

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

CIVIL ACTION NO. 8:20-CV-325-T-35AEP

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

BRIAN DAVISON, BARRY M. RYBICKI,
EQUIALT LLC, EQUIALT FUND, LLC,
EQUIALT FUND II, LLC,
EQUIALT FUND III, LLC, EA SIP, LLC;

Defendants, and

128 E. DAVIS BLVD, LLC;
310 78TH AVE, LLC;
551 3D AVE S, LLC;
604 WEST AZEELE, LLC;
2101 W. CYPRESS, LLC;
2112 W. KENNEDY BLVD, LLC;
5123 E. BROADWAY AVE, LLC;
BLUE WATERS TI, LLC;
BNAZ, LLC;
BR SUPPORT SERVICES, LLC;
BUNGALOWS TI, LLC;
CAPRI HAVEN, LLC;
EA NY, LLC;
EQUIALT 519 3RD AVE S., LLC;
MCDONALD REVOCABLE LIVING TRUST;
SILVER SANDS TI, LLC;
TB OLDEST HOUSE EST. 1842, LLC;

Relief Defendants.

**NOTICE OF WITHDRAWAL OF PLAINTIFFS' MOTION FOR LEAVE TO SERVE
SUBPOENA ON RECEIVER**

WHEREAS, on July 21, 2020, Richard Gleinn, Phyllis Gleinn, Cary Toone, John Celli, Maria Celli, Eva Meier, Georgia Murphy, Steven J. Rubinstein and Tracey F. Rubinstein, as Trustees for The Rubinstein Family Living Trust dated 6/25/2010, Bertram D. Greenberg as Trustee for The Greenberg Family Trust, Bruce R. Hannen, Geraldine Mary Hannen, Rory O’Neal, Marcia O’Neal, and Sean O’Neal as trustee for the O’Neal Family Trust dated 4/6/2004 (collectively “Investor Plaintiffs”) filed a class action against Paul Wassgren, DLA Piper LLP (US) and Fox Rothschild LLP (collectively the “Lawyer Defendants”) captioned as *Richard Gleinn, et. al. v. Paul Wassgren, et. al.*, Case No. 8:20-cv-01677-VMC-CPT (the “Class Action”);

WHEREAS, the Class Action has been designated as an action related to the above-captioned case;

WHEREAS, the Investor Plaintiffs and the Lawyer Defendants are presently engaged in the process of discovery in the Class Action;

WHEREAS, on October 21, 2020, the Investor Plaintiffs served the Lawyer Defendants with the following discovery requests in the Class Action (the “Class Discovery Requests”):

- Plaintiffs’ First Request for Production to Defendant DLA Piper;
- Plaintiffs’ First Set of Interrogatories to Defendant DLA Piper;
- Plaintiffs’ First Request for Production to Defendant Fox Rothschild;
- Plaintiffs’ First Set of Interrogatories to Defendant Fox Rothschild;
- Plaintiffs’ First Request for Production to Defendant Paul Wassgren; and
- Plaintiffs’ First Set of Interrogatories to Defendant Paul Wassgren.

WHEREAS, the Lawyer Defendants served their respective written responses to the Class Discovery Requests on December 18 and 20, 2020, in which among other objections the Lawyer Defendants objected to producing documents or answering the interrogatories unless and until the

court-appointed Receiver has: (a) waived or decided not to assert the attorney-client privilege or other protections on behalf of the Defendants in this action; and (b) consented to the disclosure of confidential documents and information from EquiAlt's client files maintained by the Lawyer Defendants;

WHEREAS, on November 23, 2020, the Investor Plaintiffs filed in this action Investor Plaintiffs' Notice of Limited Appearance and Motion for Leave to Serve Subpoena on Receiver (the "Motion to Serve Subpoena") [Doc. 229], in which Investor Plaintiffs sought permission to serve the Receiver with the proposed document subpoena attached as Exhibit A to the Motion to Serve Subpoena;

WHEREAS, on January 24, 2021, the Receiver agreed to voluntarily produce to the Investor Plaintiffs, among other things, the following categories of documents created before February 14, 2020:

- Any documents prepared, sent or received by Paul Wassgren, DLA Piper, Fox Rothschild and any attorneys, paralegals or other employees associated with DLA Piper or Fox Rothschild arising or relating, directly or indirectly, from or to any engagement by or on behalf of EquiAlt or any of its Affiliates;
- Any communications between or among DLA Piper (including Paul Wassgren and its other employees, consultants and agents or representatives), Fox Rothschild (including Paul Wassgren and its other employees, consultants and agents or representatives) and any other persons or entities arising or relating, directly or indirectly, from or to any engagement by or on behalf of EquiAlt or any of their Affiliates;
- Any documents, communications or information arising or relating, directly or indirectly, from or to any legal services engagement by DLA Piper, Fox Rothschild or Paul Wassgren on behalf of EquiAlt, The Funds or any of their Affiliates; and
- Any documents relating to EquiAlt received by or from the Securities and Exchange Commission ("SEC") in any investigation or which the SEC received from EquiAlt or any Relief Defendants in connection with *SEC vs. Brian Davison, et. al.*, Case No 20-cv-325-T-35AEP (MDFL 2020).

WHEREAS, on January 24, 2021, Special Counsel to the Receiver notified counsel for the Lawyer Defendants in the Class Action that the Receiver does not assert the attorney-client

privilege with respect to the documents and information sought by the Class Discovery Requests and that the Receiver consents to the disclosure of such documents, including those from the client files maintained by the Lawyer Defendants, provided that the Receiver obtains copies of any such documents;

WHEREAS, the Investor Plaintiffs have agreed to share with the Receiver copies of any such documents in accordance with the provisions of the Confidentiality Agreement among the parties to the Class Action;

THEREFORE, in light of the foregoing agreements and actions by the Receiver, Plaintiffs hereby withdraw without prejudice their Motion to Serve Subpoena.

Dated: January 25, 2021

By: /s/Andrew S. Friedman

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Attorneys for Investor Plaintiffs

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via the Federal Court's CM/ECF Filing System on all counsel or parties of record on January 25, 2021.

By: /s/ Andrew S. Friedman
Andrew S. Friedman, Esq.