

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 16-CV-21301-GAYLES

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

ARIEL QUIROS, et al.,

Defendants, and

JAY CONSTRUCTION MANAGEMENT, INC., et al.,

Relief Defendants.

**PLAINTIFF'S RESPONSE TO DEFENDANT ARIEL QUIROS' MOTION FOR
EXPEDITED BRIEFING SCHEDULE AND HEARING**

Defendant Ariel Quiros' Motion for Expedited Briefing Schedule and Hearing on Motion for Expedited Clarification or Modification of Asset Freeze Order (DE 289) is not well taken. The only reason Quiros has arguably identified for shortening the Commission and the Receiver's response time from two weeks to effectively three days is his attorneys' desire to be paid as quickly as possible. However, an attorney's desire to collect fees is a woefully insufficient reason to ask the Commission, the Receiver and the Court to effectively drop what they are doing and brief and hear the issues raised in the underlying motion. Moreover, counsel for the Commission are both unavailable for the proposed hearing date of March 22, 2017 (and it is the Commission's understanding Receiver's counsel is also unavailable).

Additionally, both the motion seeking expedited briefing and the underlying motion (DE 288) mask the fact that the majority of the money the insurance company is paying at this time will not go to pay *future* fees and costs, but rather fees and costs already incurred. The

Commission understands from the Receiver that the insurance company has agreed for now to pay Quiros' attorneys \$1 million in fees and costs, and that a significant portion of that money will cover back bills from December 2016 until the present. Thus, Quiros' motions have created the misimpression that his lawyers need the money now to pay some immediate, upcoming costs (which not coincidentally neither motion specifically identifies). *See, e.g.*, DE 289 at ¶5 and DE 288 at 2 ("This matter is now urgent. Quiros's attorneys . . . face immediate and significant out-of-pocket expenditures in their defense of Quiros"). Based on the Receiver's conversations with Quiros' lawyers, however, the only urgency is that Quiros' lawyers want to get paid their back bills as soon as possible, which is simply not an emergency requiring expedited briefing.

Furthermore, both Commission attorneys assigned to this matter, Christopher Martin and Robert Levenson, have conflicts requiring them to be out of the Southern District on March 22, 2017, the date Quiros requested for a hearing without conferring with the Commission on its availability. Mr. Levenson is currently scheduled to attend a hearing on that date in *SEC v. Nadel*, Case No. 8:09-cv-00087, Middle District of Florida (Tampa Division) (DE 1263). Mr. Martin has a previously scheduled deposition in Whittier, California in *SEC v. Richard E. Gathright, et al.*, Case No.: 0-15-cv-62028-CIV, Southern District of Florida. Both therefore are unavailable.

In conclusion, the Commission requests that the Court deny Quiros' Motion for an Expedited Briefing Schedule and Hearing and allow the matter to be briefed and heard on a normal schedule (or alternatively schedule the hearing during the week of March 27, 2017).

Respectfully submitted,

March 14, 2017

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CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on March 14, 2017, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record or pro se parties identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

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SERVICE LIST

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Case No. 16-CV-21301-GAYLES

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