

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

In re:

THE FINANCIAL OVERSIGHT AND MANAGEMENT
BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO, *et al.*,

Debtors.

PROMESA
Title III

No. 17 BK 3283-LTS

(Jointly Administered)

In re:

THE FINANCIAL OVERSIGHT AND MANAGEMENT
BOARD FOR PUERTO RICO,

as representative of

PUERTO RICO ELECTRIC POWER AUTHORITY,

Debtor.

PROMESA
Title III

No. 17 BK 4780-LTS

This document relates to:
No. 17 BK 3283; 17 BK
4780; 19-00388-LTS

ANNE CATESBY JONES AND JORGE VALDES
LLAUGER,

Plaintiffs,

v.

THE SPECIAL CLAIMS COMMITTEE OF THE
FINANCIAL OVERSIGHT AND MANAGEMENT
BOARD FOR PUERTO RICO, *acting by and through
its members*, and THE OFFICIAL COMMITTEE OF
UNSECURED CREDITORS OF THE PUERTO RICO
ELECTRIC POWER AUTHORITY, *as co-trustees
respectively*, of PUERTO RICO ELECTRIC POWER
AUTHORITY,

Defendants.

Adv. Proc. No.

**COMPLAINT FOR (I) DECLARATORY JUDGMENT AND
(II) RELIEF FROM THE AUTOMATIC STAY**

TABLE OF CONTENTS

I. INTRODUCTION 1

II. JURISDICTION 4

III. PARTIES 4

 A. Plaintiffs 4

 B. Defendants 5

IV. ALLEGATIONS 5

V. COUNTS 8

VI. PRAYER FOR RELIEF 10

Anne Catesby Jones and Jorge Valdes Llauger, along with other electricity ratepayers in Puerto Rico (collectively, the “Class Plaintiffs” or “Ratepayers”), assert this complaint against The Special Claims Committee of the Financial Oversight and Management Board for Puerto Rico, Acting by and Through Its Members (the “Oversight Board”) and The Official Committee of Unsecured Creditors of the Puerto Rico Electric Power Authority, as Co-Trustees Respectively, of Puerto Rico Electric Power Authority (the “Committee”). In this complaint, the Ratepayers seek: (1) a declaratory judgment that the claims asserted by the Oversight Board and Committee in adversary proceeding 19-00388-LTS (the “Estate Adversary Proceeding”) are not assets of the estate; and (2) relief from the automatic stay. In support, the Ratepayers allege as follows:

I. INTRODUCTION

1. On February 24, 2015, the Ratepayers commenced a civil action titled *Ismael Marrero Rolon, et al. v. Autoridad de Energia Electrica*, No. 3:15-cv-01167-JAG (D.P.R.), a class action law suit (the “Class Action”) against Puerto Rico Electric Power Authority (“PREPA”), certain fuel suppliers (the “Fuel Oil Suppliers”), and several laboratories (the “Laboratories”). The Class Plaintiffs allege that the Fuel Oil Suppliers and Laboratories participated in a conspiracy involving PREPA’s acquisition of fuel oil.

2. The alleged conspiracy works as follows. PREPA agrees to purchase from the Fuel Oil Suppliers high quality fuel oil that is supposed to meet certain contractual and regulatory specifications (“Compliant Fuel Oil”). PREPA pays a premium for this Compliant Fuel Oil. But the Fuel Oil Suppliers deliver fuel oil that does not meet the contractual and regulatory standards—a lesser quality fuel oil that pollutes more (“Non-Compliant Fuel Oil”). PREPA knowingly accepts the Non-Compliant Fuel Oil, despite having paid more for Compliant Fuel Oil. To conceal the actions of PREPA and the Fuel Oil Suppliers, the Laboratories provide falsified test results showing the Non-Compliant Fuel Oil delivered by the Fuel Oil Suppliers registers as Compliant Fuel Oil.

PREPA then passes through the entire cost of the Non-Compliant Fuel Oil to its customers via a surcharge on their electricity bills.

