

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

<p>VANESSA E. CARBONELL, <i>et als</i>,</p> <p>Plaintiffs</p> <p>v.</p> <p>ANTONIO LÓPEZ FIGUEROA, <i>et als</i>,</p> <p>Defendants</p>	<p>CIVIL NO. 22-1236 (WGY)</p> <p>Class Action Complaint/ Constitutional Violation</p>
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RESPONSE TO MOTION FOR ATTORNEYS' FEES

TO THE HONORABLE COURT:

COMES NOW, the Department of Justice of the Commonwealth of Puerto Rico, on behalf of **Antonio López Figueroa (López-Figueroa)**, in his official capacity as Commissioner of the Puerto Rico Police Bureau (hereinafter "PRPB"), and **Michelle Moure (Moure)**, in her official capacity as Human Resources Director of the PRPB, without submitting to the jurisdiction of the Court and without waiving any right or defense arising from Title III of PROMESA and the Commonwealth's Petition under said Title or under this case, represented by the undersigned counsel and respectfully states and prays as follows:

1. On December 2, 2024, Plaintiffs filed a "Motion for Attorneys' Fees." (Docket No. 149). As a prevailing party, Plaintiffs prayed in their motion for an award of attorneys' fees under 42 U.S.C. 1988 in the amount of \$300,920. Id. The motion contains a breakdown of the time counsel for Plaintiffs claim to have devoted to the litigation of this case, and arguments as to the proper hourly fee the Court should apply when applying the lodestar method to compensate them for their work in the case.

2. López Figueroa and Moure moved for an extension of time until January 15, 2025, to respond to Plaintiffs’ motion, which the Court granted (Docket No. 157).

3. Plaintiffs’ motion initially stated that their request was directed to appearing official capacity co-defendants López Figueroa and Moure and that neither the Eleventh Amendment nor the Puerto Rico Oversight, Management and Economic Stability Act (PROMESA) precluded the fee award they prayed for (Docket No. 149, p. 2; p. 10).¹

4. Nevertheless, in the text of the same motion, Plaintiffs unequivocally stated that “[p]laintiffs request that the Court order **the Union** to pay the Foundation the total amount of \$300,920 as reasonable attorneys’ fees” (Docket 149, p. 10)(emphasis added).² The motion’s conclusion and prayer for relief is equally unequivocal: “...the court should award Plaintiffs the requested attorneys’ fees and order **the Union** to pay the Foundation a total of \$300,920 as reasonable attorneys’ fees, as set forth herein and in the documents contemporaneously filed herewith” (Id. at p. 11)(emphasis added).³

5. Although the text of the motion may raise confusion as to whether in fact Plaintiffs seek an award of attorneys’ fees against the official capacity defendants, its conclusion is very

¹ In support of such proposition, Plaintiffs cited *Lex Claims, LLC v. García Padilla*, 204 F.Supp. 3d 424 (D.P.R. 2016) (Docket No. 149, p. pp. 10-11), which was subsequently reversed by the U.S. Court of Appeals for the First Circuit in *Lex Claims, LLC v. Financial Oversight and Management Board*, 853 F.3d. 548 (1st Cir. 2017). The District Court’s ruling, dated September 2, 2016, was also rendered moot by subsequent events, since it occurred *before* the filing by the Financial Management and Oversight Board (FOMB) of the restructuring petition under PROMESA for the Commonwealth of Puerto Rico, which occurred on May 3, 2017 (Case No. 17-BK-3283 LTS). A Confirmation Order was entered in the bankruptcy case on January 18, 2022 (Docket No. 19784), discharging the Commonwealth of all legal claims against it of the kind described in the Order.

² Since its inception, Plaintiffs have been represented in this case by attorneys associated to the National Right to Work Legal Defense Foundation, Inc.

³ The Union of Organized Civilian Employees is a Co-defendant in this case, who initially appeared through counsel and raised defenses in the case. With leave from the Court, its counsel resigned during the course of the litigation, and since then it has not been represented by counsel. Plaintiffs sought in their Complaint a damages award against the Union (Docket No. 1, p. 18). Neither the Court’s memorandum opinion on the motions for summary judgment nor the judgment entered in the case made any reference to the final disposition of those claims for damages against the Union (Docket Nos. 147 & 148).

clear as to which party the prayer for remedies is directed to, namely, the Union. Neither the official capacity Co-Defendants nor the Court should assume that this is some kind of oversight, since the itemized breakdowns submitted by Plaintiffs in support of their request for a fee award show that counsel for Plaintiffs ordinarily devote substantial amounts of time to drafting and reviewing documents prior to filing (Docket Nos. 149-4, 149-5 & 149-6), and the motion requesting attorney's fees must have been reviewed prior to its final filing by the three attorneys who represent Plaintiffs. The motion also contains declarations by counsel which establish they are experienced professionals with substantial knowledge of federal civil rights litigation (Docket Nos. 149-1, 149-2 & 149-3).

6. In short, "[w]ords matter." *Enigwe v. Amazon.com Services, LLC*, 2022 WL 607874, at *1 (D. Del. Feb. 3, 2022). Appearing Co-Defendants have no standing to raise objections against Plaintiffs' request for attorneys' fees since the motion's text and conclusion reflect that it is directed **only to the Co-defendant Union of Organized Civilian Employees**, and there is no reason to believe this was not Plaintiffs' intention. Appearing Co-Defendants will therefore not address the merits of the motion.

7. If the Court were to eventually conclude that the official capacity Co-Defendants should address the contents of the motion, appearing Co-Defendants would then move for an enlarged period of time to present a detailed opposition setting forth their defenses against Plaintiffs' motion.

WHEREFORE, it is respectfully requested from this Honorable Court that it be appraised that the official capacity Co-Defendants do not oppose Plaintiffs' motion for an award of attorneys' fees against the codefendant Union of Organized Civilian Employees.

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed a digital copy of this document with the Clerk of the Court, who will automatically serve copy of such filing to all parties officially registered in the CM/ECF System, and to the Union of Organized Civilian Employees, by regular mail, to 78 Calle Padial, Caguas PR 00725.

In San Juan, Puerto Rico, this 15th day of January 2025.

JANET PARRA-MERCADO

Appointed Secretary of Justice

SUSANA I. PEÑAGARÍCANO-BROWN

Interim Deputy Secretary in Charge of Litigation

s/ José R. Cintrón Rodríguez

José R. Cintrón Rodríguez

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