

**OVERVIEW**

**P**uerto Rico’s Title III judge has spent the last few weeks handing down a flurry of game-changing rulings, with the biggest curveball coming as she rejected a USD 1bn loan for the **Puerto Rico Electric Power Authority** (PREPA) that the Financial Agency and Fiscal Advisory Authority (FAFAA) said was critical to keeping the lights on across the island.

Judge Laura Taylor Swain said she would consider an amended request for USD 300m in postpetition financing for the utility, but only at a lower priority level than the previously proposed loan, which would have been funded by the commonwealth and would have come with priming liens. The Financial Oversight and Management Board (FOMB) filed its amended motion for the reduced loan within hours of the judge’s ruling, presumably scrambling to prevent the widespread shut down of power that PREPA officials warned of if it didn’t receive an immediate cash infusion.

Her ruling was a significant win for bondholders, who were outraged as the prospect of being primed without adequate protection. It was also a notable reversal from the rulings she had issued in late January, which came down in favor of the oversight board.

In a case brought by **Puerto Rico Highways and Transportation Authority** (PRHTA) bond insurers, Judge Swain held that the insurers failed to prove that special revenue bondholders have liens attached to special excise taxes after a bankruptcy is filed, and dismissed the suit. She also threw out a case brought by general obligation bondholders who sought a finding that they are entitled to property tax and so-called clawback revenues. The insurers and bondholders have appealed both rulings, meaning these issues aren’t over just yet.

Lurking in the background is still the big, fundamental question at the heart of these court proceedings: Did the oversight board have the constitutional authority to file these Title III cases in the first place? The answer will determine the future of the territory’s court-driven restructuring.

Judge Laura Taylor Swain heard arguments for and against the oversight’s board constitutionality during a landmark 10 January hearing in her New York courtroom, with high profile lawyers brought in by both sides. General obligation (GO) bondholders led by **Aurelius Capital Management** argued that the creation of FOMB was not conducted in compliance with the Appointments Clause of the Fifth Amendment, and therefore it did not have the authority to file the bankruptcy, meaning the cases should be dismissed.

The judge has not indicated when she will issue her decision, but no matter which way she rules, an appeal is almost certain to follow.

*Debtwire Municipals* subscribers can read about all this and more in this edition of the **Puerto Rico Court Watch**. Litigation that was dismissed last fall, or has been stayed or inactive for an extended period of time, has been removed from this report, but can be viewed in the [December 2017 report](#). If any of those cases become active again, they will be added to the next update.

**UPCOMING COURT HEARINGS**

**7 March, 9:30am AST:** Omnibus hearing

**10 April, time TBD:** Arguments on *UCC v Whyte* summary judgment motions

**25 April, time TBD:** Omnibus hearing

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*Maria Chutchian has covered corporate restructuring for Debtwire since 2014, including the Chapter 11 cases of Caesars Entertainment Operating Corp, Energy Future Holdings and LightSquared. She previously covered the same beat for Law360, before arriving at Debtwire.*

KEY ADVISORS		
Party	Legal Advisors	Financial Advisors
Financial Oversight & Management Board	Proskauer Rose O'Neill & Borges	McKinsey & Company
Fiscal Agency and Financial Advisory Authority	O'Melveny & Myers	Rothschild; Macquarie Capital
Mediation Team		Phoenix Management Services
Commonwealth of Puerto Rico		Deloitte
Government Development Bank	Cleary Gottlieb Steen & Hamilton	Ankura Consulting; Moore & Van Allen
COFINA	Willkie Farr & Gallagher Klee Tuchin Bogdanoff & Stern*	
PREPA	Greenberg Traurig	Ankura Consulting; Filsinger Energy Partners; Concentric Energy Partners
University of Puerto Rico	Fiddler Gonzalez & Rodriguez	
Unsecured Creditors Committee	Paul Hastings	Zolfo Cooper*
Ad Hoc Group of GO Bondholders (notable holder: Aurelius Investment)	Paul Weiss Rifkind Wharton & Garrison Robbins Russell Englert Orseck Untereiner & Sauber Jiménez, Graffam & Lausell	Governor George Pataki
Employees Retirement System	DLA Piper	
Official Committee of Retirees	Jenner & Block Bennazar Garcia & Milian	FTI Consulting*
Assured Guaranty Corporation	Cadwalader Wickersham & Taft Casellas Alcover & Burgos	
Ambac Assurance Corporation	Milbank Tweed Hadley & McCloy Ferraiuoli	
National Public Finance Guarantee Corporation	Weil Gotshal & Manges Adsuar Muñoz Goyco Seda & Pérez-Ochoa	
Financial Guaranty Insurance Company	Butler Snow Rexach & Pico	BRG Capstone*
Ad hoc FGIC-insured noteholder group	Stroock & Stroock & Lavan Cordova & Dick	
Mutual Fund Group	Kramer Levin Naftalis & Frankel Toro Colon Mullet Rivera & Sifre	

Source: Court filings, press releases; comptroller website; Debtwire Proprietary Intelligence\*

KEY ADVISORS		
Party	Legal Advisors	Financial Advisors
Bank of New York Mellon (COFINA trustee)	Reed Smith Sepulvado & Maldonado	
American Federation of State, County and Municipal Employees	Saul Ewing	
UBS Family of Funds and Puerto Rico Family of Funds	White & Case Lopez Sanchez & Pirillo	
Peaje Investments (PRHTA bondholder)	Dechert Monserrate Simonet & Gierbolini	
Asociación Puertorriqueña de la Judicatura	Indiano & Williams	
Goldman Sachs Asset Management	McDermott Will & Emery	
COFINA Senior Bondholders	Quinn Emanuel Urquhart & Sullivan Reichard & Escalera	
Whitebox Advisors (Senior COFINA bondholder)	Kasowitz Benson Torres Saldaña Carvajal & Vélez-Rivé	
Voya Institutional Trust Company (UPR deferred compensation trustee)	Faegre Baker Daniels Adsuar Muñiz Goyco Seda & Pérez-Ochoa	
GDB bondholders	Davis Polk & Wardwell Vicente & Cuebas	Ducera Partners
PREPA bondholders	Kramer Levin Naftalis & Frankel Toro Colon Mullet Rivera & Sifre	Houlihan Lokey
ERS bondholders	Jones Day Delgado & Fernández	
Oriental Bank	Delgado & Fernández	
City of San Juan	Winston & Strawn	
Ad Hoc Municipalities Committee	Godreau & Gonzalez Law LLC Rochelle McCullough LLP	
Whitefish Energy	Foley & Lardner	

Source: Court filings, press releases

## TITLE III CASES

### COMMONWEALTH OF PUERTO RICO

#### Case No. 17-03283 (US Bankruptcy Court, District of Puerto Rico)

**Presiding Judge:** Judge Laura Taylor Swain

**Date filed:** 3 May 2017

**Upcoming hearings:** 7 March, 9:30am AST omnibus hearing.

[Docket](#)

**Overview/Status**

The oversight board, FAFAA and a GO bondholder group led by Aurelius presented their cases in court on 10 January in a dispute over the constitutionality of the oversight board. The bondholders have moved to dismiss the Title III cases entirely, saying that the board's appointment did not adhere to constitutional requirements – including Senate confirmation – and it therefore did not have the authority to initiate these cases.