3. In the Class Action, the Fuel Oil Suppliers and Laboratories filed a total of sixteen separate motions to dismiss. The Court referred those motions to Magistrate Carreño-Coll for disposition. On September 29, 2015, Magistrate Carreño-Coll issued a report and recommendation. In the Report and Recommendation, the Court analyzed the Supreme Court's decisions in *Illinois Brick Co. v. Illinois*, 431 U.S. 720 (1977), and *Kansas v. UtiliCorp United, Inc.*, 497 U.S. 199 (1990). Magistrate Carreño-Coll held that the indirect purchaser rule of these cases did not bar the Ratepayers' claims. That is, if PREPA was a co-conspirator with responsibility for inflating the fuel's price, then "neither PREPA nor any other defendant is a victim of the conspiracy and, rather, [the Ratepayers], as the first payers of inflated fuel prices outside the conspiracy, are the scheme's most direct victims."

4. Accordingly, the Magistrate recommended that the district court not dismiss the Ratepayers' RICO claims. On May 31, 2017, the District Court adopted in-part and rejected in-part the Magistrate's Report & Recommendation, and denied the motions to dismiss the RICO claims.

5. On July 2, 2017, PREPA commenced a proceeding under Title III of the Puerto Rico Oversight, Management, and Economic Stability Act ("PROMESA"). In light of PREPA's bankruptcy, PREPA and the Class Plaintiffs agreed to a stipulation modifying the automatic stay "to the extent necessary to permit PREPA to participate in and complete class certification discovery and briefing on motion for class certification, and to permit the District Court to decide the motion for class certification."

6. On September 30, 2018, the District Court granted the Class Plaintiffs' motion for class certification pursuant to Rule 23(b)(3), but stayed the Class Action pending the conclusion of PREPA's Title III case or modification of the automatic stay. On February 8, 2019, the Class Plaintiffs filed a motion for relief from the automatic stay. Specifically, the Ratepayers sought: (1) to provide class notice as required by Federal Rule of Civil Procedure 23; (2) to seek discovery from the non-Debtor Defendants and to seek only "tailored discovery" from PREPA "of any information exclusively in its possession"; and (3) to collect on any judgment exclusively from the Non-Debtor Defendants (the "Lift Stay Motion"). On May 9, 2019, the Bankruptcy Court entered a Memorandum Order Denying the Lift Stay Motion.

7. On June 30, 2019, as the Class Action remained stayed, the Oversight Board and the Committee commenced an adversary proceeding, No. 19-00388-LTS (the "Estate Adversary Proceeding"). The Estate Adversary proceeding "adopted" all of the allegations asserted by the Ratepayers in the Class Action, and claimed the damages suffered by the Ratepayers as estate assets.

8. But as a matter of law, the Oversight Board and the Committee cannot succeed to the Ratepayers' legitimate Class Action claims because PREPA was a co-conspirator, acting as ringleader to the conspiracy to overcharge the Ratepayers. Rather, the Ratepayers are the "first victims" of the conspiracy, and the only actionable fraudulent transfers are the fraudulent surcharges imposed by PREPA. Because the PREPA estate cannot succeed to claims under Section 550 of the Bankruptcy Code, it does not have any legal or equitable interest in the underlying claims under Section 541(a) of the Bankruptcy Code.

9. For these reasons, this Ratepayers seek a declaratory judgment that the Ratepayers have independent claims that are not assets of the PREPA estate. Further, by and through this

adversary proceeding, the Ratepayers seek relief from the automatic stay so that they may continue to pursue their civil action against PREPA and the Fuel Oil Suppliers.

II. JURISDICTION

10. This Court has subject matter jurisdiction over this adversary proceeding pursuant to 28 U.S.C. §§ 157 and 1334(b) because the claims asserted relate to and arise from a case filed under the Bankruptcy Code, 11 U.S.C. § 101 et seq. (the “Bankruptcy Code”) pending in the United States Bankruptcy Court for the District of Puerto Rico (the “Bankruptcy Court”).

