

**In the Superior Court of the Virgin Islands
Division of St. Croix**

In the Matter of the Notice of Filing to)
 Enforce a Foreign Judgment dated July 2,)
 2009, by:)
)
 Employees Retirement System of the)
 Government of the Virgin Islands, as)
 Assignee of Carolina First Bank, a South)
 Carolina banking institution, doing)
 business in the State of Florida as)
 Mercantile Bank,)
)
 Plaintiff,)
 vs.)
)
 Carambola Partners, LLC; The Estate of)
 John L. Puls; Larry G. Vaughn,)
)
 Defendants.)
)
)
)
)
)
)

Misc. No. SX-2010-247

Action for Enforcement of Foreign
Judgment

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Notice of Filing and Affidavit

Comes Now Assignee-Plaintiff Employees Retirement System of the Government of the Virgin Islands ("GERS"), by and through its undersigned attorney, who, having been duly sworn, hereby affirms and states as follows as the basis for this action for the enforcement in the Virgin Islands of the United States of a foreign judgment issued in the State of Florida:

I. Subject Matter Jurisdiction

1. This Court has jurisdiction over this matter pursuant to V.I. Code Ann. tit. 4, §76 (1990), which establishes the general jurisdiction of this Court; and this filing is made by GERS pursuant to V.I. Code Ann. tit. 5 §§551 et seq. (1992), relating to the enforcement of foreign judgments.

II. Parties

2. Assignee-Plaintiff GERS is an independent instrumentality of the Government of the Virgin Islands of the United States.

3. Assignor-Plaintiff Carolina First Bank is a South Carolina Banking institution which does business in the State of Florida as Mercantile Bank ("Mercantile").

4. Defendant Carambola Partners, LLC ("Carambola Partners"), is a Florida limited liability company.

5. The Estate of John L. Puls is the estate of one John L. Puls, who was a resident of the State of Florida, and who died on or about July 24, 2009.

6. Defendant Larry G. Vaughn is a competent adult resident of the State of Florida.

III. Substantive Allegations

7. Effective July 1, 2007, Mercantile, which was a state banking corporation existing under the laws of Florida merged with and into Carolina First Bank, a state banking corporation existing under the laws of South Carolina.

8. Effective July 20, 2007 Carolina First Bank, under Florida registration number G07206900022, registered "Mercantile Bank" as a fictitious name (trade name) for use by Carolina First Bank in Florida. For all relevant actions asserted herein on and after July 20, 2007, "Mercantile" refers to Carolina First Bank, acting under its fictitious name/trade name Mercantile Bank.

9. On July 2, 2009, the Honorable William P. Levens, Circuit Court Judge of the Thirteenth Judicial Circuit in and for Hillsborough County, Florida, Civil Division, entered

judgment in the case of *Mercantile Bank v. Carambola Partners LLC*, et al., Case No. 08-CA-28583 in favor of Carolina First Bank and against Carambola Partners, LLC, John L. Puls, and Larry G. Vaughn, in the amount of \$7,790,872.15, which includes principal, interest, late fees, and other costs as itemized therein, and an originally certified copy of that judgment, certified on May 11, 2010, on behalf of Pat Frank, Clerk of the Circuit Court, is attached hereto and submitted herewith (“the July 2009 Florida Judgment”).

10. By Assignment of Mortgage and Other Loan Documents and Judgments, dated the 8th day of December 2009, Carolina First Bank has assigned its interest in and status as judgment creditor in the July 2009 Florida judgment to the GERS, and therefore the GERS is taking this action to enforce said judgment in the Virgin Islands of the United States, and a copy of such assignment is attached hereto as an exhibit, such assignment having been recorded at the Office of Recorder of Deeds, Christiansted, St. Croix, U.S. Virgin Islands on December 14, 2009, at P.C. Book 1216, Page 267, as Document No. 2009005274.

11. The name and last known post office address of the judgment creditor is as follows: Employees Retirement System of the Government of the Virgin Islands, 3438 Kronprindsens Gade, St. Thomas, U.S. Virgin Islands 00802.

12. The name and current post office address of judgment debtor Carambola Partners, LLC, is: Carambola Partners, LLC, 4830 W. Kennedy Blvd, Suite 695, Tampa, Florida 33609.