If Judge Swain rules in favor of the bondholders, the in-court bankruptcy proceedings would presumably come to a halt, and the commonwealth would find itself back at square one. Congress would have to go through a whole new process to appoint a board. If she rules in the board's favor, the Title III proceedings would likely continue as normal. No matter what the outcome, though, it's almost guaranteed that the losing team will appeal, and this question will not be resolved on a final basis for some time.

Meanwhile, the board has been plugging away at a new fiscal plan, which is expected to include federal disaster recovery funding, but the exact amount appears to still be uncertain. Bondholders have repeatedly demanded access to the financial information the board and FAFAA are using to craft the new plan. The board argued that it has complied with many of the bondholders' requests, but fulfilling them all would hinder the process.

Finally, the commonwealth made an unsuccessful attempt to shift USD 1bn in funds, in the form of a revolving loan, to PREPA. The board has filed a revised motion to reduce the amount to USD 300m, on a lower priority than the initial proposal.

**Relevant Court Documents**

- [Certified Fiscal Plan / FOMB resolution / Petition](#)
- [UCC v Whyte complaint / US Memorandum in support of PROMESA](#)
- [Rule 2004 order / First supplemental GO group 2019 statement](#)
- [PBA group 2019 statement / Informative motion on cash balances](#)
- [PREPA financing motion / Revised PREPA financing motion](#)

**Recent Debtwire Intelligence**

- [PREPA seeks smaller, unsecured loan after judge rejects priming lien](#)
- [PREPA judge rejects USD 1bn loan, leaves door open for USD 300m](#)
- [Puerto Rico Public Building Authority creditors demand rent collection](#)
- [Puerto Rico creditors battle nondisclosure agreement](#)
- [PREPA asks for court approval of USD 1.3bn loan to avoid shutdown](#)
- [Puerto Rico pushes back against fiscal plan discovery, warn of chilling effect](#)
- [Puerto Rico legislative employees seek another bite at the litigation apple](#)
- [Aurelius asks court to dissolve Puerto Rico Title III proceedings in landmark hearing on constitutionality of FOMB](#)
- [Puerto Rico's financial advisors in the Title III era](#)
- [Puerto Rico's largest contractors in the Title III era](#)
- [Puerto Rico ERS must continue monthly interest payments for now; mediator hopes for confirmable plan in 2018](#)
- [Puerto Rico creditors press for discovery, allege progress only made because of pending motion](#)
- [Puerto Rico's FOMB still has no idea of new baseline for debt service](#)
- [Puerto Rico judge rejects bondholders' bid for fiscal plan information](#)

### PUERTO RICO SALES TAX FINANCING CORPORATION (COFINA)

#### Case No. 17-03284 (US Bankruptcy Court, District of Puerto Rico)

**Presiding Judge:** Judge Laura Taylor Swain

**Date filed:** 5 May 2017

**Upcoming hearing:** 7 March, 9:30am AST omnibus hearing.

[Docket](#)

**Overview/Status**

After Judge Swain dismissed a slew of claims that she said were beyond the scope of the sales and use tax (SUT) dispute between the commonwealth and COFINA, the commonwealth agent's agent filed an amended complaint to comply with her findings. Instead of questioning the constitutionality of the enabling act that created COFINA – which deemed outside the scope in her December order – the commonwealth's agent alleged that the transfer of the SUT revenues to COFINA that is unconstitutional.

Separately, briefing on the dispute over the existence of a COFINA default is moving ahead. Senior bondholders say COFINA is in default and, as a result, their debt should be accelerated and paid in full ahead of junior bondholders. The subordinated group has accused the senior bondholders of attempting to manufacture a default for their own benefit.

**Relevant Court Documents**

- [Petition / Joint stipulation for Commonwealth-COFINA dispute](#)
- [Amended UCC v Whyte complaint / Whyte initial response](#)
- [Mutual fund group second supplemental 2019 statement](#)
- [Third COFINA group second supplemental 2019 statement](#)

**Recent Debtwire Intelligence**

- [COFINA Senior bondholder coalition's subordinate holdings grow](#)
- [Puerto Rico Commonwealth agent takes another crack at amending complaint in commonwealth-COFINA dispute](#)
- [Puerto Rico Commonwealth-COFINA dispute needs no clarification, judge rules](#)
- [COFINA and creditors file more papers on the question of a USD 17bn default](#)
- [Puerto Rico's UCC wants judge to reconsider constitutional questions on COFINA](#)
- [Judge Swain drastically trims down Puerto Rico's COFINA dispute](#)
- [Puerto Rico stakeholders fight to define commonwealth-COFINA dispute amid allegations of stoking 'intercreditor warfare'](#)

## TITLE III CASES (CONT'D)

### Employees Retirement System of the Government of the Commonwealth of Puerto Rico Case No. 17-03566 (US Bankruptcy Court, District of Puerto Rico)

**Presiding Judge:** Judge Laura Taylor Swain

**Date filed:** 21 May 2017

**Upcoming hearing:** 7 March, 9:30am AST omnibus hearing.

[Docket](#)

**Overview/Status**

The **Employees Retirement System (ERS)** has been making its monthly interest payments after bondholders obtained a notable win in December, convincing Judge Swain to direct ERS to continue making the USD 13.9m monthly payments as adequate protection until she rules on an underlying dispute over whether the bondholders have liens on the system's assets.

Summary judgment arguments on the lien dispute were presented in December, but the judge has not indicated when she will rule. Holders of the USD 3bn in Series 2008 ERS pension obligation bonds contend that they hold liens on employer contributions, but the oversight board, on behalf of ERS, says the bondholders' financing statements were not properly executed. That dispute is being litigated through an adversary proceeding brought by ERS against the bondholders.

ERS has moved to dismiss another adversary brought by the bondholders in an attempt to maintain their debt service payments. The judge will likely consider the matter on the parties' papers, without oral arguments.

**Relevant Court Documents**

- [Petition / FY16 Financial Report / BNY adversary complaint](#)
- [Adequate protection motion](#)
- [Status report / Supplemental secured creditors 2019 statement](#)
- [Order granting in part motion to condition automatic stay on the continuation of ERS bondholder protections](#)

**Recent Debtwire Intelligence**

- [Puerto Rico argues pensioners can be paid even if bondholders are stiffed](#)
- [Puerto Rico ERS must continue monthly interest payments for now: mediator hopes for confirmable plan in 2018](#)
- [Puerto Rico, ERS bondholders debate lien perfection; judge reserves summary judgment decision](#)
- [ERS bondholders fight to keep monthly payments flowing](#)
- [Puerto Rico and its retirement system file motion to dismiss s Altair adversary proceeding](#)
- [Puerto Rico public employees union calls for rejection of fiscal plan](#)
- [Puerto Rico ERS bondholders initiate adversary complaint](#)
- [ERS secured creditors commence action in the Court of Federal Claims](#)

### Puerto Rico Highways and Transportation Authority Case No. 17-03567 (US Bankruptcy Court, District of Puerto Rico)

**Presiding Judge:** Judge Laura Taylor Swain

**Date filed:** 21 May 2017

**Upcoming hearing:** 7 March, 9:30am AST omnibus hearing.

[Docket](#)

**Overview/Status**

PRHTA bondholders and insurers suffered a blow last month as Judge Swain threw out their lawsuit over their rights to what they say are protected revenues. The insurers of more than USD 2bn in PRHTA bonds argued that bondholders held a statutory lien on special excise taxes that prevents the commonwealth from using those funds for other purposes. Judge Swain rejected that position, saying the bankruptcy code offers no language that entitles the special revenue bondholders to the attachment of liens to revenues collected after a bankruptcy filing.