11. This Complaint is brought under Rules 7001(2) and (9) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) for (i) a declaratory judgment that the Ratepayers’ claims asserted in *The Special Claims Committee of the Financial Oversight and Management Board for Puerto Rico, et al. v. Inspectorate America Corp., et al.*, No. 19-00388-LTS (D.P.R.), are independent claims that are not assets of the estate; and (ii) an order for relief from the automatic stay.

12. Pursuant to 28 U.S.C. § 157(b)(2)(A), (H) (M), and (O), this matter is a core proceeding.

III. PARTIES

A. Plaintiffs

13. Plaintiff Anne Catesby Jones (“Ms. Jones”) is a natural person residing in San Juan, Puerto Rico. Plaintiff Jorge Valdes Llauger (“Mr. Llauger,” and together with Ms. Jones, the “Class Representatives”) is a natural person residing in San Juan, Puerto Rico. On September 30, 2018, the United States District Court for the District of Puerto Rico appointed Ms. Jones and Mr. Llauger as class representatives of a certified class of electricity ratepayers.

B. Defendants

14. The Puerto Rico Electric Power Authority (in Spanish, Autoridad de Energía Eléctrica, or “AEE”) is a public corporation and government instrumentality organized under the laws of the Commonwealth of Puerto Rico with its principal place of business located in San Juan, Puerto Rico. PREPA is an agency that owns the electric distribution system for the main island, Vieques, and Culebra, as well as all but two generating stations.

15. The Financial Oversight and Management Board for Puerto Rico was established by § 101 of PROMESA. The Oversight Board has the powers of a trustee under Title 11 of the United States Code as incorporated into PROMESA.

16. The Official Committee of Unsecured Creditors of all Title III Debtors (except COFINA) was appointed by the Office of the United States Trustee on June 15, 2017.

IV. ALLEGATIONS

17. At all relevant times between 2002 and February 2015, PREPA purchased fuel oil from one or more of the Fuel Oil Suppliers, and the Fuel Oil Supplier Defendants supplied PREPA with fuel oil.

18. At all relevant times between 2002 and February 2015 the Fuel Oil Suppliers supplied PREPA with fuel oil that did not meet the applicable contractual or regulatory specifications (the “Non-Compliant Fuel Oil”).

19. In exchange for Non-Compliant Fuel Oil, PREPA remitted payment to the Fuel Oil Suppliers at a higher price of fuel oil that did meet the contractual and EPA specifications (“Compliant Fuel Oil”).

20. At all relevant times between 2002 and February 2015, PREPA supplied electricity to the Class Representatives and their other customers using the Non-Compliant Fuel Oil, and passing on the higher cost of the Compliant Fuel Oil to its customers.

21. The Fuel Oil Suppliers entered into an agreement with PREPA or its agents and employees, and certain other third parties by and through which the Ratepayers paid higher rates for Non-Compliant Fuel Oil.

22. On February 24, 2015, the Class Representatives commenced the Class Action.

23. The complaint filed in the Class Action alleges a RICO conspiracy involving several parties: (1) PREPA (who burns fuel oil to generate electricity in Puerto Rico); (2) individuals within PREPA's Fuel Oil Office (who are responsible for acquiring that fuel oil for PREPA); (3) the Fuel Oil Suppliers (who sell PREPA fuel oil); and (4) the Laboratories (who test the fuel oil for PREPA and the Fuel Oil Suppliers to ensure it complies with contractual and regulatory standards).

24. The claims asserted in the Class Action center on the acquisition, testing, and quality of fuel oil that PREPA burns to generate electricity.

25. The EPA mandates PREPA burn a certain quality of fuel oil that pollutes less and has a lower sulfuric content. PREPA contracts to purchase this fuel and pays a higher price for it, but the Fuel Oil Suppliers deliver a lower quality fuel oil, which PREPA knowingly accepts, despite having paid the greater price.

26. PREPA and the Fuel Oil Suppliers conceal their agreement by enlisting the Laboratories to ensure the fuel oil registers as "compliant" with EPA mandates during testing. PREPA then passes on 100% of the cost of the fuel oil to its customers via a surcharge on their bills called the "compra de combustible."

