property which is vacant and no forwarding addresses were provided.

5. The Plaintiff and his Counsel have held “town hall” meetings notifying the Unit Owners, including the Non-Served Defendants of the Termination Complaint and have requested that they provide either signed Acceptance of Service forms or updated addresses to obtain service of the Termination Complaint.

6. As set forth in the Motion, Plaintiff has served over 90% of Unit Owners and Other Interested Parties and the delay in serving the Non-Served Defendants is prejudicial to all Unit Owners and the Condo Termination Process. The Plaintiff, as Receiver of the Heron Pond Condominium Association is looking to expedite the termination of the Condominium in order to save costs and expenses that ultimately impacts the proceeds available to Unit Owners.

7. The Plaintiff has further provided notice to all Unit Owners of the Termination Complaint via the Monthly Reports filed with the Court and posted on the Receiver’s website, www.HeronPondReceiver.com

FURTHER AFFIANT SAYETH NAUGHT.

/s/ Michael J. Niles
Michael J. Niles
Florida Bar No.: 107203

EXHIBIT C
(Proposed Order)

**IN THE CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT
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Defendants.

**ORDER GRANTING PLAINTIFF’S MOTION FOR ORDER PERMITTING
SERVICE OF PROCESS BY PUBLICATION UPON NON-SERVED DEFENDANTS**

THIS MATTER came before the Court on _____, 2025, at 8:45 a.m., in Broward County, Florida, upon the *Plaintiff’s Motion for Order Permitting Service of Process By Publication Upon Non-Served Defendants* (the “Motion”) filed by the Plaintiff, Daniel J. Stermer, Receiver (“Plaintiff”). The Motion requests authorization to serve the Non-Served Defendants and the Nelson Heirs¹ by publication with process in this case. The Court, having considered the Motion, finding good cause for the granting thereof, and being advised in the premises, does **ORDER** as follows:

1. The Motion is **GRANTED**.

¹ Capitalized terms used but not defined herein shall have the meanings ascribed in the Motion.

2. Plaintiff Daniel J. Stermer, Receiver shall be permitted to serve process upon the Non-Served Defendants and the Nelson Heirs by publication pursuant to Fla. Stat. § 49.011, *et seq.*

3. Service by publication upon a natural person is appropriate when personal service of process cannot be had (*See* Fla. Stat. § 49.021).

4. Plaintiff has complied with the condition precedent in Fla. Stat. § 49.031 and 49.041 by filing a sworn statement, contained within the Motion, setting forth that diligent search and inquiry have been made to discover the current residence addresses of the Non-Served Defendants.

5. The Clerk of Court is directed to issue a Notice of Action pursuant to Fla. Stat. § 49.08, which notice shall be published once per week for two (2) consecutive weeks pursuant to Fla. Stat. §49.10(c) in the *Sun-Sentinel*, a newspaper of general circulation in Broward County, Florida, pursuant to Fla. Stat. § 49.10.

6. The Notice of Action require the Non-Served Defendants and the Nelson Heirs to file written defenses (if any) with the clerk of the Court and to serve a copy within 30 days after the first publication of the notice on the Receiver or his attorney, whose name and address shall appear in said Notice. The Receiver shall be entitled to move for a default if the Non-Served Defendants fail to file written defenses within such time.

DONE AND ORDERED in Chambers at Broward County, Florida this ____ day of _____, 2025.

Honorable Jack Tuter

CIRCUIT COURT JUDGE

Copies to: Counsel of Record and Receiver