

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

Brigade Leveraged Capital Structures Fund Ltd.,
Brigade Distressed Value Master Fund Ltd.,
Tasman Fund LP, Claren Road Credit Master
Fund, Ltd., Claren Road Credit Opportunities
Master Fund, Ltd., Fir Tree Value Master Fund,
L.P., Fir Tree Capital Opportunity Master Fund,
L.P., Fir Tree Special Opportunities Fund IV, LP,
Fir Tree Special Opportunities Fund V, LP, Fore
Multi Strategy Master Fund, Ltd., Sola Ltd, Ultra
Master Ltd, Solus Opportunities Fund 5 LP,

Plaintiffs,

- against -

Alejandro J. García Padilla, in his official
capacity as Governor of Puerto Rico; Juan C.
Zaragoza Gómez, in his official capacity as
Secretary of the Puerto Rico Department of the
Treasury, and John Doe, in his/her official
capacity as receiver for the Government
Development Bank for Puerto Rico,

Defendants.

CIVIL NO. 16-01610 (FAB)

**PLAINTIFFS' RESPONSE TO
DEFENDANTS' NOTICE OF AUTOMATIC STAY**

TO THE HONORABLE COURT:

COME NOW Plaintiffs, by and through their undersigned counsel, and very respectfully
state and pray as follows:

1. On June 30, 2016, President Obama signed into law the Puerto Rico Oversight,
Management, and Economic Stability Act, S. Res. 2328, 114th Cong. (2016) (enacted
("PROMESA")).

2. On July 1, 2016, Plaintiffs filed their *Motion for a Determination That the
PROMESA Stay Does Not Stay Plaintiffs' Constitutional Claims or, in the Alternative, for Relief*

from the Stay (“Motion for a Determination on the PROMESA Stay”). (Dkt. 71 (attached hereto as Exhibit A).)

3. On July 7, 2016, Defendants filed their *Motion Informing Intent to Oppose Plaintiffs’ Motion at Docket No. 71 and to Hold Certain Deadlines in Abeyance* (“Motion to Hold in Abeyance”). (Dkt. 72.) The Court summarily denied Defendants’ Motion to Hold in Abeyance. (Dkt. 73.)

4. On July 8, 2016, Defendants filed a *Notice of Automatic Stay* requesting the Court take notice of the Section 405 of PROMESA and moving for a stay pursuant to Section 405(b)(1) of PROMESA (the “PROMESA Stay”). (Dkt. 76.) The Court ordered Plaintiffs to respond to *Defendants’ Notice of Automatic Stay* no later than July 18, 2016. (Dkt. 78.)

5. Plaintiffs oppose Defendants’ Notice of Automatic Stay: the PROMESA Stay does not apply to the instant litigation. Defendants incorrectly assert that the PROMESA stay applies because Plaintiffs’ claims “involve their alleged rights as bondholders.” (Dkt. 76 at 4.) As set forth more fully in Plaintiffs’ Motion for a Determination on the PROMESA Stay, the plain language of PROMESA Section 405 does not stay suits to vindicate constitutional rights, which arise out of the Constitutions of the United States and of Puerto Rico. (Dkt. 71 at 4-9.) In their Notice of Automatic Stay, Defendants point to one sentence in the legislative history which suggests the PROMESA Stay applies to “all litigation against Puerto Rico and its instrumentalities[.]” (Dkt. 76 at 3 n.6.) This statement, however, is contradicted by the plain language of PROMESA, which does not stay “all litigation against Puerto Rico,” but rather is expressly limited to litigation arising out of a “Liability” or to collect a “Liability Claim.” *See* PROMESA § 405(b) (limiting the scope of the stay such that it only “operates with respect to a Liability”); § 405(a) (defining a “Liability” as “a bond” as well as rights that “arise from contract,

statute, or any other source of law *related to such a bond.*”) (emphasis added). When a statute’s text is “clear on its face,” there is no need to search for a contradictory meaning in legislative history. *Seahorse Marine Supplies, Inc. v. P.R. Sun Oil Co.*, 295 F.3d 68, 75 (1st Cir. 2002) (internal quotation marks and citation omitted). Here, the Court need not consider the out-of-context statements in the legislative record which are contradicted by the plain language of PROMESA itself, which does not stay the instant litigation to vindicate Plaintiffs’ constitutional rights.

6. In the alternative, should the Court determine that the PROMESA Stay does apply to the instant litigation, then the Court should, in its discretion, grant Plaintiffs relief from the stay under Section 405(e) of PROMESA. As is set forth in Plaintiffs’ Motion for a Determination on the PROMESA Stay, Plaintiffs should be relieved from the stay because they will suffer constitutional injury if they are unable to defend their constitutional rights, the public interest will be served by clarifying the “rules of the road” of any GDB restructuring under PROMESA, and Defendants will suffer no cognizable harm if further required to address Plaintiffs’ constitutional claims on the merits. (Dkt. 71 at 10-15.) In the interests of judicial economy and of avoiding duplicative briefing, Plaintiffs hereby incorporate by reference their Motion for a Determination on the PROMESA Stay originally filed at Dkt. 71 on July 1, 2016, as if fully set forth herein.

7. Since Defendants filed a summary notice rather than a detailed motion, Plaintiffs expect new matters will be raised in Defendants’ response to Plaintiffs’ Motion for a Determination on the PROMESA Stay. Plaintiffs therefore reserve the right to seek the Court’s leave to file a reply memorandum in further support of their Motion for a Determination on the PROMESA Stay in order to address those new matters.

WHEREFORE, Plaintiffs respectfully request that the Court issue an order clarifying that the PROMESA Stay does not apply to the claims of Plaintiffs' Amended Complaint, or, in the alternative, an order granting relief from the stay and allowing Plaintiffs to continue litigating the claims of the Amended Complaint to a final judgment on the merits.

RESPECTFULLY SUBMITTED,

Dated: July 18, 2016
San Juan, Puerto Rico

By: /s/ Harold D. Vicente

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CERTIFICATE OF ELECTRONIC FILING AND SERVICE

I hereby certify that on July 18, 2016, I caused to be electronically filed the Plaintiffs' Response to Defendants' Notice of Automatic Stay with the Clerk of Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

Dated: July 18, 2016
San Juan, Puerto Rico

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