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

SONIA M. DÁVILA-SURÉN **Plaintiff,** **v.** PUERTO RICO INDUSTRIAL COMMISSION; MARÍA T. QUINTANA, in her official capacity as Chair of the Puerto Rico Industrial Commission; FEDERACIÓN CENTRAL DE TRABAJADORES, UFCW LOCAL 481 **Defendants.**	**Civil No.:** 26-1512 (MAJ) 42 U.S.C. § 1983 FOR VIOLATIONS OF CIVIL RIGHTS, DECLARATORY JUDGMENT, INJUNCTIVE RELIEF, AND COMPENSATORY AND NOMINAL DAMAGES

MOTION TO DISMISS THE COMPLAINT PURSUANT TO RULE 12(b)(1) AND RULE 12(b)(6)

TO THE HONORABLE COURT:

COME NOW, codefendants María T. Quintana, in her official capacity as Chair of the Puerto Rico Industrial Commission ("PRIC Chair"), and the Puerto Rico Industrial Commission ("PRIC"), through the undersigned attorneys, without submitting to the Court's jurisdiction and without waiving any affirmative defense, very respectfully **STATE**, **ALLEGE**, and **PRAY** as follows:

I. INTRODUCTION

Plaintiff Sonia M. Dávila-Surén ("Plaintiff" or "Dávila-Surén") attempts to lodge a First Amendment violation claim against the Puerto Rico Industrial Commission and its Chair (collectively, "Codefendants"), but in fact challenges the method by which the

Federación Central de Trabajadores, UFCW Local 481 (the "Union") determines union membership and processes union disaffiliation. The PRIC stopped the challenged deductions effective August 1, 2026, ten days before Plaintiff filed suit. Plaintiff therefore lacked standing to seek prospective relief against the PRIC and the PRIC Chair and, alternatively, those claims are moot. The PRIC is also an arm of the Commonwealth immune from suit, and the claims against the PRIC Chair fall outside *Ex parte Young* and fail the four-factor test for a permanent injunction.

II. PROCEDURAL BACKGROUND

1. Dávila-Surén seeks a permanent injunction against the PRIC[1] and the Union prohibiting them from collecting union dues from her wages. (Docket No. 1 at 20). She alleges that the Codefendants, with the Union, deducted and collected union dues from her wages without her consent in violation of *Janus v. AFSCME, Council 31*, 585 U.S. 878 (2018). (*Id.* at 2–3, ¶¶ 3, 5; *id.* at 7, ¶ 21; *id.* at 13, ¶ 43). Plaintiff alleges that in September 2020 she completed a form prepared by the Puerto Rico Department of Labor and Human Resources ("PRDOL") and submitted it to end her union membership and dues deductions. (*Id.* at 7–8, ¶¶22, 23.)

2. Following *Janus*, the Human Resources Administration and Transformation Office ("HRATO") and the PRDOL issued Joint Special Memoranda Nos. 2018-01 and 2018-02, which instructed Executive Branch agencies to make available forms to request affiliation with the union, to authorize the deduction of service fees, and to

[1] Although the Complaint refers to preliminary injunctive relief (Docket No. 1 at 2, ¶ 2), the Prayer for Relief requests only permanent relief (*id.* at 20–21), and Plaintiff has not moved for a preliminary injunction under Fed. R. Civ. P. 65(a). Codefendants therefore address only the request for permanent injunctive relief.

request disaffiliation from the union.[2] Plaintiff further alleges that the PRIC honored her request and ceased union dues deductions from her wages (Docket No. 1 at 8, ¶ 24), but that the PRIC reversed its decision after the Commonwealth of Puerto Rico Court of First Instance ("CFI") declared those memoranda null because the PRDOL and the HRATO did not adopt them under the rulemaking procedures of the Uniform Administrative Procedure Act, Act No. 38-2017, P.R. Laws Ann. tit. 3, § 9601 *et seq*.[3] The CFI entered the Judgment on August 30, 2021, and notified it on August 31, 2021. The Judgment was not appealed.

3. Following the CFI's Judgment, Plaintiff alleges that on November 2, 2022, the PRIC reversed its decision (Docket No. 1 at 8, ¶25)[4] and reinstated dues deductions for bargaining unit members, including Dávila-Surén, effective on December 2, 2022. (*Id.* at 9, ¶27; *see id.* at 13, ¶ 43). The Complaint alleges that the PRIC's reversal followed a letter from the Union's then-President to the PRIC's then-Chair, which the Complaint characterizes as a demand to reinstate compulsory dues deductions. (*Id.* at 8–9, ¶ 26; Docket No. 1-2). The May 23, 2022 letter told then-Chair Calderón Cestero that the agency was not authorized to process disaffiliations or stop deductions contrary to the collective

[2] These memorandums were originally published in Spanish. The certified English translations are **Exhibit 1** and **Exhibit 2** of this motion to dismiss.

[3] *See Servidores Públicos Unidos de P.R. v. Estado Libre Asociado de P.R.*, Civil No. SJ2018CV05288 (Court of First Instance, San Juan, July 13, 2018) (certified English translation at Exhibit 3). The Judgment reads as follows: "On the above grounds[,] we find FOR the plaintiff's Motion for Judgment and enter Judgment accordingly, declaring Memorandums MC2018-01 and MC2018-02 to be NULL as not complying with the procedure established in the Uniform Administrative Procedure Act for their adoption and promulgation. Consequently[,] the Motion for Summary Judgment filed by the defendant, the Commonwealth of Puerto Rico, is denied." *Id.* at 17.

