

# **Bond Case Briefs**

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## **BONDS - PUERTO RICO**

### **Peaje Investments LLC v. García-Padilla**

**United States Court of Appeals, First Circuit - January 11, 2017 - F.3d - 2017 WL 104826**

Beneficial owner of bonds issued by Puerto Rico Highways and Transportation Authority (PRHTA) moved to lift temporary stay of debt-related litigation against Puerto Rico government, imposed by Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA), so that bond owner could challenge the diversion of PRHTA toll revenues pledged as collateral for bonds.

Holders of bonds issued by Puerto Rico Employees Retirement System (ERS) separately moved to lift PROMESA stay to challenge suspension of required transfers to fiscal agent of employer contributions pledged as collateral for bonds.

Actions were consolidated. Financial Oversight and Management Board for Puerto Rico moved to intervene. The United States District Court for the District of Puerto Rico denied intervention and denied lift-stay motions. Beneficial owner and holders of bonds appealed.

The Court of Appeals held that:

- Beneficial owner of bonds issued by PRHTA failed to sufficiently allege that its interest in repayment was inadequately protected, as required to demonstrate cause required to lift PROMESA stay;
- Holders of bonds issued by ERS sufficiently alleged that their interest in repayment was inadequately protected, and thus district court was required to hold hearing to determine whether holders demonstrated cause required to lift PROMESA stay; and
- District court abused discretion in denying motion to intervene.

Beneficial owner of bonds issued by Puerto Rico Highways and Transportation Authority (PRHTA) failed to sufficiently allege that its interest in repayment was inadequately protected, as required to demonstrate cause required to lift temporary stay of debt-related litigation against Puerto Rico government, imposed by Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA), so that beneficial owner could challenge diversion of PRHTA toll revenues pledged as collateral for bonds. Beneficial owner alleged Puerto Rico stopped making required deposits of monthly toll revenue with fiscal agent, but it did not claim that future toll revenues would be inadequate to repay debt owed.

Holders of bonds issued by Puerto Rico Employees Retirement System (ERS) sufficiently alleged that their interest in repayment was inadequately protected, and thus district court was required to hold hearing to determine whether holders demonstrated cause required to lift temporary stay of debt-related litigation against Puerto Rico government, imposed by Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA), so that holders could challenge suspension of required transfers to fiscal agent of employer contributions pledged as collateral for bonds. Holders alleged, based on statement by ERS, that uncertainty about future contributions from municipalities and Puerto Rico could affect repayment of bonds.

District court abused discretion in denying motion to intervene by Financial Oversight and Management Board for Puerto Rico for failure to attach pleading to motion, in action by holders of bonds issued by Puerto Rico Employees Retirement System (ERS) to lift temporary stay of debt-related litigation against Puerto Rico government, imposed by Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA), so holders could challenge suspension of required transfers to fiscal agent of employer contributions pledged as collateral for bonds. No other pleadings were pending when Board moved to intervene, and it could hardly have been expected to respond to complaint that had not yet been filed, additionally, Board did attach to its motion an opposition setting forth its position against lifting stay.