

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

LEX CLAIMS, LLC, et al.,

Plaintiffs,

v.

ALEJANDRO GARCÍA PADILLA, et al.,

Defendants.

Case No. 3:16-cv-02374 (FAB)

**INTERVENOR-DEFENDANT AMBAC ASSURANCE CORPORATION'S  
RESPONSE TO COURT ORDER REGARDING MEDIATION**

**TO THE HONORABLE COURT:**

Intervenor-Defendant Ambac Assurance Corporation (“Ambac”), by and through its attorneys Ferraiuoli LLC and Milbank, Tweed, Hadley & McCloy LLP, hereby respectfully responds to this Court’s Order, dated March 21, 2017 (Docket No. 243), which required the parties to inform the Court of their position on mediation, including whether the Court may refer this case to court-annexed mediation in view of the stay of the district court proceedings entered by the appeals court (Docket No. 239).

The First Circuit’s stay order requires a complete halt of district court proceedings. (*See* Docket No. 239 (“The district court proceedings are stayed until further notice.”).) At the same time, the court-annexed mediation process under Local Rule 83J would require this Court to enter a variety of orders binding on the parties, such as the selection of the mediator and the issuance of a mediation order. D.P.R. L.R. 83J(d). Accordingly, Ambac does not believe that this Court has jurisdiction to order court-annexed mediation at this time, absent leave from the First Circuit. *See, e.g., In re Jones*, 546 BR 12, 22 (BAP 6th Cir. 2016) (express relief from stay required for purpose of pursuing mediation). Indeed, where courts have sought to carve out

mediation from a stay, they have done so explicitly. *See, e.g., Ocean Conservancy v. Nat'l Mar. Fisheries Serv.*, 416 F. Supp. 2d 972, 974–75 (D. Haw. 2006) (stay explicitly granted pending resolution of mediation).

Ambac has communicated its willingness to participate in a voluntary private mediation to the Governor of Puerto Rico, the Financial Oversight and Management Board for Puerto Rico, and the Puerto Rico Fiscal Agency and Financial Advisory Authority by letter, dated March 27, 2017. Ambac looks forward to participating in what it hopes will be a productive private mediation with all key creditors based on sound and transparent financials.

**RESPECTFULLY SUBMITTED.**

In San Juan, Puerto Rico, this 31st day of March, 2017.

FERRAIUOLI LLC

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