[4] It should be noted that the current Chair of the PRIC, María T. Quintana, began her official duties on December 1, 2023.

bargaining agreement and warned of sanctions for any violation of the CFI's Judgment; a May 24, 2022 follow-up email asked that any disaffiliation request be referred to the Union.[5]

4. Years later, on June 9, 2026, Plaintiff wrote a letter to the Union, with copy to the PRIC, requesting disaffiliation from the Union and the cessation of all union dues deductions, effective July 1, 2026. (Docket No. 1 at 9, ¶ 28). On June 11, 2026, the PRIC replied that its Payroll Division would be processing the cessation of dues deductions. (*Id.* at 9, ¶ 29). On June 12, 2026, the Union wrote to the PRIC objecting to the agency's involvement in Plaintiff's disaffiliation and requesting that it cease and desist. (Exhibit 5). Afterwards, on June 22, 2026, the PRIC informed Plaintiff that it could not process the cessation of union dues deductions without an official notification from the Union certifying a change in her affiliation status. (Docket No. 1 at 10, ¶ 35). The rest of the Complaint's allegations characterize the PRIC as "aware" of the procedures set forth in a regulation approved and implemented by the Union and as "subordinating" Plaintiff's First Amendment rights to the outcome of a process administered entirely by the Union. (*Id.* at 10, ¶ 35; *id.* at 10–11, ¶ 36; *id.* at 13, ¶ 42). Finally, the Complaint alleges that the PRIC is currently deducting $15 in union dues from Plaintiff's wages each semi-monthly pay period, totaling $30 per month or $360 per year. (*Id.* at 13, ¶ 44).

[5] *See* Exhibit 4 (May 23, 2022 letter and May 24, 2022 follow-up email). Plaintiff attached a certified English translation of the letter, but not of the follow-up email, to the Complaint. (Docket No. 1-2). The letter is therefore part of the pleading, Fed. R. Civ. P. 10(c), and the email may be considered under the standard set forth above.

5. Once the Union notified the PRIC of Plaintiff's disaffiliation, the PRIC stopped the deductions from her wages, and it did so before the Complaint was filed.[6] On July 23, 2026, the Union sent the PRIC a letter captioned "Union Disaffiliation" authorizing the agency to immediately cease all union dues deductions for Plaintiff. (Exhibit 6; Exhibit 7). That same day, the PRIC Chair notified the Union, with copy to Plaintiff, that the cessation would take effect on August 1, 2026, because the July 31 payroll had already been confirmed. (Exhibit 6). No union dues have been deducted from Plaintiff's wages since. (Exhibit 5; Exhibit 6). The Complaint was filed on August 11, 2026.

6. Accordingly, the appearing Codefendants respectfully move to dismiss pursuant to Fed. R. Civ. P. 12(b)(1) and 12(b)(6) on each of the grounds set forth in Section IV, all of which apply equally to Counts I and II of the Complaint.

III. STANDARD OF REVIEW

A. Fed. R. Civ. P. 12(b)(1)

Pursuant to Fed. R. Civ. P. 12(b)(1), a party may raise as a defense that the court lacks subject-matter jurisdiction. It is a well-established legal principle that a federal court must inquire *sua sponte* into its own subject-matter jurisdiction. *McCulloch v. Vélez*, 364 F.3d 1, 5 (1st Cir. 2004). Federal courts are obligated to resolve questions pertaining to subject-matter jurisdiction before addressing the merits of a case. *Acosta-Ramírez v. Banco Popular de P.R.*, 712 F.3d 14, 18 (1st Cir. 2013); *Lebrón v. Reyes-Rosado*, 2025 WL 89140, at *2. The First Circuit has explained that when a court is confronted with motions to dismiss

[6] *See* **Exhibit 5**, *Certification* issued by the PRIC on August 27, 2026, regarding Plaintiff's cessation of union dues deductions.

for lack of subject-matter jurisdiction and for failure to state a claim upon which relief may be granted, it ordinarily ought to decide the former before entertaining the latter. *Deniz v. Mun. of Guaynabo*, 285 F.3d 142, 149 (1st Cir. 2002). This is because whether a complaint states a cause of action on which relief could be granted is a question of law which must be decided after, and not before, the court has assumed jurisdiction over a controversy. *Id.* (citing *Bell v. Hood*, 327 U.S. 678, 682 (1946)).

Rule 12(b)(1) provides a "large umbrella, overspreading a variety of different types of challenges to subject-matter jurisdiction," including challenges grounded in considerations of mootness and sovereign immunity. *Valentin v. Hosp. Bella Vista*, 254 F.3d 358, 362-63 (1st Cir. 2001). A Rule 12(b)(1) motion may present a facial or a factual challenge. *Id.* at 363. In a factual challenge, the movant controverts the accuracy of the jurisdictional allegations with evidence; the plaintiff's allegations receive no presumption of truth, and the court may weigh the evidence and resolve the jurisdictional facts. *Id.* at 363–65; *Torres-Negrón v. J & N Records, LLC*, 504 F.3d 151, 162–63 (1st Cir. 2007). The PRIC and the PRIC Chair mount a factual challenge. (Exhibits 6–8; Exhibit 9). Although a party invoking the jurisdiction of a federal court bears the burden of proving the existence of subject-matter jurisdiction, the burden of establishing mootness rests with the party invoking the doctrine. *ACLU of Mass. v. U.S. Conf. of Cath. Bishops*, 705 F.3d 44, 52 (1st Cir. 2013). That burden becomes "formidable" only where the defendant claims that its voluntary cessation of the challenged conduct moots the case. *Friends of the Earth, Inc. v. Laidlaw Env't Servs. (TOC), Inc.*, 528 U.S. 167, 190 (2000); *see ACLU of Mass.*, 705 F.3d at 54–55.