27. PREPA's employees, the Fuel Oil Suppliers, and the laboratories each benefit from the alleged scheme.

28. On July 2, 2017, PREPA commenced a proceeding under Title III of the Puerto Rico Oversight, Management, and Economic Stability Act.

29. The parties litigated the Class Action until September 30, 2018, when the District Court granted class certification, certifying a class of PREPA customers.

30. Because of the ongoing PROMESA bankruptcy, the District Court concurrently stayed the case “pending the conclusion of PREPA’s Title III proceedings.”

31. The Class Action remains stayed in the district court.

32. On June 30, 2019, the Oversight Board and Committee commenced the Estate Adversary Proceeding by filing a complaint (the “Adversary Complaint”) against the same Fuel Oil Suppliers and Laboratories named in the ratepayer class action.

33. The Adversary Complaint refers to, “adopt[s],” and “incorporate[s]” the allegations of the Ratepayers, including alleging that the Fuel Oil Suppliers and Laboratories received “fraudulent transfers” resulting from the “transactions that are the subject of [the] pending [ratepayer] class action.”

34. Through their Adversary Complaint, the Oversight Board and Committee failed to recognize that, according to the allegations they adopted and incorporated, PREPA (and its employees and agents) *participated in and benefitted from* the scheme.

35. PREPA did not bear any losses from the overpayments made to the Fuel Oil Suppliers.

36. The Ratepayers paid for 100% of PREPA’s fuel oil acquisitions through the “compra de combustible” on their electric bills.

37. The Ratepayers—who paid PREPA the increased amount for the Non-Compliant Fuel Oil—were the first victims of the scheme.

38. Because it participated in and benefited from the scheme, PREPA and its estate cannot be a plaintiff.

39. The PREPA estate cannot succeed to the claims asserted in the Adversary Complaint, under Section 549 of the Bankruptcy Code.

40. The claims asserted in the Adversary Complaint are not assets of the PREPA estate under Section 541 of the Bankruptcy Code.

41. An actual, justiciable controversy exists among the Ratepayers, the Oversight Board, and the Committee regarding whom is entitled to assert the underlying claims arising from the scheme related to PREPA's purchase of Non-Compliant Fuel Oil and PREPA's passing the cost of the same directly to the Ratepayers.

42. Granting of declaratory relief is appropriate here because the judgment will serve a useful purpose in clarifying and settling the entitlement to the claims asserted by the Ratepayers and by the Board and Committee.

43. A declaratory judgment will also afford relief from the uncertainty, insecurity, and controversy giving rise to the proceedings.

V. COUNTS

COUNT I – DECLARATORY JUDGMENT

44. Plaintiffs repeat and incorporate by reference the allegations of the preceding paragraphs.

45. The Ratepayers have pursued a direct action against PREPA and its co-conspirators because the Ratepayers were the victims of the alleged fraud and paid 100% of the overcharges.

46. The Oversight Board and the Committee have asserted substantially identical claims seeking to recover funds on behalf of PREPA.

47. PREPA and its employees and agents acted as a conspirator in the scheme to overpay for Non-Compliant Fuel Oil and pass the additional costs onto the Ratepayers.

48. Therefore, Plaintiffs Anne Catesby Jones and Jorge Valdes Llauger are entitled to a declaratory judgment pursuant to 28 U.S.C §§ 2201 and 2202 that holds:

- a. the claims asserted in *The Special Claims Committee of the Financial Oversight and Management Board for Puerto Rico, et al. v. Inspectorate America Corp., et al.*, No. 19-00388-LTS (D.P.R.), are not assets of the Debtor's estate;
- b. the Ratepayers are the appropriate plaintiffs of those claims and the victims of the scheme alleged in *Ismael Marrero Rolon, et al. v. Autoridad de Energia Electrica*, No. 3:15-cv-01167-JAG (D.P.R.).