The plaintiffs, led by **Assured Guaranty**, have appealed her decision.

The judge has not yet ruled on a separate PRHTA bondholder case, brought by **Ambac Assurance**, that aims to claw back revenues pledged to secure PRHTA bonds and seeks a finding that the highway authority's fiscal plan is unconstitutional.

Bondholder Peaje Investments' appeal of Judge Swain's September order rejecting its request for a preliminary injunction to halt the diversion of toll revenues is underway in the First Circuit. Peaje has requested a briefing schedule that would lead to oral arguments in May.

**Relevant Court Documents**

- [Petition / Final fiscal plan / FOMB resolution / FY16 Financial Report](#)
- [Peaje Investments adversary complaint / Ambac complaint](#)
- [Assured Guaranty adversary complaint / Status report](#)
- [Stipulation governing disputed funds in HTA accounts](#)
- [Peaje preliminary injunction decision / Order dismissing Assured suit](#)
- [FGIC-insured noteholder group 2019 statement](#)

**Recent Debtwire Intelligence**

- [Puerto Rico highways FGIC-insured noteholders group hires lawyers, discloses holdings](#)
- [Puerto Rico highways bond insurers appeal special revenue order](#)
- [Puerto Rico Government Development Bank and National Public Finance reach disclosure agreement](#)
- [Puerto Rico judge rules against Assured Guaranty in PRHTA adversary proceeding](#)
- [LEGAL ANALYSIS: Judge Swain's PRHTA statutory lien decision instructive for other Puerto Rico bondholders](#)
- [Puerto Rico oversight board, highway bond insurers debate special revenues, fiscal plan](#)
- [Puerto Rico highways bond insurers fight motion to dismiss case](#)
- [Puerto Rico highways bondholder appeals court rejection of injunction on toll revenue](#)
- [Puerto Rico Highways bondholder loses bid for preliminary injunction on toll revenues](#)



## TITLE III CASES (CONT'D)

**Puerto Rico Electric Power Authority (PREPA)**  
**Case No. 17-04780 (US Bankruptcy Court, District of Puerto Rico)**

**Presiding Judge:** Judge Laura Taylor Swain

**Date filed:** 2 July 2017

**Upcoming hearing:** 7 March, 9:30am omnibus hearing.

[Docket](#)

**Overview/Status**

Judge Swain rejected the commonwealth's proposed USD 1bn loan for PREPA to fund its operations and avoid a shutdown. The judge said she would allow the oversight board to submit a revised loan request of up to USD 300m and without priming liens.

The request prompted widespread outcry from creditors across the board, specifically in response to the priming aspect of the loan. In her ruling, the judge faulted the commonwealth for failing to show that it even tried to obtain unsecured financing.

The judge acknowledged that PREPA is in dire need of liquidity — lawyers said in court this week that the utility will run out of funds by 9 March without a cash infusion — the board failed to meet the legal standards of securing a postpetition loan.

PREPA would be in danger of shutting down within a month without the funding, according to the oversight board.

The debtor-in-possession (DIP) financing announcement came after Governor Ricardo Rossello announced plans to privatize parts of PREPA. FOMB Revitalization Coordinator Noel Zamot said that as of 23 January, several private investors had expressed interest in PREPA.

Apart from the DIP matters, PREPA has moved to dismiss an adversary proceeding brought by its largest union challenging the appointment of the oversight board and certified fiscal plan. FOMB argued that the union does not have standing under the Puerto Rico Oversight, Management and Economic Stability Act (PROMESA) to question the fiscal plan.

**Relevant Court Documents**

- [Petition / Final fiscal plan / FOMB resolution](#)
- [UTIER complaint \(contract impairment\)](#)
- [UTIER complaint \(illegal oversight board\)](#)
- [Opinion rejecting receiver motion](#)
- [Ad hoc bondholder group's third supplemental 2019 statement](#)
- [Financing motion / Revised financing motion](#)

**Recent Debtwire Intelligence**

- [PREPA seeks smaller, unsecured loan after judge rejects priming lien](#)
- [PREPA judge rejects USD 1bn loan, leaves door open for USD 300m](#)
- [PREPA cash to slip below USD 100m in days; service halt could begin as soon as tomorrow](#)
- [PREPA's cash outlook brightens](#)
- [PREPA makes additional disbursements for Whitefish as bills continue to rack up](#)
- [PREPA ad hoc group increases holdings yet again; Franklin sheds millions in COFINA bonds](#)
- [PREPA's proposed privatization could be hamstrung by litigation](#)
- [PREPA seeks to limit review into USD 1.3bn loan facility, creditors call loan 'unnecessary'](#)
- [PREPA asks for court approval of USD 1.3bn loan to avoid shutdown](#)
- [PREPA privatization bodes poorly for utility bondholders](#)
- [Puerto Rico Electric and Power Authority already has seven suitors under Title V](#)
- [PREPA reveals creditor list; total claims well north of USD 10bn](#)
- [Puerto Rico Electric Power Authority cancels Whitefish contract](#)

**Government Development Bank for Puerto Rico (Title VI)**

**Date authorized:** 14 July 2017

**Overview/Status**

In January, Puerto Rico moved to dismiss the city of San Juan's amended complaint to the Government Development Bank for Puerto Rico (GDB) restructuring support agreement (RSA), saying the municipality had still failed to prove it had standing to raise its claims. San Juan contends is aiming to secure a greater role for municipalities in the process.

A voting deadline on the RSA, previously set for 20 December was pushed back to 20 March. Even in the aftermath of Hurricane Maria, GDB's president said he still intends to move ahead with the USD 4.1bn restructuring deal with creditors. Before the storm, the government expected the deal to close by December.

The oversight board authorized the GDB for Title VI under PROMESA pursuant to settlements contemplated by the RSA, which proposes the wind-down of the bank's operations and consensual restructuring of its financial obligations. As this is not a Title III proceeding, it is not overseen by a court. However, Judge Swain is presiding over litigation filed by San Juan attempting to block the RSA.

**Relevant Documents**

- [Final fiscal plan \(RSA reached on 15 May\) / FOMB resolution](#)
- [City of San Juan v FOMB complaint](#)

**Recent Debtwire Intelligence**

- [Puerto Rico Government Development Bank and National Public Finance reach disclosure agreement](#)
- [Puerto Rico asks for dismissal of amended municipal case challenging GDB RSA](#)
- [Puerto Rico's Municipality of Mayaguez files intervenor complaint in San Juan GDB lawsuit](#)
- [San Juan's amended complaint against GDB RSA addresses hurricanes, proposed bonds, new law](#)
- [Puerto Rico municipality dismisses suit against GDB restructuring agreement](#)
- [Government Development Bank for Puerto Rico has votes to push RSA forward](#)
- [San Juan's request to halt Government Development Bank vote rejected](#)

## ADVERSARY PROCEEDINGS

### *Atlantic Medical Center et al v Commonwealth of Puerto Rico* Case No. 17-00278 (US Bankruptcy Court, Puerto Rico)

**Presiding Judge:** Judge Laura Taylor Swain

**Date filed:** 17 November 2017

**Upcoming hearing:** None scheduled.

[Docket](#)

**Overview/Status**

Ten Puerto Rico medical centers filed suit seeking a finding that federal subsidy claims are not dischargeable under Title III. The centers say they are owed about USD 40m in court judgments after the commonwealth failed to pay its portion of Medicaid expenses. The judgments stem from 2001 and thereafter.