B. Fed. R. Civ. P. 12(b)(6)

To survive dismissal under Rule 12(b)(6), a complaint must allege a plausible entitlement to relief, requiring more than labels and conclusions. *Rodríguez-Vives v. P.R. Firefighters Corps*, 743 F.3d 278, 283 (1st Cir. 2014); *Cardigan Mountain Sch. v. N.H. Ins. Co.*, 787 F.3d 82, 84 (1st Cir. 2015). Plausibility requires facts allowing a reasonable inference of liability, a context-specific inquiry grounded in judicial experience and common sense. *Parker v. Landry*, 935 F.3d 9, 14 (1st Cir. 2019); *Morales-Cruz v. Univ. of P.R.*, 676 F.3d 220, 224 (1st Cir. 2012); *Thornton v. Ipsen Biopharmaceuticals, Inc.*, 126 F.4th 76, 80 (1st Cir. 2025) (citing *Ashcroft v. Iqbal*, 556 U.S. 662, 679 (2009)).

At this stage, the court must accept as true all well-pleaded facts and draw all reasonable inferences in Plaintiff's favor. *See Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007). However, it may disregard bald assertions and legal conclusions. *Thornton*, 126 F.4th at 80; *LaChapelle v. Berkshire Life Ins. Co.*, 142 F.3d 507, 508 (1st Cir. 1998). To avoid dismissal, the complaint must allege facts, either direct or inferential, regarding every material element of an actionable theory. *Gagliardi v. Sullivan*, 513 F.3d 301, 305 (1st Cir. 2008) (citing *Centro Médico del Turabo, Inc. v. Feliciano de Melecio*, 406 F.3d 1, 6 (1st Cir. 2005)). The court need not conjecture an actionable claim from sketchy allegations or allow a deficient case to proceed in hopes that discovery will uncover a cause of action. *Oliveras-Sifre v. P.R. Dep't of Health*, 214 F.3d 23, 27 (1st Cir. 2000); *Dura Pharms., Inc. v. Broudo*, 544 U.S. 336, 347 (2005) (citing *Blue Chip Stamps v. Manor Drug Stores*, 421 U.S. 723, 741 (1975)).

In ruling on a Rule 12(b)(6) motion, the Court may consider, without converting the motion into one for summary judgment, documents whose authenticity the parties do not dispute, official public records, documents central to the plaintiff's claim, and documents sufficiently referred to in the complaint. *Watterson v. Page*, 987 F.2d 1, 3–4 (1st Cir. 1993). Exhibits attached to the complaint are part of the pleading for all purposes. Fed. R. Civ. P. 10(c).

IV. LEGAL ANALYSIS AND DISCUSSION

A. Plaintiff lacked Article III standing to seek prospective relief against the PRIC and the PRIC Chair when she filed the Complaint.

Article III of the Constitution limits federal-court jurisdiction to "cases" and "controversies." U.S. Const. art. III, § 2. Therefore, a plaintiff must have Article III standing to sue, meaning the litigant is entitled to have the court decide the merits of the dispute or of particular issues. *See Laufer v. Acheson Hotels, LLC*, 50 F.4th 259, 266 (1st Cir. 2022) (quoting *Warth v. Seldin*, 422 U.S. 490, 498 (1975)), *vacated as moot*, 601 U.S. 1 (2023). This standing inquiry is both plaintiff-specific and claim-specific; a reviewing court must determine whether each particular plaintiff is entitled to have a federal court adjudicate each particular claim she asserts. *Pagán v. Calderón*, 448 F.3d 16, 26 (1st Cir. 2006). To establish standing, a plaintiff must demonstrate: (1) an injury in fact, (2) that the injury likely was caused by the defendant, and (3) that the injury likely would be redressed by the requested relief. *Kolackovsky v. Town of Rockport*, 165 F.4th 114, 119 (1st Cir. 2026); *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560–61 (1992). The plaintiff bears the burden on each element. *Lujan*, 504 U.S. at 561. If a party lacks standing to bring a matter before the court,

the court lacks jurisdiction to decide the merits of the underlying case. *See Steel Co. v. Citizens for a Better Env't*, 523 U.S. 83, 94 (1998). Standing must exist at the beginning of the litigation and must continue through its existence. *Conservation Law Found., Inc. v. Acad. Express, LLC*, 129 F.4th 78, 85 (1st Cir. 2025) (citing *Friends of the Earth*, 528 U.S. at 189). Standing is measured as of the time the suit is filed, *Davis v. FEC*, 554 U.S. 724, 734 (2008), and must be shown separately for each form of relief sought, *TransUnion LLC v. Ramirez*, 594 U.S. 413, 431 (2021). A plaintiff seeking injunctive relief must show a real and immediate threat of future injury; past exposure to allegedly unlawful conduct does not suffice. *City of Los Angeles v. Lyons*, 461 U.S. 95, 102, 105 (1983).

