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v.

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IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF PUERTO RICO

FINANCIAL GUARANTY INSURANCE COMPANY,

Plaintiff,

CIVIL NO. 16-1095 (GAG)

ALEJANDRO GARCIA PADILLA, et al.,

Defendants.

MEMORANDUM AND ORDER

Financial Guaranty Insurance Company ("Plaintiff") brought this action against the Governor of Puerto Rico, Alejandro García Padilla, and several other officials from the Commonwealth of Puerto Rico (collectively "Defendants"), alleging Section 8 of Article VI of the Commonwealth Constitution, the Management and Budget Office Organic Act ("OMB Act") and the executive orders ("Executive Orders") issued on November 30, 2015 and December 8, 2015 by Governor García Padilla are unconstitutional on the grounds that they are (1) preempted by federal law; (2) violate the Contracts Clause of Article I of the United States Constitution; and (3) violate the Fifth and Fourteenth Amendments of the United States Constitution. (See Docket No. 1.)

An analogous action has been brought before Judge José A. Fusté in this District Court by Plaintiffs Assured Guaranty Corp., Assured Guaranty Municipal Corp., and Ambac Assurance Corporation. See Civ. Case No. 16-1037 (JAF). The Court finds that at this time a consolidation of both cases is warranted.

FED. R. CIV. P. 42(a) permits a court to consolidate actions before it if they involve a "common question of law or fact." "The threshold issue is whether the . . . proceedings involve a common party and common issues of fact or law. Once this determination is made, the trial court

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has broad discretion in weighing the costs and benefits of consolidation to decide whether that procedure is appropriate." Seguro de Servicio de Salud v. McAuto Sys. Group, Inc., 878 F.2d 5, 8 (1st Cir. 1989) (citations omitted). Consolidation is appropriate if it will "promote the aims of all the parties [and] economize time and effort without circumscribing the opportunity for full litigation of all relevant claims," but not proper if it causes prejudice to a party. See González-Quiles v. Coop. De Ahorro Y Credito De Isabela, 250 F.R.D. 91, 92 (D.P.R. 2007). Ultimately, "[t]he decision whether to consolidate cases under Rule 42(a) is within the broad discretion of the trial court." Id. at 93.

In this case, consolidation is beneficial in order to avoid inconsistent judgments; waste of valuable judicial resources, and excess costs incurred by the parties, in particular the Commonwealth Defendants having to defend themselves in proceedings before different federal judges. Both cases assert most of the same claims, although the case in front of Judge Fusté does not challenge the constitutionality of the Commonwealth laws on the basis of federal law preemption. Nevertheless, the Court finds that all relevant factors weigh in favor of consolidating the two actions because they name the exact same Defendants, challenge the same Commonwealth actions, and involve common issues of fact and law.

Additionally, the undersigned has discussed the matter with Judge Fusté. Both judges agree that the cases should be consolidated, and given that Judge Fusté's case was filed first, the above-captioned complaint is consolidated with Case No. 16-1037 (JAF), pursuant to Local Rule 42.

SO ORDERED.

In San Juan, Puerto Rico, this 21st day of January, 2016.

s/ Gustavo A. Gelpí GUSTAVO A. GELPI United States District Judge