Magistrate Judge Judith Dein has ordered the commonwealth to answer the complaint by 19 January. A related adversary proceeding brought by the Corporacion de Servicios Integrales de Salud del Area de Barranquitas was consolidated under Atlantic Medical's case. The Barranquitas center says it is owed USD 51m in court judgments from the commonwealth.

**Relevant Court Documents**

[Adversary complaint](#) (Atlantic Medical)

[Adversary complaint](#) (Corporacion de Servicios Integrales de Salud del Area de Barranquitas)

[Consolidation order](#)

**Recent Debtwire Intelligence**

[Puerto Rico medical centers argue that federal subsidy claims not dischargeable under PROMESA](#)

### *The Unsecured Creditors Committee of the Commonwealth of Puerto Rico v Bettina Whyte* Case No. 17-00257 (US Bankruptcy Court, Puerto Rico)

**Presiding Judge:** Judge Laura Taylor Swain

**Date filed:** 8 September 2017

**Upcoming hearing:** 10 April summary judgment arguments.

[Docket](#)

**Overview/Status**

After Judge Swain trimmed down the subject matters that would be permitted in this case, the unsecured creditors' committee (UCC), as agent for the commonwealth in COFINA disputes, pared down its complaint to focus on the transfer of sales and use tax revenues, rather than the constitutionality of the COFINA structure itself. The judge recently granted the UCC and COFINA agent Bettina Whyte authority to mediate claims that she previously deemed outside the scope of the litigation.

Whyte has offered up her own allegations that the commonwealth committed fraud to the extent that it structured COFINA to avoid constitutional debt limits.

The parties have until 21 February to submit summary judgment motions, which would be argued in court on 10 April.

**Relevant Court Documents**

[Adversary complaint / Whyte answer / Second amended complaint](#)  
[Second amended Whyte answer / Amended scheduling order](#)

**Recent Debtwire Intelligence**

[Puerto Rico Commonwealth, COFINA agents get mediation powers over stakeholder objections](#)

[Puerto Rico eyes mediation to resolve dismissed claims in Commonwealth-COFINA dispute](#)

[COFINA agent denies revised charges in Commonwealth-COFINA dispute](#)

[Judge rejects new claims in Puerto Rico sales and use tax dispute](#)

[Puerto Rico's debt ceiling debate emerges in Puerto Rico-COFINA dispute](#)

[Commonwealth of Puerto Rico agent gets green light for revised constitutional claims](#)

[Puerto Rico Commonwealth agent takes another crack at amending complaint in commonwealth-COFINA dispute](#)

[Puerto Rico Commonwealth-COFINA dispute needs no clarification, judge rules](#)

[Commonwealth-COFINA dispute over sales and use tax back in court as lawyers attempt to narrow terms of battle](#)

[Judge Swain drastically trims down Puerto Rico's COFINA dispute](#)

[Puerto Rico stakeholders fight to define commonwealth-COFINA dispute amid allegations of stoking 'intercreditor warfare'](#)

[COFINA stakeholders fight to block dismissal of claims in COFINA-Commonwealth dispute](#)

[FOMB, FAFAA seek to restrain actions of COFINA, commonwealth agents](#)

[COFINA agent files counterclaim in sales tax revenue suit](#)

[Puerto Rico UCC sues COFINA agent over rights to tax revenues](#)

## ADVERSARY PROCEEDINGS (CONT'D)

**UTIER v Puerto Rico Electric Power Authority et al**  
**Case No. 17-00229 (US Bankruptcy Court, Puerto Rico)**
**Presiding Judge:** Judge Laura Taylor Swain

**Date filed:** 7 August 2017

**Upcoming hearing:** None scheduled.

[Docket](#)
**Overview/Status**

PREPA's largest union brought this suit alleging that a series of laws passed by the commonwealth have illegally altered a collective bargaining agreement by limiting unused vacation and sick days workers can be paid out for, among other actions. The Union de Trabajadores de la Industria Electrica y Riego (UTIER) is seeking a ruling declaring PREPA a protected essential public service and finding the laws in question violate the US Constitution. The oversight board moved to dismiss the case on 12 January. No hearing on the dismissal motion has been set.

**Relevant Court Documents**
[Adversary complaint / Motion to dismiss](#)
**Recent Debtwire Intelligence**
[Puerto Rico asks for electric union case to be dismissed for lack of standing](#)
[Defendants seek dismissal of PRHTA revenue shifting, PREPA contract case](#)
[PREPA union, FOMB agree on schedule for court responses, further motions](#)
[PREPA union files two adversary proceedings in PREPA Title III](#)
**UTIER v Puerto Rico Electric Power Authority et al**  
**Case No. 17-00228 (US Bankruptcy Court, Puerto Rico)**
**Presiding Judge:** Judge Laura Taylor Swain

**Date filed:** 7 August 2017

**Upcoming hearing:** None scheduled.

[Docket](#)
**Overview/Status**

The same day it filed suit over its collective bargaining agreement, the electrical workers' union filed a separate action challenging the oversight board appointment process established under PROMESA. The union argues that the appointment procedures violate the separation of powers, saying the board members must be selected by the president and confirmed by the US Senate. UTIER contends that the appointments of the oversight board members are null.

The dismissal motion was argued alongside Aurelius Capital Management's motion to dismiss the overarching Title III cases on 10 January, as they raised similar constitutional challenges to the oversight board. The judge has not yet issued her ruling.

**Relevant Court Documents**
[Amended complaint / Motion to dismiss](#)
[US memorandum of law in support of PROMESA](#)
**Recent Debtwire Intelligence**
[Aurelius asks court to dissolve Puerto Rico Title III proceedings in landmark hearing on constitutionality of FOMB](#)
[Puerto Rico union again charges that FOMB members were illegally appointed](#)
[United States supports upholding Puerto Rico's FOMB appointment process](#)
[Puerto Rico FAFAA argues union FOMB challenge would invalidate US territories' entire governments](#)
[FOMB moves to dismiss PREPA union suit over board member appointments](#)
[Puerto Rico ERS argues that bondholder lien is invalid](#)
**Asociacion de Salud Primaria de Puerto Rico v Commonwealth of Puerto Rico et al**  
**Case No. 17-00227 (US District Court, Puerto Rico)**
**Presiding Judge:** Judge Laura Taylor Swain

**Date transferred:** 1 August 2017

**Upcoming hearing:** None scheduled.

[Docket](#)
**Overview/Status**

Several Puerto Rico health centers removed litigation stemming back to 2002 in Puerto Rico state court to the federal district court in August. The centers claim the commonwealth reimbursed them less for Medicaid patients than required by federal law, forcing the centers to use government funds designated for uninsured patients to cover Medicaid patients.

The commonwealth filed a motion in November asking the court to abstain from the case and send it back to the state court.