13. The name and last known post office address of the Estate of John L. Puls is: Estate of John L. Puls, c/o Brandie L. Puls, Personal Representative, 5138 W. Longfellow Avenue,

Tampa, Florida 33629 and 3710 W. Azeele Street, Tampa, Florida 33609.

14. The name and last known post office address for judgment debtor Larry G. Vaughn is: Larry G. Vaughn, 18737 Crescent Road, Odessa, Florida 33556 and 804 Guisando de Avila, Tampa, Florida 33629.

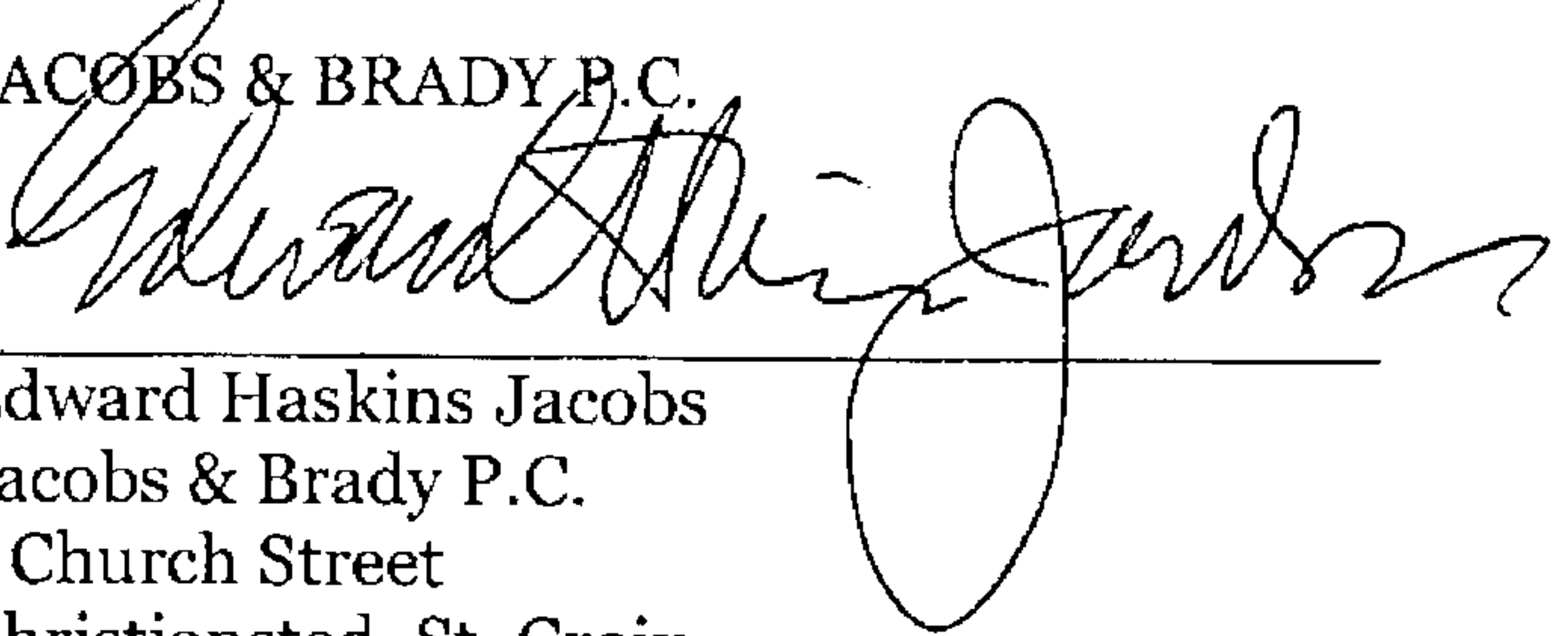
15. The name and current post office address of the judgment creditor's attorney is set forth at the end of this notice.

Respectfully Submitted,

JACOBS & BRADY P.C.