COUNT II – RELIEF FROM THE AUTOMATIC STAY

49. Plaintiffs repeat and incorporate by reference the allegations of the preceding paragraphs.

50. Section 362(d)(1) of Title 11 of the United States Code, made applicable in these proceedings by Section 301 of PROMESA, 48 U.S.C. § 2161, permits a court to grant relief from the automatic stay “for cause.”

51. Discovery will proceed regarding PREPA's fuel oil acquisition scheme, whether in the adversary proceeding filed by the Oversight Board and Committee, *The Special Claims Committee of the Financial Oversight and Management Board for Puerto Rico, et al. v. Inspectorate America Corp., et al.*, No. 19-00388-LTS (D.P.R.), or in the class action, *Ismael Marrero Rolon, et al. v. Autoridad de Energia Electrica*, No. 3:15-cv-01167-JAG (D.P.R.).

52. The Oversight Board and Committee have effectively conceded PREPA has the ability to participate in discovery on these matters by filing their adversary proceeding.

53. Cause exists to grant relief from the automatic stay to allow the ratepayers to pursue their claims in *Ismael Marrero Rolon, et al. v. Autoridad de Energia Electrica*, No. 3:15-cv-01167-JAG (D.P.R.).

VI. PRAYER FOR RELIEF

WHEREFORE, Plaintiffs Anne Catesby Jones and Jorge Valdes Llauger, on behalf of themselves and the certified class of electricity purchasers in *Ismael Marrero Rolon, et al. v. Autoridad de Energia Electrica*, No. 3:15-cv-01167-JAG (D.P.R.), pray for the following relief:

- a. Declaratory judgment finding that the claims asserted in *The Special Claims Committee of the Financial Oversight and Management Board for Puerto Rico, et al. v. Inspectorate America Corp., et al.*, No. 19-00388-LTS (D.P.R.) are not assets of the Debtor's estate;
- b. Declaratory judgment finding that the certified class of ratepayers in *Ismael Marrero Rolon, et al. v. Autoridad de Energia Electrica*, No. 3:15-cv-01167-JAG (D.P.R.), are the appropriate plaintiffs of those claims and the victims of the scheme alleged;
- c. Granting relief from the automatic stay to permit Plaintiffs Anne Catesby Jones and Jorge Valdes Llauger to pursue a direct claim against PREPA and its co-conspirators in *Ismael Marrero Rolon, et al. v. Autoridad de Energia Electrica*, No. 3:15-cv-01167-JAG (D.P.R.); and
- d. Any other and further relief as the Court deems just and appropriate.

Respectfully submitted, on September 17, 2020, by:

ANNE CATESBY JONES & JORGE VALDES LLAUGER,

By: /s/ Elizabeth A. Fegan
Elizabeth A. Fegan (*pro hac vice*)
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LBF D

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

In re:

THE FINANCIAL OVERSIGHT AND MANAGEMENT
BOARD FOR PUERTO RICO,
as representative of
THE COMMONWEALTH OF PUERTO RICO, *et al.*,
Debtors.

PROMESA
Title III

No. 17 BK 3283-LTS

(Jointly Administered)

In re:

THE FINANCIAL OVERSIGHT AND MANAGEMENT
BOARD FOR PUERTO RICO,
as representative of
PUERTO RICO ELECTRIC POWER AUTHORITY,
Debtor.

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No. 17 BK 4780-LTS

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UNSECURED CREDITORS OF THE PUERTO RICO
ELECTRIC POWER AUTHORITY, *as co-trustees
respectively*, of PUERTO RICO ELECTRIC POWER
AUTHORITY,

Defendants.

Adv. Proc. No.

SUMMONS

To the above-named defendant: THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS
OF THE PUERTO RICO ELECTRIC POWER AUTHORITY

YOU ARE HEREBY SUMMONED and required to file a motion or answer to the
complaint which is attached to this summons with the clerk of the bankruptcy court within 30
days after the date of issuance of this summons. If the defendant is the United State or its offices
or agencies, then a motion or answer to the complaint shall be filed within 35 days.

