

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

LEX CLAIMS, LLC et al.,

Plaintiffs,

v.

RICARDO ROSSELLÓ NEVARES, et al.,

Defendants.

16-cv-2374 (FAB)

**DEFENDANTS' MOTION FOR AN ORDER
COMMENCING COURT-ANNEXED MEDIATION**

TO THE HONORABLE COURT:

COME NOW, co-defendants Commonwealth of Puerto Rico, the Hon. Ricardo Rosselló Nevares, the Hon. Raúl Maldonado, and the Hon. José Marrero Rosado, in their respective official capacities (collectively "Defendants"),¹ specially appearing and without submitting to the jurisdiction or venue of this Court, hereby respectfully ask the Court to enter an order initiating court-annexed mediation of the above-captioned matter. In support of this motion, Defendants state as follows:

1. With the Court having entered an order staying the litigation for 30-days (Dkt. No. 226), Defendants hereby move under Rule 83J(b)(2) of the Local Rules of the United States District Court for the District of Puerto Rico for the commencement of court-annexed mediation of this case. An order referring this case to mediation is warranted to encourage the parties to seek a negotiated resolution of their claims, and the referral to mediation will not prejudice any parties' positions vis-à-vis any pending motions or the litigation as a whole. *See In re Atl. Pipe*

¹ The Honorable Ricardo Rosselló Nevares became the 12th Governor of Puerto Rico on January 2, 2017 and therefore succeeds the Honorable Alejandro Garcia-Padilla as defendant in this action. Messrs. Maldonado and Marrero likewise succeeded Messrs. Zaragoza and Cruz as Secretary of the Treasury and Director of the Office of Management and Budget, respectively. *See Fed. R. Civ. P. 25(d)*.

Corp., 304 F.3d 135, 139 (1st Cir. 2002). Rather, particularly in the context of such a complex case involving multiple claims and parties, the fair and expeditious resolution of this matter is likely to be advanced by solutions that simply are not available in the binary framework of traditional adversarial litigation. *See id.* at 145. As the First Circuit as observed, “[m]ediation with the assistance of a skilled facilitator gives parties an opportunity to explore a much wider range of options, including those that go beyond conventional zero-sum solutions.” *Id.*

2. Defendants are committed to leading a voluntary restructuring of the public debt of Puerto Rico and to driving a negotiated resolution of claims by creditors and other stakeholders arising from the financial crisis. To that end, Defendants will take the lead, with the support and input of the Financial Oversight and Management Board for Puerto Rico (the “Board”), in organizing the court-annexed mediation requested herein. In this role, Defendants will coordinate with the parties in this case toward the selection of a qualified mediator, the submission of a proposed mediation order, and the prompt and expeditious initiation of mediation processes as authorized under Rule 83J(e) of this Court’s Local Rules.

3. Defendants’ request for court-annexed mediation is strictly in support of Defendants’ greater goal of reaching a voluntary, consensual restructuring of the public debt of Puerto Rico according to Title VI of PROMESA. Defendants make this request without prejudice to seeking a further stay of this Court or the Court of Appeals—or to entering into voluntary stay agreements with any parties—if deferring resolution of any legal issues will encourage all stakeholders to enter into meaningful and productive negotiations with the objective of reaching a settlement of outstanding disputes.

4. Defendants acknowledge that the United States Court of Appeals for the First Circuit entered an order staying this litigation until further notice. (*See* Order, Case No. 17-

1241, at 3 (Mar. 20, 2017).) In its order staying the action, the First Circuit recognized the crucial importance of negotiating voluntary agreements between Puerto Rico and its creditors according to the PROMESA process. (*See id.* (“The 3.5 million American citizens who reside in Puerto Rico are depending upon the successful restructuring of the Commonwealth’s debt.”).) Because the commencement of mediation proceedings would be in aid of, and not contrary to, the interests identified by the First Circuit in staying this case, Defendants ask the Court for a referral pursuant to this Court’s Local Rule 83J. But in the event that this Court or the First Circuit is of the view that the stay order entered today currently prevents any progress in court-annexed mediation, Defendants intend to seek clarification or to request that the parties independently agree to engage in prompt and expeditious mediation of this case.

WHEREFORE, Defendants respectfully request that the Court enter an order commencing court-annexed mediation proceedings under Rule 83J of the Local Rules of the United States District Court for the District of Puerto Rico.

RESPECTFULLY SUBMITTED.

I HEREBY CERTIFY that on this same date the foregoing was electronically filed using the Court’s CM/ECF filing system which will send electronic notification of the filing to all other participants and attorneys of record.

In San Juan, Puerto Rico, this 20th day of March, 2017.

**DEPARTMENT OF JUSTICE
COMMONWEALTH OF PUERTO RICO**
P.O. Box 902192
San Juan, PR 00902-0192
Tel: (787) 721-2900

Wanda Vázquez-Merced
Attorney General

Luis R. Román-Negrón
Solicitor General

s/ Luis R. Román-Negrón

USDC-PR No. 225001

lroman@justicia.pr.gov

and

KIRKLAND & ELLIS LLP

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