**Relevant Court Documents**
[Spanish-language complaint / Notice of removal / Status report](#)  
[Motion for abstention](#)
**Recent Debtwire Intelligence**
[Puerto Rico health centers suing over Medicaid payments are calling for a federal judge](#)
[Puerto Rico health centers seek to move Medicaid underpayment suits to federal court](#)



## ADVERSARY PROCEEDINGS (CONT'D)

***Puerto Rico Electric Power Authority v Vitol Inc et al***  
**Case No. 17-00221 (US Bankruptcy Court, Puerto Rico)**

**Presiding Judge:** Judge Laura Taylor Swain

**Date removed:** 27 July 2017

**Upcoming hearing:** None scheduled.

[Docket](#)

**Overview/Status**

This case was transferred by energy supply company **Vitol Inc.** to the bankruptcy court after spending six years in the Puerto Rico federal district court, then remanded to the Commonwealth Courts in Puerto Rico. The dispute stems from supply contracts between the parties. PREPA sued in 2009 and again in 2012 to claw back USD 3.89bn it said it paid for the fuel oil, saying the six contracts were null under a statute barring the Puerto Rico government from contracting with parties that have been convicted of certain crimes. Vitol's sister company, Vitol SA, was hit with a criminal conviction based on its participation in the United Nations Oil for Food Programme. PREPA has moved to send the proceedings back to the lower court.

**Relevant Court Documents**

[Notice of removal](#)

[Motion to remand](#)

**Recent Debtwire Intelligence**

***Altair Global Credit Opportunities Fund (A) LLC v Commonwealth of Puerto Rico et al***  
**Case No. 17-00219 and 17-00220 (US Bankruptcy Court, Puerto Rico)**

**Presiding Judge:** Judge Laura Taylor Swain

**Date filed:** 27 July 2017

**Upcoming hearing:** None scheduled.

[Docket](#)

**Overview/Status**

Puerto Rico's ERS bondholders filed this suit against the commonwealth and ERS in response to legislation that it says removes their property interests. Joint Resolution 188, which was intended to boost liquidity, was passed by the Puerto Rico legislature on 25 June and directs employers to deposit increased contributions to the general fund. The bondholders also contend that the passage of the legislation was a violation of the Title III automatic stay.

ERS moved to dismiss the suit in November.

**Relevant Court Documents**

[Adversary complaint / Motion to dismiss](#)

**Recent Debtwire Intelligence**

[Puerto Rico argues pensioners can be paid even if bondholders are stiffed](#)

[Puerto Rico and its retirement system file motion to dismiss Altair adversary proceeding](#)

[Puerto Rico's battle over retirement system liens comes to a head](#)

[Puerto Rico ERS Bondholders move to amend ERS complaint, fight over disclosure continues](#)

[Puerto Rico ERS bondholders ask that retiree committee not intervene in adversary proceeding](#)

[Puerto Rico ERS bondholders initiate adversary complaint](#)

***Employees Retirement System of the Government of the Commonwealth of Puerto Rico v Altair Global Credit et al***  
**Case No. 17-00213 (US Bankruptcy Court, Puerto Rico)**

**Presiding Judge:** Judge Laura Taylor Swain

**Date filed:** 21 July 2017

**Upcoming hearing:** None scheduled.

[Docket](#)

**Overview/Status**

Puerto Rico's oversight board filed this adversary proceeding on behalf of the ERS to contest liens bondholders claim to hold on their 2008 pension obligation bonds. FOMB says financing statements backing the USD 2.9bn in pension bonds did not sufficiently define what property backed the debt. The board contends that the liens were never perfected and are therefore invalid.

The board and bondholders presented oral arguments on summary judgment in December. The parties are now waiting on the judge to issue a decision.

**Relevant Court Documents**

[Adversary complaint / ERS summary judgment memorandum](#)

[Bondholders' summary judgment memorandum](#)

**Recent Debtwire Intelligence**

[Puerto Rico, ERS bondholders debate lien perfection; judge reserves summary judgment decision](#)

[Puerto Rico Employees Retirement System bondholders ask court to reject summary judgment motion](#)

[Puerto Rico's battle over retirement system liens comes to a head](#)

[Puerto Rico Employees Retirement System denies bondholder counterclaims](#)

[Puerto Rico pension obligation bondholders fire back against claim lien not perfected](#)

## ADVERSARY PROCEEDINGS (CONT'D)

***Asociacion de Profesoras y Profesores del Recinto v Commonwealth of Puerto Rico et al***  
**Case No. 17-00197 (US Bankruptcy Court, Puerto Rico)**

**Presiding Judge:** Judge Laura Taylor Swain

**Date filed:** 9 July 2017

**Upcoming hearing:** None scheduled.

[Docket](#)

**Overview/Status**

A teachers' association for the Mayaguez campus of the University of Puerto Rico sued to overturn the commonwealth's fiscal plan, saying it's illegal because it fails to provide sufficient resources for the university. The plan includes a USD 201m cut to the university overall, with USD 47m cut from the Mayaguez campus. The association contends this constitutes a violation of PROMESA's provision ensuring funding for "essential public services."

In December, Magistrate Judge Judith Dein granted a joint request from the board and association to put the case on hold until new fiscal plans are certified for both the commonwealth and university, which they anticipate to happen around March.

**Relevant Court Documents**

[Adversary complaint / Motion to dismiss](#)

[Motion to hold in abeyance](#)

**Recent Debtwire Intelligence**

[Puerto Rico and UPR professors ask for pause on case while fiscal plan updated](#)

[Puerto Rico oversight board seeks dismissal of adversary proceeding brought by university professors' association](#)

[Puerto Rico professors' association challenges commonwealth's 'illegal' fiscal plan](#)

***ACP Master Ltd et al v Commonwealth of Puerto Rico et al***  
**Case No. 17-00189 (US Bankruptcy Court, Puerto Rico)**  
**Case No. 18-1108 (US Court of Appeals for the First Circuit)**

**Presiding Judge:** Judge Laura Taylor Swain

**Date filed:** 29 June 2017

**Upcoming hearing:** None scheduled.

[Docket](#)

**Overview/Status**

Judge Swain dismissed this case without prejudice on 30 January, finding that she did not have subject matter jurisdiction on several of the claims. The suit was brought last summer by a general obligation bondholder group, including Aurelius Capital Management, Jacana Holdings and Lex Claims, looking to exert its rights to clawback revenues and special property tax proceeds. The lawsuit was filed in response to executive orders directing the government to divert specific revenue streams from public corporations including the PRHTA, the Puerto Rico Infrastructure Financing Authority and the Puerto Rico Convention Center District Authority.

The GO group sought an order declaring the restricted revenues cannot be used for any other purpose than paying off constitutional debt obligations. In her written decision, Judge Swain held that many of the claims were not specific enough to warrant the requested relief.

The bondholders have appealed her ruling.

