

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 20-CIV-81205-RAR

**SECURITIES AND EXCHANGE
COMMISSION,**

Plaintiff,

v.

**COMPLETE BUSINESS SOLUTIONS
GROUP, INC. d/b/a PAR FUNDING, et al.,**

Defendants.

**DEFENDANT DEAN VAGNOZZI'S SUPPLEMENT IN SUPPORT OF HIS MOTION
TO REFER DISPUTE TO SETTLEMENT CONFERENCE BEFORE MAGISTRATE
JUDGE BRUCE E. REINHART CONCERNING PROSECUTION OF LEGAL
MALPRACTICE CLAIMS AGAINST ECKERT SEAMANS AND JOHN PAUCIULO**

Defendant, Dean Vagnozzi ("Vagnozzi"), by and through his undersigned counsel, hereby submits this brief Supplement in Support of His Motion to Refer Dispute to Settlement Conference Before Magistrate Judge Bruce E. Reinhart Concerning Prosecution of Legal Malpractice Claims Against Eckert Seamans and John Pauciulo ("Motion").

In further support of his Motion, Vagnozzi is providing the following supplemental information which he first became aware of shortly after filing his Reply to the Receiver's Response in Opposition:

1. Vagnozzi submitted his Reply in support of his Motion on August 25, 2022 at approximately 10:14 AM.
2. Shortly after submitting the Reply, Vagnozzi received notice from the Securities and Exchange Commission's Senior Trial Counsel in this matter, Amie Riggle Berlin, that the

SEC – the government agency pursuing this action – now supports lifting the Litigation Stay for personal malpractice claims against Eckert Seamans and John Pauciulo to the extent such claims were asserted by individuals and non-receivership entities based on their own attorney-client relationship with Eckert. See Exhibit A, Berlin 8/25/22, 10:34 AM email.

3. Although Ms. Berlin’s initial email indicated she “would need more information” about Vagnozzi’s claims “to provide [the SEC’s] position,” in subsequent communications, after Vagnozzi’s counsel clarified that Vagnozzi’s claims were personal in his name only and were based on a personal attorney-client relationship – admitted by Eckert and Pauciulo – Ms. Breslin indicated that the Stay should be lifted so that Vagnozzi too could pursue his malpractice claims. See Exhibit B, Berlin to G. Bochetto 8/25/22, 2:22 PM email.

4. Vagnozzi believes the fact that the SEC supports lifting the Litigation Stay to allow for the prosecution of claims asserted by individuals and non-receivership entities is highly relevant to the Court’s consideration of the current Motion.

5. Considering the SEC’s newly stated position, Vagnozzi fully intends to renew his request to lift the Stay, and it is likely that other similarly situated parties will do so as well.

6. While those soon to be filed motions are pending before this Court, it makes judicial economic sense for the Court to refer the matter to Magistrate Judge Reinhart for attempted resolution, which might obviate the need to consider such motions.

WHEREFORE, based on the foregoing, Defendant Dean Vagnozzi respectfully requests that this Honorable Court refer the issues outlined herein to Magistrate Judge Bruce E. Reinhart with instructions to schedule a settlement conference.

Respectfully submitted,

BOCHETTO & LENTZ, P.C.

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By: /s/ William G. Wolk

WILLIAM G. WOLK

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing document was electronically filed on August 26, 2022 with the CM/ECF filing portal, which will send a notice of electronic filing to all counsel of record.

Respectfully submitted, this 26th day of August, 2022.

BOCHETTO & LENTZ, P.C.

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EXHIBIT A

-----Original Message-----

From: Berlin, Amie R. <BerlinA@sec.gov>

Sent: Thursday, August 25, 2022 10:34 AM

To: george@bochettoforsenate.com; Clifford Haines <chainses@haines-law.com>; Timothy Kolaya <tkolaya@sfslaw.com>; Gaetan J. Alfano <gja@pietragallo.com>

Cc: Johnson, Alise <johnsonali@SEC.GOV>

Subject: Stay of malpractice cases against Eckert

This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good morning,

Since Mr. Vagnozzi and the receiver are now litigating the stay on malpractice cases against Eckert, I wanted to let you know our position.

For individuals and non-receivership entities that have claims against Eckert based on their own attorney-client relationship with Eckert, which claims are independent from any potential claims by a receivership entity, the stay should be lifted. For example, individuals and non-receivership entities filing against Eckert based on legal advice provided to them (as opposed to advice to a client that is a receivership entity or advice to an individual for his company that is now a receivership entity), there is no basis, in my opinion for a stay. I do not see how Mr. Haines' clients' claims, based on advice given solely to those clients none of which are receivership entities, would have any bearing on the receivership entities potential claims based on those entities entirely separate retainer agreements. For Mr. Vagnozzi, I would need more information in order to provide our position and am happy to speak any time soon.

Thanks
Amie

EXHIBIT B

Thu, Aug 25, 3:15
PM (20 hours ago)

George Bochetto

to Amie, bcc: me

Many thanks Amie. We intend to inform the Court of your position. It would be wonderful if you could also weigh in.

Many regards.

George Bochetto
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On Aug 25, 2022, at 2:22 PM, Berlin, Amie R. <BerlinA@sec.gov> wrote:

Hi George,

If Mr. Vagnozzi asserts that he is only seeking malpractice claims based on advice to him that he - and not any of the receivership entities paid for - then the stay must be lifted in my opinion because his claims have absolutely nothing to do with the claims that could be filed on behalf of the receivership entities against which we will seek disgorgement.

Amie

On Aug 25, 2022, at 1:32 PM, George Bochetto <gbochetto@bochettoandlentz.com> wrote:

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Ms. Berlin:

I am in receipt of your email from this morning. I could not agree more. Personal claims for malpractice against Eckert and Pauciulo should not be stayed and MUST be prosecuted to the fullest.

As to Dean Vagnozzi's claims, they too were filed in Dean's **personal** capacity. Dean had a personal attorney-client relationship with Pauciulo and Eckert. He is not attempting to pursue claims on behalf of any entities or Receivership Entities. In this regard, Dean's malpractice complaint, filed in the Philadelphia Court of Common Pleas, is attached. Dean is the only plaintiff. That Pauciulo represented Vagnozzi personally is not disputed. Indeed, Eckert and Pauciulo admitted there was a personal attorney client relationship in their Answer to Dean's Complaint, stating "It is admitted only that Pauciulo represented Vagnozzi until their attorney-client relationship ended in 2020." See Answer at Par. 10 (attached).

Aside from the Complaint, that Dean's claims are his personal claims seeking only personal damages has been pointed out in numerous court filings, including the Motion Dean filed in the SDFL. In that Motion (attached), we stated that "Vagnozzi brought the Pennsylvania action personally for the damages he has suffered," and further clarified that Dean "does not make a claim for relief on behalf of any Receivership Entity nor does he seek relief that could be deemed Receivership Property." (Motion for Clarification at p. 11.)

Given the foregoing, we respectfully request that you take the same position with respect to Dean Vagnozzi's malpractice claims against Eckert and Pauciulo. The Stay can no longer operate to shield Pauciulo and Eckert from answering for their wrongful conduct. We would appreciate you take this position in writing.

I am available to review with you any issue deemed necessary in this regard.

Sincerely,

George Bochetto, Esq.