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11 Attorneys for Receiver
12 THOMAS A. SEAMAN

13 **UNITED STATES DISTRICT COURT**
14 **CENTRAL DISTRICT OF CALIFORNIA**

15 SECURITIES AND EXCHANGE
COMMISSION,

16 Plaintiff,

17 v.

18 EMILIO FRANCISCO; PDC CAPITAL
GROUP, LLC; CAFFE PRIMO
INTERNATIONAL, INC.; SAL
19 ASSISTED LIVING, LP; SAL
CARMICHAEL, LP; SAL CITRUS
20 HEIGHTS, LP; SAL KERN
CANYON, LP; SAL PHOENIX, LP;
21 SAL WESTGATE, LP;
SUMMERPLACE AT SARASOTA, LP;
22 SUMMERPLACE AT
CLEARWATER, LP; SUMMERPLACE
23 AT CORRELL PALMS, LP;
TRC TUCSON, LP; CLEAR
24 CURRENTS WEST, LP; CAFFE
PRIMO MANAGEMENT, LP; CAFFE
25 PRIMO MANAGEMENT 102, LP; et al.,

26 Defendants.

Case No. 8:16-cv-02257-CJC-DFM

**NOTICE OF MOTION AND
MOTION OF RECEIVER,
THOMAS A. SEAMAN, FOR
ORDER ESTABLISHING
ALLOWED CLAIMS; APPROVING
OMNIBUS AND SPECIFIC CLAIM
OBJECTIONS; AND
SUBORDINATION OF
RICHARDSON CLAIMS**

Date: April 22, 2019
Time: 1:30 pm
Ctmm: 7C, 7th Floor
Judge: Hon. Cormac J. Carney

1 **PLEASE TAKE NOTICE** that on April 22, 2019, at 1:30 p.m., Courtroom
2 7C of the above-entitled Court, located at 350 W. 1st Street, Los Angeles, California
3 90012, Thomas A. Seaman (the "Receiver"), the Court-appointed permanent
4 Receiver for PDC Capital Group, LLC and its subsidiaries and affiliates
5 (collectively, the "Receivership Entities"), will, and hereby does move for an order
6 from this Court: (1) Establishing the allowed amount of investor and non-investor
7 claims; (2) Approving omnibus and specific claim objections; and (3) Subordinating
8 the payment of the Richardson claims, if any are allowed (the "Motion").

9 This Motion is brought on the grounds that the Receiver has determined, in his
10 reasonable business judgment, the allowed amount of each claim submitted pursuant
11 to the claims procedures set forth in that Order Granting Receiver's Motion:
12 (1) Approving Claim Forms; (2) Setting Claims Bar Date; and (3) Establishing
13 Summary Claims Procedure [Dkt. 254]. The Receiver requests the Court to
14 determine the allowed amount of claims for each investor and non-investor creditor
15 based upon the Receiver's recommendations. As detailed in the Memorandum of
16 Points and Authorities, the proposed investor claims were determined using the
17 "MIMO" or "Money-In, Money-Out" methodology. As to all claims, the proposed
18 allowed amounts exclude claims for interest, consequential damages, lost profits and
19 professional fees. While the Receiver has objected to all of Mr. Richardson's claims,
20 if and only if the Court allows Mr. Richardson's claims, the Receiver moves for an
21 order subordinating Mr. Richardson's claims to the payment of all other allowed
22 claims.

23 This Motion is based on the instant Notice of Motion and Motion, the
24 concurrently submitted Memorandum of Points and Authorities, and the Declaration
25 of Thomas A. Seaman along with such other material and information as the Court
26 may consider in connection with the Motion.

27 **PLEASE TAKE FURTHER NOTICE** that, if you oppose this Motion, you
28 are required to file your written opposition with the Office of the Clerk, United States

1 District Court, 350 W. 1st Street, Los Angeles, California 90012, , and serve the same
2 on the undersigned not later than 21 days prior to the hearing date. If you fail to file
3 and serve a written opposition by the above date, then the Court may grant the
4 requested relief without further notice.

5 This Motion is made following the conference of counsel pursuant to L.R. 7-3.

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7 Dated: March 6, 2019

ALLEN MATKINS LECK GAMBLE
MALLORY & NATSIS LLP

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By: /s/ David R. Zaro

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DAVID R. ZARO
Attorneys for Receiver
THOMAS A. SEAMAN

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PROOF OF SERVICE

Securities and Exchange Commission v. Emilio Francisco; PDC Capital Group, LLC, et al.,
USDC, Central District of California – Case No. 8:16-cv-02257-CJC-DFM

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 865 S. Figueroa Street, Suite 2800, Los Angeles, California 90017-2543.

On **March 6, 2019**, I caused to be served the document entitled: **NOTICE OF MOTION AND MOTION OF RECEIVER, THOMAS A. SEAMAN, FOR ORDER ESTABLISHING ALLOWED CLAIMS; APPROVING OMNIBUS AND SPECIFIC CLAIM OBJECTIONS; AND SUBORDINATION OF RICHARDSON CLAIM** on all the parties to this action addressed as stated on the attached service list.

OFFICE MAIL: By placing in sealed envelope(s), which I placed for collection and mailing today following ordinary business practices. I am readily familiar with the firm's practice for collection and processing of correspondence for mailing; such correspondence would be deposited with the U.S. Postal Service on the same day in the ordinary course of business.

OVERNIGHT DELIVERY: I deposited in a box or other facility regularly maintained by express service carrier, or delivered to a courier or driver authorized by said express service carrier to receive documents, a true copy of the foregoing document(s) in sealed envelope(s) or package(s) designed by the express service carrier, addressed as indicated on the attached service list, with fees for overnight delivery paid or provided for.

HAND DELIVERY: I caused to be hand delivered each such envelope to the office of the addressee as stated on the attached service list.

ELECTRONIC MAIL: By transmitting the document by electronic mail to the electronic mail address as stated on the attached service list.

E-FILING: By causing the document to be electronically filed via the Court's CM/ECF system, which effects electronic service on counsel who are registered with the CM/ECF system.

FAX: By transmitting the document by facsimile transmission. The transmission was reported as complete and without error.

I declare that I am employed in the office of a member of the Bar of this Court at whose direction the service was made. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on **March 6, 2019** at Los Angeles, California.

/s/ Martha Diaz
Martha Diaz

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SERVICE LIST

Securities and Exchange Commission v. Emilio Francisco; PDC Capital Group, LLC, et al.,
USDC, Central District of California – Case No. 8:16-cv-02257-CJC-DFM

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