

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA – FORT MYERS DIVISION**

Case No. 2:09-cv-445-FtM-99CM  
(Ancillary to Case No. 2:09-cv-229-FtM-29CM)

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DANIEL S. NEWMAN, as Receiver for Founding Partners  
Capital Management Company; Founding Partners  
Stable-Value Fund, L.P.; Founding Partners Stable-Value  
Fund II, L.P.; Founding Partners Global Fund, Ltd.; and  
Founding Partners Hybrid-Value Fund, L.P.,

Plaintiff,

vs.

SUN CAPITAL, INC., a Florida corporation, SUN  
CAPITAL HEALTHCARE, INC., a Florida corporation,  
and HLP PROPERTIES OF PORT ARTHUR, LLC, a  
Texas limited liability company,

Defendants.

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**JOINT MOTION FOR ORDER OF DISMISSAL**

Receiver Daniel S. Newman, not individually, but solely in his capacity as the Court-appointed receiver (“Receiver”) for Founding Partners Capital Management Company; Founding Partners Stable-Value Fund, L.P. (“Stable-Value”); Founding Partners Stable-Value Fund II, L.P. (“Stable-Value II”); Founding Partners Global Fund, Ltd.; and Founding Partners Hybrid-Value Fund, L.P., together with the Defendants, Sun Capital Healthcare, Inc., Sun Capital, Inc., and HLP Properties of Port Arthur, LLC (collectively, the “Parties”), respectfully submit this Joint Motion for Order of Dismissal, and state:

1. The Parties have resolved their disputes and agreed to dismiss all claims and counterclaims between them in this action, pursuant to a Settlement Agreement that was

approved by this Court in an Amended Opinion and Order dated August 28, 2012 (Docs. 306-2, 308).

2. The Settlement Agreement contains numerous provisions governing the implementation and closing of certain settlement transactions, one of which calls for the entry of a final order by this Court ordering the dismissal with prejudice of all claims and counterclaims in this action upon the closing of the settlement transactions.

3. Pursuant to Rule 41(a)(1) of the Federal Rules of Civil Procedure and the terms of the Settlement Agreement, the Parties respectfully request entry of an order dismissing with prejudice all claims, counterclaims, and defenses asserted and/or proposed to be asserted, with each party to bear his or its own costs and attorneys' fees.

4. The Parties further respectfully request that, in accordance with the Settlement Agreement and this Court's prior orders, the dismissal order provide that this Court shall retain jurisdiction over all matters relating to the enforcement of the applicable Transaction Documents (as defined in the Settlement Agreement).

Dated: March 18, 2014

Respectfully submitted,

By: /s/ Jonathan Etra, Esq.

Jonathan Etra  
jetra@broadandcassel.com  
Florida Bar No. 0686905  
BROAD AND CASSEL  
2 South Biscayne Blvd., 21st Floor  
Miami, FL 33131  
Tel.: 305.373.9447  
Fax: 305.995.6403  
*Attorneys for the Receiver*

By: /s/ Jonathan Galler, Esq.

Sarah S. Gold, Esq. (*pro hac vice*)

Florida Bar No. 0032190  
sgold@proskauer.com  
Karen E. Clarke, Esq. (*pro hac vice*)  
kclarke@proskauer.com  
PROSKAUER ROSE LLP  
Eleven Times Square  
New York, NY 10036-8299  
Tel: (212) 969-3000  
Fax: (212) 969-2900

- and -

Jonathan Galler, Esq.  
Florida Bar No. 0037489  
jgaller@proskauer.com  
PROSKAUER ROSE LLP  
One Boca Place, Suite 421 Atrium  
2255 Glades Road  
Boca Raton, FL 33431  
Tel: (561) 241-7400  
Fax: (561) 241-7145  
*Attorneys for Defendants*

**CERTIFICATE OF SERVICE**

I hereby certify that on March 18, 2014, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing is being served this day on all counsel of record identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel who are not authorized to receive electronically Notices of Electronic Filing.

By: /s/ Jonathan Etra, Esq.  
Jonathan Etra

**SERVICE LIST**

Jonathan Galler, Esq.  
Proskauer Rose LLP  
2255 Glades Rd  
Suite 421 Atrium  
Boca Raton, FL 33431  
**Tel: 561.995.4733**  
**Fax: 561.241.7145**  
jgaller@proskauer.com  
*Counsel for Defendants*  
*Service via CM/ECF*

Sarah S. Gold, Esq.  
Karen E. Clarke, Esq.  
Proskauer Rose LLP  
Eleven Times Square  
New York, NY 10036-8299  
**Tel: 212.969.3000**  
**Fax: 212.969.2900**  
sgold@proskauer.com  
kclarke@proskauer.com  
*Counsel for Defendants*  
*Service via CM/ECF*