Both counts of the Complaint arise from Plaintiff's effort to end her membership in, and dues payments to, the Union. (Docket No. 1 at 9–10, ¶¶ 28, 30–32; *id.* at 10, ¶¶ 33–34; *id.* at 11, ¶¶ 37–38). Dávila-Surén seeks a declaratory judgment stating that the PRIC and the Union violate her First Amendment rights (*id.* at 19–20), and a permanent injunction against the PRIC and the Union to enjoin them from deducting and collecting union dues from her wages without her consent (*id.* at 20). However, the PRIC ceased the deductions after the Union notified it on July 23, 2026, of Plaintiff's disaffiliation and authorized it to cease all dues deductions, and the PRIC Chair informed the Union that same day, with copy to Plaintiff, that the deductions would stop on August 1, 2026. (Exhibits 6–7). Plaintiff filed the Complaint on August 11, 2026. Thus, the conduct Plaintiff asks this Court to enjoin prospectively had already ceased before this action was commenced. Indeed, the Complaint identifies July 30, 2026, as the most recent occasion

on which union dues were deducted from her wages. (Docket No. 1 at 5, ¶ 11). No union dues have been deducted from her wages since. (Exhibit 8; Exhibit 9).

Plaintiff also seeks relief for persons who are not parties to this action, which is not a class action. (Docket No. 1 at 19–22, Prayer ¶¶ A(i), B(ii)–(iii), E(i)). Standing, however, is not dispensed in gross, *Lewis v. Casey*, 518 U.S. 343, 358 n.6 (1996), and a plaintiff's remedy must be tailored to redress her own particular injury, *Gill v. Whitford*, 585 U.S. 48, 73 (2018). Plaintiff therefore lacks standing to seek declaratory, injunctive, or notice relief on behalf of other employees or bargaining-unit members.

Plaintiff lacked Article III standing to seek prospective relief against the PRIC and the PRIC Chair at the commencement of this litigation. Consequently, the Court must dismiss the claims against the PRIC and the PRIC Chair without prejudice for lack of subject-matter jurisdiction. *See Hochendoner v. Genzyme Corp.*, 823 F.3d 724, 736 (1st Cir. 2016).

B. Alternatively, Plaintiff's claims for prospective relief against the PRIC and the PRIC Chair are moot.

Mootness arises when any change in the facts ends the live controversy, as an actual dispute must exist throughout the case. *Arizonans for Official English v. Arizona*, 520 U.S. 43, 68 n.22 (1997). A plaintiff must maintain a personal stake from start to finish; otherwise, the case becomes nonjusticiable. *Steir v. Girl Scouts of the USA*, 383 F.3d 7, 15 (1st Cir. 2004); *Sierra-Morales v. Sistema Universitario Ana G. Méndez Incorporado*, No. 18-cv-01159 (MAJ), 2023 WL 2926243, at *4 (D.P.R. Apr. 13, 2023). A case becomes moot when there is no longer a "Case" or "Controversy" under Article III, and dismissal is

mandatory. *United States v. Sanchez-Gomez*, 584 U.S. 381, 385–86 (2018) (quoting *Already, LLC v. Nike, Inc.*, 568 U.S. 85, 91 (2013)); *Cruz v. Farquharson*, 252 F.3d 530, 533 (1st Cir. 2001). This doctrine prevents advisory opinions. *Genesis Healthcare Corp. v. Symczyk*, 569 U.S. 66, 71–72 (2013).

A declaratory judgment deeming the past conduct of the PRIC and the PRIC Chair illegal is moot because such an order would be merely advisory. *Ramos-Ramos v. Jordán-Conde*, 171 F.4th 438, 442 (1st Cir. 2026) (quoting *ACLU of Mass.*, 705 F.3d at 53). The challenged deductions no longer exist. (Exhibits 7–8; Exhibit 9). Plaintiff has already obtained the cessation of deductions that her request for injunctive relief seeks, and she therefore lacks a legally cognizable interest in the case against the PRIC and the PRIC Chair.

Moreover, there is no reasonable expectation that the challenged conduct will be repeated if the case is dismissed. Plaintiff is no longer a Union member, the Union itself has authorized the PRIC to cease all dues deductions from her wages, and the PRIC will not deduct union dues from her wages absent her affirmative written authorization. (Exhibit 6; Exhibit 9).

Nor does the voluntary-cessation exception apply. That exception reaches a defendant that decides, of its own volition, to stop "the challenged practice in order to moot the plaintiff's case," where there is a reasonable expectation that the conduct will resume after dismissal. *Ramos-Ramos*, 171 F.4th at 443 (quoting *Bos. Bit Labs, Inc. v. Baker*, 11 F.4th 3, 9 (1st Cir. 2021)). The PRIC did not stop the deductions to defeat this litigation. It ordered them stopped on July 23, 2026, the same day the Union notified the agency of

Plaintiff's disaffiliation, and nineteen days before the Complaint was filed. (Exhibits 6–7). The existence of collective-bargaining language does not revive the controversy where there has been no recent attempt to enforce it against Plaintiff. *Ramos-Ramos*, 171 F.4th at 444 (citing *Hartnett v. Pa. State Educ. Ass'n*, 963 F.3d 301, 307 (3d Cir. 2020)). Nor does the PRIC's 2022 reinstatement of deductions suggest recurrence. (Docket No. 1 at 8–9, ¶¶ 24–27). That reinstatement followed the CFI's Judgment nullifying the memoranda on which the 2020 cessation rested. (Exhibit 3).

Because there is no "case" or "controversy" under Article III, Plaintiff's claims against the PRIC and the PRIC Chair are moot, and the Court lacks jurisdiction over them. As a result, the Court must dismiss the claims against the PRIC and the PRIC Chair without prejudice.

