

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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 Official  
Liquidation),

Plaintiffs,

-against-

PLATINUM MANAGEMENT (NY) LLC, et al.,

Defendants.

Civil Action No. 1:18-cv-10936-JSR

**MEMORANDUM OF LAW IN SUPPORT OF MOTION TO DISMISS  
BY DEFENDANT LEON MEYERS, NAMED HERE AS LEON MYERS**

Defendant Leon Meyers, named here as Leon Myers, joins the motions to dismiss the Complaint by defendant David Bodner (D.E. 71) and defendants Morris Fuchs *et al.* (D.E. 68).

For the reasons set forth in the Memoranda of Law filed by defendant David Bodner (D.E. 72) and by defendants Morris Fuchs *et al.* (D.E. 69), the Complaint should likewise be dismissed against defendant Leon Meyers because it relies entirely on impermissible group pleading which fails to satisfy Federal Rules of Civil Procedure 8 and 9(b).

The only mention of Meyers in the Complaint is in ¶ 57, where 23 named defendants and 100 John Does are lumped together as the “Preferred Investors.” The Complaint then makes generalized, conclusory allegations against the Preferred Investors for aiding and abetting breach of fiduciary duty (6th count), aiding and abetting fraud (7th count) and unjust enrichment (12th count) and does not allege any action or inaction by Meyers which may subject him to liability.

Accordingly, the Complaint must be dismissed against Meyers for the reasons in the above-referenced papers.

Meyers acknowledges his motion is filed after the January 9, 2019 deadline set by the Court. *See* Minute Entries dated December 19, 2018. However, Meyers was not served with process until January 3, 2019 and did not retain counsel until January 9, 2019. *See* Declaration of Daniel Tepper at ¶ 2. This motion was filed promptly after Meyers retained counsel and within the time to answer a complaint under Rule 12(a). Meyers' slight delay will not prejudice any party or have any impact on the judicial proceedings. *See, e.g., Anderson v. Romano*, No. 08-00559(JSR)(KNF), 2008 U.S. Dist. LEXIS 104876 at \*12-13 (S.D.N.Y. Dec. 24, 2008) (allowing motion to dismiss filed nine days after expiration of 20-day period permitted under Rule 12(a)). Should it be necessary, Meyers respectfully moves the Court to extend his time to move to dismiss *nunc pro tunc*.

For the reasons above, the Court should dismiss the Complaint against defendant Leon Meyers, named here as Leon Myers, and grant such other and further relief as the Court deems just and proper.

Dated: New York, New York  
January 11, 2019

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