**Relevant Court Documents**

[Adversary complaint / Motion to dismiss](#)

[Opposition to motion to dismiss / Order and opinion](#)

**Recent Debtwire Intelligence**

[Puerto Rico GO bondholders appeal Judge Swain's ruling dismissing clawback case](#)

[Puerto Rico judge tosses GO bondholder's suit over clawback revenue](#)

[Puerto Rico oversight board, GO bondholders debate clawback revenue as judge reserves ruling](#)

[Puerto Rico GO bondholders claim commonwealth 'flagrantly violating' property rights](#)

[GO bondholders accuse Puerto Rico of 'parade of red herrings' in clawback case](#)

[Puerto Rico unsecured creditors seek to intervene in GO bondholder case](#)

[FOMB asks for dismissal of Puerto Rico GO bondholder case](#)

[Puerto Rico GO Bondholders sue over clawbacks, special property revenues](#)

## ADVERSARY PROCEEDINGS (CONT'D)

### Ambac Assurance Corporation v Commonwealth of Puerto Rico et al Case No. 17-00159 (US Bankruptcy Court, Puerto Rico)

**Presiding Judge:** Judge Laura Taylor Swain

**Date filed:** 8 June 2017

**Upcoming hearings:** None scheduled.

[Docket](#)

#### Overview/Status

Ambac, which insures USD 494m in PRHTA bonds and directly owns USD 16m, filed this suit in response to the former governor's executive orders to claw back revenues pledged to secure PRHTA bonds and what it describes as the elevation of junior debts over senior secured debts. The insurer accuses the commonwealth of "flagrant repudiation" of constitutional and statutory protections to PRHTA bonds and the oversight board of compounding the problem by certifying a ten-year fiscal plan that imposes a 77.4% haircut on debt obligations while increasing government spending. Ambac is seeking a declaratory judgment finding the fiscal plan unconstitutional and a series of injunctions against the plan.

Judge Swain has directed the parties in this case to coordinate discovery and briefing with the other two PRHTA adversary proceedings.

The defendants moved to dismiss the suit on 28 July. The parties presented oral arguments to the court in November. The judge requested additional briefing, and has not yet issued a decision.

#### Relevant Court Documents

[Adversary complaint / Motion to dismiss](#)  
[Stipulation governing disputed funds in HTA accounts](#)  
[Amended scheduling order](#)

#### Recent Debtwire Intelligence

[Puerto Rico Highways insurers ask that Judge allow adversary cases to proceed](#)  
[Puerto Rico oversight board, highway bond insurers debate special revenues, fiscal plan](#)  
[Puerto Rico UCC granted limited intervention in three cases](#)  
[Judge Swain grants agreement on disputed Puerto Rico Highway funds](#)  
[Puerto Rico seeks dismissal of 'duplicative' Ambac adversary proceeding](#)  
[Puerto Rico general obligation group plaintiffs seek coordinated discovery with Ambac and Assured](#)  
[Ambac repeats request to be heard in Peaje Puerto Rico Highway Title III adversary proceeding](#)  
[Ambac rehashes lawsuit against Puerto Rico Highways and Transportation Authority](#)  
[Ambac, COFINA Seniors sue Puerto Rico following PROMESA](#)

### Assured Guaranty Corp et al v Commonwealth of Puerto Rico et al Case Nos. 17-00155 and 17-00156 (US Bankruptcy Court, Puerto Rico)

**Presiding Judge:** Judge Laura Taylor Swain

**Date filed:** 3 June 2017

**Upcoming hearings:** None scheduled.

[Docket](#)

#### Overview/Status

Judge Swain dismissed this lawsuit on 30 January, finding the PRHTA bond insurers that filed it failed to show that bondholders are entitled to special revenue payments. The suit was brought by Assured Guaranty, Financial Guaranty Insurance Company and National Public Finance Guarantee Corporation to protect what they say are their rights to special revenues.

The insurers argued that the commonwealth illegally diverted funds that are supposed to be held in trust for the PRHTA bondholders. The plaintiffs sought an injunction barring the government from continuing to shift the revenues away and ordering it to remit the money.

In a 29-page decision, the judge found that the bankruptcy code provides no language attaching bondholder liens to special revenues collected after a bankruptcy filing or requiring the payments be made.

The bond insurers have filed a notice of appeal, but the appeal case has not been docketed yet.

#### Relevant Court Documents

[Adversary complaint / Amended complaint / Motion to dismiss](#)  
[Stipulation governing disputed funds in HTA accounts](#)  
[Opinion and order](#)

#### Recent Debtwire Intelligence

[Puerto Rico highways bond insurers appeal special revenue order](#)  
[Puerto Rico judge rules against Assured Guaranty in PRHTA adversary proceeding](#)  
[Puerto Rico Highways insurers ask that Judge allow adversary cases to proceed](#)  
[Puerto Rico oversight board, highway bond insurers debate special revenues, fiscal plan](#)  
[Puerto Rico UCC granted limited intervention in three cases](#)  
[Judge Swain grants agreement on disputed Puerto Rico Highway funds](#)  
[Puerto Rico HTA insurers sue over alleged diversion of protected revenues](#)  
[Assured Guaranty remains firm on stress tests despite Puerto Rico's Title III restructuring](#)  
[Monoline insurers defy Puerto Rico's bankruptcy petition](#)

## ADVERSARY PROCEEDINGS (CONT'D)

*Peaje Investments LLC v Puerto Rico Highways & Transportation Authority et al*  
 Case Nos. 17-00151 and 17-00152 (US Bankruptcy Court, Puerto Rico)  
 Case No. 17-2167 (US Court of Appeals for the First Circuit)

Presiding Judge: Judge Laura Taylor Swain

Date filed: 31 May 2017

Upcoming hearing: None scheduled.

[Docket](#)

**Overview/Status**

Peaje Investments, which holds USD 65m in uninsured PRHTA bonds, lost its bid for a preliminary injunction that would prohibit the government from using toll revenue for general purposes. Peaje has appealed the ruling and filed an amended complaint.

The bondholder brought this adversary proceeding in response to what it said is the commonwealth's unlawful diversion of certain toll revenue pledged as collateral to the bonds. This suit reflects positions the bondholder took in litigation filed a few weeks earlier – before PRHTA filed for Title III relief – and in July 2016.

**Relevant Court Documents**

- [Adversary complaint / Motion for TRO/preliminary injunction](#)
- [Stipulation governing disputed funds in HTA accounts](#)
- [Opinion denying preliminary injunction / Notice of appeal](#)
- [Amended complaint / Amended scheduling order](#)

**Recent Debtwire Intelligence**

- [LEGAL ANALYSIS: Judge Swain's PRHTA statutory lien decision instructive for other Puerto Rico bondholders](#)
- [Puerto Rico highways bondholders amend lawsuit to target FAFAA move](#)
- [Puerto Rico highways bondholder appeals court rejection of injunction on toll revenue](#)
- [Puerto Rico Highways bondholder loses bid for preliminary injunction on toll revenues](#)
- [Judge Swain grants agreement on disputed Puerto Rico Highway funds](#)
- [Puerto Rico Highways and Transportation Authority faces fresh lawsuit from old foe](#)

*The Bank of New York Mellon v Puerto Rico Sales Tax Financing Corporation (COFINA)*  
 Case No. 17-00133 (US District Court, Puerto Rico)

Presiding Judge: Judge Laura Taylor Swain

Date filed: 16 May 2017

Upcoming hearing: None scheduled.