C. Alternatively, the Eleventh Amendment bars Plaintiff's claims against the PRIC and the PRIC Chair.

In the alternative, dismissal is warranted under Fed. R. Civ. P. 12(b)(1) and 12(b)(6) because the Eleventh Amendment bars every claim against the PRIC, and Plaintiff's claims against the PRIC Chair fall outside *Ex parte Young* and cannot satisfy the four-factor test for a permanent injunction.

1. The Eleventh Amendment bars every claim against the PRIC, an arm of the Commonwealth.

At the outset, the Eleventh Amendment prohibits federal suits in law, equity, or admiralty against state governments by a state's own citizens, by citizens of another state, or by citizens of foreign countries. *See Edelman v. Jordan*, 415 U.S. 651, 662–63 (1974); *Missouri v. Fiske*, 290 U.S. 18, 28 (1933); *Hans v. Louisiana*, 134 U.S. 1, 15 (1890). This

immunity also extends to agencies of the state government, which are considered "arms of a state" for purposes of the Amendment. *Vaquería Tres Monjitas, Inc. v. Irizarry*, 587 F.3d 464, 477 (1st Cir. 2009) (citing *Hafer v. Melo*, 502 U.S. 21, 25 (1991)); *Pastrana-Torres v. Corp. de P.R. para la Difusión Pública*, 460 F.3d 124, 126 (1st Cir. 2006). Although not a state, the Commonwealth of Puerto Rico enjoys Eleventh Amendment immunity to the same extent. *Miya Water Projects Neth. B.V. v. Fin. Oversight & Mgmt. Bd. for P.R.*, 138 F.4th 49, 54 (1st Cir. 2025). Specifically, this District has previously concluded that the PRIC is an arm or alter ego of the Commonwealth and is entitled to immunity under the Eleventh Amendment. *Vicenty-Martell v. Estado Libre Asociado de P.R.*, 48 F. Supp. 2d 81, 92 n.6 (D.P.R. 1999) (describing the PRIC as "an agency of the Commonwealth with quasi-judicial functions"); *Torres v. Industrial Com'n of Puerto Rico*, Civ. No. 05-1202 (HL), 2005 WL 3157965, at *4-*5 (D.P.R. Oct. 19, 2005), *report and recommendation adopted on the Eleventh Amendment's analysis*, No. 05-1202 (HL), 2005 WL 8168574, at *1 *(D.P.R. Nov. 8, 2005); *Díaz-Seijo v. Navarro-Rosado*, Civ. No. 09-2194 (GAG), 2010 WL 759165, at *1 (D.P.R. Mar. 1, 2010). Plaintiff herself pleads that the PRIC is "a state agency of the Government of Puerto Rico." (Docket No. 1 at 5–6, ¶¶ 13–14).

The Supreme Court's most recent arm-of-the-State decision confirms that conclusion. The inquiry is a question of federal law that focuses predominantly on "whether the State structured the entity as a legally separate entity liable for its own judgments," the clearest evidence of which is a corporation with the powers to sue and be sued, hold property, make contracts, and incur debt. *Galette v. N.J. Transit Corp.*, 607 U.S. 509, 519, 524 (2026). An entity's practical financial relationship with the State "has

less relevance." *Id.* at 525. The PRIC is not a public corporation. It is a quasi-judicial agency of the Commonwealth whose Chair and Commissioners are appointed by the Governor with the advice and consent of the Senate. Act No. 45 of April 18, 1935, P.R. Laws Ann. tit. 11, § 8; *see* Docket No. 1 at 6, ¶ 13. Act No. 45 does not grant the PRIC the power to sue and be sued in its own name, to hold property, or to incur debt, and any judgment against the PRIC would be satisfied through the Commonwealth's budget. (Exhibit 9). The Commonwealth thus performs the PRIC's functions "through its own apparatus," not "through that of a legally separate entity." *Galette*, 607 U.S. at 532.

The Eleventh Amendment therefore bars Plaintiff's claims against the PRIC regardless of the relief sought. *Pennhurst State Sch. & Hosp. v. Halderman*, 465 U.S. 89, 100 (1984). Independently, the PRIC is not a "person" that can be sued under 42 U.S.C. § 1983. *Will v. Mich. Dep't of State Police*, 491 U.S. 58, 70–71 (1989). Claims for prospective relief against the PRIC Chair are governed by *Ex parte Young*, 209 U.S. 123 (1908), *see Will*, 491 U.S. at 71 n.10, and are addressed in Section IV.C.2 below. Because the PRIC is an arm of the Commonwealth, Eleventh Amendment immunity deprives the Court of subject-matter jurisdiction over the claims against it, and those claims should be dismissed without prejudice.

2. *Ex parte Young* does not reach the PRIC Chair, and a permanent injunction against here is unwarranted.

Although the Eleventh Amendment bars all claims against the PRIC and any retrospective relief against its officials, a plaintiff may seek prospective relief against a state official sued in her official capacity under *Ex parte Young*, 209 U.S. at 159–60. *See*

Erwin Chemerinsky, *Federal Jurisdiction* § 7.5, at 417 (9th ed. 2025). The ability to sue the state officer, however, depends on the nature of the relief sought and the claim presented by the plaintiff. *See Green v. Mansour*, 474 U.S. 64, 68 (1985).

Subsequent decisions have narrowed this exception by limiting what qualifies as a continuing violation of federal law and by requiring that the requested relief be forward-looking. *See Pennhurst*, 465 U.S. at 102–06; *Green*, 474 U.S. at 68; *Verizon Md. Inc. v. Pub. Serv. Comm'n of Md.*, 535 U.S. 635, 645 (2002).