At the same time your motion or answer is filed, you must serve a copy of it upon the plaintiff's
attorney Jane Becker Whitaker, Esq., or upon the plaintiff if not represented by counsel, at the
following address: PO Box 9023914, San Juan, PR 00902-3914

If you elect to respond first by motion pursuant to Fed. R. Bankr. P. 7012, that rule governs the

time within which your answer must be served.

IF YOU FAIL TO RESPOND TO THIS SUMMONS, YOUR FAILURE WILL BE DEEMED TO BE YOUR CONSENT TO ENTRY OF A JUDGMENT BY THE BANKRUPTCY COURT AND JUDGMENT BY DEFAULT MAY BE TAKEN AGAINST YOU FOR THE RELIEF DEMANDED IN THE COMPLAINT.

MARIA DE LOS ANGELES GONZALEZ, ESQ.
CLERK, U.S. BANKRUPTCY COURT

Date of Issuance: _____

By: _____
Deputy Clerk

CERTIFICATE OF SERVICE

I, _____(name), certify that service of this summons and a copy of
the complaint was made on _____(date) by:

[] Mail service: Regular, first class United States mail, postage fully pre-paid, addressed
to: _____

[] Personal Service: By leaving the process with the defendant or with an officer or agent
of defendant at: _____

I further certify that I am, and at all times during the service of process was, not less than 18
years of age and not a party to the matter concerning which service of process was made.

I declare under penalty of perjury that the foregoing is true and correct.

Date: _____

Signature: _____

Print Name: _____

Address: _____

LBF D

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

In re:

THE FINANCIAL OVERSIGHT AND MANAGEMENT
BOARD FOR PUERTO RICO,
as representative of
THE COMMONWEALTH OF PUERTO RICO, *et al.*,
Debtors.

PROMESA
Title III

No. 17 BK 3283-LTS

(Jointly Administered)

In re:

THE FINANCIAL OVERSIGHT AND MANAGEMENT
BOARD FOR PUERTO RICO,
as representative of
PUERTO RICO ELECTRIC POWER AUTHORITY,
Debtor.

PROMESA
Title III

No. 17 BK 4780-LTS

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ANNE CATESBY JONES AND JORGE VALDES
LLAUGER,

Plaintiffs,

v.

THE SPECIAL CLAIMS COMMITTEE OF THE
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UNSECURED CREDITORS OF THE PUERTO RICO
ELECTRIC POWER AUTHORITY, *as co-trustees
respectively*, of PUERTO RICO ELECTRIC POWER
AUTHORITY,

Defendants.

Adv. Proc. No.

SUMMONS

To the above-named defendant: THE SPECIAL CLAIMS COMMITTEE OF THE FINANCIAL
OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO

YOU ARE HEREBY SUMMONED and required to file a motion or answer to the
complaint which is attached to this summons with the clerk of the bankruptcy court within 30
days after the date of issuance of this summons. If the defendant is the United State or its offices
or agencies, then a motion or answer to the complaint shall be filed within 35 days.

At the same time your motion or answer is filed, you must serve a copy of it upon the plaintiff's
attorney Jane Becker Whitaker, Esq., or upon the plaintiff if not represented by counsel, at the
following address: PO Box 9023914, San Juan, PR 00902-3914

If you elect to respond first by motion pursuant to Fed. R. Bankr. P. 7012, that rule governs the

time within which your answer must be served.

IF YOU FAIL TO RESPOND TO THIS SUMMONS, YOUR FAILURE WILL BE DEEMED TO BE YOUR CONSENT TO ENTRY OF A JUDGMENT BY THE BANKRUPTCY COURT AND JUDGMENT BY DEFAULT MAY BE TAKEN AGAINST YOU FOR THE RELIEF DEMANDED IN THE COMPLAINT.

