

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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	:
MARTIN TROTT and CHRISTOPHER SMITH, as Joint	:
Official Liquidators and Foreign Representatives of	:
PLATINUM PARTNERS VALUE ARBITRAGE FUND	:
L.P. (in OFFICIAL LIQUIDATION) and PLATINUM	:
PARTNERS VALUE ARBITRAGE FUND L.P. (in	No. 18 Civ. 10936 (JSR)
OFFICIAL LIQUIDATION),	:
	:
Plaintiffs,	:
	:
v.	:
	:
PLATINUM MANAGEMENT (NY) LLC, <i>et al.</i> ,	:
	:
Defendants.	:
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STATEMENT OF DAVID BODNER REGARDING INITIAL CONFERENCE

Defendant David Bodner, by his undersigned counsel (“Curtis”), pursuant to Rule 3(b) of the Individual Rules of Practice before this Court, respectfully submits the following statement in advance of the initial conference scheduled for December 19, 2018:

1. Bodner has not yet been served with process in accordance with Rule 4(c) of the Federal Rules of Civil Procedure, and has not been invited to waive service in accordance with Rule 4(d). On November 26, 2018, shortly after learning of the filing of this action, Curtis advised plaintiffs’ counsel that Bodner had authorized Curtis to accept service on his behalf. Alternatively, Bodner is prepared to waive service pursuant to Rule 4(d).

2. Bodner intends to promptly file a motion to dismiss pursuant to Rule 12(b)(6). Nowhere in the 765-paragraph Complaint is a single false statement, fraudulent act or omission attributed to Bodner specifically. Instead, the allegations in the Complaint are directed collectively against the two groups of defendants of which Bodner is said to be a member. Such

group pleading is inadequate, and fails as a matter of law to allege a cause of action against Bodner. *See, e.g., Mills v. Polar Molecular Corp.*, 12 F.3d 1170, 1175 (2d Cir. 1993).

3. Bodner has no objection to plaintiffs' requests in paragraphs 14 and 15 of their *Statement in Regard to Status Conference* [ECF 21] that motion practice be synchronised and that plaintiffs be permitted to respond to such motions in omnibus briefing, provided, however, that plaintiffs serve all defendants promptly, and that discovery be stayed while motions to dismiss are pending before the Court.

4. To the extent plaintiffs insist on taking early discovery or are unable to serve all defendants promptly, Bodner opposes synchronization, as he should be permitted to file his motion to dismiss expeditiously without being subject to delays associated with other parties.

5. Bodner is prepared to meet and confer with all counsel in the case regarding a case management plan.

6. Plaintiffs' counsel has informed Curtis of its position that, based upon Curtis's prior representation of the PPVA fund in pre-liquidation matters, Curtis is conflicted from representing Bodner in this litigation. Curtis has responded that it takes conflicts claims seriously, and that it is unaware of, and has not identified, any conflict, and that Curtis's prior representations of the PPVA fund are not substantially related to this action. Curtis has invited a further response from plaintiffs' counsel, and will continue to engage on this issue.

Dated: December 16, 2018
New York, New York

CURTIS, MALLET-PREVOST,
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By: /s/ Eliot Lauer

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