To fall within the *Ex parte Young* doctrine, the state official must have some connection to enforcing the challenged statute. As the Court explained, an official without such a connection is made a party solely as a representative of the State, which is impermissible. *Ex parte Young*, 209 U.S. at 157. In other words, the challenged act must be one that the official has a duty to enforce, and the duty must be more than a mere general duty to enforce the law. 13 Charles Alan Wright & Arthur R. Miller, *Federal Practice and Procedure* § 3524.3 (3d ed., Oct. 2025 update).

The "connection to enforcement" analysis is central to determining whether a state official may be sued under *Ex parte Young*. If the Court concludes that the PRIC Chair lacks a sufficient connection to enforcing the alleged unconstitutional policy, the claims against the PRIC Chair must be dismissed as well.

Independently, *Ex parte Young* does not reach the PRIC Chair because there is no ongoing violation of federal law to enjoin. The exception applies only where the complaint "alleges an ongoing violation of federal law and seeks relief properly characterized as prospective." *Verizon*, 535 U.S. at 645 (internal quotation marks omitted);

Cotto v. Campbell, 126 F.4th 761, 767 (1st Cir. 2025). It does not authorize relief directed at past conduct. *Green*, 474 U.S. at 68, 73. The only conduct attributed to the PRIC Chair, the payroll deduction of union dues, ended with the July 31, 2026 payroll, before this action was filed. (Exhibits 7–8; Exhibit 9). The Complaint's contrary allegation that the PRIC is currently deducting dues (Docket No. 1 at 13, ¶ 44) is refuted by the jurisdictional record, which the Court may weigh on this factual challenge. *See Valentin*, 254 F.3d at 363–65. Accordingly, the claims against the PRIC Chair must be dismissed without prejudice.

Here, Plaintiff sued the PRIC Chair "in her official capacity for purposes of injunctive relief, declaratory judgment, and attorneys' fees only." (Docket No. 1 at 6, ¶ 14). By doing so, she effectively conceded that *Ex parte Young* is her only path to relief. The Prayer for Relief confirms the point: every request for declaratory, injunctive, and notice relief is directed at "PRIC and the Union" or at "PRIC" alone. (*Id.* at 19–22, Prayer ¶¶ A, B, E). The Eleventh Amendment bars each of those requests as to the PRIC, and the Complaint identifies no specific relief to be entered against the PRIC Chair. However, even assuming the doctrine applies, the Complaint lacks the necessary allegations for the Court to assess her success on the merits against the PRIC Chair in her official capacity. Specifically, Plaintiff has not shown that she satisfies the four-factor test required for a permanent injunction.

i. Standard of review of a permanent injunction

A plaintiff seeking a permanent injunction is traditionally required to satisfy a four-factor test: (1) that she has suffered an irreparable injury; (2) that remedies available at law are inadequate to compensate for that injury; (3) that, considering the balance of

hardships between the plaintiff and defendant, a remedy in equity is warranted; and (4) that the public interest would not be disserved by a permanent injunction. *Greene v. Ablon*, 794 F.3d 133, 156 (1st Cir. 2015); *see also Doe v. R.I. Interscholastic League*, 137 F.4th 34, 40 (1st Cir. 2025) (recounting what a plaintiff must show for a district court to issue a permanent injunction). The plaintiff must also demonstrate actual success on the merits of her claims for a district court to issue a permanent injunction. *United States v. Mass. Water Res. Auth.*, 256 F.3d 36, 50 n.15 (1st Cir. 2001).

ii. Plaintiff has not suffered irreparable harm from the PRIC Chair's actions

Irreparable harm is a necessary threshold for awarding permanent injunctive relief. Irreparable harm must be imminent, not remote or speculative. *Marriott v. Cnty. of Montgomery*, 426 F. Supp. 2d 1, 11 (N.D.N.Y. 2006). An alleged violation of a constitutional right triggers the finding of irreparable injury. *Conn. Dep't of Envtl. Prot. v. OSHA*, 356 F.3d 226, 231 (2d Cir. 2004). Because violations of constitutional rights are presumed irreparable, such allegations satisfy the requirement for showing irreparable injury. *Jolly v. Coughlin*, 76 F.3d 468, 482 (2d Cir. 1996); *Elrod v. Burns*, 427 U.S. 347, 373 (1976) (plurality opinion).

Here, Plaintiff alleges a violation of her First Amendment rights because the PRIC has not stopped collecting union dues after she wrote on June 9, 2026, requesting to withdraw as a member of the labor organization and the cessation of all dues deductions. (Docket No. 1 at 9, ¶ 28). Although the PRIC notified Plaintiff on June 11, 2026, that her deductions were going to be stopped, the PRIC received a communication from the Union dated June 12, 2026, raising objections to the PRIC's involvement in Plaintiff's

procedure to withdraw from the Union and requesting a cease and desist in said actions. (Exhibit 5). As a result, on June 22, 2026, the PRIC notified Plaintiff that it could not process the cessation without official notification from the Union certifying a change in her affiliation status. (Docket No. 1 at 10, ¶ 35). Once the Union certifies membership status to the PRIC, payroll implementation follows as an administrative procedure. Importantly, the PRIC Chair cannot independently evaluate the constitutional sufficiency of withdrawing consent for union membership by its employees, cannot conduct hearings regarding union disaffiliation, and does not possess unilateral authority to discard an employee's union membership status without exposing the agency to a potential unfair labor practice liability under Commonwealth law. P.R. Laws Ann. tit. 29, § 69(b).