MARIA DE LOS ANGELES GONZALEZ, ESQ.
CLERK, U.S. BANKRUPTCY COURT

Date of Issuance: _____

By: _____
Deputy Clerk

CERTIFICATE OF SERVICE

I, _____(name), certify that service of this summons and a copy of
the complaint was made on _____(date) by:

[] Mail service: Regular, first class United States mail, postage fully pre-paid, addressed
to: _____

[] Personal Service: By leaving the process with the defendant or with an officer or agent
of defendant at: _____

I further certify that I am, and at all times during the service of process was, not less than 18
years of age and not a party to the matter concerning which service of process was made.

I declare under penalty of perjury that the foregoing is true and correct.

Date: _____

Signature: _____


Print Name: _____

Address: _____

B1040 (FORM 1040) (12/15)

ADVERSARY PROCEEDING COVER SHEET (Instructions on Reverse)		ADVERSARY PROCEEDING NUMBER (Court Use Only)
PLAINTIFFS Anne Jones, Jorge Valdes Llauger	DEFENDANTS THE SPECIAL CLAIMS COMMITTEE OF THE FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO, THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS OF THE PUERTO RICO ELECTRIC POWER AUTHORITY	
ATTORNEYS Law Offices of Jane Becker Whitaker, PO Box 9023914 San Juan, PR 00902, 787 945-2406(Firm Name, Address, and Telephone No.)	ATTORNEYS (If Known)	
PARTY (Check One Box Only) <input type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input type="checkbox"/> Creditor <input checked="" type="checkbox"/> Other <input type="checkbox"/> Trustee	PARTY (Check One Box Only) <input type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input type="checkbox"/> Creditor <input type="checkbox"/> Other <input type="checkbox"/> xTrustee	
CAUSE OF ACTION Declaratory Judgment finding that the claims asserted in <i>The Special Claims Committee of the Financial Oversight and Management Board for Puerto Rico, et al. v. Inspectorate America Corp., et al.</i> , No. 19-00388-LTS (D.P.R.) are not assets of the Debtor's estate and that the certified class of ratepayers in <i>Ismael Marrero Rolon, et al. v. Autoridad de Energia Electrica</i> , No. 3:15-cv-01167-JAG (D.P.R.), are the appropriate plaintiffs of those claims and the victims of the scheme alleged (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED)		
NATURE OF SUIT (Number up to five (5) boxes starting with lead cause of action as 1, first alternative cause as 2, second alternative cause as 3, etc.)		
FRBP 7001(1) – Recovery of Money/Property <input type="checkbox"/> 11-Recovery of money/property - §542 turnover of property <input type="checkbox"/> 12-Recovery of money/property - §547 preference <input type="checkbox"/> 13-Recovery of money/property - §548 fraudulent transfer <input type="checkbox"/> 14-Recovery of money/property - other FRBP 7001(2) – Validity, Priority or Extent of Lien <input type="checkbox"/> 21-Validity, priority or extent of lien or other interest in property FRBP 7001(3) – Approval of Sale of Property <input type="checkbox"/> 31-Approval of sale of property of estate and of a co-owner - §363(h) FRBP 7001(4) – Objection/Revocation of Discharge <input type="checkbox"/> 41-Objection / revocation of discharge - §727(c),(d),(e) FRBP 7001(5) – Revocation of Confirmation <input type="checkbox"/> 51-Revocation of confirmation FRBP 7001(6) – Dischargeability <input type="checkbox"/> 66-Dischargeability - §523(a)(1),(14),(14A) priority tax claims <input type="checkbox"/> 62-Dischargeability - §523(a)(2), false pretenses, false representation, actual fraud <input type="checkbox"/> 67-Dischargeability - §523(a)(4), fraud as fiduciary, embezzlement, larceny (continued next column)	FRBP 7001(6) – Dischargeability (continued) <input type="checkbox"/> 61-Dischargeability - §523(a)(5), domestic support <input type="checkbox"/> 68-Dischargeability - §523(a)(6), willful and malicious injury <input type="checkbox"/> 63-Dischargeability - §523(a)(8), student loan <input type="checkbox"/> 64-Dischargeability - §523(a)(15), divorce or separation obligation (other than domestic support) <input type="checkbox"/> 65-Dischargeability - other FRBP 7001(7) – Injunctive Relief <input type="checkbox"/> 71-Injunctive relief – imposition of stay <input type="checkbox"/> 72-Injunctive relief – other FRBP 7001(8) Subordination of Claim or Interest <input type="checkbox"/> 81-Subordination of claim or interest FRBP 7001(9) Declaratory Judgment <input checked="" type="checkbox"/> 91-Declaratory judgment FRBP 7001(10) Determination of Removed Action <input type="checkbox"/> 01-Determination of removed claim or cause Other <input type="checkbox"/> SS-SIPA Case – 15 U.S.C. §§78aaaet.seq. <input type="checkbox"/> 02-Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case)	
<input type="checkbox"/> Check if this case involves a substantive issue of state law <input type="checkbox"/> Check if a jury trial is demanded in complaint Other Relief Sought	<input type="checkbox"/> Check if this is asserted to be a class action under FRCP 23 Demand \$	

