

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

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

Case No. 8:20-CV-325-T-35MRM

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, et al.,

Relief Defendants.

**UNOPPOSED MOTION FOR LEAVE TO FILE A REPLY
TO NON-PARTY ROBERT JOSEPH ARMIJO'S
OPPOSITION TO RECEIVER AND
INVESTOR PLAINTIFFS JOINT MOTION**

Receiver Burton W. Wiand (“Receiver”) and Investor Plaintiffs (jointly “the Movants”), by and through their undersigned counsel, and pursuant to Local Rule 3.01(d), hereby respectfully request that this Court grant leave for them to file a reply brief of no longer than ten pages to Non-Party Robert Joseph Armijo’s

Opposition to the Joint Motion of the Receiver and Investor Plaintiffs (the “Opposition”) (Doc. 777).

the Opposition filed by Non-Party Robert Joseph Armijo to the and as grounds therefore, the Movants state:

1. On January 5, 2023, the Receiver and the Investor Plaintiffs filed their Joint Motion of Receiver and Investor Plaintiffs for (I) Preliminary and Final Approval of Proposed Settlements; (II) Approval of Form, Content and Manner of Notice of Settlements and Bar Orders; (III) Entry of Bar Orders; and (IV) Scheduling a Hearing (the “Joint Motion”) (Doc. 760).

2. On January 19, 2023, non-party Robert Joseph Armijo (“Armijo”) filed his Opposition.

3. In his Opposition, non-party Armijo opposes the Movants’ requested stay temporarily restraining Armijo and the Law Firm Defendants from prosecuting or litigating the claims asserted in *Robert J. Armijo v. Paul R. Wassgren, et. al.*, Case No. 2:22-cv-08851 AB(PVCx) (the “Armijo Action”). Armijo’s Opposition misconstrues the requested relief and fails to address the impact of the Armijo Action on the proposed settlement and the Receivership Estate.

4. The Movants accordingly seek leave to file a reply of no more than ten pages, as allowed by Local Rule 3.01(d), to address these issues.

5. Local Rule 3.01(d) requires a party obtain leave before filing a reply to opposition briefs. “The purpose of a reply brief is to rebut any new law or facts

contained in the opposition's response to a request for relief before the Court." *DiRocco v. Victory Mktg. Agency, LLC*, No. 2:15-CV-552-FTM-99CM, 2015 WL 13802200, at *1 (M.D. Fla. Nov. 4, 2015).

6. The Movants submit they have demonstrated a need for a reply of no more than ten pages to address the issues raised in the Opposition.

WHEREFORE, the Movants respectfully request that this Court grant this motion for leave to file a reply brief of no more than ten pages in length.

Respectfully submitted,

/s/ Katherine C. Donlon

Katherine C. Donlon

Florida Bar No. 0066941

kdonlon@jclaw.com

JOHNSON, CASSIDY,

NEWLON & DECORT, P.A.

3242 Henderson Blvd., Ste. 210

Tampa, Florida 33609

Telephone: (813) 291-3300

Facsimile: (813) 235-0462

Attorneys for Receiver Burton W. Wiand

/s/ Andrew W. Friedman

Andrew S. Friedman (admitted *pro hac vice*)

afriedman@bffb.com

Francis J. Balint, Jr. (admitted *pro hac vice*)

fbalint@bffb.com

**Bonnett Fairbourn Friedman & Balint,
PC**

7301 N. 16th Street, Suite 102

Phoenix, Arizona 85020

Telephone: (602) 274-1100

Attorneys for the Investor Plaintiffs

LOCAL RULE 3.01(g) CERTIFICATION

Pursuant to Local Rule 3.01(g), the undersigned hereby certifies that counsel for the Receiver conferred with the counsel for the parties. Counsel for the SEC and for Armijo do not object to the relief sought.

/s/ Katherine C. Donlon
Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on January 23, 2023, a true and correct copy of the foregoing was electronically filed by using the CM/ECF System, which will serve a copy on all counsel of record.

/s/ Katherine C. Donlon
Attorney