Dated: May 20, 2010

By:


Edward Haskins Jacobs
Jacobs & Brady P.C.
7 Church Street
Christiansted, St. Croix
U.S. Virgin Islands 00820
Tel: (340) 773-3322; Fax (340) 773-2566
edwardjacobs@yahoo.com

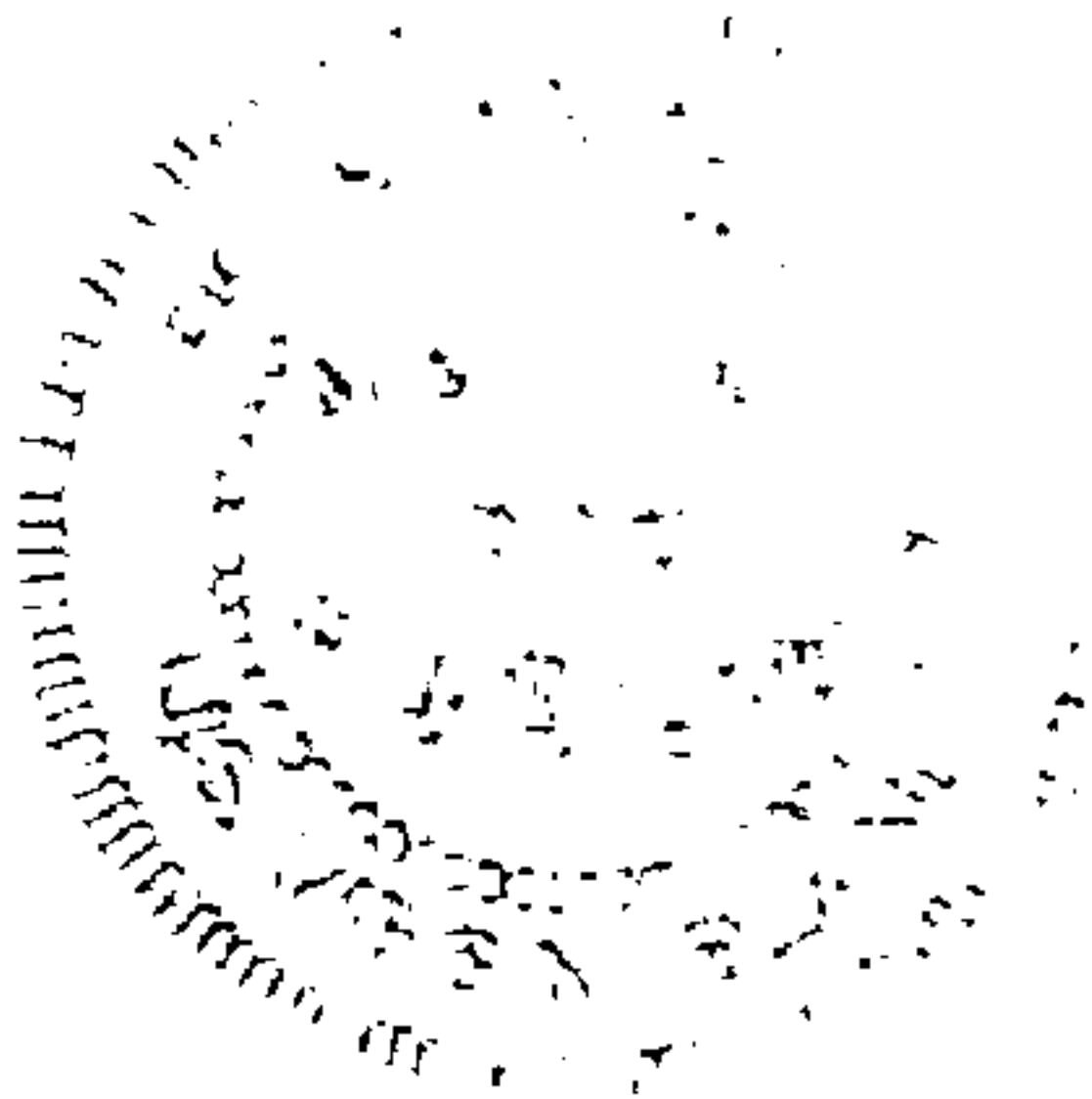
Subscribed and sworn to
Before me this 20 day of
May, 2010.


Notary Public

My Commission expires:

Douglas A. Brady
Notary Public LNP-029-08
Commission Expires Dec. 01, 2012
District of St. Croix, U.S.V.I.

