

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

ASSURED GUARANTY CORP. and
ASSURED GUARANTY MUNICIPAL
CORP.

Movants,

v.

COMMONWEALTH OF PUERTO RICO et
al.,

Respondents.

CIVIL NO. 16-2384 (FAB)

**COMMONWEALTH RESPONDENTS' MOTION TO CONTINUE NOVEMBER 3, 2016
HEARING ON MOVANTS' MOTION TO LIFT THE PROMESA STAY**

TO THE HONORABLE COURT:

THE HONORABLE COURT:

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

The Commonwealth Respondents respectfully ask the Court to continue the § 405(e) hearing in this case by two weeks until November 17, 2016. The Court initially scheduled a consolidated hearing in Case Nos. 16-2365-FAB ("*Peaje*") and this case three weeks ago, on September 27, 2016. *See* Dkt. No. 44 in 16-2384-FAB. Since then, the parties in *Peaje* and this case have been preparing for the hearing, exchanging correspondence, and meeting-and-conferring about potential exhibits, potential stipulations, and potential witness testimony. Those efforts include a recent meet-and-confer on Tuesday, October 11, 2016 about a proposed timetable for

disclosure of witness testimony and other issues. The parties were able to meet-and-confer in a meaningful way because the briefing in these cases closed weeks ago.

On October 14, 2016, the Court granted movants' motion, filed one day earlier, to consolidate the hearing in these cases with Case No. 16-2696-FAB ("Altair"). *See* Dkt. No. 27 in 16-2696-FAB. The briefing in the Altair case has not closed, however, and it is not scheduled to close until November, 2, 2016, the day before the hearing. The movants in the Altair case have not even started the process of meeting-and-conferring about witnesses, exhibits, or stipulations—neither with the Commonwealth Respondents, nor with the plaintiffs in *Peaje* or *Assured*. Moreover, this case raises claims against a new defendant with separate counsel, the Employee Retirement System, that will have its own views on the relevant legal arguments, witnesses, exhibits, and stipulations.

It was in light of these issues that movants in Altair argued, in opposing a two-week extension of time last week, that the requested (and granted) extension would "prevent the Motion from being argued at the same time as the motions in *Assured Guaranty* and *Peaje Investments*." Dkt. No. 24 ¶ 7 in 16-2696-FAB. If anything, movants in Altair were understating the burdens and logistical problems involved with adding new parties and new arguments to an important evidentiary hearing with little more than a couple of weeks for all of the parties to prepare for it.

Further, and on a personal level, the undersigned lead local counsel for the Commonwealth Respondents, Salvador Antonetti-Zequeira, will be unavailable the week of November 3, 2016 due to a medical issue involving his spouse. Mr. Antonetti will have to travel that week with his spouse to Massachusetts General Hospital in Boston, MA, for tests and pre-surgery screening. Continuing the hearing will allow lead local counsel to appear and be able to represent the Commonwealth Respondents at the hearing.

A two-week continuance would also permit the Oversight Board to participate at the hearing in these cases. In its recent filing with this Court, the Oversight Board indicated that it will need until at least October 21 to decide the limited question of whether to intervene in similar litigation involving other creditors. *See* Oversight and Management Board's Motion for an Extension of Time, Civil No. 16-1610 (FAB) (D.P.R. Oct. 7, 2016), Dkt. No. 126 at 3. In light of the Oversight Board's motion and the substantial resources that the Board will need to marshal to participate meaningfully in a hearing on whether to lift the PROMESA stay, the Commonwealth Respondents respectfully submit that a November 3 hearing date would threaten to deny the Oversight Board a meaningful opportunity to take part in these proceedings, in which the Oversight Board has a statutory prerogative and compelling interest to participate.

As was demonstrated during the § 405(e) hearing on September 22 and September 23, 2016, these hearings raise issues that are of critical importance to the Commonwealth and its residents during an unprecedented financial crisis. The hearings require significant resources and attention from Commonwealth personnel, even with the notice and preparation the Court allowed in setting the November 3 hearing in *Peaje* and *Assured*. The addition of new parties, new arguments, and new issues to a hearing scheduled with essentially no time after briefing has closed threatens to make the entire hearing unworkable if it takes place on November 3, 2016. For these reasons, the Commonwealth Respondents respectfully ask the Court to continue the hearing for two weeks, until November 17, 2016.

CONCLUSION

For the foregoing reasons, the Commonwealth Respondents respectfully move the Court to continue the November 3, 2016 hearing on whether to lift the PROMESA stay in Civil No. 16-2696 to November 17, 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 19th day of October, 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

s/ Michael F. Williams

MICHAEL F. WILLIAMS

Pro Hac Vice

mwilliams@kirkland.com