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July 2, 2015

VIA ECF

Margaret Carter
Clerk of Court
U.S. Court of Appeals for the First Circuit
John Joseph Moakley U.S. Courthouse
1 Courthouse Way, Suite 2500
Boston, MA 02210

Re: *BlueMountain Capital Management, LLC v. García-Padilla, et al.*,
Nos. 15-1221, 15-1272 (consolidated with Nos. 15-1218, 15-1271)

Dear Ms. Carter:

I write in response to the Commonwealth's June 30, 2015 letter ("Letter"), purportedly pursuant to Federal Rule of Appellate Procedure 28(j).

Rule 28(j) contemplates the submission of "pertinent and significant authorities." The white paper submitted by the Commonwealth is not an "authority," and is utterly irrelevant to the interpretive questions presented in this appeal.

On June 28, 2015, Governor García-Padilla abruptly announced to the New York Times that the Commonwealth's debts are "not payable." Michael Corkery & Mary Williams Walsh, *Puerto Rico's Governor Says Island's Debts Are 'Not Payable'*, N.Y. Times, June 28, 2015, <http://www.nytimes.com/2015/06/29/business/dealbook/puerto-ricos-governor-says-islands-debts-are-not-payable.html>. For proof, he pointed to a white paper he "commissioned" (*id.*)—the same white paper the Commonwealth now misleadingly suggests is an impartial, "newly released report." Letter 1. Indeed, the first line of the paper's "DISCLAIMER" states that it "was prepared at the request of legal counsel"—that is, the *Commonwealth's* "legal counsel." White Paper 2.

A white paper prepared at the request of a party's counsel is not an authority appropriately submitted under Rule 28(j). It is an unauthorized supplemental brief and should be stricken.

If the Court does consider the white paper, it will be obvious that it sheds no light on the preemption question at issue in this appeal. The paper argues that Puerto Rico needs to restructure its debts. That is hardly news to Appellees, who have been engaged in restructuring discussions throughout this appeal. *See* Aaron Kuriloff, *Puerto Rico Utility*

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Makes Payments to Bondholders, Wall St. J., July 1, 2015, <http://on.wsj.com/1T63xaK>. The paper observes in passing that, “if the US Congress were to remove the explicit exclusion of Puerto Rico from the provisions of Chapter 9 of the US bankruptcy code,” it “would help” a “more orderly discussion of debt.” White Paper ¶ 34. That assertion is dubious, given the substantial progress of negotiations. *See* Kuriloff, *supra*. But it does underscore that the decision whether to allow Puerto Rico municipalities to resort to bankruptcy is committed to Congress. The relative strength or weakness of Puerto Rico’s fiscal situation—while it may inform Congress’s response—does not affect the preemption analysis.

Respectfully submitted,

/s/ Matthew D. McGill

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