[Docket](#)

**Overview/Status**

Bank of New York Mellon (BNY), as trustee for USD 17bn bonds backed by sales tax revenue, filed this case in response to conflicting demands from warring groups of bondholders competing for rights to certain sales tax funds. The heart of the disputes boils down to whether COFINA has defaulted. Senior COFINA bondholders say there have been several events of default and therefore payment on their USD 7.5bn debt should be accelerated immediately. Subordinated COFINA bondholders say there have not been any events of default. Certain other holders and insurers say there may have been events of default.

Judge Swain granted the trustee's motion to pause upcoming debt service payments at a hearing on 30 May and stay all legal actions surrounding the disbursement of the funds. She instructed BNY to hold the funds in a trust until the disputes are resolved or she rules on the merits of the competing claims.

The trustee and bondholders submitted their competing motions for summary judgment in November. Responses and opposition papers have been filed. No hearing on summary judgment has been scheduled.

**Relevant Court Documents**

- [Adversary complaint / Order to show cause](#)
- [Order granting interpleader / BNY summary judgment motion](#)
- [Senior bondholder coalition summary judgment motion](#)
- [Mutual fund group summary judgment motion](#)
- [Ambac/National summary judgment motion](#)
- [Assured summary judgment motion](#)

**Recent Debtwire Intelligence**

- [PREPA ad hoc group increases holdings yet again; Franklin sheds millions in COFINA bonds](#)
- [Puerto Rico creditors clash over COFINA interests in numerous summary judgment responses](#)
- [COFINA inter-creditor war in BNY Mellon adversary case intensifies over facts](#)
- [Only recent COFINA default claims to be addressed in first phase of trial](#)
- [COFINA default dispute heats up as bondholders, trustee submit summary judgment motions](#)
- [Merced and Varde sell senior COFINA bonds](#)
- [Puerto Rico judge reserves PREPA receiver ruling, denies senior COFINA bondholders' bid to alter interpleader order – UPDATE](#)
- [COFINA Senior Bondholders' Coalition unveils its holdings](#)
- [Puerto Rico's GO fight for COFINA revenue pits statutory against constitutional rights](#)
- [Puerto Rico GOs, FGIC, contend frozen sales tax funds should go towards constitutional debt](#)

## ACTIVE LITIGATION

### *Autonomous Municipality of San Juan v The Financial Management and Oversight Board et al* Case No. 17-02009 (US District Court, Puerto Rico)

**Presiding Judge:** Judge Laura Taylor Swain

**Date filed:** 26 July 2017

**Upcoming hearing:** None scheduled.

[Docket](#)

**Overview/Status**

On 27 September, Judge Swain rejected the city of San Juan's motion for a preliminary injunction that would have blocked voting on the restructuring support agreement (RSA) for Puerto Rico's Government Development Bank (GDB). San Juan's complaint contends that the RSA will unlawfully appropriate, for the benefit of bondholders, the city's interest in property tax revenues and deposits maintained by San Juan and other municipalities at the GDB. The RSA is the only voluntary restructuring agreement certified by the oversight board under Title VI of PROMESA.

The suit came shortly after another municipality, Caguas, sued the GDB over its treatment of municipal funds and loans. Caguas, however, recently dropped its case.

The defendants have moved to dismiss the lawsuit.

**Title III impact:** Since the GDB is not in Title III, the automatic stay would not apply.

**Relevant Court Documents**

[Amended complaint / GDB/FAFAA motion to dismiss](#)

[Order denying preliminary injunction](#)

**Recent Debtwire Intelligence**

[Puerto Rico asks for dismissal of amended municipal case challenging GDB RSA](#)

[San Juan's amended complaint against GSB RSA addresses hurricanes, proposed bonds, new law](#)

[San Juan's request to halt Government Development Bank vote rejected](#)

[Puerto Rico, oversight board ask for dismissal of GDB restructuring agreement challenge](#)

[Puerto Rico's capital city takes legal action against oversight board over GDB's restructuring agreement](#)

### *Altair Global Credit Opportunities Fund (A) LLC v USA* Case No. 17-00970 (US Court of Federal Claims)

**Presiding Judge:** Chief Judge Susan G Braden

**Date filed:** 19 July 2017

**Upcoming hearing:** None scheduled.

This case is not available on Debtwire Dockets.

**Overview/Status**

Secured ERS bondholders sued the federal government in the Court of Federal Claims arguing that the commonwealth did not provide adequate compensation when it passed Joint Resolution 188 in June. The bondholders argue that the resolution used ERS collateral to make pension payments to the central government, Judiciary Retirement System and Teachers' Retirement System. The bondholders bring their claim under the Fifth Amendment of the US Constitution.

The government filed a motion to dismiss in December.

**Title III impact:** The only defendant in this case is the federal government, so it is not impacted by the Title III automatic stay.

**Relevant Court Documents**

[Complaint / Amended complaint](#)

[Motion to dismiss](#)

**Recent Debtwire Intelligence**

[ERS secured creditors commence action in the Court of Federal Claims](#)

### *Centro de Periodismo Investigativo v Financial Oversight and Management Board for Puerto Rico* Case No. 17-01743 (US District Court, Puerto Rico)

**Presiding Judge:** Judge Jay A Garcia-Gregory

**Date filed:** 1 June 2017

**Upcoming hearing:** None scheduled.

[Docket](#)

**Overview/Status**

The Center for Investigative Journalism (CPI) filed this suit to force the oversight board to disclose key financial documents, saying the board has ignored multiple requests for information regarding the commonwealth's fiscal position. CPI was successful in a similar suit it brought against the GDB last year. On 14 July, Judge Garcia-Gregory entered an order staying this case, but a month later Judge Swain lifted the stay at CPI's request. Since then, the board has moved to dismiss the suit.

**Title III impact:** Judge Swain has lifted the stay.

**Relevant Court Documents**

[Complaint / Order staying case / Order lifting the stay](#)

[Motion to dismiss / Opposition to motion to dismiss](#)

**Recent Debtwire Intelligence**

[Puerto Rico's Center for Investigative Journalism stay lifted in disclosure case](#)

[Puerto Rico journalists sue oversight board over lack of disclosure](#)

[Puerto Rico Ad Hoc bondholder list, offers to the commonwealth are public information](#)



## LITIGATION REMANDED TO STATE COURT

### Centro de Periodismo Investigativo v Rossello Nevares et al Case No. 17-00167 (US Bankruptcy Court, Puerto Rico)

**Presiding Judge:** Judge Laura Taylor Swain

**Date filed:** 15 June 2017

**Upcoming hearing:** None.

[Docket](#)

**Overview/Status**

The CPI filed this suit against the governor's office and other agencies demanding access to key financial documents, saying its requests for information regarding the commonwealth's fiscal position and access to communications have been ignored. Initially filed on 1 June in Puerto Rico state court, the governor's office removed the case to federal court two weeks later, but shortly thereafter agreed to return the case to state court.

