

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO**

Brigade Leveraged Capital Structures Fund Ltd.,
Brigade Distressed Value Master Fund Ltd.,
Tasman Fund LP, Claren Road Credit Master
Fund, Ltd., Claren Road Credit Opportunities
Master Fund, Ltd., Fir Tree Value Master Fund,
L.P., Fir Tree Capital Opportunity Master Fund,
L.P., Fir Tree Special Opportunities Fund IV, LP,
Fir Tree Special Opportunities Fund V, LP, Fore
Multi Strategy Master Fund, Ltd., Sola Ltd, Ultra
Master Ltd, Solus Opportunities Fund 5 LP,

Plaintiffs,¹

- against -

Alejandro J. García Padilla, in his official
capacity as Governor of Puerto Rico; Juan C.
Zaragoza Gómez, in his official capacity as
Secretary of the Puerto Rico Department of the
Treasury, and John Doe, in his/her official
capacity as receiver for the Government
Development Bank for Puerto Rico,

Defendants.²

CIVIL NO. 16-01610 (FAB)

**INFORMATIVE STATEMENT OF PLAINTIFFS REGARDING
THE COURT'S AUGUST 1, 2017 ORDER AND ENTRY OF JUDGMENT**

TO THE HONORABLE COURT:

COME NOW, Plaintiffs in the above-captioned case (*“Brigade”*), by and through their undersigned counsel, very respectfully state as follows:

1. On May 3, 2017, a petition under Title III of the federal Puerto Rico Oversight, Management, and Economic Stability Act (*“PROMESA”*) was filed on behalf of the

¹ Claren Road Credit Master Fund, Ltd., Claren Road Credit Opportunities Master Fund, Ltd. and Fore Multi Strategy Master Fund, Ltd. have transferred their interests in debt of the Government Development Bank for Puerto Rico and are no longer participating in the this proceeding.

² Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Messrs. Rosselló Nevares and Maldonado Gautier are *“automatically substituted”* for their predecessors in office, Messrs. García Padilla and Zaragoza Gómez.

Commonwealth of Puerto Rico in the United States District Court for the District of Puerto Rico.

2. On May 16, 2017, Defendants filed a notice submitting that the filing of the Title III petition automatically stayed the case pursuant to 48 U.S.C. § 2161(a), which incorporates 11 U.S.C. §§ 362 and 922. [Civil No. 16-cv-01610, Dkt. No. 158.] On May 17, 2017, this Court ordered that this case is stayed until further court order pursuant to 48 U.S.C. § 2161(a) and 11 U.S.C. §§ 362 and 922. [Civil No. 16-cv-01610, Dkt. No. 159.]

3. Pursuant to 11 U.S.C. § 108(c), the stay operates to extend any statutory or rule periods for “commencing or continuing a civil action in a court other than a bankruptcy court on a claim against the debtor” until “30 days after notice of the termination or expiration of the stay under section 362, 922, 1201, or 1301 of this title, as the case may be, with respect to such claim.”

4. On August 1, 2017, the Court, *sua sponte*, entered judgment and dismissed Plaintiffs’ Amended Complaint with prejudice, as well as the Complaint in *National Public Finance Guarantee Corp. v. García-Padilla* (“*National*”). [Civil No. 16-cv-2101, Dkt. No. 109-10; Civil No. 16-cv-01610, Dkt. No. 160-61.] The Court’s orders cited to the Court of Appeals’ decision in *Peaje Investments LLC v. García-Padilla*, 845 F.3d 505 (1st Cir. 2017) (the “*Peaje* Decision”).

5. On August 28, 2017, in *National*, plaintiff National Public Finance Guarantee Corporation (“*National*”) moved for reconsideration of the Court’s August 1, 2017 order and entry of judgment (the “*National* Reconsideration Motion”). *National* noted that it had not appealed this Court’s denial of its lift-stay motion, that the *Peaje* Decision only related to *National* insofar as the Court of Appeals dismissed as moot the Oversight Board’s appeal of this Court’s denial of its motion to intervene, and that the *Peaje* Decision did not address the merits

of National's claims. [Civil No. 16-cv-2101, Dkt. No. 111.] National further noted that its complaint should not be dismissed with prejudice because there has been no adjudication on the merits of its claims. [*Id.*]

6. Plaintiffs concur with the points raised in the National Reconsideration Motion, and believe that the August 1, 2017 decision and entry of judgment in *Brigade* should be vacated in its entirety or modified to dismiss the Amended Complaint without prejudice. Like National, Plaintiffs did not appeal this Court's November 15, 2016 order denying Plaintiffs' motion for relief from the PROMESA Section 405 stay, and the *Peaje* Decision did not address the merits of Plaintiffs' claims. Plaintiffs' challenge to unconstitutional provisions of the Puerto Rico Emergency Moratorium and Financial Rehabilitation Act, Law 21 of 2016 (as amended by Law 40 of 2016) has likewise not been adjudicated on the merits.

7. By operation of 11 U.S.C. § 108(c), the deadline to file a motion to alter or amend the Court's August 1, 2017 order and judgment under Federal Rule of Civil Procedure 59(e), or to file a notice of appeal under Federal Rule of Appellate Procedure 4, is extended to 30 days after Plaintiffs receive notice of the termination or expiration of the automatic stay. 11 U.S.C. § 108(c). Plaintiffs reserve all rights to file such motions and/or a notice of appeal following the termination or expiration of the automatic stay.

RESPECTFULLY SUBMITTED,

Dated: August 29, 2017
San Juan, Puerto Rico

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CERTIFICATE OF ELECTRONIC FILING AND SERVICE

I hereby certify that on August 29, 2017, I caused to be electronically filed the Notice of Appeal, which will send notification of such filing to all counsel of record.

Dated: August 29, 2017
San Juan, Puerto Rico

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