

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

SECURITIES AND EXCHANGE COMMISSION,
Plaintiff-Appellee,

v.

JOSEPH A. CAMMARATA,
Defendant-Appellant,

and

ERIK COHEN, DAVID H. PUNTURIERI,
ALPHAPLUS PORTOFOLIO RECOVERY CORP.,
ALPHA PLUS RECOVERY LLC,
Defendants.

No. 24-1381

**SECURITIES AND EXCHANGE COMMISSION'S COMBINED
RESPONSE TO: (1) CONSOLIDATED RESPONSE LETTER AND
STATEMENT (ECF 85); (2) MOTION FOR CLARIFICATION AND
REQUEST FOR STATEMENT OF REASONS (ECF 87); (3) OBJECTION
TO APPELLEE'S MOTION FOR EXTENSION AND MOTION
TO EXPEDITE APPEAL (ECF 88) AND DECLARATION
IN SUPPORT OF OBJECTION (ECF 89)**

The Securities and Exchange Commission, appellee, respectfully submits the following in response to Cammarata's recent filings at ECF 85, 87, 88, and 99.

This Court should deny Cammarata's requests for relief and provide the Commission 60 days for its response brief.

Consolidated Response Letter and Statement (ECF 85): This filing does not reference this appeal, but instead requests relief in an appeal of a criminal

action brought against Cammarata, *United States v. Cammarata*, No. 23-2110 (3d Cir.), as well as a separate mandamus petition Cammarata filed, *In re Cammarata*, No. 25-1188 (3d Cir.). To the extent Cammarata’s requests for this Court to “lift the stay imposed in these proceedings” and “[d]isqualify itself from further adjudication of these matters” refers to this appeal, ECF 85, at 3, those requests should be denied. This Court already lifted the stay in this appeal, and in the same order it denied Cammarata’s request to disqualify the Third Circuit. ECF 82.

Motion for Clarification and Request for Statement of Reasons (ECF 87):

This filing requests that this Court “[p]rovide reasoned explanations” with respect to two orders issued in this case, or in the alternative certify the issue to the Supreme Court. ECF 87, at 3 (citing ECF 68 & 83).¹ This Court already denied his previous motion to certify issues to Supreme Court (ECF 83), and should likewise reject this relief now because the Court’s denial of Cammarata’s motions does not deny him due process, *see* ECF 87 at 2, and Cammarata has not identified any “question of law” that would warrant certification. *See* 28 U.S.C. § 1254(2); ECF 87, at 2.

Objection to Appellee’s Motion for Extension and Motion to Expedite

Appeal (ECF 88) and Declaration in Support of Objection (ECF 89): These

¹ ECF 68 is a filing is a motion filed by Cammarata, which this Court denied at ECF 71. Cammarata’s motion separately requests the Court rule on a motion in No. 25-1188. ECF 87, at 3 (citing ECF 12, No. 25-1188).

filings request that this Court deny the Commission’s “Motion for Extension,” “[a]cknowledge” his “objection to any further rulings by this Court,” “[p]reserve” his demands for recusal and transfer to the Supreme Court, and in the alternative “provide reasoned explanation” for any future denials. ECF 88, at 3; *see* ECF 89-2. With respect to the timeline for this appeal, Cammarata argues he is deprived of funds subject to an asset freeze. *See* ECF 88, at 2; ECF 89-1, at 2. However, this Court has now affirmed the amount of criminal restitution and forfeiture against him, *see United States v. Cammarata*, 145 F.4th 345 (3d Cir. 2025), and Cammarata has not demonstrated he would be entitled to retain any of the currently frozen funds. *See also* ECF 69 & 70 (opposition to and order denying motion to lift asset freeze). Cammarata has not shown that expedition is warranted or that 60 days for the Commission’s brief would be improper. *See* ECF 86.

With respect to the other issues he raises: *first*, this Court’s denials of Cammarata’s motions do not violate his due process rights. *See* ECF 88, at 2; ECF 89-1, at 2. *Second*, this Court has already denied Cammarata’s motion for relief from an asset freeze. *See* ECF 68 & 71; ECF 88, at 2–3; ECF 89-1, at 2. *Third*, Federal Rule of Criminal Procedure 5(f) does not apply to this civil action. *See* ECF 88, at 2. *Finally*, this Court has previously denied Cammarata’s requests for recusal and to transfer this case to the Supreme Court, and should do so again here. *See* ECF 82; ECF 88, at 3; ECF 89-1, at 2; ECF 89-2.

Respectfully submitted,

DANIEL STAROSELKY
Assistant General Counsel

DAVID LISITZA
Senior Appellate Counsel

/s/ John R. Rady
JOHN R. RADY
Appellate Counsel

Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549
(202) 551-4997
radyjo@sec.gov
Counsel for Respondent
Securities and Exchange Commission

September 12, 2025

CERTIFICATE OF SERVICE

I certify that I electronically filed the foregoing response with the Clerk of the Court for the United States Court of Appeals for the Third Circuit using the CM/ECF system. Service was accomplished on all counsel of record by the appellate CM/ECF system. I also certify that I sent a copy of the foregoing response by U.S. mail to:

Joseph A. Cammarata, Reg. No. 02555-506
Montgomery FPC
Maxwell Air Force Base 1001
Willow Street
Montgomery, AL 36112

/s/ John R. Rady
John R. Rady

Dated: September 12, 2025

CERTIFICATE OF COMPLIANCE

I certify that this response complies with the type-volume limitation set forth in Federal Rule of Appellate Procedure 27(d)(2)(A) because it contains 605 words, excluding the parts exempted from the word count by Federal Rule of Appellate Procedure 32(f).

I also certify that this response complies with the typeface and type-style requirements of Federal Rules of Appellate Procedure 32(a)(5) and 32(a)(6) because it uses a proportionally spaced, 14-point Roman-style font.

/s/ John R. Rady
John R. Rady

Dated: September 12, 2025