B1040 (FORM 1040) (12/15)

BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES		
NAME OF DEBTOR: PUERTO RICO ELECTRIC POWER AUTHORITY	BANKRUPTCY CASE NO. 17 BK 3283-LTS, 17 BK 4780-LTS, 19-00388-LTS	
DISTRICT IN WHICH CASE IS PENDING PUERTO RICO	DIVISION OFFICE	NAME OF JUDGE LAURA TAYLOR SWAIN
RELATED ADVERSARY PROCEEDING (IF ANY)		
PLAINTIFF THE SPECIAL CLAIMS COMMITTEE OF THE FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO, THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS OF THE PUERTO RICO ELECTRIC POWER AUTHORITY	DEFENDANT ANNE JONES, JORGE VALDES LLAUGER	ADVERSARY PROCEEDING NO. 20-00114
DISTRICT IN WHICH ADVERSARY IS PENDING PUERTO RICO	DIVISION OFFICE	NAME OF JUDGE LAURA TAYLOR SWAIN
SIGNATURE OF ATTORNEY (OR PLAINTIFF) 		
DATE 9/17/2020	PRINT NAME OF ATTORNEY (OR PLAINTIFF) JANE BECKER WHITAKER	

INSTRUCTIONS

The filing of a bankruptcy case creates an “estate” under the jurisdiction of the bankruptcy court which consists of all of the property of the debtor, wherever that property is located. Because the bankruptcy estate is so extensive and the jurisdiction of the court so broad, there may be lawsuits over the property or property rights of the estate. There also may be lawsuits concerning the debtor’s discharge. If such a lawsuit is filed in a bankruptcy court, it is called an adversary proceeding.

A party filing an adversary proceeding must also must complete and file Form 1040, the Adversary Proceeding Cover Sheet, unless the party files the adversary proceeding electronically through the court’s Case Management/Electronic Case Filing system (CM/ECF). (CM/ECF captures the information on Form 1040 as part of the filing process.) When completed, the cover sheet summarizes basic information on the adversary proceeding. The clerk of court needs the information to process the adversary proceeding and prepare required statistical reports on court activity.

The cover sheet and the information contained on it do not replace or supplement the filing and service of pleadings or other papers as required by law, the Bankruptcy Rules, or the local rules of court. The cover sheet, which is largely self-explanatory, must be completed by the plaintiff’s attorney (or by the plaintiff if the plaintiff is not represented by an attorney). A separate cover sheet must be submitted to the clerk for each complaint filed.

Plaintiffs and Defendants. Give the names of the plaintiffs and defendants exactly as they appear on the complaint.

Attorneys. Give the names and addresses of the attorneys, if known.

Party. Check the most appropriate box in the first column for the plaintiffs and the second column for the defendants.

Demand. Enter the dollar amount being demanded in the complaint.

Signature. This cover sheet must be signed by the attorney of record in the box on the second page of the form. If the plaintiff is represented by a law firm, a member of the firm must sign. If the plaintiff is pro se, that is, not represented by an attorney, the plaintiff must sign.