

**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)

**JOINT MOTION OF PLAINTIFFS AND THE BANK OF NEW
YORK MELLON, AS INDENTURE TRUSTEE, FOR ENTRY OF AN
ORDER (I) AMENDING THE CASE CAPTION AND (II) SETTING
TIME TO ANSWER OR OTHERWISE RESPOND TO COMPLAINT**

TO THE HONORABLE COURT:

Plaintiffs Lex Claims, LLC, Jacana Holdings I LLC, Jacana Holdings II LLC, Jacana Holdings III LLC, Jacana Holdings IV LLC, Jacana Holdings V LLC, MPR Investors LLC, ROLSG, LLC, RRW I LLC, and SL Puerto Rico Fund II, L.P. (collectively, the “Plaintiffs”) and The Bank of New York Mellon (the “Trustee”), as indenture trustee, through their undersigned counsel, hereby move (this “Joint Motion”) the Court for the entry of an order (i) amending the caption of this civil action to replace Defendant Bank of New York Mellon Corp. with the Trustee and (ii) setting December 16, 2016, as the Trustee’s deadline to answer or otherwise respond to the Complaint (as defined herein), and in support hereof, respectfully represent as follows:

1. On November 4, 2016, the Plaintiffs filed the *Second Amended Complaint* [Doc. No. 78] (the “Complaint”) in the above-captioned civil action pending in the United States District Court for the District of Puerto Rico (the “Court”). The Complaint identifies “Bank of New York Mellon Corp.” as a defendant.

2. On November 9, 2016, the Clerk of the Court issued a summons as to Bank of New York Mellon Corp. See Doc. No. 86. On November 20, 2016, the Plaintiffs filed an affidavit of service of process on The Corporation Trust Company Corporation (the “Registered Agent”), in its capacity as registered agent for service of process for the Trustee.

3. The docket text relating to the affidavit of service states that Bank of New York Mellon Corp.’s deadline to answer or otherwise respond to the Complaint is December 7, 2016. See Doc. No. 112.

4. On November 21, Plaintiffs received a letter from the Registered Agent stating that “Bank of New York Mellon Corp.” was not listed in its records and it had, thus, not forwarded the summons and the Complaint to Trustee.

5. Subsequent to receipt of that letter, counsel for the Plaintiffs and the Trustee conferred and concluded that the proper legal name for the Trustee is “The Bank of New York Mellon.”

6. The Plaintiffs and the Trustee now desire to correct the caption to properly name the Trustee as the defendant in place of Bank of New York Mellon Corp. The parties have agreed that the undersigned counsel for the Trustee will accept service of the summons and the Complaint on behalf of the Trustee provided that the Trustee’s deadline to answer or otherwise respond to the Complaint is set as December 16, 2016.

7. By this Joint Motion, the Parties request that the Court approve their agreement by directing the Clerk of the Court to amend the caption to replace “Bank of New York Mellon Corp.” with “The Bank of New York Mellon, as indenture trustee” and setting the Trustee’s deadline to answer or otherwise respond to the Complaint as December 16, 2016.

8. The relief requested by this Joint Motion is necessary and appropriate to avoid any confusion, expense, and delay that otherwise could result from naming as a defendant, and serving the summons and the Complaint on, Bank of New York Mellon Corp. as opposed to the Trustee.

WHEREFORE, the Parties respectfully request that the Court enter an order, substantially in the form attached hereto as **Exhibit A**, (i) granting the Joint Motion, (ii) directing the Clerk of the Court to amend the caption of this case to replace “Bank of New York Mellon Corp.” with “The Bank of New York Mellon, as indenture trustee” as defendant, (iii) setting the Trustee’s deadline to answer or otherwise respond to the Complaint as December 16, 2016, and (iv) granting such other and further relief as may be just and proper.

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Dated: November 23, 2016

/s/ J. Ramón Rivera Morales

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*Counsel for The Bank of New York Mellon, as
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CERTIFICATE OF SERVICE

It is hereby certified that on this same date this document has been electronically filed with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all attorneys of record.

Dated: November 23, 2016

/s/ Albéniz Couret Fuentes
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EXHIBIT A

Proposed Order

(Attached)

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**ORDER GRANTING JOINT MOTION OF PLAINTIFFS AND THE BANK
OF NEW YORK MELLON, AS INDENTURE TRUSTEE, FOR ENTRY OF
AN ORDER (I) AMENDING THE CASE CAPTION AND (II) SETTING
TIME TO ANSWER OR OTHERWISE RESPOND TO COMPLAINT**

Upon the *Joint Motion of Plaintiffs and The Bank of New York Mellon, as Indenture Trustee, for Entry of an Order (I) Amending the Case Caption and (II) Setting Time to Answer or Otherwise Respond to Complaint* (the “Joint Motion”);¹ and the Court having reviewed the Motion, and the Court finding that the factual bases set forth in the Motion establish just cause for the relief granted herein;

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

1. The Joint Motion is GRANTED as set forth herein.
2. The Clerk of the Court shall amend the caption of this case to replace “Bank of New York Mellon Corp.” with “The Bank of New York Mellon, as indenture trustee” as defendant.
3. The undersigned counsel for the Trustee shall be deemed to have accepted service of the summons and the Complaint on behalf of the Trustee as of the date of this Order.

¹ Capitalized terms used but not defined in this Order have the meanings given in the Joint Motion.

4. The Trustee's deadline to answer or otherwise response to the Complaint is December 16, 2016.

Dated: _____, 2016

THE HONORABLE FRANCISCO A. BESOSA
UNITED STATES DISTRICT COURT