In view of the foregoing, the PRIC Chair did not cause the alleged constitutional violation because she did not have a duty to halt the collection of union dues while the agency's administrative records continued to reflect that Plaintiff remained a Union member. Only upon receiving notice from the Union that Plaintiff was no longer a member would the PRIC Chair have authority to discontinue the deduction of union dues from her wages, or upon a competent forum's invalidation of the in-force collective bargaining agreement between the PRIC and the Union ("CBA"). Accordingly, Plaintiff has not demonstrated that the PRIC Chair caused her irreparable harm because neither she nor the agency violated Plaintiff's First Amendment rights.

iii. Plaintiff will not be successful on the merits because the PRIC Chair does not have an enforcement connection to the alleged constitutional

violation because payroll processing is administrative and triggered by union affiliation.

The CBA assigns to the Union, rather than the PRIC, the determination of union membership. Article VII, Section 6, expressly provides that "[a]ffiliate membership status shall be determined by the Union on the basis of its constitution and bylaws." (Exhibit 10, art. VII, § 6). Thus, the PRIC Chair does not possess the authority to determine for herself whether Plaintiff remained a Union member or had validly completed the Union's disaffiliation process. *Janus* "dealt with a non-union member who was subject to 'fair share' automatic wage deductions which were used to fund a union." *Ramos-Ramos v. Haddock*, Civ. No. 20-1232 (GMM), 2023 WL 6318066, at *9 (D.P.R. Sept. 27, 2023). The Supreme Court found such deductions to violate the First Amendment. *Janus*, 585 U.S. at 930. The Court limited the reach of *Janus* by noting that States "can keep their labor-relations systems exactly as they are—only they cannot force nonmembers to subsidize public-sector unions." *Id.* at 928 n.27. Nothing in *Janus* affects a union's purview on determining union membership or redirecting it to the government employer.

The PRIC and the PRIC Chair have not transferred their responsibility to the Union. Simply, the PRIC is not empowered to adjudicate membership disputes, interpret union bylaws, or independently determine whether an employee remains affiliated. That authority lies exclusively with the Union. Crucially, the PRIC was deducting union dues from Plaintiff's wages because the Union notified the government employer that a Commonwealth court determination invalidated the disaffiliation process previously relied upon to stop deductions. (Docket No. 1 at 8–9, ¶¶ 25–26; Exhibit 4). The PRIC Chair,

in fact, lacks authority to provide the requested prospective relief because the deductions are triggered by union membership.

Some federal courts have created "guideposts" to aid in deciding whether a state official meets the "connection" requirement under *Ex parte Young*. The Tenth Circuit has held that to be a proper defendant under *Ex parte Young*, a government official must have a particular duty to enforce the statute in question and demonstrate willingness to exercise that duty. *Free Speech Coal., Inc. v. Anderson*, 119 F.4th 732, 736 (10th Cir. 2024). The Fifth Circuit has similarly held that the following factors guide a court to determine whether a defendant has sufficient connection to the enforcement: (1) the state official has more than the general duty to see that the laws of the state are implemented; (2) the state official has a demonstrated willingness to exercise that duty; and (3) the state official, through her conduct, compels or constrains persons to obey the challenged law. *Mi Familia Vota v. Ogg*, 105 F.4th 313, 325 (5th Cir. 2024); *see also Free Speech Coal., Inc. v. LeBlanc*, 697 F. Supp. 3d 534, 542 (E.D. La. 2023). The First Circuit has applied a straightforward inquiry in determining whether the doctrine of *Ex parte Young* avoids the Eleventh Amendment bar to suit: (1) whether the complaint alleges an ongoing violation of federal law and (2) whether it seeks relief properly characterized as prospective. *Courtemanche v. Noble*, 177 F.4th 60, 64 (1st Cir. 2026) (citing *Cotto*, 126 F.4th at 767, and quoting *Verizon*, 535 U.S. at 645). In this case, the PRIC Chair has the general duty of overseeing operations in the PRIC, including the human resources and payroll processing office, but that is not enough. She has not compelled union dues deductions or threatened termination for non-compliance with union dues deductions. Plaintiff's deductions are a

result of the CBA, and union determination of membership. The proper entity capable of altering membership status to stop deductions is and has been the Union. The PRIC Chair lacks unilateral authority to do so.

Accordingly, Plaintiff fails to establish the necessary enforcement connection required under *Ex parte Young*. This is because the PRIC Chair cannot, absent a labor law violation, unilaterally stop deductions from an employee that, as far as the agency knows, is still part of a union. Once the Union certifies that the Plaintiff is no longer part of the Union, deductions will cease because this is purely a payroll processing matter. Thus, the source of the "enforcement connection" needed to pierce sovereign immunity under *Ex parte Young* is not present in this case. The PRIC Chair does not have a particular duty to cease union dues deductions because Plaintiff was, by all accounts, a member of the Union and the PRIC Chair has not demonstrated a willingness to enforce any unconstitutional scheme.

iv. The balance of equities and the public interest weigh against injunctive relief

When the government is a party, the balance of equities and the public interest factors merge. *Nken v. Holder*, 556 U.S. 418, 435 (2009). Accordingly, the Court should analyze these factors together. An injunction is a potent weapon that should be used only when necessary to safeguard a litigant's legitimate interests. *Charlesbank Equity Fund II v. Blinds to Go, Inc.*, 370 F.3d 151, 163 (1st Cir. 2004) (preliminary injunction context). Crafting an injunction is an exercise of discretion and judgment, often dependent as much on the equities of a given case as the substance of the legal issues it presents. *See Trump v.*