FILED 5/27/2010
FEE PAID \$25.00
BY [Signature]



IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT
IN AND FOR HILLSBOROUGH COUNTY, FLORIDA
CIVIL DIVISION

MERCANTILE BANK,

CASE NO.: 08-CA-28583

Plaintiff,

DIVISION: K

v.

CARAMBOLA PARTNERS, LLC a Florida
corporation, JOHN L. PULS, LARRY G.
VAUGHN, R. MICHAEL O'MALLEY,
ANTHONY FERSUGON, JOHN W.
PARROTT, and THOMAS E. ROBINSON,

Defendants.

FILED
JUL 14 2009
CLERK OF THE CIRCUIT COURT
HILLSBOROUGH COUNTY, FLORIDA

FINAL SUMMARY JUDGMENT
(Carambola Partners, LLC, John L. Puls, and Larry G. Vaughn)

THIS CAUSE came before the Court for hearing on June 30, 2009, to consider entry of this final judgment (this "Judgment") in favor of Carolina First Bank, a South Carolina banking institution, as successor in interest to Mercantile Bank (the "Bank") and against Carambola Partners, LLC ("Carambola"), John L. Puls ("Puls"), Larry G. Vaughn ("Vaughn"), Michael O'Malley ("O'Malley"), Anthony Ferguson ("Ferguson"), John W. Parrott ("Parrott"), and Thomas E. Robinson ("Robinson"), all of whom are together referred to jointly and severally herein as the "Obligors," on the verified complaint initiating this cause (the "Complaint"), pursuant to "Mercantile Bank's Motion for Summary or Default Judgment on Verified Complaint" (the "Motion") filed by the Bank on or as of December 8, 2008.

This Court notes as a threshold matter that Parrott has not yet been served in this cause, and for that reason this Court does not have personal jurisdiction over him as required to grant relief on the Motion as against him. Accordingly, for purposes of this Judgment, Carambola, Puls, and Vaughn shall collectively be referred to hereinafter as the "Judgment Debtors."

RETURN TO CIRCUIT CIVIL

The Complaint is based upon a claim arising from the Obligors' alleged defaults on a loan due to the Bank (the "Obligation"), as evidenced by loan documents (the "Loan Documents") that are a matter of record herein, copies of which are attached as exhibits to the Complaint. The Court finds that originals of the Loan Documents are owned and held by the Bank, and have not been transferred, pledged, or encumbered.

The Court has heard the arguments of counsel, considered the matters of record in full, as well as the Court file, including the Motion. The Court notes that the relief requested in the Complaint is supported by affidavits, and that the Complaint is itself verified. No affidavit has been filed by any of the Obligors to sufficiently contravene the same. Accordingly, the Court has determined that the Bank is entitled to the entry of this Judgment, in its favor, and against the Judgment Debtors, as a matter of law. All of the relief granted in this Judgment is appropriate in light of the standards for granting summary judgment set forth in case law arising under Florida Rule of Civil Procedure 1.510(a). Accordingly, it is

ORDERED, ADJUDGED, AND DECREED as follows:

1. The Motion is hereby granted as to the Judgment Debtors.
2. The Court has jurisdiction of the subject matter of this cause and the parties to the extent necessary to enter this Judgment, based upon the remedies available to the Bank that can be adjudicated by this Court.
3. The allegations contained in the Complaint have been proven by competent evidence and are adopted herein by reference.
4. The Bank is entitled to entry of this Judgment on the Complaint, in its favor and against the Judgment Debtors.

5. The Judgment Debtors owe the Bank the following sums of money (the "Judgment Amount"), jointly and severally, pursuant to the Loan Documents, as more fully described in the Complaint and as alleged therein:

Principal:	\$ 7,492,058.54
Interest (through 11/28/08):	84,285.65
Post-Default Interest (11/29/08 – 06/30/09, 213 days @ per diem of \$832.45):	177,311.85
Late Fees (through 11/28/08):	11,811.11
O&E Report (Birch, DeJongh, & Hindels)	150.00
Legal Fees (Langford Law Group)	4,500.00
Legal Fees (GrayRobinson, P.A., as of 11/26/08):	5,480.00
Appraisal Fee	14,500.00
Costs (as of 11/26/08):	<u>775.00</u>
TOTAL:	\$ 7,790,872.15

