

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

BRIGADE LEVERAGED CAPITAL
STRUCTURES FUND, LTD. et al.,

Plaintiffs,

v.

ALEJANDRO GARCÍA PADILLA et al.,

Defendants.

CIVIL NO. 16-1610 (FAB)

**MOTION INFORMING INTENT TO OPPOSE PLAINTIFFS' MOTION AT DOCKET
NO. 71 AND TO HOLD CERTAIN DEADLINES IN ABEYANCE**

TO THE HONORABLE COURT:

COME NOW, co-defendants Hon. Alejandro García Padilla and Hon. Juan C. Zaragoza Gómez, in their respective official capacities (collectively “Defendants”), specially appearing and without submitting to the jurisdiction or venue of this Court, and hereby state and pray as follows:

1. Pursuant to the briefing schedule submitted by the parties on June 22, 2016 (Docket No. 69) and approved by the Court on the same date (Docket No. 70), Defendants have until July 7, 2016 to file a motion to dismiss the case of caption.

2. On June 30, 2016, the President of the United States signed into law the *Puerto Rico Oversight, Management, and Economic Stability Act* (“PROMESA”), S. Res. 2328, Pub. L. No. 114-___ (2016).¹

3. Section 405(b)(1) of PROMESA mandates the automatic stay of, among others, “the . . . continuation . . . of a judicial . . . proceeding against the Government of Puerto Rico² that

¹ See, <https://www.gpo.gov/fdsys/pkg/BILLS-114s2328enr/pdf/BILLS-114s2328enr.pdf>

² The term “Government of Puerto Rico,” as defined in PROMESA, includes officers such as Defendants, sued in their official capacity (Section 405(i)(1)), as well as government instrumentalities (Section 5(11)).

was . . . commenced before the enactment of this Act” with respect to a “Liability,” as said term is defined in the Act.³ This temporary stay shall last until at least February 15, 2017. PROMESA, Section 405(d)(1).

4. Defendants respectfully submit that the stay provisions of Section 405 of PROMESA are self-executing and expressly applicable to this and other litigation commenced by government bondholders or their insurers and pending before this Court.

5. Nevertheless, on July 1, 2016 plaintiffs filed a “Motion for a Determination that the PROMESA Stay Does Not Stay Plaintiffs’ Constitutional Claims or, in the Alternative, for Relief from the Stay.” Docket No. 71. The opposition to this motion is due on July 18, 2016. *Id.*

6. Defendants intend to oppose plaintiffs’ motion in due course on or before the stated deadline. In the meantime, not only pursuant to Section 405(b)(1) of PROMESA but also under this Court’s inherent power to manage its docket in the interest of expediency and judicial economy,⁴ Defendants respectfully request that the briefing schedule submitted at Docket No. 69 and any other deadlines be held in abeyance until the Court makes a determination regarding the applicability of PROMESA’s stay provisions to the case of caption and whether or not lifting said stay is warranted.

WHEREFORE, Defendants respectfully request that this Honorable Court take note of the above and hold in abeyance the briefing schedule submitted at Docket No. 69 and any other

³ PROMESA defines the term “Liability” as “a bond, loan, letter of credit, other borrowing title, obligation of insurance, or other financial indebtedness, including rights, entitlements, or obligations whether such rights, entitlements, or obligations arise from contract, statute, or any other source of law related to such a bond, loan, letter of credit, other borrowing title, obligation of insurance, or other financial indebtedness in physical or dematerialized form, of which—(A) the issuer, obligor, or guarantor is the Government of Puerto Rico; and (B) the date of issuance or incurrence precedes the date of enactment of this Act”. PROMESA, Section 405(a)(1). Plaintiffs allege they are bondholders of the Government Development Bank of Puerto Rico (“GDB”) pursuant to a Master Trust Indenture with Banco Popular de Puerto Rico, as Trustee. Docket No. 52 at ¶ 17. Plaintiffs’ claims involve their alleged rights as bondholders. *See, for example, id.* at ¶¶ 18-29.

⁴ *See Cruz-Aponte v. Caribbean Petroleum Corp.*, 30 F. Supp. 3d 111, 113-114 (D.P.R. 2014) (Besosa, J.).

deadlines until it issues a ruling on plaintiffs' motion at Docket No. 71, which Defendants will oppose on or before July 18, 2016.

RESPECTFULLY SUBMITTED.

I HEREBY CERTIFY that on this same date, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel of record.

In San Juan, Puerto Rico, this 7th day of July, 2016.

ANTONETTI MONTALVO & RAMIREZ COLL
P.O. Box 13128
San Juan, PR 00908
Tel: (787) 977-0303
Fax: (787) 977-0323

s/ Salvador Antonetti-Zequeira
SALVADOR ANTONETTI-ZEQUEIRA
USDC-PR No. 113910
santonet@amrclaw.com

s/ José L. Ramírez-Coll
JOSÉ L. RAMÍREZ-COLL
USDC-PR No. 221702
jramirez@amrclaw.com

and

KIRKLAND & ELLIS
655 Fifteenth Street, N.W.
Washington, D.C. 20005
Tel: (202) 879-5000
Fax: (202) 879-5200

s/ Michael F. Williams
MICHAEL F. WILLIAMS
Pro Hac Vice
mwilliams@kirkland.com

s/ Peter A. Farrell
PETER A. FARRELL
Pro Hac Vice
pfarrell@kirkland.com