**Title III impact:** Judge Swain remanded this case to the Commonwealth Court of First Instance on 11 July.

**Relevant Court Documents**

[Spanish-language complaint](#)

[Order granting motion to remand](#)

**Recent Debtwire Intelligence**

[Puerto Rico governor supports CPI motion to remand case to local court](#)

[Puerto Rico journalists sue oversight board over lack of disclosure](#)

### Bhatia-Gautier et al v Rossello Nevares et al Case No. 17-00136 (US Bankruptcy Court, Puerto Rico)

**Presiding Judge:** Judge Laura Taylor Swain

**Date filed:** 12 May 2017

**Upcoming hearing:** None.

[Docket](#)

**Overview**

In early May, Puerto Rico Senate minority leader Eduardo Bhatia filed a lawsuit in a local court demanding that Governor Rossello share a draft of the upcoming FY18 budget. Both the oversight board and Rossello argued that since the budget was a working document, they didn't need to share it until it was complete, and a local court ruled in favor of Rossello. In a 12 May notice of removal in Puerto Rico federal court, the defendants argued that challenges to the budget are effectively challenges to the fiscal plan and that allowing litigation filed for the purpose of obtaining documents at issue in the Title III case to proceed outside the Title III case could result in inconsistent court judgments.

**Status:** Judge Swain remanded this case to the Commonwealth Court of First Instance on 13 June.

**Relevant Court Documents**

[Motion to remand](#)

[Notice of removal](#)

[Opinion and order granting motion to remand](#)

**Recent Debtwire Intelligence**

[Puerto Rico senators want to litigate budget disclosure under Title III](#)

### Lopez-Leon et al v Rossello Nevares et al Case No. 17-00137 (US Bankruptcy Court, Puerto Rico)

**Presiding Judge:** Judge Laura Taylor Swain

**Date filed:** 12 May 2017

**Upcoming hearing:** None.

[Docket](#)

**Overview**

In April, Puerto Rico state senator Rossana Lopez-Leon filed a lawsuit in a local court demanding that Governor Ricardo Rossello share materials related to the fiscal plan that were provided to the oversight board.

In a 12 May notice of removal in Puerto Rico federal court, the defendants argued that challenges to the budget are effectively challenges to the fiscal plan and that allowing litigation filed for the purpose of obtaining documents at issue in the Title III case to proceed outside the Title III case could result in inconsistent court judgments.

**Status:** Judge Swain remanded this case to the Commonwealth Court of First Instance on 7 July.

**Relevant Court Documents**

[Notice of removal](#)

[Motion to dismiss](#)

[Opinion and order granting motion to remand](#)

**Recent Debtwire Intelligence**

[Judge remands Puerto Rico fiscal plan disclosure case to commonwealth court](#)

[Puerto Rico senators want to litigate budget disclosure under Title III](#)

### PRIOR REPORTS, RESEARCH & ADDITIONAL COVERAGE

#### Research/Legal Analysis

- [RESEARCH: Muni Market Movers shows Puerto Rico rally losing steam](#) (12 February 2018)
- [RESEARCH: Eye on Puerto Rico](#) (1 February 2018)
- [RESEARCH: PREPA bondholders should prepare for more shocks – Analyst Snapshot](#) (26 January 2018)
- [RESEARCH: Muni Market Movers captures a dead cat bounce in Puerto Rico general obligation bonds](#) (8 January 2018)
- [PUERTO RICO COURT WATCH: Bondholders await key legal rulings as board faces heightened demands for transparency](#) (22 December 2017)
- [RESEARCH: Eye on Puerto Rico](#) (19 December 2017)
- [RESEARCH: Muni Market Movers welcomes the return of PRASA bonds](#) (18 December 2017)
- [LEGAL ANALYSIS: Judge Swain’s PRHTA statutory lien decision instructive for other Puerto Rico bondholders](#) (29 November)
- [RESEARCH: Eye on Puerto Rico](#) (21 November 2017)
- [RESEARCH: Muni Market Movers watches Puerto Rico bonds head for a rebound](#) (6 November 2017)
- [RESEARCH: Eye on Puerto Rico](#) (25 October 2017)
- [RESEARCH: Muni Market Movers watches Puerto Rico plumb new depths](#) (23 October 2017)
- [RESEARCH: Puerto Rico bond prices post-Maria are unlikely to recover – Analyst Snapshot](#) (17 October 2017)
- [RESEARCH: Muni Market Movers captures strengthening PRASA bonds](#) (16 October 2017)
- [RESEARCH: Muni Market Movers shows collapse of Puerto Rico bonds](#) (9 October 2017)
- [RESEARCH: Puerto Rico bonds have been ‘Trumped’ – Analyst Snapshot](#) (4 October 2017)
- [RESEARCH: Eye on Puerto Rico](#) (27 September 2017)
- [PUERTO RICO COURT WATCH: Hurricane Maria brings certainty to Title III proceedings](#) (25 September 2017)
- [RESEARCH: Eye on Munis](#) (7 September 2017)
- [PUERTO RICO COURT WATCH: Oversight board makes power play as litigation piles up](#) (31 August 2017)
- [Puerto Rico bondholder groups Title III 2019 analysis](#) (29 August 2017)
- [RESEARCH: Eye on Puerto Rico](#) (23 August 2017) / [RESEARCH: Muni Market Movers see Puerto Rico trading lose steam](#) (14 August 2017)
- [RESEARCH: Muni Market Movers see PRHTA price plummet](#) (7 August 2017)
- [LEGAL ANALYSIS: Congress’s restructuring act for Puerto Rico may leave bondholders yearning for Chapter 9](#) (7 April 2016)
- [RESEARCH: A closer look at Puerto Rico’s general obligation, guaranteed, and other debt](#) (3 December 2015)
- [RESEARCH: Clawback revenues won’t do the job for Puerto Rico general obligations](#) (1 December 2015)
- [Puerto Rico Employees Retirement System \(ERS\) Special Report](#) (7 May 2015)
- [Puerto Rico Highways and Transportation Authority \(PRHTA\) Special Report](#) (4 March 2015)
- [Puerto Rico Aqueduct and Sewer Authority \(PRASA\) Special Report](#) (6 October 2014)
- [Puerto Rico Electric Power Authority \(PREPA\) Special Report](#) (20 February 2014)

#### Webcasts/Podcasts

- [POST EVENT: Puerto Rico limps into 2018](#) (14 February 2018)
- [PODCAST: Puerto Rico power DIP, higher ed tests and tobacco bonds in this week’s Muni Lowdown](#) (9 February 2018)
- [PODCAST: Puerto Rico creditors experience court losses and conference frenzy in this week’s Muni Lowdown](#) (2 February 2018)
- [PODCAST: Puerto Rico Electric privatization, new growth plans and a busy primary market in this week’s Muni Lowdown](#) (26 January 2018)
- [PODCAST: Amazon’s second headquarters, hospital bankruptcies, and Puerto Rico funds in this week’s Muni Lowdown](#) (19 January 2018)
- [PODCAST: Puerto Rico litigation, pensions funding and Pennsylvania gaming in this week’s Muni Lowdown](#) (12 January 2018)
- [PODCAST: Financial plans in Puerto Rico, new bonds in Bridgeview in this week’s Muni Lowdown](#) (5 January 2018)
- [PODCAST: Tax reform drives primary market, Puerto Rico concerns in this week’s Muni Lowdown](#) (15 December 2017)
- [PODCAST: Primary pandemonium and Puerto Rico’s oversight board listens some more](#) (11 December 2017)
- [PODCAST: The fall of the FOMB, the rise of the Chicago Bear, in this week’s Muni Lowdown](#) (17 November 2017)
- [PODCAST: Puerto Rico, tax reform and Election Day in this week’s Muni Lowdown](#) (10 November 2017)
- [LIVE EVENT: Puerto Rico’s chaotic September – recovery and restructuring](#) (26 October 2017)

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