6. The Court observes from the record that the Bank has not yet quantified attorney's fees and costs incurred with its present counsel of record, Anthony and Partners, LLC, and that various components of the Judgment Amount as calculated above are only through specific dates based upon the affidavits or other sworn pleadings that support them. The Court's finding and holding regarding the Judgment Amount is without prejudice to the rights of the Bank to seek attorney's fees, costs, and late fees incurred after the specific dates indicated in the preceding decretal, it being noted that the computations set forth above are based on the record, that may be supplemented by all of the parties to this cause post-judgment. Accordingly, the right of the Judgment Debtors to contest any future effort of the Bank to obtain a supplemental award of attorney's fees, costs, and late fees is also thus preserved.

7. In addition to interest computed through the hearing date, June 30, 2009, the Judgment Amount, exclusive of accrued interest (\$7,529,274.65), will bear interest at the statutory rate of eight percent (8%) per annum, beginning on July 1, 2009, or at such other statutory rate as may hereafter be fixed for judgments in the State of Florida under applicable law.

8. With respect to the entire Judgment Amount, as it is now and as it may hereafter be adjusted, let execution hereby issue as against the Judgment Debtors, jointly and severally. Notwithstanding the granting by this Court of in personam relief against the Judgment Debtors, the Court notes that the rights of the Bank pursuant to the Loan Documents and under applicable law do not preclude the Bank from obtaining other in rem and in personam relief.


9. Each of the Judgment Debtors is hereby ordered to complete, execute before a notary, and transmit to the Bank, within forty-five (45) days from the date of entry hereof, a "Fact Information Sheet" that is complete, accurate, and truthful, in a manner consistent with Florida Rule of Civil Procedure Form 1.977, individual or corporate, as applicable to each of the applicable Judgment Debtors.

10. This Court expressly reserves jurisdiction of this cause for the purposes of, including without limitation, enforcement of this Judgment, discovery in aid of execution, proceedings supplementary, supplement or amend the Judgment, enforcement of post-judgment writs and other process, and any other related issues arising with respect to the Complaint.

DONE AND ORDERED in Hillsborough County, Florida, on July 2nd 2009.

Wm. P. Levens
HONORABLE WILLIAM P. LEVENS
Circuit Court Judge

STATE OF FLORIDA)
COUNTY OF HILLSBOROUGH)
THIS IS TO CERTIFY THAT THE FOREGOING IS A TRUE
AND CORRECT COPY OF THE DOCUMENT ON FILE IN
MY OFFICE, WITNESS MY HAND AND OFFICIAL SEAL
THIS 11th DAY OF May 2010

4  BY FAT FRANK
CLERK OF CIRCUIT COURT
[Signature] D.C.

**In the Superior Court of the Virgin Islands
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10 JUN 18 P1 41

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2009, by:)

FILE

Civ. No. SX-2010-247

Employees Retirement System of the)
Government of the Virgin Islands, as)
Assignee of Carolina First Bank, a South)
Carolina banking institution, doing)
business in the State of Florida as)
Mercantile Bank,)

Action for Enforcement of Foreign
Judgment

Plaintiff,)

vs.)

Carambola Partners, LLC; The Estate of)
John L. Puls; Larry G. Vaughn,)

Defendants.)

**Notice of Filing Proof of Mailings of Certified Mail Together with Signed
Return Receipts**

Comes Now Plaintiff Employees Retirement System of the Government of the Virgin Islands ("GERS"), by and through its undersigned attorney, and submits to this Court proof of service upon all of the defendants in the above-referenced matter. In each case, the undersigned hereby declares under penalty of perjury pursuant to Superior Court Rule 18 and pursuant to 5 V.I.C. §699 that each defendant was mailed a true and correct copy of the filing in this matter, which included a copy of the authenticated (certified) Florida judgment, together with a cover letter, and these packets were mailed through the United States Postal Service with postage prepaid first class certified mail together with a return receipt. What follows hereafter is the proof of service to each of those defendants and the

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Division of St. Croix**

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Action for Enforcement of Foreign Judgment
Page 2*

proof of service consists of a proof of mailing of certified mail, together with the signed return receipt, showing the date of delivery and the individual receiving the item.

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