Int'l Refugee Assistance Project, 582 U.S. 571, 579 (2017) (per curiam); *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20, 24 (2008). In exercising such discretion, courts should carefully pay regard to the public consequences in employing the extraordinary remedy of injunction. *Weinberger v. Romero-Barcelo*, 456 U.S. 305, 312 (1982). A federal judge sitting as a chancellor is not mechanically obligated to grant an injunction for every violation of law. *Id.* (citing *Tenn. Valley Auth. v. Hill*, 437 U.S. 153, 193 (1978)). This is because all equitable remedies are discretionary and the balancing of hardships inquiry is an appropriate guide to a judge's discretion. *Id.* (citing D. Dobbs, *Remedies* 52 (1973)). Courts must balance "the hardships that will befall the nonmovant if the injunction issues." *Mercado-Salinas v. Bart Enters. Int'l, Ltd.*, 671 F.3d 12, 19 (1st Cir. 2011).

Here, the balance tips in safeguarding the public interest in protecting the structure of labor relations between the PRIC and the Union. Puerto Rico does not have a statute conferring authority to the PRIC Chair or the PRIC as a public employer to affiliate or disaffiliate the Plaintiff from the Union and stop deductions by simply communicating this directly to the public employer. Simply ordering the public employer to cease the deduction of union dues, through injunctive relief, could constitute an unfair labor practice and undermine the public policy of the Government of Puerto Rico concerning employment relations. It is unquestionable that the PRIC or the PRIC Chair, under current state law, cannot intervene or participate in the organization or administration of any employee organization. *See* P.R. Laws Ann. tit. 29, § 69; P.R. Laws Ann. tit. 11, § 8(b). The structure of labor relations in Puerto Rico is underpinned through the promotion of industrial peace between employees and employers. P.R. Laws Ann. tit.

29, § 62. This is achieved through collective bargaining and depends largely upon fair, friendly, and mutually satisfactory relations. In this manner, the balance tips once again in favor of denying the permanent injunction against the PRIC and the PRIC Chair.

3. Declaratory relief against the PRIC and the PRIC Chair is also barred.

Plaintiff seeks declarations that the PRIC and the Union "violate" her First Amendment rights and that the PRIC bears a "non-delegable duty" to honor written requests to cease deductions. (Docket No. 1 at 19–20, Prayer ¶ A(i), (iii)). As shown above, a declaration addressed to concluded conduct would be merely advisory. A forward-looking declaration survives only if the facts show "a substantial controversy . . . of sufficient immediacy and reality to warrant the issuance of a declaratory judgment." *Ramos-Ramos*, 171 F.4th at 443 (quoting *Lowe v. Gagné-Holmes*, 126 F.4th 747, 755 (1st Cir. 2025)). No such controversy exists where the deductions have stopped and Plaintiff is no longer a Union member. (Exhibits 6–8).

In *Green v. Mansour*, the Supreme Court held that a declaratory judgment is not proper to declare past constitutional violations. 474 U.S. at 73. The Court reasoned that compensatory or deterrence interests are not enough to overcome the exigencies of the Eleventh Amendment. *Id.* at 68–69. The Court explained that declaratory relief cannot be used as an end-run around sovereign immunity. *Id.* at 73. Because neither the PRIC nor the PRIC Chair is violating Plaintiff's constitutional rights, declaratory relief is barred on Eleventh Amendment grounds.

4. "Notice Relief" against the PRIC and the PRIC Chair is also barred.

Plaintiff asks the Court to require the PRIC to provide written notice stating that compulsory dues policies are unconstitutional and unenforceable under the First and Fourteenth Amendments, among other things. (Docket No. 1 at 22). Notice relief is available only as ancillary to a valid award of prospective relief. *Quern v. Jordan*, 440 U.S. 332, 347–49 (1979). Because it does not prevent an ongoing violation of federal law, the Eleventh Amendment bars ordering it as an independent form of relief. *Green*, 474 U.S. at 71. If there is no continuing violation of federal law to enjoin, then the *Ex parte Young* exception does not apply. *Id.* Thus, the notice relief sought by Plaintiff falls outside the contours of the Court's available remedies on Eleventh Amendment grounds.

V. CONCLUSION

For the reasons set forth above, Plaintiff lacked Article III standing to seek prospective relief against the PRIC and the PRIC Chair, because the deductions stopped effective August 1, 2026, before she filed suit, and she lacks standing to seek relief for persons who are not parties. Alternatively, her claims are moot, and the voluntary-cessation exception does not apply. The Eleventh Amendment bars every claim against the PRIC, which is also not a "person" under 42 U.S.C. § 1983. The claims against the PRIC Chair fall outside *Ex parte Young* because there is no ongoing violation of federal law and no enforcement connection, and Plaintiff cannot satisfy the four-factor test for a permanent injunction. The Eleventh Amendment likewise bars a declaration addressed to past conduct and notice relief untethered to valid prospective relief.

WHEREFORE, the PRIC and the PRIC Chair respectfully request that this Honorable Court dismiss the instant complaint in its entirety with prejudice.

I HEREBY CERTIFY that on this same date, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the parties subscribing to the CM/ECF system.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, on this 5th day of October 2026.

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Secretary of Justice

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